

**Grand-Ducal Regulations of May 25, 1978,
Enacted under the Law of May 27, 1977,**

- (a) Approving the Patent Cooperation Treaty
Done at Washington on June 19, 1970,
(b) Amending the National Legislation on Patents***

1. The filing of an international application within the meaning of the Patent Cooperation Treaty done at Washington on June 19, 1970, hereinafter referred to as “the Cooperation Treaty,” shall be effected with the Industrial Property Service of Luxembourg, hereinafter referred to as “the Service.”

The international application and each of the documents mentioned in the form to be appended to the application, with the exception of the receipt for the fees paid or the cheque intended for the payment of the fees, shall be filed in three identical copies in A4 format (29.7 cm x 21 cm).

However, if the filing is effected in a number of copies smaller than that mentioned in the foregoing paragraph, the Service shall prepare the required number of copies. The making of these copies shall give rise to the payment of a fee equal to the fee that would be payable for a copy of a Luxembourg patent document issued by the Service.

As soon as they are received, the documents purportedly constituting an international application according to Rule 20.1 of the Regulations under the Cooperation Treaty shall be given an international application number and shall be entered under that number in the register of incoming material kept by the Service.

2. Pursuant to Rule 14 of the Regulations under the Cooperation Treaty, the Service shall charge the applicant a transmittal fee, the amount of which is set at 1,000 francs. This fee shall be payable on the date of receipt of the international application, and it shall accrue to the benefit of the State.

3. Payment of the basic fee, the designation fee, the search fee and the transmittal fee shall be accepted after the date of receipt of the international application without the benefit of the date of international deposit being lost, on condition that payment is made within the time limits indicated below:

(a) for the basic fee, the search fee and the transmittal fee, within a month from the date of receipt of the international application;

(b) for the designation fee, before expiration of a year from the priority date.

Payment of the fees mentioned in the foregoing paragraph shall be effected in a currency that is legal tender in the Grand Duchy.

4. The Service shall transmit the international application to the International Bureau and to the International Searching Authority as provided in Article 12 of the Cooperation Treaty.



The European Patent Office in Munich is designated for the carrying out of searches in respect of international applications filed with the Service.

5. The owner of an international application published in a language other than French or German shall, if he wishes to exercise in the Grand Duchy the rights attaching to such an application, submit to the Service or to the person exploiting the invention a translation in one of the above languages, with an indication of his name and address and the number and date of his application.

The conditions governing the format and the layout of the text of the translation shall be the same as those laid down for the descriptions appended to national patent applications.

The translation shall be submitted directly or by mail and shall be subject to a fee of 300 francs.

After having marked the date of receipt on the document, the Service shall enter it in a register on examination of the receipt of payment of the prescribed fee, and shall inform the applicant of the date of the entry. The document shall be at the disposal of the public as from the day following the entry in the register.

6. In the event of application of Section 4 of the Law of May 27, 1977, (a) Approving the Patent Cooperation Treaty Done at Washington on July 19, 1970, (b) Amending the National Legislation on Patents, the owner of the international application shall comply not only with the provisions of that Section but also with all the other formalities provided for in relation to the filing of a national patent application.

The time limits for regularizing a transformed international application shall be the same as those that apply in the case of a national application filed on the date of notification of the decision taken under Section 6 of the Law of July 8, 1967, on the Disclosure and Putting into Practice of Inventions and Manufacturing Secrets of Interest to Territorial Defense or to State Security.¹

If, on the date of the transformation of an international application into a national application, the international fee, the search fee and the transmittal fee have already been paid and if they exceed the amount of the national fees due, the balance shall be repaid to the owner of the application.

In the cases provided for in this Section, the Service shall inform the International Bureau that the number used by it on the documents will no longer be used as an international application number, indicating the reasons therefor.

7. The owner shall be obliged to submit to the Service, acting in the capacity of designated Office, the required number of copies of the international application, or of the translation thereof where applicable including at least the request, the description and the claims, amended if necessary pursuant to Article 19 of the Cooperation Treaty.

Where the international application is drafted in a language other than French or German, the owner shall produce translations in French or German of the documents referred to in the first paragraph.



The owner of the international application may also furnish a copy of the abstract, the international search report and, where an amendment of the claims has been notified to the International Bureau, the text of the claims as originally filed and any statement made under Article 9(1) of the Cooperation Treaty. These documents shall not be acceptable if they are either drafted or translated, as the case may be, in a language other than English, French or German.

Translations shall comply either with the substantive conditions specified by the Regulations under the Cooperation Treaty, or with those applicable to documents filed in support of a Luxembourg patent application. In order to comply with the said conditions, the owner shall be allowed the time limits for regularizing that would apply in the case of a Luxembourg patent application filed on the expiration date of the time limit applicable under Article 22 of the Cooperation Treaty.

8. Where the owner of the international application does not have his domicile or headquarters in the Grand Duchy, and has not appointed an approved agent to represent him within the time limit applicable according to Article 22 of the Cooperation Treaty, the Service, acting in the capacity of designated Office, shall invite the owner to notify it of the appointment later, if the national legislation permits.

The power of attorney, if required, shall be produced within a regularizing period corresponding to that which would apply in the case of a national patent application filed on the expiration date of the period applicable according to Article 22 of the Cooperation Treaty. During the same period the owner of the international application shall be obliged to produce all the other supporting documents required under domestic legislation.

9. On an express request made to that end by the owner of the international application, the Service shall initiate the national procedure in accordance with Article 23(2) of the Cooperation Treaty. This request shall not be acceptable unless the owner at the same time performs all the acts that are to be performed under normal circumstances within the time limit applicable in accordance with Article 22 of the Cooperation Treaty.

The time limits for regularizing an international application which are the subject of an express request are those which apply for a national patent application filed on the same day as the request.

10. Amendments made to the claims, description and drawings in accordance with Article 28 of the Cooperation Treaty shall be subject to the prior payment of a fee of 300 francs.

The letter accompanying the amendments shall give the name and address of the owner and the number and date of the international application. It may also draw attention to the differences between the text filed earlier and the text as amended.

The amendments made to the claims, description and drawings shall be communicated to the Service in the form of replacement sheets or completely new documents made out for the purpose.



The amendments and the accompanying letter shall be filed in two identical copies and, with regard to replacement sheets, in the format of the sheets filed earlier. The other substantive conditions shall be those specified by the Regulations under the Cooperation Treaty or by national legislation.

The Service shall affix its stamp and the date of receipt of the amendments on each replacement sheet or on each page of the new document, as the case may be, and on the accompanying letter. The replacement sheets shall be incorporated in the copies of the international application filed previously. The replaced pages and accompanying letter shall be retained in the file of the international application.

11. An entry shall be made without delay in the official register of patents in respect of any international application that is the subject either of international publication under Article 21 of the Cooperation Treaty or of an express request for the initiation of the national procedure under Article 23(2) of the Cooperation Treaty.

An entry shall also be made in respect of any request for the transformation of an international application into a national application pursuant to the conditions of Section 6.

12. The procedure for the payment of the fees provided for in these Regulations shall be the same as those prescribed by Luxembourg legislation on patents. Without prejudice to the provisions of Section 6, third paragraph, the transmittal fee and the other fees prescribed by these Regulations shall under no circumstances be refunded.

13. Our Minister for National Economic Affairs and the Middle Classes and Our Minister of Finance shall be responsible, each as far as he is concerned, for the implementation of these Regulations, which shall be published in the *Memorial*.

* *French title:* Règlement grand-ducal du 25 mai 1978 pris en exécution de la loi du 27 mai 1977 portant
a) approbation du Traité de coopération en matière de brevets, fait à Washington, le 19 juin 1970
b) adaptation de la législation nationale en matière de brevets.

Entry into force: May 31, 1978.

Source: *Memorial — Journal officiel du Grand-Duché de Luxembourg, Recueil de législation*, A-No 28, May 27, 1978.

Note: For the text of the Law of May 27, 1977, see *Industrial Property Laws and Treaties*, LUXEMBOURG — Text 2-001 (*Industrial Property*, November 1979).

¹ See *Industrial Property*, 1968, p. 105.