

# Patent Regulations under the Eurasian Patent Convention

(adopted by the Administrative Council of the Eurasian Patent Organization (EAPO) at its second (1<sup>st</sup> ordinary) session on December 1, 1995, with the amendments and additions adopted by the Administrative Council of the EAPO at its sixth (4<sup>th</sup> ordinary) session on November 25-26, 1997, its eleventh (8<sup>th</sup> ordinary) session from October 15-19, 2001, fourteenth (10<sup>th</sup> ordinary) session from November 17-21, 2003, seventeenth (12<sup>th</sup> ordinary) session from November 14-18, 2005, nineteenth (14<sup>th</sup> ordinary) session from November 13-15, 2007, and twenty first (6<sup>th</sup> extraordinary) session from March 30-31, 2009, and the twenty third (17<sup>th</sup> regular) EAPO Administrative Council session of November 8-10, 2010, and its twenty sixth (19<sup>th</sup> ordinary) session of November 20-22, 2012, and its twenty seventh (20<sup>th</sup> ordinary) EAPO AC session on November 6-8, 2013).

## Chapter I. General Provisions

### Rule 1. Subject Matter of Regulations

The provisions of these Patent Regulations (hereinafter referred to as "the Regulations") adopted by the Administrative Council of the Eurasian Patent Organization in accordance with Article 3(3)(vii) of the Eurasian Patent Convention shall govern legal relations connected with the filing and processing of Eurasian applications, the grant of Eurasian patents and the protection conferred by Eurasian patents in accordance with Articles 14 and 19 of the Eurasian Patent Convention.

### Rule 2. Interpretation of Basic Terms

For the purposes of these Regulations:

**"Convention"** means the Eurasian Patent Convention done at Moscow on September 9, 1994;

**"Organization"** means the Eurasian Patent Organization referred to in Article 2(1) of the Convention;

**"Eurasian Office"** means the Eurasian Patent Office referred to in Article 2(3) of the Convention;

**"Contracting State"** means a State party to the Convention;

**"Administrative Council"** means the Administrative Council referred to in Article 2(3) of the Convention;

**"Chairman of the Administrative Council"** means the Chairman elected under Article 3(3)(ii) of the Convention;

**"President of the Eurasian Office"** means the chief executive of the Organization according to Article 2(4) of the Convention, appointed under Article 3(3)(iii) of the Convention;

**"national Office"** means the national Patent Office of a Contracting State according to Article 15(1)(ii) of the Convention;

**"applicant"** means a person filing a Eurasian application and who is deemed to be entitled to the Eurasian patent in accordance with Article 7(2) of the Convention;

**"representative of an applicant"** means a person representing the applicant before the Eurasian Office in accordance with Article 15(12) of the Convention;

**"Eurasian application"** means an application for the grant of a Eurasian patent filed under Article 15(1) of the Convention or an international application filed in accordance with the Patent Cooperation Treaty, where an applicant represents before the Eurasian Office in compliance with Article 22 of the Treaty.

**"publication of the Eurasian application"** means the publication provided for in Article 15(4) of the Convention;

**"unitary procedural fee"** means the fee referred to in Article 15(2) of the Convention for filing, search, publication and other processing of the Eurasian application;

**"Eurasian patent"** means a patent granted by the Eurasian Office in accordance with Article 15 of the Convention;

**"patent owner"** means a person having the exclusive right to the patented invention in accordance with Article 9 of the Convention;

**"request"** means the request for the grant of a Eurasian patent.

## **Chapter II. Substantive Patent Law**

### **Rule 3. Criteria of Patentability of an Invention**

(1) In accordance with Article 6 of the Convention, a Eurasian patent shall be granted for any invention that is novel, involves an inventive step and is industrially applicable.

An invention shall be considered novel if it is not anticipated by prior art. Separate items of the prior art may only be taken into account separately for the purpose of determining the novelty of the invention.

The prior art shall consist of any kind of information made available in the world before the date of filing of the Eurasian application or, where priority is claimed, before the priority date of the application.

For the purpose of determining the novelty of an invention, prior art shall also be considered to include the subject matter of any application for the grant of a Eurasian patent as originally filed, provided that the application or the Eurasian patent granted on it is subsequently published in the prescribed manner and that the filing date of such an application or, where priority is claimed, its priority date precedes the corresponding date specified in the third subparagraph above. The content of the international application shall comprise the prior art as from the filing date of the application, or, where priority is claimed, as from the priority date, where the requirements of Rule 71(1) of the Regulations are satisfied.

An invention shall be considered to involve an inventive step if, having regard to the prior art, it is not obvious to a person skilled in the art.

An invention shall be considered industrially applicable if it can be used in industry, agriculture, public health or other fields of human activity.

(2) Disclosure of information relating to the invention that otherwise would affect its patentability shall not do so where the information relating to the subject matter of the invention has been made available to the public not earlier than during the six months preceding the filing date of, or the priority date claimed for, the Eurasian application, by the inventor or applicant or by any person having obtained the information directly or indirectly from them. The burden of proof of the circumstances of disclosure shall be on the applicant.

(3) The following shall not, as such, be recognized as inventions as implied in Rule 3(1) of the Regulations, *inter alia*:

- discoveries;
- scientific theories and mathematical methods;
- presentation of information;
- methods of economic organization and management;
- symbols, schedules and rules;
- methods for performing mental acts;
- algorithms and computer programs;
- topographies of integrated circuits;
- projects and plans for structures and buildings and for land development;
- solutions concerning solely the outward appearance of manufactured goods and aimed at satisfying aesthetic requirements.

The above-listed subject matter shall not be recognized as inventions in those cases where a Eurasian application or a Eurasian patent are directly pertinent to any of the above-listed subject matter as such;

(4) Eurasian patents shall not be granted for:

- plant varieties and animal breeds;
- topology of integrated circuits;
- inventions, the commercial use of which it is essential to prevent, for the purposes of protecting public order or morality, including the protection of the life and health of people and animals or

the protection of plants, or in order to prevent serious damage being caused to the environment. In that regard, such use may not be considered such, solely on the grounds that it is forbidden by the legislation of one or more Contracting States.

#### **Rule 4. Requirement of Unity of Invention**

The Eurasian application shall relate to one invention only or to a group of inventions so linked as to form a single inventive concept.

Where one and the same Eurasian application relates to a group of inventions, the requirement of unity of invention shall be deemed to have been complied with only if there exists a technical relation between those inventions demonstrated through one or more identical or corresponding special technical features; "technical features" mean the technical elements that determine the contribution made to the prior art by each of the claimed inventions.

Where this requirement is not satisfied, the applicant shall be required to limit the Eurasian application to one invention or to a group of inventions that satisfy the requirement of unity of invention set out in the preceding subparagraph and he may file one or more divisional Eurasian applications for the other inventions or groups of inventions that satisfy the requirement of unity.

#### **Rule 5. Filing of the Eurasian Application by Two or More Applicants**

The Eurasian application may be filed by two or more applicants.

Refusal by an applicant to participate in the procedure for the grant of the Eurasian patent shall not prevent the other applicant or applicants from doing so.

#### **Rule 6. Right of Priority**

(1) The applicant may claim the determination of priority on the basis of one or more earlier applications filed either in any State party to the Paris Convention for the Protection of Industrial Property or any member State of the World Trade Organization, or in relation to any such State.

The priority of an invention may be determined by the filing date of an earlier application in accordance with Article 4 of the Paris Convention for the Protection of Industrial Property, provided that the Eurasian application is filed with the Eurasian Office within 12 months of that date.

Where a Eurasian application claiming priority could not, owing to circumstances beyond the applicant's control, be filed within the above time limit, the latter may be extended by a period not exceeding two months.

(2) The priority of an invention may be determined by the date of receipt of additional material, if the material is submitted by the applicant as a divisional Eurasian application filed within four months of the date of dispatch to the applicant of a notification to the effect that the additional

material cannot be taken into consideration since it is recognized as modifying the subject matter of the claimed invention.

(3) The priority of an invention may be determined by the date of filing with the Eurasian Office or a national Office by the same applicant of an earlier Eurasian application disclosing the invention, provided that the application claiming such priority has been filed within 12 months of said date. In such a case, the earlier application shall be considered withdrawn.

(4) The priority of an invention for a divisional application may be determined according to the priority date of the original Eurasian application by the same applicant, taking into account Rule 49(6) of the Regulations.

(5) The priority of an invention may be determined according to the date on which the object containing the invention begins to be openly displayed at an official or officially recognized international exhibition, organized on the territory of any State party to the Paris Convention for the Protection of Industrial Property, provided that the invention is disclosed in the object exhibited, if the Eurasian application for this invention is filed within six months of the date in question. In this case, the periods established in paragraph (1) of this Rule shall not be extended.

(6) One and the same Eurasian application, or one and the same individual claim, may be accorded the priority of two or more earlier applications, even if they were filed in different States. In such a case, time limits, the start of which is determined by the priority date, shall be computed from the earliest priority date.

(7) When the priority of one or more earlier applications is recognized, the right of priority shall extend only to the inventions, described in the patent claim, so long as those features are contained in the earlier application or applications, for which priority is claimed.

(8) Where certain features of the invention versus which priority is claimed are not contained in the claims of the earlier application, reference to them shall be made in the disclosure of the invention or in specification drawings of the earlier application, which shall be sufficient for the right of priority to be granted.

(9) Priority of the invention shall not be ascertained by the filing date of the application, for which priority has been claimed earlier.

#### **Rule 7. Effects of Filing of the Eurasian Application by Non-Entitled Persons**

(1) Where, by virtue of an effective decision taken by a court or any other competent authority of a Contracting State, a person other than the applicant is recognized as the inventor of the invention which is the subject of the Eurasian application or as the person entitled to file the Eurasian application and he has not transferred to the applicant his right to a Eurasian patent, said person may, provided that the Eurasian patent has not yet been granted, within three months of the decision becoming effective, perform the following acts:

- provided that the prescribed fee is paid, continue the processing of the Eurasian application as his own instead of the applicant;
- file a new Eurasian application for the same invention, retaining the filing and priority date of the initial application, in which case the initial application shall be considered to have been withdrawn from the date of receipt by the Eurasian Office of the new Eurasian application;
- withdraw the Eurasian application filed by the non-entitled person.

(2) During any proceedings in which the validity of a Eurasian patent is challenged owing to an incorrect reference therein to the inventor or the patent owner, the person who is recognized, by virtue of a decision taken by a court or any other competent authority of a Contracting State, as the inventor or the patent owner may seek, as appropriate, mention as the inventor or the grant of the Eurasian patent in his own name, subject to payment of the prescribed fee.

### **Rule 8. Right of the Inventor to be Mentioned in the Eurasian Application and the Eurasian Patent**

The inventor shall have the right to be mentioned as such in the Eurasian application and the Eurasian patent. He may waive his right to be mentioned as the inventor in publications of the Eurasian Office by filing with the Eurasian Office a written declaration to that effect before the technical preparations for publication of the Eurasian application or the Eurasian patent have been completed.

The inventor may withdraw the waiver within the same period.

### **Rule 9. Right to a Eurasian Patent**

(1) The right to a Eurasian patent shall belong to the inventor or his successor in title, subject to the provisions of Article 7(1) of the Convention.

(2) A natural person whose creative work resulted in the invention shall be recognized as the inventor.

Where the invention is the result of the joint creative work of two or more natural persons, all those persons shall be recognized as inventors. In such a case, the right to obtain the Eurasian patent shall belong jointly to them or to their successors in title.

(3) Where two or more inventors have independently created the same invention, the right to a Eurasian patent shall belong to the inventor or his successor in title, whose Eurasian application has the earlier filing date or the earlier priority date.

### **Rule 10. Provisional Legal Protection**

(1) An invention in respect of which a Eurasian application has been filed shall enjoy provisional legal protection within the scope of published claims on the territory of all Contracting States during the period between the date of publication of the application and the date of publication of the Eurasian patent.

(2) The effect of provisional legal protection deriving from an international application filed under the Patent Cooperation Treaty shall start from the date of international publication thereof, subject to Rule 66 of the Regulations.

(3) As from the date of publication of the Eurasian patent, the patent owner shall have the right to claim commensurate compensation, in accordance with the national legislation of the Contracting State concerned, from persons who used the claimed invention during the period specified in paragraph (1) of this Rule.

(4) The provisional legal protection shall be considered never to have existed where the grant of a Eurasian patent has been refused and the possibilities of appeal have been exhausted, or where the Eurasian application is considered withdrawn.

### **Rule 11. Disclosure of the Subject Matter of the Invention**

(1) The Eurasian application shall disclose the subject matter of the invention in a manner sufficiently clear and complete for the invention to be carried out by a person skilled in the art.

(2) Where the Eurasian application relates to a biotechnological product or a process involving the use of such a biotechnological product that cannot be disclosed in the application in a manner such that the invention can be carried out by a person skilled in the art and there is no free access to such a biotechnological product, the application shall contain information or a document evidencing the deposit of such biotechnological product with a competent depositary authority in accordance with the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure of April 28, 1977, or with any other depositary institution recognized by the Administrative Council. The deposit shall be effected no later than on the filing date of the Eurasian application.

### **Rule 12. Interpretation of Claims when determining the scope of protection**

(1) The extent of the legal protection conferred by a Eurasian patent shall be determined by the claims.

(2) In accordance with Article 10 of the Convention, in determining the extent of the legal protection conferred by a Eurasian patent, the description and drawings shall serve only to interpret the claims.

Due account shall be taken of every feature of the invention included in the independent claim and in cases, provided for under the national legislation of a Contracting State, also of features equivalent thereto.

(3) Interpretation of claims shall be construed as serving not only to clarify their features that are not clear or definite but also to determine their complete and actual scope.

Extremes such as literal (restrictive) and broad interpretation (where the entire description and drawings are taken into consideration in order to identify the general inventive concept) shall be excluded in that connection.

### **Rule 13. Transfer of the Right to the Eurasian Application or the Eurasian Patent**

(1) The transfer of the right to the Eurasian application or Eurasian patent may be effected as the assignment of the right, in accordance with the succession in title procedure or by any other method.

(2) The transfer of the right to the Eurasian application may only be effected in respect of all the Contracting States.

(3) The transfer of the right to the Eurasian patent may only be effected, during the period of validity, for all the Contracting States in which the Eurasian patent has effect.

(4) A right based on the Eurasian application or Eurasian patent may be transferred in whole or in part.

(5) The transfer of the right to the Eurasian application or Eurasian patent shall be registered by the Eurasian Office at the written request of the interested party. For these purposes any document confirming the transfer of the right shall be provided.

The transfer of the right to the Eurasian application or Eurasian patent shall be registered, provided that the prescribed fee has been paid.

(6) Assignment contracts in respect of a Eurasian application or Eurasian patent shall be concluded in writing and signed by the parties concerned.

The assignment of the right to a Eurasian application or Eurasian patent shall enter into force for third parties only after it has been registered by the Eurasian Office.

The assignment of the right to a Eurasian application or Eurasian patent, provided for by part of any contracts, in particular within the founding documents or contracts on joint activities, shall also be registered by the Eurasian Office.

(7) The Eurasian Office shall include documents connected with the transfer of the right to the Eurasian application in said application materials.

Information on the transfer of the right to a Eurasian application shall be published in the Gazette of the Eurasian Office, where this Eurasian application has been published previously in said Gazette.

(8) The Eurasian Office shall enter in the Register of Eurasian Patents the particulars of the registration of the transfer of the right to a Eurasian patent and shall publish the corresponding information in the Gazette of the Eurasian Office.



(9) The right to a Eurasian application or Eurasian patent may be assigned in relation to the Contracting State whose legislation provides for the assignment of the right to an application or patent.

At the request of the interested party and provided that the prescribed fee has been paid, the Eurasian Office shall register the assignment of the right to the Eurasian application or Eurasian patent.

The right to a Eurasian application shall be assigned from the date when the assignment contract is concluded. The right to a Eurasian patent shall be assigned from the date when the assignment contract is concluded or from the date indicated in the assignment contract, including from the date of transfer of the Eurasian patent to the assignment holder or to the Eurasian Office.

The assignment agreement for the right to a Eurasian application or Eurasian patent, concluded in writing and signed by the parties, shall indicate the subject of the contract and its evaluation, its essential characteristics, size and period for which the obligation guaranteed by the assignment shall be fulfilled, as well as where the assigned Eurasian patent is to be found.

The party making the assignment (applicant or patent owner) shall be entitled, unless otherwise specified by the contract, to use the Eurasian application or Eurasian patent for the purposes of fulfilling his assignment-based obligation.

The Eurasian Office shall publish information on the registration of an assignment of the right to a Eurasian application or Eurasian patent and this information on the Eurasian application shall be published either at the same time as the Eurasian application or following publication thereof.

(10) License contracts granting the right to use a Eurasian patent shall be registered in accordance with the national legislation of the Contracting States in which the Eurasian patent has effect.

(11) The national Offices of the Contracting States shall inform the Eurasian Office quarterly of all registered license contracts with respect to Eurasian patents.

(12) The Eurasian Office shall enter in the Register of Eurasian Patents the particulars of license contracts registered by the national Offices and publish the corresponding information in the Gazette of the Eurasian Office.

(13) The Eurasian Office shall inform the national Offices of the Contracting States quarterly of all registered transfers of rights to a Eurasian patent.

#### **Rule 14. Confidentiality in the Processing of Eurasian Applications**

(1) In the processing of Eurasian applications, national Offices and the Eurasian Office shall not allow access for third persons to the Eurasian application before the publication thereof, unless requested or authorized by the applicant or requested by a court.

In this context, the term "access" shall be construed as access by any means, including personal communication or ordinary publication.

(2) Prior to the publication of a Eurasian application, the Eurasian Office shall, at the request of third parties and provided that the prescribed fee has been paid, provide the following information:

- number of the Eurasian application;
- filing date of the Eurasian application and, where priority is claimed, the priority date, the country in which the previous application was filed and its number;
- name or title of the applicant.

(3) The Eurasian Office shall allow access to the original Eurasian application prior to its publication, where the Eurasian application, divisional in accordance with Rule 49(6) of the Regulations, or the Eurasian application, filed in accordance with the third subparagraph of Rule 7(1) of the Regulations, have been published.

#### **Rule 15. Furnishing of a Translation of the Eurasian Patent**

Any Contracting State may require, in accordance with Article 13(3) of the Convention, the furnishing by a plaintiff, within the time limit prescribed by that State which shall be no less than three months from the date of receipt by the plaintiff of the request from a national court or any other competent authority of the Contracting State, of a translation of the Eurasian patent in the official language of that State.

#### **Rule 16. Exclusive Right in the Patented Invention and Period of Validity of the Eurasian Patent**

(1) The exclusive right in the invention conferred by the Eurasian patent in accordance with Article 9 of the Convention shall belong to the patent owner and shall have effect on the territory of the Contracting States in accordance with their national legislation, subject to Articles 13 and 14 of the Convention, from the date indicated in Article 15(11) of the Convention.

Where there are two or more owners of the same Eurasian patent, their relations with regard to the use of the patented invention shall be governed by the national legislation of the Contracting States concerned.

(2) No one shall have the right, without the consent of the owner of the Eurasian patent, to use the invention that constitutes the subject matter thereof except in the cases provided for in the Convention and the Regulations.

(3) The effects of the Eurasian patent granted for a manufacturing process shall also extend to a product directly obtained by that process. A new product shall be deemed to have been obtained by the patented process in the absence of proof to the contrary.

(4) The relations between the owners of interrelated Eurasian patents shall be governed by the national legislation of the Contracting States concerned.

(5) The period of validity of a Eurasian patent, indicated in Article 11 of the Convention, may be extended for a Contracting State whose legislation provides for the extension of the period of validity of a national patent. The period of validity of a Eurasian patent for such a Contracting State shall be extended by the Eurasian Office in accordance with the requirements and procedure envisaged by the legislation of this State for the extension of the period of validity of a national patent.

(6) A prescribed fee shall be payable for an application for the extension of the period of validity of a Eurasian patent.

### **Rule 17. Infringement of the Eurasian Patent**

The following acts shall constitute an infringement, within the meaning of Article 13(1) of the Convention, of said patent owner's exclusive right:

- the making, use, importing, offering for sale, sale or any other form of marketing or storage for that purpose, of a product protected by a Eurasian patent;
- the use of a process protected by a Eurasian patent or the offering thereof for such use;
- the use, importing, offering for sale, sale or any other form of marketing or storage for that purpose, of a product directly obtained by a process protected by a Eurasian patent.

### **Rule 18. Liability for Infringement of the Eurasian Patent**

(1) Defense of the exclusive right of the patent owner shall be carried out by way of the following remedies:

- the suppression of acts infringing the right or threatening to infringe it;
- the award of damages;
- compensation for moral harm;
- any other remedies provided by the legislation of the Contracting State.

(2) Subject to Article 13(2) of the Convention, an action for infringement of a Eurasian patent may be brought within three years of the day on which a person became aware or should have become aware of the infringement of his right.

(3) Actions for infringement of a Eurasian patent shall be brought by the patent owner.

The exclusive licensee may also bring an action against the infringer, except where the license contract provides otherwise.

Any licensee may bring an action against the infringer of a Eurasian patent if he has requested the patent owner to bring an action and the latter has not done so within one month.

The patent owner shall in that case be entitled to participate in court proceedings for infringement of the Eurasian patent instituted by the licensee.

Any licensee shall be entitled to participate in court proceedings instituted by the patent owner for infringement of the Eurasian patent in order to receive his share of damages awarded.

### **Rule 19. Acts not Infringing the Eurasian Patent**

The following cases of the use of the patented invention shall not constitute an infringement of the Eurasian patent:

- use in the construction or operation of means of transportation of a member State of the Paris Union for the Protection of Industrial Property that is not a Contracting State, when such means of transportation temporarily or accidentally enter the territory of the Contracting State, provided that the invention is used exclusively for the needs of said means of transportation;
- use for scientific research and experimental purposes;
- use for the occasional preparation, in a pharmacy, of a medicine on a medical prescription;
- use for private non-profit-making purposes;
- use of a product after this product has been marketed by the patent owner himself or with his consent in a Contracting State where the Eurasian patent is valid and in which the product in question was marketed.

### **Rule 20. Right of the Prior User**

(1) Any natural person, legal entity, or organization assimilated thereto, which in good faith, before the filing date of the application or, where priority has been established, before the priority date of the invention, has been using an identical solution on the territory of a Contracting State, or has made the necessary preparations for such use, shall retain the right to proceed with that use free of charge, provided that the scope thereof is not increased.

The right of the prior user may only be transferred to another natural person, legal entity, or assimilated organization, together with the production unit in which the identical solution has been used, or the necessary preparations for the use thereof have been made.

(2) The right of the prior user shall apply only on the territory of the Contracting State in which such prior use has occurred.

### **Rule 20<sup>1</sup>. Right of the Subsequent User**

(1) Any natural person, legal entity or organization assimilated thereto, which in good faith has begun to use the invention or an identical solution on the territory of a Contracting State, or has made the necessary preparations for such use, during the period between the date on which the right to the Eurasian application published in accordance with Article 15(4) of the Convention or the Eurasian patent granted have lapsed, and the date of publication of the information on the restoration, pursuant to Rules 39(1) and 39(2) of the Regulations, of the rights to the Eurasian application or Eurasian patent, shall retain the right to proceed with the use of this invention or solution identical thereto free of charge, provided that the scope thereof is not increased.

The right of the subsequent user may only be transferred to another natural or legal person, or organization assimilated thereto, together with the production unit in which the invention or identical solution has been used, or the necessary preparations for the use thereof have been made.

(2) The right of the subsequent user shall apply only on the territory of the Contracting State where the subsequent use has taken place and the legislation of which provides for such a right.

## **Chapter III. Procedural Patent Law**

### **Rule 21. General Requirements Relating to Eurasian Applications and Eurasian Patents**

*[New rule adopted on the 27th EAPO AC session on November 6-8, 2013. Entered into force on January 1, 2014]*

(1) Eurasian application and documents, relating to the Eurasian application, may be filed in writing on paper carrier and also in electronic form, in accordance with requirements and procedures provided for by the Eurasian Patent Office.

(2) The requirements for the content of the Eurasian application, and also for the drafting of certain documents of the Eurasian application and Eurasian patent, provided for in the Regulations and other Normative Legal Acts of the Organization, must be met regardless of the form of presentation of Eurasian application and/or corresponding document, unless specifically stipulated otherwise.

(3) Eurasian application and documents, relating to the Eurasian application and Eurasian patent, filed electronically to Eurasian Office, in accordance with Item (1) of this Rule, shall have the same legal status as if they were filed on paper.

(4) Eurasian Office prepares and certifies the paper copy of the electronically filed materials of the Eurasian application and Eurasian patent, in cases provided for in Rules 60(2), 61(4) of the Regulations, as well as in other cases where provision of certified copy of materials of the Eurasian application and/or Eurasian patent is necessary.

(5) Processing of the Eurasian applications and Eurasian patents at the Eurasian Office is carried out in writing on paper or in other forms, provided for by the Eurasian Office, including electronic form. Procedures for processing of Eurasian applications and Eurasian patents are established by the President of the Eurasian Office.

### **Rule 21<sup>1</sup>. General Requirements Relating to Eurasian Application**

*[New rule adopted on the 27th EAPO AC session on November 6-8, 2013. Entered into force on January 1, 2014]*

(1) The Eurasian application shall contain: a request, a description, claims, drawings or other material where they are essential to understanding of the subject matter of the invention, an

abstract and other material provided for by the Regulations and other Normative Legal Acts of the Organization.

The Eurasian application shall be accompanied by a document confirming payment of the prescribed amount of the unitary procedural fee and by a power of attorney, in case where the application is being filed by a representative of the applicant, and its provision is mandatory under Rule 30 of the Regulations.

The Eurasian Office may request proof to be provided in relation to any document contained in the application, where it has grounds for doubting the authenticity of the document or accuracy of its translation into Russian.

(2) The request shall contain:

- a petition for the grant of a Eurasian patent for the invention;
- the title of the invention;
- the family name, given name, patronymic, if any, and/or title of the applicant, address and other relevant data;
- the family name, given name, patronymic, if any, and other data concerning the inventor;
- address for correspondence.

In denoting the family name, given name and patronymic (of the applicant), the first to be given should be the family name, followed by the given name and patronymic (where they are used).

In appropriate cases, the request for the grant of a Eurasian patent shall contain:

- the priority claim, as established by Rule 36 of the Regulations;
- a statement to the effect that the Eurasian application is filed as a divisional Eurasian application with reference to the number of the initial application;
- a statement to the effect that the application is filed in accordance with the third subparagraph of Rule 7(1) of the Regulations;
- a statement of the grounds giving rise to the right to file the Eurasian application.

(3) The description shall disclose the invention in a manner sufficiently clear and complete for the invention to be carried out by a person skilled in the art.

(4) The claims shall define the subject matter of the invention and express its essential features. Claims shall be clear and concise and shall be based on the description.

(5) The abstract shall serve exclusively for technical information purposes and shall not be taken into consideration for any other purpose, in particular for the interpretation of the scope of the protection sought.

(6) The request shall be in Russian. Other documents of the Eurasian application may be in Russian or any other language. Where the documents of a Eurasian application are submitted in a language other than Russian, they shall be accompanied by a translation in Russian. The Russian translation may be furnished by the applicant within two months of the date of receipt by the

Eurasian Office of the Eurasian application containing documents in another language. Subject to payment of a prescribed additional fee, the applicant shall have the right, within two months of the date of expiration of the initial two-month period, to furnish said Russian translation.

(7) The document confirming payment of the unitary procedural fee referred to in Article 15(2) of the Convention shall be submitted to the Eurasian Office at the same time as the Eurasian application or within the period established by Rule 34(5) of the Regulations, where the Eurasian application is filed in accordance with Article 15(1) (ii) of the Convention through the national Office.

If said document is not submitted within the time limit specified in the foregoing paragraph, it may still be submitted within a further two months, provided that the document confirming payment of the prescribed additional fee is also submitted.

### **Rule 22. Requirements Relating to the Request**

(1) The request shall be submitted on a printed form approved by the Eurasian Office and shall contain all the prescribed information. The printed form may be obtained from the Eurasian Office or from the national Office of a Contracting State.

(2) The request shall be signed by the applicant, or his representative if the Eurasian application is filed through a representative.

The signatures on the request shall be accompanied by details of the surnames and initials of the signatories.

Where the applicant is a legal entity or an organization assimilated thereto, the request shall contain the full official name thereof and shall be signed by its executive head or a duly authorized person.

### **Rule 23. Requirements Relating to the Description**

(1) The description shall contain:

- the title of the invention as it appears in the request for the grant of a Eurasian patent;
- a specification of the technical field to which the invention relates;
- indication of the background art;
- disclosure of the invention;
- a list of the figures in the drawings and other material, if any;
- information supporting the possibility of carrying out the invention.

(2) The title of the invention shall state its purpose and shall correspond to the subject matter thereof. The title shall be clear and short (preferably not more than ten words) and shall not contain any fanciful denominations.

Where the invention relates to an individual chemical compound, it shall be permissible for the title of the invention not to mention its purpose.

The title of the invention shall be in the singular, except where the term in question is used only in the plural or where it refers to a group of chemical compounds covered by a general structural formula.

(3) The part of the description entitled "Technical field to which the invention relates" shall specify the field of use of the invention. Where there are several such fields, only the principal fields of application shall be specified.

(4) The part of the description entitled "Background art" shall provide information on similar inventions known to the applicant, preferably setting apart the solution that is closest to the claimed invention in the expression of its essential features (prototype). A sufficiently large number of documents reflecting the background art shall be cited and the sources of the information used shall preferably be stated.

(5) The text under the heading "Subject matter of the invention" shall facilitate the understanding of the technical problem that the claimed solution purports to solve. The applicant shall further specify the technical result that can be achieved by means of the carrying out of the invention and also the advantages of the claimed solution over the background art.

(6) The part of the description entitled "List of figures in the drawings and other material" shall briefly describe the drawings. Where other material disclosing the subject matter of the invention is attached, its contents shall be briefly described.

(7) The part of the description entitled "Information supporting the possibility of carrying out the invention" shall explain how the technical result can be achieved if it is not readily apparent from the subject matter of the invention.

(8) If the Eurasian application contains a disclosure of an invention relating to a sequence of nucleotides and/or amino acids, the description of the invention shall contain this sequence, submitted on a machine-readable information carrier in accordance with the procedure established by the President of the Eurasian Office.

#### **Rule 24. Requirements Relating to the Claims**

(1) The claims shall represent a logical definition of the subject matter of the invention and shall contain all the technical features characterizing the invention, presented in one or more claims.

The number of claims shall be reasonable, depending on the character of the claimed invention.

If there are several claims, they shall be numbered consecutively in Arabic numerals.

(2) The application may contain one or more claims.



A single claim shall serve to define one invention by a set of technical features which is not further elaborated or improved for particular cases of the carrying out or use of the invention.

Multiple claims shall serve to define one invention by a set of technical features which is further elaborated and/or improved for particular cases of the carrying out or use of the invention, or to characterize a group of inventions.

Multiple claims characterizing one invention shall consist of one independent claim followed by one or more dependent claims.

Multiple claims characterizing a group of inventions shall consist of a number of independent claims, each characterizing one invention in the group and followed, where necessary, by dependent claims subordinated to one or more independent claims.

(3) A claim shall include the technical features of the invention, including a generic term reflecting its intended purpose, which shall be expressed so that it is possible to identify them. The set of technical features in each claim shall be sufficient to achieve the technical result indicated in the description of the invention, while carrying out the invention for the stated purpose.

The technical features of the invention shall be expressed in generally accepted technical terms and concepts. The use of provisional names as technical features, for instance, of working names of products or substances is accepted only in those cases where such an expression of those features is generally known and bears an exact meaning, and when another form of their expression is rendered difficult.

The generic term reflecting the purpose of the invention may not be included in the claims characterizing the new chemical compound.

The independent claim shall be worded:

- either in two parts, the first of which shall include the technical features of the invention, constituting, as a whole, part of the prior art, and the second shall be a distinguishing portion beginning with the words "distinguished by the fact that" or "characterized in that", and shall include the technical features for which, in combination with the features of the first part, legal protection is requested;
- or without separating the set of technical features into the parts indicated.

Each claim shall, as a rule, be worded as one sentence.

A claim, based on the use of any kind of object, shall contain the features (in particular the technical features) of this object, sufficient to identify it, a generic term reflecting the new purpose of the object, and also a statement to the effect that the essence of the invention is the use of the object in question.

(4) Claims shall not include an item describing a nonpatentable or a known product through the method of its realization.

Claims shall not contain references to the description of the invention or drawings in relation to the technical features of the invention, apart from in the cases where this is absolutely necessary, in particular when stating lists of nucleotide and/or amino acid sequences.

(5) Where the Eurasian application contains drawings, the technical features mentioned in the claims shall preferably be followed by bracketed reference signs relating to such features, where they would serve the better understanding of the claims.

(6) An independent claim shall relate to one invention only.

A dependent claim shall elaborate and/or improve the set of the features of the invention as stated in the independent and/or dependent claim, by means of the features characterizing the invention in particular cases of the carrying out or use thereof.

A feature constituting a generic term reflecting the purpose of the invention may be elaborated and/or improved in the dependent claim only by specifying or refining the purpose contained in the independent claim.

A Eurasian application may contain a reasonable number of dependent claims disclosing specific features of the invention described in the independent claim.

(7) The number of claims contained in an invention shall be taken into account when calculating the fee for filing a Eurasian application.

The unitary procedural fee, paid in accordance with Article 15(2) of the Convention, shall be taken into account in relation to the first five claims of an invention.

A prescribed fee shall be paid for each claim beyond the fifth claim.

The document confirming payment shall be submitted within the periods prescribed by Rule 21(10) of the Regulations for the filing of the document confirming payment of the unitary procedural fee.

If the document confirming payment of the prescribed fee and indicated in the third subparagraph above is not submitted within these periods, it may be submitted within two months thereafter, provided that the document concerning payment of the additional fee for late submission of the document confirming payment of the fee is submitted at the same time.

## **Rule 25. Various Groups of Inventions**

(1) Subject to Rule 4 of the Regulations, a Eurasian application may contain independent claims relating to the subject matter of different categories of inventions, in particular:

- an independent claim relating to a device, substance or microorganism strain, an independent claim relating to a process specially adapted for making the device or obtaining the substance, and an independent claim relating to the use of said device, substance or strain;
- an independent claim relating to a process and an independent claim relating to a device specially adapted for carrying out said process;
- an independent claim relating to a device, substance or microorganism strain, an independent claim relating to a process specially adapted for making the device or obtaining the substance and an independent claim relating to a device specially adapted for carrying out said process.

(2) The Eurasian application may contain two or more independent claims relating to the subject matter of inventions of the same category that cannot be readily covered by a single general claim, in particular when characterizing the variants of the invention.

### **Rule 26. Requirements Relating to the Drawings and Other Materials**

(1) Drawings and other explanatory material essential for the understanding of the subject matter of an invention shall be presented in the form of graphic materials (that is, drawings as such, diagrams, graphs, blueprints, sketches, oscillograms, etc.), photographs, tables or diagrams.

Sketches shall be submitted where it is not possible to illustrate the description with drawings or diagrams. Photographs shall generally serve to complement other graphic material.

(2) Graphic material shall be executed on strong, white, smooth paper in black indelible, well-defined lines and strokes without color or shading.

The scale and clarity of the drawings shall be such that a reproduction with a linear reduction in size to two-thirds would enable all the details to be distinguished without difficulty. To meet this requirement the figure of the drawing (graphics, photographs or any other application material) may be placed on several sheets.

Where the figures, placed on several sheets make a combined figure, the placement shall be made in such a way that the figure can be arranged without imposition of any of its parts, placed on one sheet, on the other figure placed on another sheet.

Brackets, circles or inverted commas shall not be used in association with numbers and letters. The height of the numbers and letters shall not be less than 3.2 mm.

The drawings shall not contain text matter, except a single word or words, when essential, such as “water,” “steam,” “open,” “closed,” “section on AB”.

As a rule, no dimensions shall be given in the drawings. Where necessary, they shall be given in the description.

The graphic material shall be numbered in Arabic numerals corresponding to those in the description.

Reference signs not mentioned in the description shall not appear in the drawings, and vice versa.

### **Rule 27. Requirements Relating to the Abstract**

(1) The abstract shall contain a summary of the disclosure as contained in the description, the claims and the drawings. The summary shall specify the technical field to which the invention pertains and/or its principal field of use, where this is not immediately apparent from the title, as well as the gist of the invention with a mention of the technical result obtained. The gist of the invention shall be described in a free exposition of the claims that reflect, if possible, all the essential features of the independent claim.

(2) Where applicable, the abstract shall contain the chemical formula which, of all the other chemical formulae contained in the Eurasian application, best characterizes the invention.

Where the text contains references to a drawing, the drawing shall be included in the abstract.

(3) Each essential feature contained in the abstract and illustrated by a drawing in the Eurasian application shall be followed by a bracketed reference sign.

(4) The abstract shall be as concise as the disclosure permits, and shall not exceed 150 words in length.

### **Rule 28. Expressions not to be Used**

The Eurasian application shall not contain expressions or graphic representations contrary to morality or public order, statements disparaging the products or technological processes of any particular person other than the applicant, or the merits or validity of the applications or patents of any such person, or any statement or other matter obviously irrelevant or unnecessary under the circumstances.

### **Rule 29. Physical Requirements Relating to the Eurasian Application**

(1) Where a Eurasian application is filed under Article 15(1)(i) of the Convention, all its documents shall be presented in three copies, and, where it is filed under Article 15(1)(ii) of the Convention, all its documents shall be presented in four copies, except for the document confirming payment of the unitary procedural fee and the power of attorney for representation before the Eurasian Office, which shall both be presented in one copy.

The fourth copy of the application shall be kept by the national Office.

The requirement concerning quantity of presented copies shall not apply to Eurasian applications, filed electronically.

*[The third paragraph of Item (1) was included on the 27th EAPO AC session on November 6-8, 2013. Entered into force on January 1, 2014]*

(2) All elements of the Eurasian application shall be so presented as to admit long-term storage and direct reproduction in any number of copies.

All sheets shall be free from creases, tears and cracks. Only one side of each sheet shall be used.

Each element of the application shall begin on a new sheet. All elements of the Eurasian application shall be on paper which shall be flexible, strong, white, smooth, non-shiny and durable, and of A4 size (210 x 297 mm).

The minimum margins of the sheets containing the request, the description, the claims and the abstract shall be as follows: top: 20 mm; left side: 25 mm; right side: 20 mm; bottom: 20 mm.

Starting with the second, all sheets of every element of the application shall be numbered in consecutive Arabic numerals.

All elements of the Eurasian application shall be typed or printed in black.

All text matter in the request, the description, the claims and the abstract shall be 1.5-spaced and shall be in characters, the capital letters of which are not less than 2.1 mm high.

Graphic symbols, Latin names, letters from the Latin and Greek alphabets, and mathematical or chemical formulae may be inscribed in black fountain-pen, ballpoint-pen ink or India ink. Combinations of typewritten or printed and handwritten matter shall not be allowed in one and the same formula.

### **Rule 30. Representation**

(1) The designation of a representative within the meaning of Article 15(12) of the Convention shall be confirmed by the applicant, patent owner or other interested person by granting a power of attorney to the representative, issued in writing and which shall require no certification.

The power of attorney shall be signed by the applicant, patent owner or other interested person, and shall indicate the name and address of the representative on the territory of a Contracting State.

The representative may transfer responsibility for the actions contained in the power of attorney to another person, where he is authorized to do so by the power of attorney, or is compelled by force of circumstances to do so in order to protect the interests of the person granting the power of attorney.

The applicant's representative may also be designated by the representative making a statement to that effect on an application form signed by the applicant when the Eurasian application is filed.

Where several representatives with different addresses are designated, the power of attorney shall include the address for correspondence.

(2) The power of attorney, issued by the applicant confirming the credentials of representation including a Eurasian patent attorney before the Eurasian Office in relation to a Eurasian application, is filed parallel with a Eurasian application or within two months since the filing date with the Eurasian Office. A power of attorney certifying the authority of a Eurasian patent attorney shall be submitted at the latter's discretion except for cases, indicated in item (7) of the present Rule.

The power of attorney, issued by the applicant confirming the credentials of representation before the Eurasian Office in relation to a Eurasian patent is valid providing corresponding powers are listed in the power of attorney, and a patent has been granted to the applicant.

Where a patent is granted to a different person, rather than an applicant, a new power of attorney, determining the credentials of the representative shall be issued for representation before the Eurasian Office in respect of a Eurasian patent.

In this case the power of attorney shall be filed by the patent owner together with the document submitted to the Eurasian Office, in connection with the filing of which the representative shall be designated, or within two months of the date of receipt of this document by the Eurasian Office.

Where the power of attorney is not submitted within the two-month period indicated, it may be submitted within four months of the date of dispatch of notification of the need for submission, provided that the prescribed fee has been paid.

Where the power of attorney or a request for extension of the period for submitting this power of attorney has not been submitted within a period of four months, all actions of the representative beyond the power of attorney shall not be viewed as effected, except for the filing of a Eurasian application and/or request for holding examination in substance and payment of fees.

Where procedural actions are viewed as not effected by the above mentioned reasons a Eurasian application shall be considered to have been withdrawn in conformity with the Regulations.

Other interested persons for representation before the Eurasian Office shall submit the power of attorney together with the document, appointing such representative.

(3) The capacity of a representative may be confirmed by a power of attorney that has been drawn up at an earlier date ("general power of attorney"), and in which this person has been designated by the applicant to represent his interests before the Eurasian Office in relation to any Eurasian applications which have been or will be filed, and by the patent owner in relation to Eurasian patents which have been granted or will be granted to him. Where a general power of attorney exists, the capacity of a representative in relation to a Eurasian application and Eurasian patent may be attested by providing copies of the general power of attorney.

The original of the general power of attorney shall be kept by the Eurasian Office. Copies of the general power of attorney shall be submitted within the periods indicated in paragraph (2) of this Rule.

(4) Any act carried out by a representative within the limits of the powers afforded him or by the Eurasian Office with respect to the representative shall have the same effects as acts carried out by the applicant himself or with respect to him. If more than one representative has been designated in the power of attorney, this rule shall apply to each such representative.

(5) Any designation of a representative may be replaced at the written request of the applicant, patent owner or other interested person, provided that the prescribed fee has been paid. For the purposes of the Eurasian procedure, where a new representative is appointed and the power of attorney is issued to him, it is considered that the power of attorney, issued earlier to another person has expired, unless otherwise is specified in the request.

Where two or more applicants for the same application who are entitled, in accordance with Article 15(12) of the Convention, to act in proceedings before the Eurasian Office in person have not appointed a common representative, the Eurasian Office shall deem the applicant whose name is mentioned first in the request to be their common representative and shall send correspondence relating to the application to the address of that applicant.

This provision shall apply in the appropriate manner and in relation to one or more patent owners who are entitled to act in proceedings for a single Eurasian patent, as well as in relation to other interested persons acting in proceedings before the Eurasian Office.

(6) The applicant, patent owner or other interested persons shall be entitled to act in proceedings directly with the Eurasian Office in relation to procedures connected with the establishment of the filing date, payment of fees, including the annual fee for maintaining a Eurasian patent in force, submission of copies of previous applications and also the receipt of notifications by the Eurasian Office with regard to the procedures listed in this paragraph.

(7) A Eurasian patent attorney shall be obliged to present a power of attorney in the following cases:

a) when he is appointed as a new representative under item (5) of the present Rule;

b) when a petition is filed for withdrawal of a Eurasian application or for abandonment of earlier claimed priority;

c) when a request is filed for abandonment of a Eurasian patent;

d) when a request is filed for the registration of a transfer or pledge of right to a Eurasian application or to a Eurasian patent, or of a change in the name or title of the applicant or of the patent holder;

e) when actions are taken leading to a limitation of the scope of protection or of the territorial coverage of a Eurasian patent;

f) when acting in respect of a Eurasian application or a Eurasian patent on behalf of a person, other than the applicant or the patent holder;

g) when the Eurasian Office has reason to doubt that the Eurasian patent attorney has the necessary authority.

### **Rule 31. Requirements Relating to the Eurasian Patent Agent**

(1) Any person who has the right to be a representative before a national Office in accordance with Article 15(12) of the Convention may be registered with the Eurasian Office as a Eurasian patent agent.

(2) The Eurasian Office shall keep a Register of Eurasian Patent Agents.

(3) Persons who are registered by the Eurasian Office under the Statute on Eurasian Patent Agents shall be entered in the Register of Eurasian Patent Agents.

### **Rule 32. Certification and Registration of Eurasian Patent Agents**

The procedure for the certification and registration of Eurasian patent agents shall be governed by the Statute on Eurasian Patent Agents approved by the President of the Eurasian Office.

### **Rule 33. According the Filing Date of the Eurasian Application**

(1) The national Office or Eurasian Office shall accord as the filing date of the Eurasian application the date of receipt thereof by the appropriate Office, provided that it has been found that at that date the Eurasian application contains at least the following:

- (a) a statement to the effect that the grant of a Eurasian patent is claimed in the application;
- (b) information allowing the applicant to be identified or contact to be made with him;
- (c) a section which outwardly resembles a description of the invention.

Where the Eurasian application does not satisfy these requirements, the appropriate Office shall promptly inform the applicant accordingly and shall propose that the missing documents (information) be supplied within four months of the date of dispatch of such notification.

Where the applicant does not supply the requested documents (information) within the prescribed period, the Eurasian application shall be considered not to have been filed, and appropriate notification shall also be sent to the applicant.

(2) Where the documents indicated in paragraph (1) of this Rule are not submitted at the same time, the filing date of the Eurasian application shall be accorded as the date on which the last document submitted is received by the national or Eurasian Office.

(3) Instead of the section of the Eurasian application mentioned in paragraph (1)(c) of this Rule, which outwardly resembles a description, the applicant may submit a statement to the effect that, for the purposes of according the filing date, the description of the invention is replaced by a



reference to the (original or previous) application filed at an earlier date by the applicant. The statement shall be drafted in Russian and shall contain details of the number of the application filed earlier, the Office with which this application was filed, and its filing date. Where the original or previous application was filed by another person, a document confirming the applicant's succession in title shall be attached to the statement.

Where the statement in question exists, the applicant shall, within four months of the date on which the national or Eurasian Office receives the Eurasian application containing such a statement, furnish a certified copy of the application filed earlier.

Where the application filed earlier is drafted in a language other than Russian, a translation thereof shall also be furnished within the prescribed periods.

(4) Where the national or Eurasian Office considers, when according the filing date of the Eurasian application, that the part of the description submitted in accordance with paragraph (1)(c) of this Rule or a drawing, to which there is a reference in the Eurasian application, may be assumed to be missing, the corresponding Office shall promptly inform the applicant of the need to submit the missing elements within four months of the date of dispatch of the notification.

Where the applicant submits the elements indicated in the notification within this four-month period, they shall be included in the Eurasian application. The date on which the national or Eurasian Office receives these elements shall be considered to be the date of receipt of the description or drawing.

Where the elements indicated in the notification are submitted within this four-month period for the Eurasian application in relation to which priority is claimed in accordance with Rule 36(1) of the Regulations, at the request of the applicant the date on which the description or drawing are received shall be considered the date on which these elements of the Eurasian application are first received by the corresponding Office. The filing date of the Eurasian application shall be accorded in the above manner, where:

- the missing part of the description or drawing submitted by the applicant are contained in full in the previous application;
- the request was filed by the applicant either when the Eurasian application documents were filed with the national or Eurasian Office, or within two months of the date of dispatch to the Office of the notification indicated in the first subparagraph of this paragraph;
- the copy of the previous application, certified by the Office with which it was filed, was submitted either within 16 months of the filing date of the previous application, or within four months of the date of dispatch of notification of the need to submit such a copy to the applicant by the national or Eurasian Office, depending on which of these periods elapses earlier;
- where it is drafted in another language, the translation of the previous application into Russian is furnished by the applicant within four months of the date of dispatch to him of notification of the need to furnish a translation.

Where the applicant does not submit a response to the notification indicated in the first subparagraph of this paragraph or fails to submit the elements indicated in the notification within four months, the date on which the description is received shall be considered to be the date on

which the part of the Eurasian application which outwardly resembles a description of the invention, as provided for in paragraph (1)(c) of this Rule, is first received by the national or Eurasian Office.

(5) The certified copy of the (original or previous) application filed at an earlier date shall not be submitted where this application or the copy thereof have already been submitted to the Eurasian Office or where a copy of previous application is available to the Eurasian Office through the World Intellectual Property Organization Digital Access Service for Priority Documents.

*[Item amended on the 27th EAPO AC session on November 6-8, 2013. Entered into force on January 1, 2014]*

### **Rule 34. Processing and Transmittal of the Eurasian Application by a National Office**

(1) Where the Eurasian application is filed with a national Office, the latter shall accord the filing date thereof and issue a certificate to the applicant confirming the receipt of the Eurasian application and containing the following particulars: filing date, registration number accorded by the national Office, title of the invention and data concerning the applicant and his representative, if appointed.

(2) The national Office shall promptly inform the Eurasian Office of the receipt of the Eurasian application, stating the date of its receipt, the registration number accorded to it at the national Office, the title of the invention, the data concerning the applicant and his representative, if appointed, and also the filing date of the Eurasian application, if accorded.

(3) For the purposes of examining the formal features of the Eurasian application, the national Office shall verify, in accordance with Article 15(1)(ii) of the Convention, that it contains the documents and the particulars required to determine the filing date of the Eurasian application in accordance with Rule 33 of these Regulations, as well as the elements mentioned as an annex to the request.

If the Eurasian application satisfies these requirements, established by Rule 33 of the Regulations, the national Office shall, provided that the prescribed fee has been paid for verifying the compliance of the application with formal features and for transmittal, transmit three copies to the Eurasian Office within four months or, where priority is claimed for the Eurasian application under the Paris Convention for the Protection of Industrial Property, within one month of the application being received by the national Office, subject to paragraph (7) of this Rule and provided that the Eurasian application has been filed in accordance with the procedure prescribed by the national law of the Contracting State for the patenting of an invention abroad.

In the event of disagreement between the national Office and the applicant, the application shall be transmitted to the Eurasian Office.

Where a Eurasian application has been accepted for processing, the applicant shall be notified of the filing date accorded to it.

(4) The national Office shall send to the applicant notification informing him of the transmittal of the Eurasian application to the Eurasian Office and of the need to pay to the latter the unitary procedural fee according to Article 15(2) of the Convention.

(5) Subject to Rule 21(10) of the Regulations, the applicant shall, within three months of the date on which the national Office sent him the notification referred to in the preceding paragraph, submit to the Eurasian Office the document confirming payment of the unitary procedural fee.

(6) On receipt of the Eurasian application transmitted under paragraph (3) of this Rule, the Eurasian Office shall promptly inform the applicant and the national Office accordingly, stating the date on which it received said application.

(7) Where the Eurasian application has not been received by the Eurasian Office within 14 months of its receipt by the national Office, it shall be considered not to have been filed.

In such a case, the unitary procedural fee shall, after deduction of expenses actually incurred by the Eurasian Office, be refunded to the applicant.

### **Rule 35. Requirements Under National Law**

(1) Where the Eurasian application is filed through a national Office, the latter may not reject the Eurasian application on grounds of non-compliance with the requirements of the Convention or the Regulations without giving the applicant an opportunity to amend said application to the extent and according to the procedure prescribed in the national legislation for the same or similar situations arising in connection with national applications.

Equally, the national Office may give the applicant an opportunity to amend the Eurasian application even where no such opportunity is provided for in the national legislation.

(2) The national legislation of a Contracting State shall not require compliance with requirements relating to the form or contents of the Eurasian application different from or additional to those which are provided for in the Convention and the Regulations.

(3) The Eurasian Patent Office shall send to the national office the Eurasian application filed by an applicant from a Contracting State directly with the Eurasian Patent Office if such filing by an applicant from a Contracting State must under its national legislation be effected through its national office and notify the applicant to that effect.

Upon receipt of the above Eurasian application, the national office shall process it in accordance with Rules 33 and 34 of the Patent Regulations, the filing date accorded being the date of the application's receipt by the Eurasian Patent Office, provided that the requirements of Rule 33(1) of the Patent Regulations are met.

The cost of mailing the Eurasian application to the national office shall in this case be reimbursed by the applicant upon request from the Eurasian Patent Office.

This Rule's provisions do not cover divisional Eurasian applications and applications with a priority claim filed directly with the Eurasian Patent Office under Rule 6.

### **Rule 36. Procedure for Claiming Priority**

(1) Where the applicant wishes to claim priority, as provided for in Rule 6(1) of the Regulations, he shall make a statement to that effect when filing the Eurasian application or within three months of the national or Eurasian Office receiving the Eurasian application, and shall attach the necessary documents in support of the priority claim.

Such documents shall include a copy of the earlier application, duly certified by the Office with which it was filed, and a document confirming the applicant's right to claim priority, where the previous application was not filed in his name. Where the applicant's name (or title if the application is filed by a legal person or organization assimilated thereto) was changed after the filing date of the previous application, a document confirming such a change shall be submitted when the Eurasian application is filed.

(2) The submission of a certified copy of the original or previous application shall not be required where priority is claimed in accordance with Rules 6(2), 6(3) and 6(4) of the Regulations, and also where an international application is filed with the Eurasian Office, acting as designated Office and provided, that a copy of such previous application is available to the Eurasian Patent Office.

Certified copy of the previous application shall not be submitted, if such copy of the application is available to the Eurasian Office through the World Intellectual Property Organization Digital Access Service for Priority Documents.

*[The Item was supplemented on the 27th EAPO AC session on November 6-8, 2013. Entered into force on January 1, 2014]*

(3) The certified copy of the previous application may be submitted within 16 months of the filing date of this previous application, apart from when the copy of the previous application is requested at an earlier date by the Office in accordance with Rule 33(3) and (4) of the Regulations. Where there are two or more previous applications, the certified copies of each application shall be submitted and the 16-month period shall start from the filing date of the earliest of the previous applications.

The certified copy of the previous application may be submitted later than the period indicated in the first subparagraph of this paragraph, if the applicant submits an appropriate request before the end of the period. The request may be granted, provided that the certified copy of the previous application was requested by the applicant from the Office with which it was filed, not later than 14 months from its filing date.

Where the previous application is drafted in a language other than Russian, a translation of the application into Russian shall be provided by the applicant at the request of the Eurasian Office

in cases where confirmation of the priority right is required in order to establish the patentability of the invention.

Where priority is claimed for a Eurasian application filed after 12 months have elapsed following the filing date of the earlier application, but before the end of the second month after such a period, the Eurasian application shall be accompanied by a document proving circumstances beyond the applicant's control that prevented him from filing the Eurasian application within said 12-month time limit. A prescribed additional fee shall be payable in such a case.

Where the document mentioned in the preceding paragraph is not furnished together with the request for recognition of priority, the right to priority of the Eurasian application shall be considered lapsed.

(4) The priority claim shall indicate:

- the filing date of the earlier or original application and its number;
- the name of the State or Office with which the earlier or original application was filed.

(5) When priority is claimed, as provided for in Rule 6(5) of the Regulations, the documents certified by the organizers of the exhibition shall be furnished and shall confirm the status of the exhibition, the time and place where it was held, and the date on which the object contained in the invention began to be publicly displayed.

### **Rule 37. Time Limits Allowed by the Eurasian Office**

(1) The time limits allowed by the Eurasian Office for performing each of the procedural acts with a view to obtaining a Eurasian patent shall be neither less than two months nor more than four months.

(2) The time limits indicated in paragraph (1) of this Rule may be extended on a request filed either before their expiry or during the two months following their date of expiry, provided that a document is furnished together with the request, confirming payment of the prescribed additional fee.

Where said request is filed after the expiry of the time limit established for its filing date, all the requirements, in relation to which the time limit for carrying out the corresponding acts was created, shall be satisfied.

(3) The minimum period for extending the time limit shall be two months from the date of expiry of the established time limit not previously extended.

The period for extending the time limit required by the applicant may be claimed by him either at the same time or by means of the subsequent filing of two or more requests, each of which shall be filed prior to the expiry of the time limits established by the Office.

(4) This Rule shall not be extended to the time limits set by Rules 6(1), 6(2), 6(3), 36(3), 39(2), 40(7), 40(8), 46(1), the first subparagraph of Rule 49(9), Rules 51(1) and 53(1) of the Regulations as well as for the periods established for the filing of the request for extending the time limit.

### **Rule 38. Computation of Time Limits**

(1) The time limits for performing procedural acts with a view to obtaining a Eurasian patent shall be specified by making reference to a calendar date, an event, an act or decision, or a period of time during which the act may be performed.

(2) Periods shall be expressed in years, months or days. Computation shall start on the day following the day on which any of the events or acts referred to in paragraph (1) of this Rule occurred.

(3) Where a period is expressed as a certain number of years, it shall expire on the corresponding day and month of the last year of the period.

Where a period is expressed as a certain number of months, it shall expire on the corresponding day of the last month of the period. If said month has no day with the same number, the period shall expire on the last day of that month.

Where a period is expressed as a certain number of days, it shall expire on the day on which the last day of the count has been reached.

If the last day of any period is a non-working day, the period shall expire on the next subsequent working day.

Where the last day of any period is a day on which the Eurasian Office or a national Office is closed owing to other circumstances, the period shall be extended to the first day on which said circumstances no longer exist.

(4) Where the period is set for the performance of an act related to the operation of the Eurasian patent system and the grant of Eurasian patents, that act may be performed up to midnight on the last day of the period.

However, where the act is to be performed before a national Office or an intergovernmental organization, the period shall expire at the time when said Office or organization closes for business in accordance with the rules applicable to it. Any such Office or organization may, however, depart from the above provisions and extend the time limit for performance of the act up to midnight on the last day of the period.

(5) Written requests and notifications entrusted to a courier service up to midnight on the last day of the period shall be considered to have been made on time.

(6) Any document relating to the Eurasian application or Eurasian patent, sent prior to the expiry of the established time limit by facsimile transmission or by electronic mail in facsimile form, shall be considered to have been submitted within the time limit, provided that the original is received within one month of the date of expiry of the established time limit.

### **Rule 39. Restoration of Rights**

(1) Rights relating to a Eurasian application or Eurasian patent, which have lapsed as a result of the failure to respect the time limits prescribed for performing a particular procedural act, may be restored on an appropriate request by the applicant or patent owner where the Eurasian Office considers that the failure to respect the time limit has occurred despite all the measures taken by the applicant or patent owner, which were suitable in the given circumstances, and that the delay was involuntary.

The right to the Eurasian patent shall be restored in relation to the Contracting State, the legislation of which provides for the restoration of the right to a patent.

The rights to a Eurasian application or Eurasian patent shall be restored, provided that the prescribed additional fee has been paid.

(2) A request for restoration of the right to a Eurasian application shall be filed not later than 12 months from the date of expiry of the time limit prescribed for performing the corresponding procedural act, or not later than two months from the date on which the reason for the failure to respect the missed time limit is eliminated, at the discretion of the applicant and depending on which time limit expires later. The act not carried out shall, moreover, be performed by the date on which the request is filed.

The validity of the Eurasian patent, terminated early in accordance with Rule 56(1) of the Regulations in connection with the failure to pay the maintenance fee for a Eurasian patent in force, may be restored on a request by the patent owner, filed prior to the expiry of a three-year period starting from the date of expiry, established by Article 17(2) of the Convention, of the period for payment of the fee not respected by the patent owner. Such restoration shall be effected in relation to one or more Contracting States, on the territory of which the Eurasian patent was valid at the date indicated.

A request to restore the right to a Eurasian patent shall contain an indication of each of the Contracting States, in relation to which the restoration of the validity of the patent is claimed according to the second subparagraph of this paragraph.

Documents shall be attached to a request sent to the Eurasian Office, confirming payment of the additional fee provided for by Rule 40(7) of the Regulations, and of the annual maintenance fee for the Eurasian patent in force, the payment deadline for which was missed, at a level equal to the sum of the maintenance fees in force for the Eurasian patent in the Contracting States designated, for the corresponding year of validity of the Eurasian patent, in relation to which restoration of the lapsed right is claimed.

Further maintenance of a Eurasian patent in force, the validity of which has been restored by the Eurasian Office, in accordance with the request mentioned, shall be granted according to the procedure specified by the Convention and the Regulations.

(3) The provisions of this Rule shall not extend to the time limits prescribed in paragraph (2) of this Rule, and in Rules 6(1), 6(2), 6(3), 6(5), 36(3), 40(7) and 53(1) of these Regulations.

(4) Where the reasons for the failure to respect the time limit were not indicated when the request for the restoration of rights was filed, the applicant or patent owner shall furnish this information within the time limits indicated in the Eurasian Office notification.

#### **Rule 40. Fees and Other Charges**

(1) The list of legally significant acts for which fees are payable to the Eurasian Office, the amounts of the fees and charges, and the procedure for payment or refund thereof shall be laid down in the Statute on Fees of the Eurasian Patent Organization (hereinafter referred to as "the Statute on Fees"), approved by the Administrative Council.

The list of charges for services rendered by the Eurasian Office, in particular information services, as well as the procedure, amounts and time limits for the payment thereof, shall be laid down by the President of the Eurasian Office.

(2) The Eurasian Office shall commence the performance of legally significant acts or the provision of services on receipt of the relevant fees or charges.

(3) Where necessary, the Administrative Council shall adopt by a majority of two-thirds any amendment to the amounts of fees charged by the Eurasian Office.

(4) Payments to the Eurasian Office made on the territory of the country of the Organization's headquarters in respect of fees and charges for services shall be effected in the currency of that country at a level equivalent to the prescribed amounts of those fees, charges or other payments according to the exchange rate of the central bank of that country applicable on the date of the operation.

Payments to the Eurasian Office outside the country of the Organization's headquarters in respect of fees and charges for services shall be made in a freely convertible currency.

Persons having their permanent residence or legal entities having their principal place of business on the territory of any State party to the Paris Convention for the Protection of Industrial Property in which the yearly per capita gross national product amounts to USD 3,000 or less, or the representatives of such persons or entities, shall pay the fees and charges according to a provisional reduced tariff.

Where a fee is to be paid by two or more such persons or entities, the reduced tariff shall be applicable only if all of them have their permanent residence or principal place of business on the territory of the State referred to in the preceding subparagraph.



The above-mentioned provisional reduced tariff shall not be applicable to legal entities, the registered capital of which on the date of filing of the Eurasian application includes direct or indirect investments made by natural persons or legal entities of States other than those referred to in the third subparagraph of this paragraph.

Any legal entity wishing to avail itself of the above provisional reduced tariff shall on filing its Eurasian application submit documents certifying its entitlement thereto.

The fees of the provisional reduced tariff shall be laid down in the Statute on Fees. The list of the States referred to in the third subparagraph of this paragraph shall serve as an Annex to the Statute on Fees and shall be published annually by the Eurasian Office.

(5) Where the Eurasian application contains a report on a patent search, carried out in relation to an initial or earlier Eurasian application, an international search report or an international-type search report prepared by an International Searching Authority in accordance with the Patent Cooperation Treaty, the amount of the unitary procedural fee and of the fee established by the third subparagraph of Rule 24(7) of the Regulations shall be reduced.

The unitary procedural fee shall be reduced if the search in question was carried out in relation to all of the first five claims for which it is taken into account and the fee prescribed by the third subparagraph of Rule 24(7) of the Regulations shall be reduced for each of the claims of the invention for which the search was carried out.

(6) The Eurasian Office shall, within time limits agreed with the national Offices, transfer to them their share of the fees in accordance with Article 18(2) of the Convention.

(7) Subject to payment of the prescribed additional fee, the owner of the Eurasian patent shall enjoy a six-month period of grace for the payment of the annual fee for maintenance of the Eurasian patent in force for each designated State.

The documents confirming the payment of the annual fee for maintenance of the Eurasian patent in force for the designated States, in which the patent owner wishes the effect of the patent to continue, may be submitted simultaneously for all the States in which on the date when the fee is paid the Eurasian patent is valid, or separately for each such State, for the whole of the period established by Article 17(2) of the Convention for payment of this fee, and of the six-month period of grace prescribed by the first subparagraph of this paragraph.

(8) The Eurasian Office shall monitor the correctness and timeliness of the payment of the fee by the patent owner for maintenance of the Eurasian patent in force for each designated Contracting State. Where the owner of the Eurasian patent fails to pay the amount due in full, the Eurasian Office shall notify him accordingly and invite him to pay the balance of the amount within three months of the date of dispatch of the notification.

(9) Any fee paid shall not be refunded except where the amount paid exceeds that prescribed in the Statute on Fees or where the act for which the fee was paid was never performed. In such a case, the Eurasian Office shall notify the applicant accordingly.

The excess amount paid by the applicant shall, at his request, be either refunded or credited against the payment of other fees specified in the Statute on Fees.

The procedure for reimbursement of fees shall be established by the President of the Eurasian Office.

#### **Rule 41. Examination of the Eurasian Application as to Form**

(1) The examination as to the form of the Eurasian application in accordance with Article 15 of the Convention shall be carried out by the Eurasian Office once the filing date of the Eurasian application has been established.

(2) The examination as to the form of the Eurasian application shall begin once, in accordance with Rules 33 and 34 of the Regulations, the filing date of said application has been established, provided that the unitary procedural fee has been paid according to Article 15(2) of the Convention, a Russian translation of the Eurasian application documents has been furnished, where those documents have been submitted in a different language, and a power of attorney has been presented in cases when its submission is mandatory under Rule 30 of the present Patent Regulations.

(3) The examination as to form shall serve to verify that the documents contained in the Eurasian application have all been filed and are correctly presented; that the procedure for filing a Eurasian application in the cases provided for in Article 15(12) of the Convention has been observed; that the claimed invention is correctly classified according to the International Patent Classification; that any priority claim has been made according to the procedure provided for in Rule 36 of the Regulations; and that the invention for which protection is sought does not obviously concern non-patentable subjects, as indicated in Rule 3(3) and (4) of the Regulations; meeting the requirements for the execution and filing of a divisional Eurasian application set by Rule 49(6) of the Regulations.

Where necessary, the national Office or the Eurasian Office may invite the applicant to make corrections or amendments to his application within a time limit specified in the invitation.

If it is found that the invention for which protection is sought relates to subject matter that is not patentable under the Convention and the Regulations, the patent shall be refused.

If it is found that the patent for which protection is sought is not patentable under the Convention and the Regulations on account of one or more of the claims that characterize the invention, the applicant shall be invited to delete the relevant claim(s).

If the applicant does not make the necessary corrections and amendments within the period of time afforded to him or does not furnish the documents or particulars missing on the application filing date, a notification shall be addressed to him to inform him that the application is considered withdrawn.

Where in violating the requirements set for the execution and submission of the divisional Eurasian application necessary amendments and elaborations have not been furnished by the applicant within the set time, the divisional Eurasian application is not considered to be filed.

(4) Where, in the cases referred to in Rules 21(9) and (10), 24(7) and 34(5) of the Regulations, the applicant fails to pay the prescribed unitary procedural fee in time or to furnish, within the prescribed time limit, a Russian translation, the Eurasian application shall be considered withdrawn.

#### **Rule 42. Patent Search**

(1) All Eurasian applications shall, under Article 21(1) of the Convention, be the subject of a patent search, the purpose of which shall be to discover relevant prior art.

(2) The patent search shall be carried out on the basis of the claims and shall take due account of the description and the drawings, if any.

(3) If it is found during the patent search that the requirement of unity of invention has not been complied with, the applicant shall be invited to state, within three months of the date on which corresponding notification has been dispatched to him, the invention or inventions with respect to which the patent search is to be carried out.

Where the applicant fails to act on the notification of non-compliance with the requirement of unity of invention provided for in Rule 4 of the Regulations, the patent search shall be carried out only in relation to the invention, or group of inventions, constituting a single general inventive concept, mentioned first in the claims.

(4) Where it is established that a Eurasian application does not satisfy the requirements of the Convention and the Regulations to the extent that this does not allow a fully-fledged patent search to be carried out, a statement to the effect that the patent search will not be carried out for this application shall be prepared.

Where a patent search may be carried out only in relation to some of the claims, a patent search report shall be prepared only in relation to the claims in question.

For the purposes of the procedure used in the Eurasian Office to conduct a patent search, the statement indicated in the first subparagraph of this paragraph shall be considered a patent search report.

#### **Rule 43. Search Report**

(1) The patent search report shall be transmitted to the applicant by the Eurasian Office as soon as it has been established.

At the request of the applicant and subject to payment of the prescribed fee, copies of the documents relevant to the subject of the patent search shall be enclosed with the search report,

with the exception of applications whose contents are not to be brought to the notice of third parties.

(2) The patent search report shall contain the following information:

- number of the Eurasian application;
- date of filing of the Eurasian application;
- symbol or symbols of the International Patent Classification allotted when classifying the claimed invention;
- title of the invention in relation to which the patent search was carried out;
- symbol or symbols of the International Patent Classification that demarcate the field of the patent search;
- citations of the relevant documents or parts thereof in the form of bibliographic data, relating to the subject of the patent search. References to documents not relating to all the claims of the invention shall be cited in relation to the claim(s) to which they pertain;
- the date of completion of the patent search and finalization of other essential particulars.

The form and content of the information contained in the patent search report, together with the statement referred to in Rule 42(4) of the Regulations, shall be determined by the President of the Eurasian Office.

#### **Rule 44. Publication of the Eurasian Application and the Patent Search Report**

(1) In accordance with Article 15(4) of the Convention, the Eurasian Patent Office shall publish the Eurasian application together with the patent search report without delay upon expiry of 18 months from the filing date or, if priority is claimed, from the priority date. If, by the time of the completion of technical preparations for the publication of the Eurasian application, the search report is not ready it shall be published separately without delay after the receipt.

The Eurasian application shall be published at the same time as the Eurasian patent, once the period prescribed by Article 15(4) of the Convention has elapsed, if the applicant has filed a request to expedite the examination of the Eurasian application and the entry of the Eurasian patent in the Register of Eurasian Patents has been made not later than two months prior to the end of the period stated in Article 15(4) of the Convention.

(2) There shall be no publication of the Eurasian application where, not later than two months before the expiry of the 18-month period established in the first subparagraph of paragraph (1) of this Rule, the application is withdrawn, considered withdrawn or recognized not to have been filed.

(3) At the request of the applicant, the Eurasian Office may publish the Eurasian application earlier than the time limit indicated in the first subparagraph of paragraph (1) of this Rule, provided that the additional fee has been paid. The procedure and time limits for such publication shall be established by the President of the Eurasian Office.

The applicant may withdraw the request mentioned not later than two months prior to the date proposed for publication of the Eurasian application.

(4) The publication of the Eurasian application and the patent search report shall be in writing on a paper carrier or in another form provided for by the Eurasian Patent Office, digital form included.

#### **Rule 45. Form and Contents of Publication of the Eurasian Application and the Patent Search Report**

(1) The publication of the Eurasian application shall include the following:

- the cover page with the published bibliographical data;
- the abstract;
- the description;
- the claims;
- the drawings and other material;
- the patent search report.

(2) The description, claims, drawings and other material shall be reproduced on the basis of the documents contained in the Eurasian application.

(3) Where the search report is published separately in accordance with Article 15(4) of the Convention, it shall be accompanied by the cover page with the published bibliographical data, including the date of publication of the Eurasian application, the date of publication of the search report and the abstract.

(4) The form of publication of the Eurasian application and the patent search report shall be established by the President of the Eurasian Office.

#### **Rule 46. Request for Substantive Examination of the Eurasian Application**

(1) At the request of the applicant filed with the Eurasian Office under Article 15(5) of the Convention before six months have elapsed from the date of publication of the Eurasian application or the date of publication of the search report if the latter is published separately, the Eurasian Office shall carry out the substantive examination of that application.

If the applicant fails to file the above request within the six-month time limit, he may still do so within two months of the expiry of said time limit provided that he presents legitimate reasons for the delay and pays the prescribed additional fee.

(2) If, by the expiry of the time limit specified in paragraph (1) of this Rule, the Eurasian Office has not received said request or payment of the fee for substantive examination, the application shall be considered withdrawn.

(3) When the Eurasian Office receives the request it shall notify the applicant accordingly and of the results of the examination. The date of dispatch of the notification to the applicant of a positive outcome to the request shall be deemed to be the date of opening of the substantive

examination procedure for the Eurasian application. Such notification shall be sent to the applicant when the results of the examination as to form are positive.

#### **Rule 47. Substantive Examination of the Eurasian Application**

(1) The substantive examination of the Eurasian application by the Eurasian Office shall verify whether:

- the claimed inventions meet the requirement of unity of invention, as specified by Rule 4 of the Regulations;
- the priority claim is lawful, according to Rule 6 of the Regulations;
- additional materials, furnished in accordance with Rule 49 of the Regulations, can be accepted for examination;
- the claimed inventions meet the patentability criteria specified by Rule 3 of the Regulations and other requirements of standard-setting instruments of the Eurasian Patent Organization.

(2) During the substantive examination of the Eurasian application, it shall be verified whether the prescribed fees have been correctly paid and whether the claimed scope of the legal protection for the information on the invention contained in the description complies therewith. If non-compliance is established, the applicant shall be asked to provide proof of the legality of the claimed scope of legal protection, or to limit his claims. If the amount of the fee paid, including that paid at an earlier date, does not comply with the requisite levels, the applicant shall be invited to settle the missing sum and, where necessary, to pay a prescribed additional fee.

When a substantive examination of a Eurasian application is carried out, compliance of the claims with the established requirements shall be verified. Where the claims have been formulated such that they infringe these requirements, the examiner may request corrections or amendments to be made thereto and, where necessary, the full payment of prescribed fees.

Where a Eurasian application contains a group of inventions linked by a single inventive concept, all the inventions in this group shall be analyzed.

Where the applicant does not meet the requirement of unity of invention, the examination shall be carried out only in relation to the invention indicated first in the claims (or for those inventions indicated first among the claimed inventions and which form a group meeting the requirement of unity of invention), if in response to the examination notification regarding the establishment of an infringement of this requirement the applicant has not requested the examination to be limited to one of the inventions or group of inventions contained in the application, which meets the requirement of unity.

In verifying the compliance of the invention with the patentability criterion relating to "industrial applicability," the following shall be established:

- whether the Eurasian application documents contain an indication of the purpose of the claimed invention;

- whether the Eurasian application materials or information sources relating to the prior art contain information on the means and methods, the use of which allows the invention to be carried out in the form in which it is characterized in the claims.

In verifying the compliance of the claimed invention with the patentability criterion relating to "novelty," it shall be established whether the claimed invention constitutes part of the prior art.

The invention shall be recognized as not meeting the requirement of novelty if information is disclosed in the prior art regarding the subject matter which has technical features identical to all technical features of the invention.

In verifying the compliance of the claimed invention with the patentability criterion relating to "inventive step," it shall be determined whether the claimed invention is obvious for a person skilled in the art, on the basis of the prior art.

Verification of the compliance of the claimed invention with the patentability criteria relating to novelty, inventive step and industrial applicability shall be carried out on the filing date of the Eurasian application and, where priority is claimed, on the priority date.

(3) Verification of the compliance of the claimed invention with the conditions of patentability during examination of a Eurasian substantive application, reveals the possibility of granting a Eurasian patent with the claim, proposed by the applicant.

In establishing the patentability of invention, an applicant is notified of the readiness to grant a Eurasian patent with the proposed or verified claim. As the need arises an applicant may be requested to itemize or amend the disclosure of the invention to adjust it in accordance with the verified claim.

The decision on granting a Eurasian patent is taken after an applicant furnishes the requested verified or amended disclosure of the invention, and the document confirming the payment of fees for the granting and publication of a Eurasian patent.

A Eurasian patent shall be rejected in case of disconformities with the patentability criteria of the invention described in the claim submitted by an applicant, and disagreement of an applicant to eliminate the infringements on the requirements of the Regulations to formulating a claim, and also in case of unconformity of the claim with the description of the invention and application materials, hampering the grant and/or publication of a Eurasian patent.

The decision to grant a Eurasian patent or to refuse such grant shall be based on the findings of the substantive examination of a Eurasian application.

(4) Where it is established in the course of the substantive examination of a Eurasian application that identical inventions have the same filing date or, if priority is claimed, the same priority date, the applicants shall, subject to their consent, be granted only one Eurasian patent.

Where no agreement is reached between the applicants, no Eurasian patent shall be granted.

Where a substantive examination establishes that the invention in a divisional Eurasian application is identical with the invention in the initial Eurasian application, no Eurasian patent shall be granted for a divisional Eurasian application.

#### **Rule 48. Appeal Against the Decision Taken by the Eurasian Office**

(1) The appeal lodged by the applicant under Article 15(8) of the Convention against the decision taken by the Eurasian Office on a Eurasian application shall be examined by a board of experts from the Eurasian Office within four months of the date of its receipt by that Office. In the case of complex applications, the time limit may be extended on a decision by the President of the Eurasian Office.

(2) As a result of the examination of an appeal against a decision to refuse the grant of a Eurasian patent by a board of experts of the Eurasian Office, a decision to reject this appeal or to grant it and cancel the examination decision previously taken may be made.

The procedure for examining appeals against decisions taken by the Eurasian Office on Eurasian applications shall be laid down by the President of the Eurasian Office.

(3) The resolution approved by the President of the Eurasian Office, on an appeal against the decision of the Eurasian Office concerning a Eurasian application, shall be final.

#### **Rule 49. Rights of the Applicant Within the Procedure for Obtaining the Eurasian Patent**

(1) The applicant may, at the invitation of the examiner, participate in the consideration of matters arising during the examination as to form and in the substantive examination.

(2) Throughout the examination procedure, up to the completion of the technical preparations for the publication of the Eurasian patent, the applicant shall have the right to add to, specify or correct elements of the Eurasian application.

Any amendments or corrections to the Eurasian application proposed by the applicant on his own initiative shall be made after the payment of the prescribed additional fee.

(3) The addition, specification or correction of the description and claims, as well as of the drawings, where they are contained in the application materials and do not change the subject matter of the invention, shall be permitted, apart from the correction of technical and obvious mistakes, up to the date when a decision is taken to refuse to grant or to grant a Eurasian patent for the Eurasian application.

The addition, specification or correction of the description and claims with the data in drawings and other application materials of a Eurasian application shall be permitted only where these data were present in drawings or other application materials of a Eurasian application on the filing date, as well as in requesting priority, and where drawings and application materials present identical data.



The amendment of claims shall be permitted in disclosing the invention in a Eurasian application.

The inclusion in the claims of additional claims at any stage of the examination shall be accompanied by payment of a prescribed additional fee for each dependent or independent claim included in the claims.

(4) Where the examiner requests the applicant to furnish any additional material, it shall be furnished within four months of the date of dispatch of the request. If the applicant fails to observe the time limit for furnishing the requested additional material or to request an extension of the period for its submission in accordance with the procedure provided for by Rule 37 of the Regulations, the Eurasian application shall be considered withdrawn.

(5) The applicant shall have the right to acquaint himself with the documents cited by the examiner against his application.

Where the applicant has requested copies of the documents cited against the Eurasian application within three months of the date on which the decision or request relating to the application has been dispatched to him, the time limit afforded him for his reply shall be computed from the date on which copies of the documents concerned have been dispatched to him.

(6) Where the Eurasian application as originally filed by the same applicant contains other inventions, the applicant shall have the right to file a divisional Eurasian application.

The claims of a divisional Eurasian application shall not contain inventions identical to the inventions for which legal protection is requested in the initial Eurasian application, particularly in restricting the initial application in accordance with Rule 4 of the Regulations where the requirement of the unity of invention is violated.

The description of the invention in a divisional Eurasian application shall not contain information having nothing to do with the claimed inventions in the application.

A divisional Eurasian application shall enjoy the filing date and, where appropriate, the priority date of the initial Eurasian application from which it was taken, provided that it has been filed only in relation to those inventions which were disclosed in the initial Eurasian application and the information contained in the divisional application does not go beyond the initial application.

The divisional Eurasian application may be filed, if on its filing date the initial application has not been withdrawn or is not considered to have been withdrawn, and its filing date is accorded prior to the date of registration of the Eurasian patent for the initial application or, where a decision has been taken not to grant a Eurasian patent for it-before the possibility for appeal has been exhausted.

In relation to a divisional Eurasian application, the unitary procedural fee and the fee for each claim above and beyond the specified number of claims not subject to an additional fee shall be paid within the time limits established by Rules 21(10) and 24(7) of the Regulations, which are

calculated from the date on which the Eurasian Office receives the divisional application. The fee for carrying out the substantive examination of the divisional Eurasian application shall be paid within the time limits established by Rule 46 of the Regulations.

Where the report on patent search requested in the initial application can be used with the purpose of a substantive examination of a divisional application, the fee for a substantive examination in respect of a divisional application shall be charged within six months from the date of publication of the search report requested in the initial application. Where six months have expired at the time of filing a divisional application, the fee for a substantive examination is paid on the filing date of a divisional application.

(7) The applicant may withdraw the Eurasian application by sending to the Eurasian Office a request to that effect, which must reach the Eurasian Office in any event by the date of registration of the Eurasian patent.

Where a Eurasian application which was filed in accordance with Article 15(1)(ii) of the Convention is withdrawn, the Eurasian Office shall notify the national Office of the withdrawal of the application filed through that Office.

(8) The applicant may request that copies of correspondence from the Eurasian Office that he has not received owing to circumstances beyond his control be furnished to him.

In such cases, if the time limit granted to the applicant to reply to that correspondence has lapsed or is insufficient, it shall be calculated as from the date of dispatch of the copy.

(9) In case of disagreement with the decision taken by the Eurasian Office concerning the refusal to grant a Eurasian patent, the applicant may, in accordance with Article 15(8) of the Convention, lodge an appropriate appeal within three months of the date on which notification of the refusal to grant the Eurasian patent is received. The applicant shall have the right to participate in the examination of his appeal.

At any time during the processing of the Eurasian application, the applicant may lodge an appeal with the President of the Eurasian Office against any act in the examination procedure or other matters concerning processing of the application.

## **Rule 50. Publication of the Eurasian Patent**

(1) The Eurasian Office shall, within six months of the date of registration of the Eurasian patent in the Register of Eurasian Patents, publish the particulars of the grant of the patent in the Gazette of the Eurasian Office in accordance with Rule 59 of the Regulations.

(2) At the same time as it publishes the particulars of the grant of the Eurasian patent, the Eurasian Office shall publish the specification of the Eurasian patent containing the description as such, the claims, the drawings and other material.

(3) The publication of documents in paragraph (2) of this Rule shall be on paper or in another form provided for by the Eurasian Patent Office, electronic form included.

The form of publication of the description to a Eurasian patent shall be determined by the President of the Eurasian Patent Office.

#### **Rule 51. Grant of the Eurasian Patent**

(1) The Eurasian Office shall grant the Eurasian patent on receipt of the fee for the grant of such a patent and for publication thereof. The date on which the notice of grant of the patent is published in the Gazette of the Eurasian Office shall be deemed the date of grant of the Eurasian patent.

In accordance with Article 15(10) of the Convention, the fee shall be paid within four months of the date on which the Eurasian Office has dispatched to the applicant notification that it is prepared to grant the Eurasian patent.

If the applicant fails to pay the fee for the grant of the Eurasian patent within the above mentioned time limit, he may do so within two months of the expiry date of the four month period provided an additional fee is paid. In the event of failure to pay the fee together with the additional fee, the Eurasian patent shall neither be granted nor published and the application shall be deemed withdrawn.

(2) Where the papers of an application contain more than 35 sheets, including the claims, the description, the drawings and other material, and the abstract, a prescribed additional fee shall be paid for publication of the Eurasian patent.

#### **Rule 52. Exclusion of Dual Protection**

In any Contracting State, the rights deriving from a Eurasian application or Eurasian patent with an earlier application filing or priority date shall prevail over the rights deriving from a subsequent national application filed before the publication date of said Eurasian application or from a national patent for an identical invention on the same footing as those deriving from national applications or patents, and vice versa.

#### **Rule 53. Administrative Revocation of the Eurasian Patent**

(1) The administrative revocation of the Eurasian patent provided for in Article 19(xiii) of the Convention shall be pronounced on the basis of a notice of opposition filed with the Eurasian Office by any person within six months of the date of publication of information concerning the grant of the Eurasian patent.

(2) A Eurasian patent may be administratively revoked either entirely or in part, even where it has lapsed or has been surrendered, in the following cases:

- the grant of the Eurasian patent had no legal basis owing to the invention not fulfilling the patentability criteria;
- the claims include features that did not appear in the Eurasian application as originally filed.

(3) The Eurasian Office shall consider any notice of opposition to the grant of a Eurasian patent within six months of the date of its receipt.

(4) The Eurasian patent recognized as invalid as the result of an administrative revocation procedure, either entirely or in part, shall be considered void in all Contracting States as from the date of filing of the Eurasian application.

(5) The notice of opposition to the grant of a Eurasian patent shall be filed in writing and shall contain an appropriate statement of the reasons.

The notice of opposition to the grant of a Eurasian patent shall be accepted only on payment of the prescribed fee.

(6) The notice of opposition to the grant of a Eurasian patent shall specify, in particular:

- the family name, given name and patronymic, if any, of the natural person, or the name of the legal entity, filing the notice of opposition, the address of the natural person or legal entity, the name of the State in which the natural person has his permanent residence or the legal entity its principal place of business, and also the particulars of the representative, if the notice of opposition is filed through a representative, subject to Rule 22(2) of the Regulations;
- the number of the opposed Eurasian patent;
- the title of the invention for which the Eurasian patent has been granted;
- the family name, given name and patronymic, if any, and/or the corporate name of the patent owner.

(7) The Eurasian Office shall accept for consideration a notice of opposition to the grant of a Eurasian patent if that notice complies with the conditions specified in paragraphs (1), (5) and (6) of this Rule.

The person or entity or the persons or entities that have filed a notice of opposition to the grant of a Eurasian patent, and also the patent owner, may participate in the examination of the notice.

The notice of opposition to the grant of a Eurasian patent shall be brought to the attention of the owner thereof by means of notification to that effect.

Where two or more notices of opposition to the grant of a Eurasian patent have been filed by different persons, the Eurasian Office shall notify all such persons accordingly.

A party engaged in the procedure of administrative revocation of a Eurasian patent shall, within a time limit fixed by the Eurasian Office, furnish its comments on notifications received from the Eurasian Office or any other party, including comments on the amendment of the claims, the description and the drawings.

(8) The administrative revocation procedure may result in a decision by the Eurasian Office to revoke the Eurasian patent, to reject the notice of opposition, or to correct or amend the Eurasian patent.

The interested party may lodge an appeal against the decision in question with the President of the Eurasian Office within four months of the date of dispatch of the decision. The opposition is considered filed only on payment of the prescribed fee to the Eurasian Office.

*[Second paragraph was supplemented with a second sentence by decision of the 26th session of the EAPO AC of November 20-22, 2012. Entered into force on January 1, 2013]*

In such a case, the President of the Eurasian Office shall examine the appeal and either order a renewed hearing of the opposition by the board or take a final decision on the opposition.

(9) The Eurasian Office shall decide to retain the Eurasian patent as amended if the patent owner agrees to the limitation of the scope of the patent resulting from the amendment of the claims, description and drawings proposed by the Eurasian Office, and pays the prescribed fee for publication of the new specification of the Eurasian patent. Failure to pay the prescribed fee for publication of the new specification of the Eurasian patent within the time limit fixed by the Eurasian Office shall cause the Eurasian patent to be revoked.

At the same time as it publishes in the Gazette of the Eurasian Office the decision on the opposition to the grant of a Eurasian patent, the Eurasian Office shall publish the new specification of the Eurasian patent containing the description as such, the claims and the drawings as amended.

#### **Rule 54. Invalidation of the Eurasian Patent**

(1) Subject to the provisions of Article 13 of the Convention and Rule 52 of the Regulations, the Eurasian patent may be invalidated, either entirely or in part, at any time during its period of validity, on the territory of a Contracting State by virtue of its national procedural rules in the following cases:

- the grant of the Eurasian patent had no legal basis owing to the disconformities of the protected invention with the patentability criteria set by the Convention and the Regulations;
- the claims include features that did not appear in a Eurasian application as originally filed;
- the name of the inventor or of the patent owner is not correctly entered on the Eurasian

When the Eurasian Office is conducting the procedure of administrative revocation of a Eurasian patent, as described in Rule 53 of the Patent Regulations on the basis of Article 19(xiii) of the Convention, a decision on the invalidation of the Eurasian patent may be taken by a Contracting State only after the completion of the above procedure.

National Offices send copies of the decisions taken by the administrative or legal authorities, accompanied by translation into the Russian language of their operative part to the Eurasian

Office for entering corresponding information into the Register of the Eurasian Patents and Publications.

(2) Where the Eurasian patent is invalidated in part, the change in its legal status shall be published in the form of a corresponding limitation of the Eurasian patent which may, if the national legislation of the Contracting State permits, take the form of an amendment to the claims, description and drawings.

**Rule 55. Surrender of the Eurasian Patent and limitation of the Eurasian Patent at the patent holder's request**

(1) The patent owner may, in a written declaration filed with the Eurasian Office surrender the Eurasian patent in respect of all or of some of the Contracting States. Surrender of the Eurasian patent may not be limited to one or several of the claims.

The effect of a Eurasian patent in the Contracting States shall cease, based on the patent owner's petition, as of the date of publication of the relevant decision of the Eurasian Office.

(2) A record of the lapse of the Eurasian patent shall be entered in the Register of Eurasian Patents and the corresponding information shall be published in the Gazette of the Eurasian Office.

A patent owner may file a request with the Eurasian office to limit a Eurasian patent by excluding one or several claims, and in the event of alternative features - by excluding one or several of them, which shall not result in a broadening of the exclusive right conferred by the Eurasian patent.

The request shall lay out the respective grounds and the amended claims with references to the description and the drawings.

(3) A request for abandonment of a Eurasian patent or for its limitation may be filed at any time within the patent term and in all or in some of the Contracting States, except for the time period when the Eurasian Office is processing an opposition to the patent grant, filed in accordance with Rule 53 of the Regulations. A request for abandonment or for limitation of a Eurasian patent shall be processed subject to payment of the respective fees.

(4) When processing a request for the limitation of a Eurasian patent the presented claims shall be examined as to compliance with the requirements to their presentation and as to whether the proposed amendments limit the patent.

(5) In the event of grant of the request for limitation of a Eurasian patent, the Eurasian patent grant and its publication, as well as publication of the information about the changes introduced into the patent shall be in accordance with the procedures provided under Rules 50, 51 and 58 of the Regulations.

(6) The amendments of the Eurasian patent shall become effective as of the date of their publication by the Eurasian Office.

### **Rule 56. Loss of Effect of the Eurasian Patent**

(1) The Eurasian patent shall lapse prematurely in a Contracting State:

- on a declaration by the patent owner, filed with the Eurasian Office in accordance with Rule 55 of the Regulations;
- in the event of failure to pay, within the prescribed time limit, the fee for maintenance of the Eurasian patent in force, and the prescribed additional fee, referred to in Rule 40(7) and (8) of the Regulations.

(2) The Eurasian patent shall be invalidated with effect from the date of filing of the Eurasian application:

- as a result of an administrative revocation under Rule 53 of the Regulations;
- by virtue of a decision of a court or other competent authority of a Contracting State under Article 13 of the Convention, on the territory of that State.

(3) The Eurasian Office shall enter the particulars of the loss of effect of the Eurasian patent in the Register of Eurasian Patents and shall publish them promptly in the Gazette of the Eurasian Office.

### **Rule 57. Corrections to the Eurasian Patent**

(1) The patent owner may request the Eurasian Office to correct technical or obvious errors in the Eurasian patent.

Correction of any errors in the Eurasian patent attributable to the applicant shall be subject to payment of the prescribed fee by the patent owner.

(2) At the patent owner's request, information about the composition of inventors may be changed upon payment of a prescribed fee and provided that all the parties concerned agree to such change.

(3) Any corrections made to a Eurasian patent shall be published in the Gazette of the Eurasian Office.

### **Rule 58. Register of Eurasian Patents**

(1) The Eurasian Office shall keep the Register of Eurasian Patents, which shall contain, in particular, entries relating to granted Eurasian patents, including the name or title of the patent owner and data on his place of residence or place of business, and also information on any changes in the legal status of the Eurasian patents and licenses granted. Information on changes in the name or title of the patent owner, and his place of residence or business shall be entered in

the Register of Eurasian Patents at the request of the patent owner, provided that the prescribed fee has been paid. Such a request shall relate to a single Eurasian patent.

(2) The national Offices of Contracting States shall promptly notify the Eurasian Office of any changes in the legal status of Eurasian patents which have effect on their territories.

The Eurasian Office shall promptly publish information about the changes of the legal status of Eurasian patents entered into the Register of Eurasian patents, including the following:

- on the transfer of rights or pledge of rights to a Eurasian patent;
- on the change of the patent owner's name or title;
- on early termination of a Eurasian patent based on the patent owner's request;
- on early termination of a Eurasian patent due to non-payment of maintenance fees as well as on the restoration of the patent's effect;
- on full or partial administrative cancellation of a Eurasian patent;
- on the recognition by a Contracting State of a Eurasian patent as fully or partially invalid on its territory;
- on license agreements registered by national offices;
- on all amendments made in the Eurasian patent, including changes in the claims and in the description;
- on opposition filed with the Eurasian Office in respect of grant of a Eurasian patent and on the results of its administrative processing.

(3). The form, the content and the procedures for publishing the above information shall be determined by the president of the Eurasian Office.

#### **Rule 59. Gazette of the Eurasian Office**

(1) The Eurasian Office shall publish the Gazette entitled "Inventions (Eurasian Applications and Patents)," which shall contain official announcements, the particulars of Eurasian applications accepted as a result of examination as to form, the particulars of granted Eurasian patents entered in the Register of Eurasian Patents, indexes of Eurasian applications and patents, and information on all changes in the legal status of Eurasian applications and Eurasian patents.

The Gazette entitled "Inventions (Eurasian Applications and Patents)" is published in electronic form.

*[Second paragraph of Item (1) was amended on the 27th EAPO AC session on November 6-8, 2013. Entered into force on January 1, 2014]*

(2) The Gazette of the Eurasian Office shall publish the following particulars as a matter of course:

for Eurasian applications,

(a) bibliographical data, including:



- registration number of the Eurasian application;
- code of the type of document (namely, A1 for a published Eurasian application with a search report, A2 for a published Eurasian application without a search report, or A3 for a separate publication of the search report);
- filing date of the Eurasian application;
- publication date of the Eurasian application;
- priority data;
- particulars of the publication of the international application under the Patent Cooperation Treaty, including its registration number and the international filing date;
- name and address of the applicant;
- name and business address of the representative or patent agent, if mentioned in the Eurasian application;
- classification symbol of the invention;
- title of the invention;

(b) the abstract;

(c) drawings and other material;

for Eurasian patents,

(a) bibliographical data, including:

- number of the Eurasian patent;
- code of the type of document (namely, B1 for the specification of a Eurasian patent or B2 for the amended specification of a Eurasian patent);
- registration number of the Eurasian application;
- filing date of the Eurasian application;
- publication date of the Eurasian application;
- priority data;
- particulars of the publication of the international application under the Patent Cooperation Treaty, including its registration number and the international filing date;
- name and address of the patent owner;
- name and business address of the representative or patent agent, if mentioned in the Eurasian application;
- date from which the exclusive right conferred by the Eurasian patent has effect;
- classification symbol of the invention;
- title of the invention;

(b) the claims;

(c) the drawings and other material;

(d) the filing date of a notice of opposition to the grant of the Eurasian patent, the date and substance of the decision on the opposition and, where applicable, the date of revocation of the Eurasian patent as a result of the administrative revocation procedure.

(3) The form and the list of the particulars and also the procedure for their publication shall be laid down by the President of the Eurasian Office.

#### **Rule 60. Conversion of the Eurasian Application into a National Patent Application**

(1) The request for conversion of a Eurasian application into a national patent application, provided for in Article 16 of the Convention, shall be considered to have been filed after the prescribed fee has been paid to the Eurasian Office.

(2) After the prescribed fee has been received, the Eurasian Office shall promptly transmit certified copies of the Eurasian application to the national Offices of those Contracting States in which the applicant wishes to obtain a patent according to the national procedure.

#### **Rule 61. Procedure for Consultation of the Files Relating to Eurasian Applications and Eurasian Patents**

(1) Consultation of the file of the Eurasian application shall be open to any person after publication of the application.

(2) The files of Eurasian applications and Eurasian patents may, if necessary, be consulted either at the Eurasian Office or at a national Office.

The consultation procedure shall consist either of direct third-party access to the originals of said files or of the provision of copies of such files on written request.

The consultation of files of Eurasian applications or Eurasian patents shall be subject to payment of the prescribed fee.

(3) Where a Eurasian application is withdrawn under Rule 49(7) of the Regulations, the application file may be consulted only at the request of the judicial authorities or with the written consent of the applicant.

(4) Where the files of a Eurasian application are requested by the judicial authorities, a certified copy of the files indicated in the request shall be addressed to those authorities or sent to the address stated in the request.

#### **Rule 62. Keeping of Files Relating to Eurasian Applications and Eurasian Patents**

*[New redaction of the Rule was adopted by decision of the 27th EAPO AC session on November 6-8, 2013. Entered into force on January 1, 2014]*

Materials of the Eurasian applications or Eurasian patents on paper carriers are converted into electronic form for storage.

Materials of the Eurasian applications and Eurasian patents, which were originally filed in electronic form, or converted into electronic form by the Eurasian Office, have the same legal status, as if they were filed on paper.

Materials of the Eurasian applications and Eurasian patents are kept at the Eurasian Office for not less than thirty years from the date of filing of Eurasian application.

During the entire period of storage of materials of the Eurasian applications and Eurasian patents in electronic form, their invariance and possibility of representation of their copies on paper, shall be provided for.

Requirements for the storage of materials of Eurasian applications and Eurasian patents in electronic form and on paper, terms of storage and procedure for destruction of such materials are established by the President of the Eurasian Office.

### **Rule 62<sup>1</sup>. Registration of the Transfer of the Right to the Eurasian Application or the Eurasian Patent**

(1) A request for registration of the transfer of the right to the Eurasian application or Eurasian patent, provided for in Rule 13 of the Regulations, may be filed with Eurasian Office in writing on paper carrier or in any other form, provided for by Eurasian Office, including electronic form; in Russian and shall contain, in particular, the following information:

*[First paragraph of Item (1) was amended on the 27th EAPO AC session on November 6-8, 2013. Entered into force on January 1, 2014]*

- a statement of the registration of the claimed right transfer;
- the number of the Eurasian application or Eurasian patent, in relation to which registration of the right transfer is claimed;
- information concerning the applicant or patent owner;
- information concerning the new applicant or new patent owner;
- the date on which the change of applicant or patent owner occurred;
- the name of the State where the new applicant or new patent owner has his place of permanent residence or principal place of business;
- the grounds for the claimed right transfer; and
- a statement to the effect that the information contained in the request is correct and authentic.

(2) The request for registration of the transfer of the right to the Eurasian application or Eurasian patent may be signed either by the applicant or patent owner, or the new applicant or new patent owner.

It shall also be necessary to furnish documents to the Eurasian Office confirming the right transfer, in accordance with Rule 13(5) of the Regulations.

It shall not be necessary to furnish documents confirming the right transfer, if the request is signed jointly by the applicant and new applicant, or by the patent owner and new patent owner.

(3) The signatures of the parties to the transfer of the right to the Eurasian application or Eurasian patent, together with copies of the documents indicated in Rule 13(5) of the Regulations, shall not require official certification or legalization.

If the document confirming the transfer of the right to the Eurasian application or Eurasian patent is filed in a language other than Russian, it shall be accompanied by a translation which does not require official certification or legalization.

(4) A request for the registration of the transfer of the right to a Eurasian application or Eurasian patent shall be accompanied by a document confirming that the prescribed fee has been paid.

(5) If a request for the registration of a right transfer relates to two or more Eurasian applications or Eurasian patents, it shall be accompanied by copies of the request, the document confirming that the prescribed fee has been paid, the power of attorney, where the request is filed by a representative, and the document confirming the right transfer, if required, as well as copies of any other documents attached to the request, the number of which shall be equal to the number of Eurasian applications or Eurasian patents in relation to which registration of the right transfer is claimed.

In addition, the prescribed fee for registration of the transfer of the right to the Eurasian application or Eurasian patent shall be paid for each such application or patent indicated in the request.

(6) If the Eurasian application is filed by two or more persons or the Eurasian patent is owned by two or more persons, the request for registration of the transfer of the right to the Eurasian application or Eurasian patent shall be signed jointly by the persons concerned.

In cases where a request is filed by one or more, but not by all those, persons who have filed a Eurasian application or who own a Eurasian patent, proof shall be furnished to the Eurasian Office of the consent to transfer the right to the Eurasian application or Eurasian patent of the person(s) who have not signed such a request.

(7) For the purposes of the procedure for registering the transfer of rights to the Eurasian application or Eurasian patent, the Eurasian Office shall verify the furnished documents only in relation to whether these documents concern the fact that the rights to the Eurasian application or Eurasian patent indicated in the request have been transferred and also the parties in relation to which the registration of the rights transfer is claimed.

The form of the request for registration of the right transfer and also the procedure for registering the transfer of the right to the Eurasian application or Eurasian patent shall be determined by the President of the Eurasian Office.

(8) If the Eurasian Office has grounds for doubting the accuracy of any information or translations, as indicated in this Rule, or the authenticity of any document indicated in Rule 13(5) of the Regulations, the Eurasian Office may request that proof of the accuracy, correctness or authenticity of the corresponding information, translations or documents be furnished.

(9) Where the requirements for the registration of the transfer of the right to a Eurasian application or Eurasian patent are not satisfied, the registration in question shall not take place.

## **Chapter IV. Filing and Examination of International Applications**

### **Rule 63. International Application in the Framework of the Eurasian Patent System**

The international application filed under the Patent Cooperation Treaty and containing the designation of the Contracting States for the purposes of obtaining a Eurasian patent shall, in accordance with the provisions of Article 11 of the Patent Cooperation Treaty and Article 20 of the Convention, have the effect of a regular Eurasian application as of the international filing date under the Patent Cooperation Treaty, which date shall be considered the actual filing date of the Eurasian application.

### **Rule 64. The Eurasian Office as Receiving Office**

(1) The Eurasian Office shall act as a receiving Office in respect of any international application filed by at least one natural person having his permanent residence or at least one legal entity having its principal place of business on the territory of a State which is a Contracting State both to the Convention and to the Patent Cooperation Treaty.

(2) The Eurasian Office shall act as a receiving Office with respect to international applications filed by at least one natural person having his permanent residence or at least one legal entity having its principal place of business on the territory of a State that is a party to the Patent Cooperation Treaty without being a party to the Convention and with which the Eurasian Office has concluded, with the authorization of the Administrative Council, a special agreement to that effect.

### **Rule 65. Filing of the International Application**

(1) An international application filed with the Eurasian Office as receiving Office, including an international application filed in accordance with paragraph (2) of this Rule, shall be filed in Russian or English and shall be subject to payment of the prescribed transmittal fee for the benefit of the Eurasian Office within one month of the date of receipt of the international application. Other fees under the Patent Cooperation Treaty shall be paid as required by the Patent Cooperation Treaty and the Regulations thereunder.

(2) Where the national legislation of a Contracting State provides that the filing of international applications with the Eurasian Office as receiving Office by natural persons having their permanent residence or legal entities having their principal place of business on the territory of that State, may, or shall, be effected through the national Office of that State, any international application so filed shall be considered to have been received by that national Office on behalf of the Eurasian Office as receiving Office. The national Office shall mark the date of receipt on the request of each copy of the international application and, unless prescriptions concerning

national security contained in national legislation prevent the international application from being treated as such, take all necessary measures for prompt transmittal of the international application, together with the fees referred to in paragraph (1) of this Rule, to the Eurasian Office, at the latest two months after its date of receipt.

The international application so transmitted shall be considered to have been received by the Eurasian Office as receiving Office on the date of its receipt by the national Office.

(3) If it is found that by the relevant date the fee for transmittal, the basic fee, the search fee and the fee for the indication of all the States in which legal protection is claimed for the invention have not been paid /or have not been paid in full, the Eurasian Office shall inform the applicant of the need to settle the amount of these fees still to be paid and also of the payment of the fee specified by Rule 16bis.2 of the Regulations under the Patent Cooperation Treaty.

The fees indicated shall be paid within two months of the date on which the Eurasian Office dispatches the appropriate notification to the applicant.

(4) If an international application is filed with the Eurasian Office as the receiving Office but, in accordance with the Patent Cooperation Treaty, the Eurasian Office is not empowered to receive such an international application, or if the international application is drafted in a language not provided for by paragraph (1) of this Rule, the international application shall be promptly transmitted to the International Bureau of the World Intellectual Property Organization, provided that the fee prescribed by Rule 19.4(b) of the Regulations Under the Patent Cooperation Treaty has been paid.

#### **Rule 66. International Publication**

(1) Subject to paragraph (2) of this Rule, the publication under the Patent Cooperation Treaty of an international application in respect of which the Eurasian Office acts as designated Office shall, if the international application is published in Russian, take the place of the publication of the Eurasian application under Article 15(4) of the Convention. Notice of such publication of any international application in respect of which the requirements of Rule 71(2) of the Regulations have been met shall be published in the Gazette of the Eurasian Office.

(2) Where an international application in respect of which the Eurasian Office acts as designated Office has been published in a language other than Russian, the provisions of Article 9(3) of the Convention (in relation to provisional protection) shall apply only after the applicant has furnished to the Eurasian Office a Russian translation of the international application and such a translation has been published in accordance with the procedure provided for in Article 15(4) of the Convention.

#### **Rule 67. The Eurasian Office as Designated Office**

The Eurasian Office shall act as a designated Office in respect of an international application in which the grant of a Eurasian patent is sought.

### **Rule 68. The Eurasian Office as Elected Office**

The Eurasian Office shall act as an elected Office under the Patent Cooperation Treaty in respect of an international application in which the Contracting States are designated for the purposes of obtaining a Eurasian patent if the applicant, having the right to avail himself of the provisions of Chapter II of the Treaty, elects the Contracting States for international preliminary examination purposes under Chapter II of said Treaty.

Other applicants shall have the right to avail themselves of the provisions of Chapter II of the Patent Cooperation Treaty if they have received the authorization of the Administrative Council and if they are persons allowed by the Assembly of the international Patent Cooperation Treaty Union (PCT Union) to make a demand for international preliminary examination under Article 31(2)(b) of the Patent Cooperation Treaty.

### **Rule 69. The Eurasian Office as International Searching and Preliminary Examining Authority**

The Eurasian Office shall, subject to the authorization of the Administrative Council in accordance with Article 20 of the Convention and to appointment by the Assembly of the international PCT Union, in accordance with Articles 16(3)(b) and 32(3) of the Patent Cooperation Treaty, act as an International Searching and Preliminary Examining Authority.

### **Rule 70. International Search Report**

The international search report and its publication under the Patent Cooperation Treaty shall take the place of the search report in respect of the Eurasian application and its publication provided for in Article 15(3) and (4) of the Convention. Notice of such publication of the international search report relating to any international application in respect of which the requirements of Rule 71(1) of the Regulations have been met, shall be published in the Gazette of the Eurasian Office.

### **Rule 71. Examination of International Applications by the Eurasian Office as Designated or Elected Office**

(1) In relation to an international application which indicates the Contracting States for the purposes of receiving the Eurasian patent, the applicant shall, prior to the end of the thirty-first month after the priority date stated in Article 2(xi) of the Patent Cooperation Treaty, furnish the Eurasian Office with the following:

- a copy of the international application certified by the appropriate receiving Office, where the dispatch of the international application, provided for in Article 20 of the Patent Cooperation Treaty, has not yet been effected;
- a document confirming payment of the unitary procedural fee provided for by Article 15(2) of the Convention;
- a translation of the international application into Russian, where said application was filed in a language other than Russian;

- a request for carrying out the substantive examination, as provided for by Rule 46 of the Regulations.

(2) The Eurasian Office as the designated or elected Office shall not begin to examine the international application before the expiry of the time limit mentioned in paragraph (1) of this Rule, except in the cases where the applicant furnishes the Eurasian Office, subject to the time limits indicated in paragraph (3) of this Rule, with the documents listed in paragraph (1) of this Rule and a special request concerning the earlier commencement of such an examination.

In cases where a special request is filed and the applicant does not furnish a copy of the international application duly certified by the corresponding Office, in accordance with the second subparagraph of paragraph (1) of this Rule, the Eurasian Office shall begin examining the international application from the date of its dispatch, as provided for in Rule 47.1(b) of the Regulations Under the Patent Cooperation Treaty, provided that all the other requisite documents indicated in paragraph (1) of this Rule have been submitted.

(3) The period for submission of the document concerning payment of the unitary procedural fee mentioned in paragraph (1) of this Rule may be extended by two months, on payment of a prescribed additional fee.

The period for submission of a Russian translation of the international application mentioned in paragraph (1) of this Rule may be extended in accordance with Rule 21(6) of the Regulations.

The period for filing a request to carry out a substantive examination may, subject to payment of the prescribed additional fee provided for in the second subparagraph of Rule 46(1) of the Regulations, be extended by two months from the date on which this period ends, as indicated in paragraph (1) of this Rule, or from the date of filing of a special request, if this request is filed once the time limits indicated in the first subparagraph of Rule 46(1) of the Regulations have expired.

(4) The Russian translation of the international application shall contain a translation of the description, the claims, any text relating to the drawings and the abstract in the form in which they were originally filed, or with the amendments made in accordance with Articles 19 and/or 34(2)(b) of the Patent Cooperation Treaty.

The translation of the amendments made, in accordance with Article 34(2)(b) of the Patent Cooperation Treaty, to the international application materials shall be published by the Eurasian Office, unless these changes have been acknowledged by the International Preliminary Examining Authority as going beyond the disclosure of the international application originally filed.

(5) Under the first subparagraph of Rule 49(2) of the Regulations, the applicant shall be entitled to amend and correct the international application, without having to pay the prescribed additional fee provided for in the second subparagraph of Rule 49(2), during the first two months of its examination by the Eurasian Office. These amendments and corrections shall be submitted separately from the documents indicated in paragraph (4) of this Rule.



(6) Subject to Rule 41(2) of the Regulations, the examination by the Eurasian Office as to the form of the international application shall begin, provided that the international application materials include an international search report and, where appropriate, an international preliminary examination report. Where the documents in question are not included, the Eurasian Office shall inform the applicant accordingly.

(7) The Eurasian Office may, at the request of the applicant to restore the right to an international application, preserve the validity of the application in accordance with Article 24(2) of the Patent Cooperation Treaty, if it considers the reasons cited by the applicant in the request indicated to be convincing. The request to restore the right to the international application shall be accompanied by payment of the prescribed fee.

(8) In cases where the applicant does not meet the requirements of this Rule, the international application shall be considered, for the purposes of the Convention, to have been withdrawn.

## **Chapter V. Miscellaneous Provisions**

### **Rule 72. Information Services**

Subject to Article 25 of the Convention and to observance of the rules of confidentiality, the Eurasian Office and the national Offices shall, on request, exchange information on the filing of Eurasian and national applications, on the progress of the processing of those applications and on the patents granted thereon.

### **Rule 73. Mutual Legal Assistance**

The Eurasian Office, the national Offices and other institutions of Contracting States that are empowered to protect industrial property shall lend each other mutual legal assistance in all matters relating to Eurasian applications and Eurasian patents.

Legal assistance, in particular the exchange of information, the provision of the files of Eurasian applications or Eurasian patents for consultation, the search for evidence and the performance of any other necessary procedural acts shall not be subject to the limitations provided for in Rule 61 of the Regulations, except for those contained in paragraph (4) of this Rule.

## **Chapter VI. Final Provisions**

### **Rule 74. Form of Documents Relating to Procedural Acts**

The form of the documents and printed forms to be used for procedural requests, decisions, notifications, registrations and other acts provided for in the Convention and the Regulations shall be laid down by the President of the Eurasian Office.

**Rule 75. Entry into Force of the Regulations**

The Regulations shall enter into force on the date of their adoption by the Administrative Council in accordance with Article 3(3)(vii) of the Convention and shall apply on the territory of all Contracting States.