

Working Group on the Legal Development of the Madrid System for the International Registration of Marks

Nineteenth Session
Geneva, November 15 to 19, 2021

REVISED STUDY OF THE COST IMPLICATIONS AND TECHNICAL FEASIBILITY OF THE GRADUAL INTRODUCTION OF THE ARABIC, CHINESE AND RUSSIAN LANGUAGES INTO THE MADRID SYSTEM AND OTHER RELEVANT INFORMATION

Document prepared by the International Bureau

I. INTRODUCTION

1. At the sixteenth session of the Working Group on the Legal Development of the Madrid System for the International Registration of Marks (hereinafter referred to as “the Working Group” and the “Madrid System”), held in Geneva in July 2018, the Delegations of China and of the Russian Federation presented proposals for the introduction of, respectively, the Chinese¹ and Russian² languages into the Madrid System. At the seventeenth session of the Working Group, held in Geneva in July 2019, the Delegations of Algeria, Bahrain, Egypt, Morocco, Oman, Sudan, the Syrian Arab Republic and Tunisia presented a proposal for the introduction of the Arabic language into the Madrid System³.

2. At its eighteenth session, held in Geneva in October 2020, the Working Group discussed a study prepared by the International Bureau on the cost implications and technical feasibility of the gradual introduction of the above-mentioned languages into the Madrid System⁴.

¹ See document MM/LD/WG/16/7
(https://www.wipo.int/edocs/mdocs/madrid/en/mm_ld_wg_16/mm_ld_wg_16_7.pdf).

² See document MM/LD/WG/16/9/Rev.
(https://www.wipo.int/edocs/mdocs/madrid/en/mm_ld_wg_16/mm_ld_wg_16_9_rev.pdf).

³ See document MM/LD/WG/17/10
(https://www.wipo.int/edocs/mdocs/madrid/en/mm_ld_wg_17/mm_ld_wg_17_10.pdf).

⁴ See document MM/LD/WG/18/5
(https://www.wipo.int/edocs/mdocs/madrid/en/mm_ld_wg_18/mm_ld_wg_18_5.pdf).

The Working Group requested that the International Bureau provide, for discussion at its following session, a revised version of the said study and other relevant information to address the issues raised by delegations at the eighteenth session. The Working Group also requested that the International Bureau consult with interested Contracting Parties and with other WIPO Member States to clarify issues and gather relevant information to support the Working Group in its deliberations⁵.

3. As requested by the Working Group, this document is a revised version of the above-mentioned study. The main factors underlying this revision are the following:

(i) As requested by the Working Group, the International Bureau held informal consultations with interested Contracting Parties and with other WIPO Member States. As part of the consultations, the International Bureau also reached out to relevant non-governmental organizations representing the interests of users.

(ii) The WIPO Program and Budget Committee at its thirty-second session, held in July 2021, recommended the adoption of a Revised Policy on Languages at WIPO, as reflected in document WO/PBC/32/6⁶.

(iii) Taking into account the comments made by several delegations at the eighteenth session, the International Bureau conducted a formal request for information (hereinafter referred to as “RFI”) process⁷ with a view to obtaining more precise cost estimates for the introduction of Arabic, Chinese and Russian into the Madrid System from external translation companies.

4. This document summarizes the historical evolution of the language regime of the Madrid System, presents relevant statistical information on the use of the Madrid System and recapitulates previous discussions by the Working Group on the subject at hand in sections II to IV. In sections V to VII, the document describes the RFI process, presents relevant principles of the Revised Policy on Languages at WIPO and discusses a number of elements emerging from the informal consultations. Finally, in section VIII, the document offers a revised cost estimate based on all the foregoing.

II. THE EVOLUTION OF THE LANGUAGE REGIME OF THE MADRID SYSTEM⁸

THE INTRODUCTION OF ENGLISH INTO THE MADRID SYSTEM

5. Before the entry into operations, in 1996, of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (hereinafter referred to as “the Protocol” and “the Agreement”), French was the only language in the Madrid System.

6. In 1985, the Madrid Union had 26 Contracting States. Debates on the possible introduction of English into the Madrid System began in the framework of discussions on adopting possible measures to promote the geographical expansion of the Madrid Union.

⁵ See document MM/LD/WG/18/9, paragraph 18 (https://www.wipo.int/edocs/mdocs/madrid/en/mm_ld_wg_18/mm_ld_wg_18_9.pdf).

⁶ See document WO/PBC/32/6 (https://www.wipo.int/edocs/mdocs/govbody/en/wo_pbc_32/wo_pbc_32_6.pdf).

⁷ Under a request for information (RFI) process, potential service providers are invited to indicate a non-binding range of quotes for a given service in a confidential manner. Potential service providers are given detailed information on the required service. In addition to the quotes, service providers must deliver other relevant information concerning, for example, their experience and capacity.

⁸ The provisions that govern the language regime of the Madrid System are not part of the treaties, but laid down in the implementing regulations.

7. The Madrid Union Assembly (hereinafter referred to as “the Assembly”), at its fifteenth session, held in October 1985, discussed adding English as one of the possible future measures to establish links between the Madrid System and the proposed Regulation of the Council of the European Communities on the Community Trademark. During these discussions, it was recognized that the proposed addition would make the Madrid System available to applicants from English-speaking countries and from members of the European Union⁹.

8. In January 1996, the Assembly adopted the Common Regulations under the Madrid Agreement Concerning the International Registration of Marks and the Protocol Relating to that Agreement (hereinafter referred to as “the Common Regulations”), which entered into force on April 1, 1996¹⁰. While maintaining French as the sole language for all operations involving only the Agreement, the Common Regulations introduced English as an additional language for operations involving the Protocol. The Common Regulations thus provided for a dual language regime for operations under the Protocol.

THE INTRODUCTION OF SPANISH INTO THE MADRID SYSTEM

9. In September 2001, at the thirty-third session of the Assembly, the Delegations of Cuba and Spain expressed the view that the existing language regime of the Madrid System hindered its evolution because it did not include Spanish. The Delegations referred to the possible accession to the Madrid System by countries in Latin America and expressed interest in amending the language regime¹¹. It was stated that such possible introduction could be an incentive for Spanish-speaking countries to join the Madrid System, which, in turn, might encourage the accession of other Contracting Parties. It was argued that such anticipated geographical expansion of the Madrid System would benefit right-holders from the new Members as well as those from current Members¹².

10. In October 2003, the Assembly adopted amendments to the Common Regulations providing for the introduction of Spanish in the language regime of the Madrid System. These amendments entered into force on April 1, 2004¹³.

11. The introduction of Spanish into the language regime of the Madrid System followed the same rules that had applied for the introduction of English. Those rules remain in effect today¹⁴. As from April 1, 2004, international applications governed by the Protocol and all communications relating thereto can be in English, French or Spanish. However, international applications governed exclusively by the Agreement and all communications relating thereto continue to be in French.

12. There remain 91,551 international registrations in force that are only in French and 35,710 international registrations in force that are in English and French but not in Spanish. The Regulations require the International Bureau to translate those international registrations into English or Spanish, or both as the case may be, only upon recording a subsequent designation.

⁹ See document MM/A/XV/1, Annex I, paragraph 8.

¹⁰ See document MM/A/XXVII/4, paragraph 51.

¹¹ See document MM/A/33/2, paragraphs 7 and 8

(https://www.wipo.int/edocs/mdocs/govbody/en/mm_a_33/mm_a_33_2.pdf).

¹² See document MM/A/34/1, paragraphs 20 and 21

(https://www.wipo.int/edocs/mdocs/govbody/en/mm_a_34/mm_a_34_1.pdf).

¹³ See document MM/A/35/2 (https://www.wipo.int/edocs/mdocs/govbody/en/mm_a_35/mm_a_35_2.pdf).

¹⁴ See document MM/A/34/1, paragraphs 25 to 27

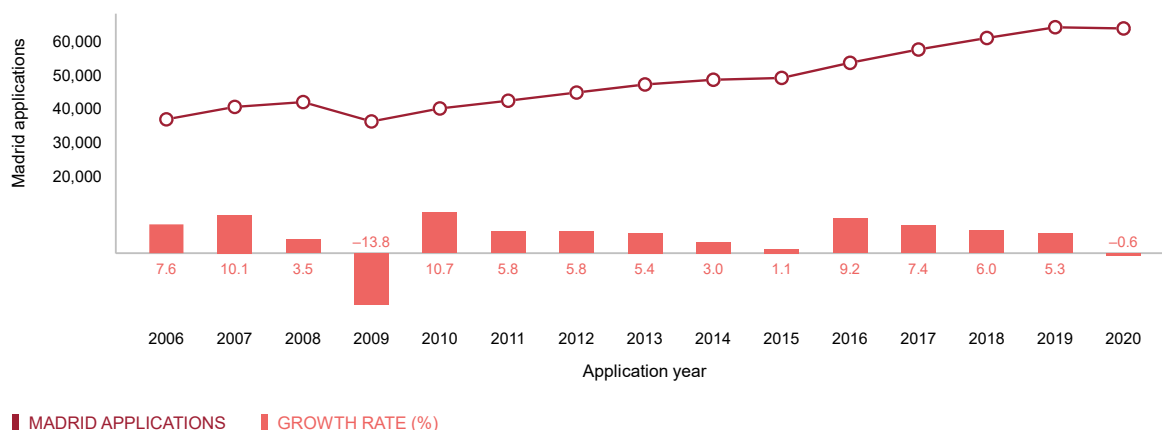
(https://www.wipo.int/edocs/mdocs/govbody/en/mm_a_34/mm_a_34_1.pdf).

III. STATISTICS ON THE USE OF THE MADRID SYSTEM

13. The following paragraphs present relevant information on the use of the Madrid System, as published in the *Madrid Yearly Review 2021*, WIPO Publication 940E/21¹⁵.

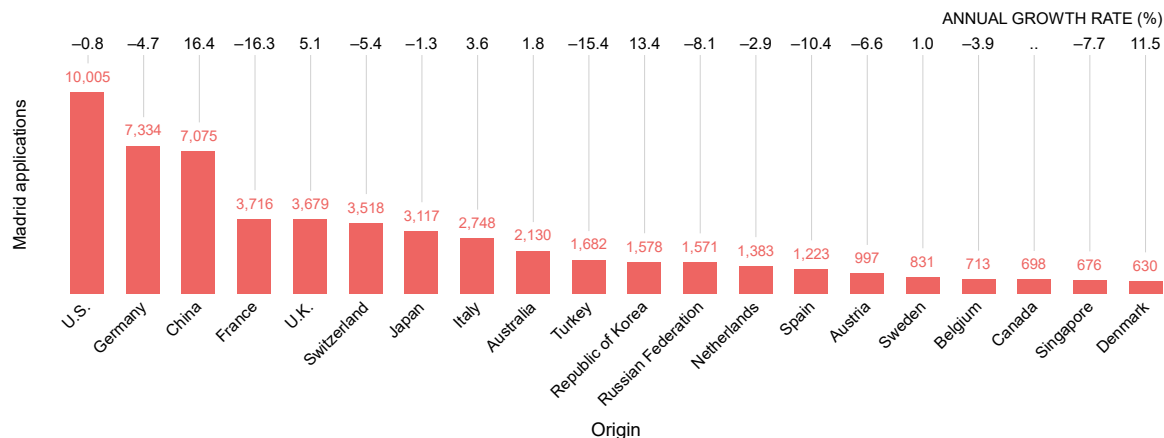
14. In 2020, trademark holders filed 63,800 international applications, 370 fewer applications than those filed in the previous year, representing an annual decrease of 0.6 per cent.

Graph I: Trend in International Applications 2006-2020



15. Taking into account the country or territory of the applicant's address, the following graph shows the ranking of the top 20 origin countries in 2020.

Graph II: International Applications for the top 20 origins, 2020



16. In 2020, trademark holders in Contracting Parties whose delegations proposed the introduction of Arabic into the language regime of the Madrid System (Algeria, Bahrain, Egypt, Morocco, Oman, Sudan, the Syrian Arab Republic and Tunisia) filed 163 international applications, while trademark holders in China filed 7,075 international applications. In the same year, trademark holders in Contracting Parties likely to exchange communications under the Madrid System in Russian (Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan and Uzbekistan) filed 1,952 international applications.

¹⁵ This publication is available in English at the following address:
https://www.wipo.int/edocs/pubdocs/en/wipo_pub_940_2021.pdf. An executive summary is available in all six UN official languages at the following address: <https://www.wipo.int/publications/en/details.jsp?id=4552>.

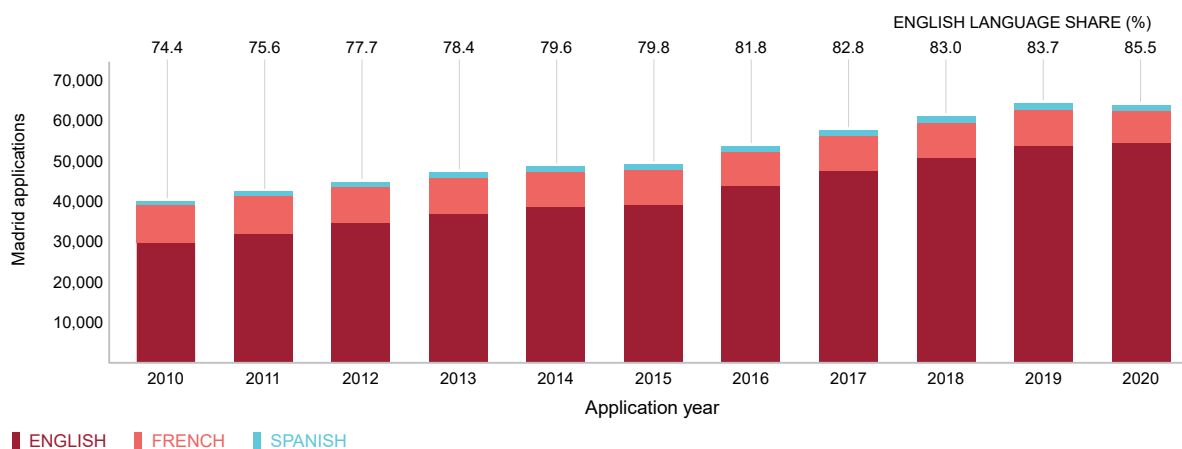
17. The following table shows the ranking of the top 20 Madrid applicants in 2020.

Table I: Top 20 Madrid Applicants, 2020

Ranking	Change in position from 2019	Madrid applicant	Origin	Madrid applications		
				2018	2019	2020
1	2	NOVARTIS AG	Switzerland	159	129	233
2	0	HUAWEI TECHNOLOGIES CO., LTD.	China	22	164	197
3	8	SHISEIDO COMPANY, LTD	Japan	81	70	130
4	24	ADP GAUSELMANN GMBH	Germany	40	39	123
5	-4	L'OREAL	France	165	193	115
6	37	NINTENDO CO., LTD.	Japan	71	32	90
7	13	EURO GAMES TECHNOLOGY LTD.	Bulgaria	48	48	84
8	-3	APPLE INC.	U.S.	83	104	80
9	37	SYNGENTA CROP PROTECTION AG	Switzerland	0	30	78
10	-4	RIGO TRADING S.A. SOCIETE ANONYME	Luxembourg	69	102	70
11	1,470	CWI, INC.	U.S.	0	4	64
11	15	SOCIETE DES PRODUITS NESTLE S.A.	Switzerland	46	41	64
13	2	GLAXO GROUP LIMITED	U.K.	27	59	62
14	-5	HENKEL AG & CO KGAA	Germany	88	77	60
15	11	BURN CABLE MANAGEMENT SYSTEMS LIMITED	U.K.	7	41	53
16	-4	MICROSOFT CORPORATION	U.S.	50	63	52
17	-9	BAYERISCHE MOTORENWERKE AKTIENGESELLSCHAFT	Germany	51	78	51
17	n.a.	MAX BRANDS MARKETING B.V.	Netherlands	2	1	51
19	11	ABERCROMBIE & FITCH EUROPE SA	Switzerland	34	38	48
19	-1	AMOREPACIFIC CORPORATION	Republic of Korea	28	52	48

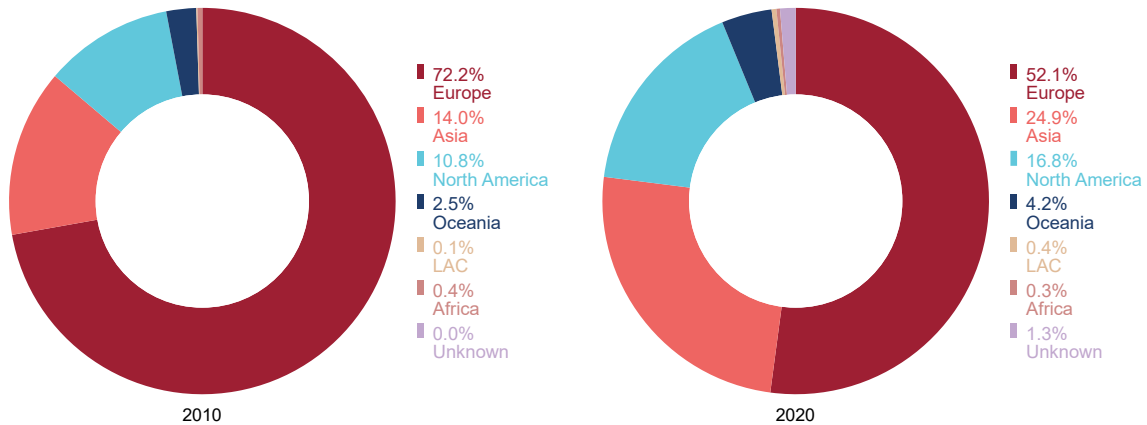
18. In 2020, 85.5 per cent of the international applications were filed in English, 12.5 per cent were filed in French and two per cent were filed in Spanish. In terms of number of words in international registrations effected in 2020, 81.2 per cent were originally in English, 17.1 per cent in French and 1.7 per cent in Spanish.

Graph III: Trend in International Applications by Filing Language, 2010-2020



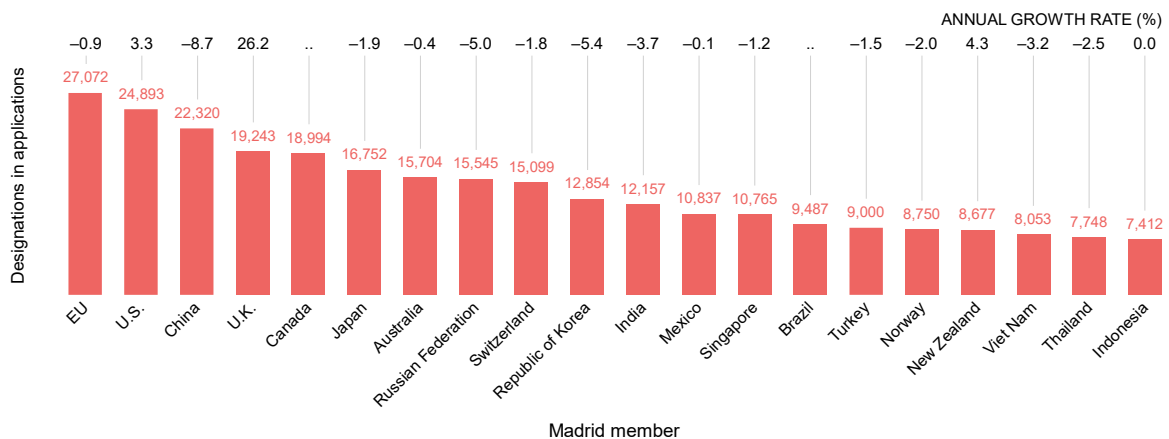
19. In 2020, applicants based in Asian countries filed about a quarter of international applications, up from 14 per cent a decade before. Applicants based in North America filed about 17 per cent of international applications, up from almost 11 per cent a decade before.

Graph IV: International Applications by Region 2010 and 2020



20. The following graph shows the ranking of the top 20 most designated Contracting Parties in 2020.

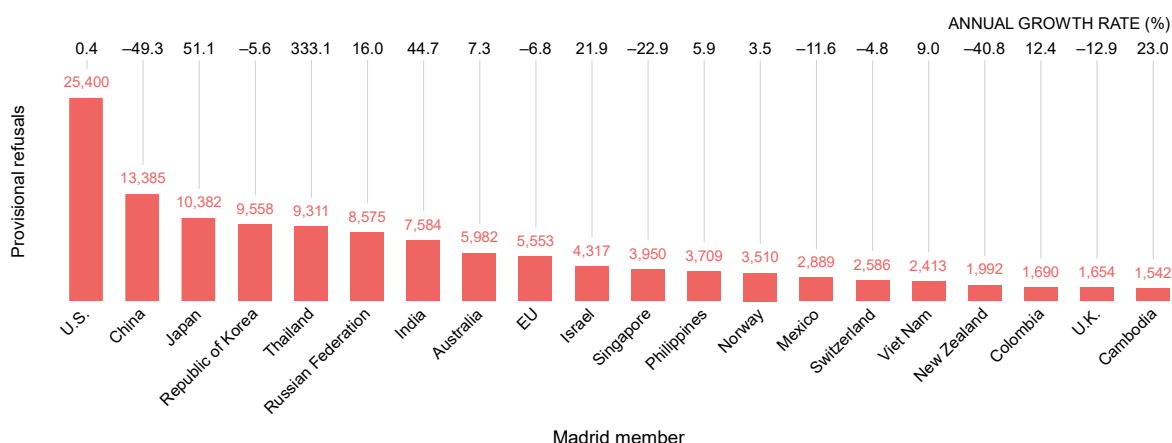
Graph V: Designations in International Applications for the 20 Most Designated Contracting Parties, 2020



21. In 2020, Contracting Parties whose delegations have proposed the introduction of Arabic into the language regime of the Madrid System (Algeria, Bahrain, Egypt, Morocco, Oman, Sudan, the Syrian Arab Republic and Tunisia) received 16,732 designations in international applications, while China received 22,320 designations. In the same year, Contracting Parties likely to exchange communications under the Madrid System in Russian (Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan and Uzbekistan) received 37,123 designations in international applications.

22. The International Bureau recorded 150,760 notifications of provisional refusal in 2020. The following paragraph shows the ranking of the Contracting Parties that notified the highest number of provisional refusals recorded in 2020.

Graph VI: Recorded Notifications of Provisional Refusal Sent by Selected Designated Contracting Parties, 2020



IV. OVERVIEW OF PREVIOUS DISCUSSIONS

23. For ease of reference and to facilitate the review of all the discussions the Working Group has held to date on the subject at hand, a compilation of all relevant documents is presented below:

- A. PROPOSAL BY THE DELEGATION OF CHINA (DOCUMENT MM/LD/WG/16/7)¹⁶
In a communication dated May 31, 2018, the International Bureau received a proposal from the Delegation of China concerning the possible introduction of Chinese in the language regime of the Madrid System.
- B. PROPOSAL BY THE DELEGATION OF THE RUSSIAN FEDERATION (DOCUMENT MM/LD/WG/16/9 REV.)¹⁷
In a communication dated June 1, 2018, the International Bureau received a proposal from the Delegation of the Russian Federation concerning the possible introduction of Russian in the language regime of the Madrid System.
- C. INFORMATION DOCUMENT ON THE LANGUAGE REGIME UNDER THE MADRID SYSTEM (DOCUMENT MM/LD/WG/16/INF/2)¹⁸
On July 2, 2018, the International Bureau published an information document on the language regime of the Madrid System.

¹⁶ See document MM/LD/WG/16/7

(https://www.wipo.int/edocs/mdocs/madrid/en/mm_ld_wg_16/mm_ld_wg_16_7.pdf).

¹⁷ See document MM/LD/WG/16/9 Rev.

(https://www.wipo.int/edocs/mdocs/madrid/en/mm_ld_wg_16/mm_ld_wg_16_9_rev.pdf).

¹⁸ See document MM/LD/WG/16/INF/2

(https://www.wipo.int/edocs/mdocs/madrid/en/mm_ld_wg_16/mm_ld_wg_16_12.pdf).

D. REPORT OF THE SIXTEENTH SESSION OF THE WORKING GROUP
(DOCUMENT MM/LD/WG/16/12)¹⁹

The Working Group discussed the above-mentioned proposals made by the Delegations of China and of the Russian Federation at its sixteenth session, held in Geneva from July 2 to 6, 2018.

The Working Group “requested the Secretariat to prepare an in-depth study on the implications of the possible introduction of the Chinese and the Russian languages into the Madrid System, building on the information already provided in document MM/LD/WG/16/INF/2, to be discussed at the [following] session of the Working Group”²⁰.

E. PROPOSAL BY THE DELEGATIONS OF ALGERIA, BAHRAIN, EGYPT, MOROCCO, OMAN, SUDAN, THE SYRIAN ARAB REPUBLIC AND TUNISIA
(DOCUMENT MM/LD/WG/17/10)²¹

In a communication dated June 24, 2019, the International Bureau received a proposal from the Delegations of Algeria, Bahrain, Egypt, Morocco, Oman, Sudan, the Syrian Arab Republic and Tunisia concerning the possible introduction of Arabic in the language regime of the Madrid System.

F. POSSIBLE OPTIONS FOR THE INTRODUCTION OF NEW LANGUAGES INTO THE MADRID SYSTEM (DOCUMENT MM/LD/WG/17/7)²²

On July 19, 2019, the International Bureau published a document on possible options for the introduction of new languages into the Madrid System.

G. REPORT OF THE SEVENTEENTH SESSION OF THE WORKING GROUP
(DOCUMENT MM/LD/WG/17/12)²³

The Working Group discussed the above-mentioned proposal made by the Delegations of Algeria, Bahrain, Egypt, Morocco, Oman, Sudan, the Syrian Arab Republic and Tunisia, as well as the proposals previously made by the Delegations of China and of the Russian Federation, and the document on possible options for the introduction of new languages into the Madrid System at its seventeenth session, held in Geneva from July 22 to 26, 2019.

The Working Group “requested the International Bureau to prepare, for discussion at its [following] session, a comprehensive study of the cost implications and technical feasibility (including an assessment of the currently available WIPO tools) of the gradual introduction of the Arabic, Chinese and Russian languages into the Madrid System”²⁴.

¹⁹ See document MM/LD/WG/16/12

(https://www.wipo.int/edocs/mdocs/madrid/en/mm_ld_wg_16/mm_ld_wg_16_12.pdf).

²⁰ See document MM/LD/WG/16/12, paragraph 262.

²¹ See document MM/LD/WG/17/10

(https://www.wipo.int/edocs/mdocs/madrid/en/mm_ld_wg_17/mm_ld_wg_17_10.pdf).

²² See document MM/LD/WG/17/7 Rev.

(https://www.wipo.int/edocs/mdocs/madrid/en/mm_ld_wg_17/mm_ld_wg_17_7_rev.pdf).

²³ See document MM/LD/WG/17/12

(https://www.wipo.int/edocs/mdocs/madrid/en/mm_ld_wg_17/mm_ld_wg_17_12.pdf).

²⁴ See document MM/LD/WG/17/12, paragraph 301.

H. STUDY OF THE COST IMPLICATIONS AND TECHNICAL FEASIBILITY OF THE GRADUAL INTRODUCTION OF THE ARABIC, CHINESE AND RUSSIAN LANGUAGES INTO THE MADRID SYSTEM (DOCUMENT MM/LD/WG/18/5)²⁵

On August 13, 2020, the International Bureau published a document concerning a study on the cost implications and technical feasibility of the gradual introduction of the Arabic, Chinese and Russian languages into the Madrid System.

I. REPORT OF THE EIGHTEENTH SESSION OF THE WORKING GROUP (DOCUMENT MM/LD/WG/18/10)²⁶

The Working Group discussed the above-mentioned document on the cost implications and technical feasibility of the gradual introduction of the Arabic, Chinese and Russian languages into the Madrid System at its eighteenth session, held in Geneva, in hybrid format, from October 12 to 16, 2020.

The Working Group, “recalling the decisions taken at its sixteenth and seventeenth sessions:

“(i) requested the Secretariat to provide, in advance of the nineteenth session of the Working Group, a revised *Study of the Cost Implications and Technical Feasibility of the Gradual Introduction of the Arabic, Chinese and Russian Languages into the Madrid System* (document MM/LD/WG/18/5) and other relevant information, so as to address the issues raised by delegations at the eighteenth session of the Working Group, and submit it for consideration by the Working Group at its [following] session; and,

“(ii) requested the Secretariat to consult with interested Contracting Parties of the Protocol and other WIPO Member States, in advance of the nineteenth session of the Working Group, to clarify issues and relevant information so as to support the Working Group in its consideration of this subject matter”²⁷.

V. REQUEST FOR INFORMATION PROCESS

24. As indicated earlier, at its previous session, the Working Group requested that the International Bureau revise its cost estimate taking into account the issues raised during that session. In previous estimates, the International Bureau relied on average rates from external translation agencies for the translation of PCT-related documents.

25. For its revised cost model, the International Bureau sought to determine the likely rates for post-editing services regarding trademark-related indications to deliver a more precise estimate. Consequently, in June 2021, the International Bureau conducted the previously mentioned RFI process to estimate the said rates and update its cost model accordingly.

26. The International Bureau formally invited several potential service providers with knowledge of and experience in translating trademark-related expressions to participate in the RFI process on a confidential basis. The terms of reference of the RFI process described in detail the scope of the required services. The potential service providers were asked to indicate a non-binding range of rates for those services. They were also requested to provide relevant information to assess their competence and experience.

²⁵ See document MM/LD/WG/18/5 (https://www.wipo.int/edocs/mdocs/madrid/en/mm_ld_wg_18/mm_ld_wg_18_5.pdf), and document MM/LD/WG/18/5 Corr. (https://www.wipo.int/edocs/mdocs/madrid/en/mm_ld_wg_18/mm_ld_wg_18_5_corr.pdf).

²⁶ See document MM/LD/WG/18/10 (https://www.wipo.int/edocs/mdocs/madrid/en/mm_ld_wg_18/mm_ld_wg_18_10.pdf).

²⁷ See document MM/LD/WG/18/10, paragraph 162 (https://www.wipo.int/edocs/mdocs/madrid/en/mm_ld_wg_18/mm_ld_wg_18_10.pdf).

27. Several service providers participated in the RFI process. They are both large translation agencies that could deliver the required service in all possible language combinations and small translation agencies that specialize in only one possible language combination. They are headquartered in various regions.

28. The RFI process has allowed the International Bureau to estimate a likely range of rates per word for post-editing machine translation outputs of trademark-related indications for each possible language combination²⁸. The rates are for the highest possible quality output, where the agencies would add a revision step to ensure this quality.

29. The actual rates for post-editing services could be different from the above following a purchase tender, *inter alia*, because an adequate machine-translation output was assumed for the purposes of the RFI process²⁹. To select a service provider, the International Bureau would confirm that this provider could deliver the required quality by requesting that it translate and post-edit relevant samples. Continued control would ensure that such quality remains constant.

30. In addition, the RFI has allowed the International Bureau to estimate the likely cost of translating a terminology database of indications of goods and services (hereinafter referred to as “the Terminology Database”) into the proposed new languages. For more details, see paragraph 39 to 45, below.

VI. REVISED POLICY ON LANGUAGES AT WIPO

31. The WIPO Program and Budget Committee at its thirty-second session, held in July 2021, recommended the adoption of a Revised Policy on Languages at WIPO, as reflected in document WO/PBC/32/6. In paragraph 7, this document states the following:

“While language regimes and translation policies that are established under WIPO-administered Treaties and related regulations are excluded from the scope of this proposal, Member States discussions regarding those regimes that are ongoing in other competent WIPO bodies could be guided by the principles proposed in the present document.”

32. Two important principles enshrined in the Revised Policy on Languages at WIPO are directly relevant to the Working Group’s discussions on the introduction of new languages into the Madrid System:

(i) Multilingualism: “WIPO recognizes the importance of multilingualism both as a core value of the Organization, and as a means to reach out worldwide to explain the potential for IP to improve the lives of everyone, everywhere and for supporting governments, enterprises, communities and individuals to use IP as a tool for growth and sustainable development. Multilingualism is furthermore important to ensure inclusive access to WIPO information and services”³⁰.

²⁸ The estimated range of rates per possible language combination, in Swiss francs, is the following:

– From Arabic to English:	Between 0.120 and 0.140
– From English to Arabic:	Between 0.108 and 0.127
– From Chinese to English:	Between 0.096 and 0.113
– From English to Chinese:	Between 0.107 and 0.125
– From Russian to English:	Between 0.113 and 0.133
– From English to Russian:	Between 0.089 and 0.133

²⁹ A poor quality machine-translation output could result in higher rates that would be closer to the rates translation agencies charge for direct translation.

³⁰ See document WO/PBC/32/6, paragraph 5 (https://www.wipo.int/edocs/mdocs/govbody/en/wo_pbc_32/wo_pbc_32_6.pdf).

- (ii) Impact-based approach: “Under an impact-based approach, WIPO’s future translation strategies would be guided by three main considerations: (1) the audience for whom the translation is intended; (2) the degree of precision required for the translation; and (3) available translation technology”³¹.

33. In further elaborating on the impact-based approach, the Revised Policy on Languages at WIPO recognizes “the need to balance the further promotion of multilingualism with [...] financial sustainability [...]”³². In doing so, it recognizes two levels of precision that may be required: “first, ‘high precision of translation’ which is required in cases where there could be an important reputational risk or potential legal implications if the translation is less accurate; and second, ‘reasonably accurate translation’ where greater tolerance on the precision of translation emphasizes that the main objective of translation is to foster greater access to the information contained in the communication”³³.

34. The Revised Policy on Languages at WIPO also indicates that “[t]he Secretariat embraces the rapid evolution of AI-based technologies, in particular with respect to machine translation”³⁴.

VII. ELEMENTS EMERGING FROM INFORMAL CONSULTATIONS

35. The informal consultations conducted by the International Bureau since the previous session of the Working Group have been particularly useful for gaining a better understanding of the priorities and concerns of interested parties and for identifying elements that could form the basis for further discussions.

36. The informal consultations centered around two main objectives, shared in varying degrees by interested parties, namely, how to ensure that:

- (i) the introduction of new languages into the Madrid System can be achieved in a manner that adds value, is cost-sustainable and does not entail undue costs and complications for users of the System; and,
- (ii) Arabic, Chinese and Russian are treated on an equal footing with English, French and Spanish in view of the common special status of these six languages in the UN System.

37. The consultations confirmed that the Delegations that had proposed the introduction of Arabic, Chinese and Russian are opposed to any fragmented solution that does not appropriately reflect the common special status of the six UN official languages. The informal consultations confirmed that none of the several options for the introduction of the proposed new languages outlined by the Secretariat³⁵ and previously discussed by the Working Group had garnered consensus support.

38. However, a number of elements emerged during the informal consultations that could facilitate the achievement of both objectives described in paragraph 36, above³⁶. These elements are the following:

- (i) Enriching the Madrid Terminology Database;
- (ii) Securing the best performing machine-translation tools;

³¹ Idem, paragraph 9.

³² Idem, paragraph 11

³³ Ibid.

³⁴ Idem, paragraph 12.

³⁵ See document MM/LD/WG/17/7 Rev. paragraphs 45 to 79

(https://www.wipo.int/edocs/mdocs/madrid/en/mm_ld_wg_17/mm_ld_wg_17_7_rev.pdf).

³⁶ Ibid.

- (iii) Collecting a corpus of translated lists of goods and services;
- (iv) Providing holders with a translation of all decisions from the Offices of the designated Contracting Parties;
- (v) Standardizing decisions from Offices of the designated Contracting Parties in machine-readable format; and,
- (vi) Introducing a differentiated translation practice.

ENRICHING THE MADRID TERMINOLOGY DATABASE

39. The International Bureau possesses a Terminology Database of indications that is the backbone of its translation practice. The Terminology Database contains more than two million indications in English with their corresponding translation in French and Spanish. All these terms have gone through some form of human validation, thus ensuring the quality of their translation. The Terminology Database has played a pivotal role in keeping the costs of translations between English, French and Spanish down. The Terminology Database is much larger than the Madrid Goods and Services Manager, which contains around 100,000 indications.

40. One of the most impactful means of limiting the cost of introducing Arabic, Chinese and Russian into the Madrid System would consist of creating a sufficiently large number of equivalent terms in those languages in the Terminology Database, to ensure that no less than 65 per cent of all indications of goods and services are covered by a corresponding translation in the Terminology Database.

41. Apart from significantly reducing the yearly cost of translations involving Arabic, Chinese and Russian, creating these equivalent terms in the Terminology Database would also ensure the requisite degree of quality, consistency and predictability of translations between the six languages concerned.

42. Based on the information received from the external translation service providers during the RFI process, translating the Terminology Database from English into Arabic, Chinese and Russian could require investing between 2.36 million Swiss francs, engaging a combination of small-specialized translation agencies, and 4.31 million Swiss francs, engaging large translation agencies.

43. Large translation agencies estimated that it could take as few as 50 weeks and as many as 124 weeks for one service provider to translate the Terminology Database from English to Arabic, Chinese and Russian. The actual time required for translating the Terminology Database could be different from the above following a purchase tender. By dividing the work and simultaneously engaging more than one service provider, it may also be possible to shorten the time required.

44. The Contracting Parties requesting the introduction of the Arabic, Chinese and Russian languages could support the International Bureau in the accomplishment of the work. For example, they could review the translation to ensure its quality and accuracy.

45. Finally, it should be noted that a large database of indications of goods and services could have great value as a general international trademark resource, beyond its immediate purpose in the Madrid System.

SECURING THE BEST PERFORMING MACHINE-TRANSLATION TOOLS

46. The International Bureau currently relies on WIPO Translate for the machine-translation of Madrid goods and services indications that are not covered by the Terminology Database.

WIPO Translate is an AI-based machine-translation tool developed in-house by WIPO and aimed specifically at IP subject matter.

47. The most effective machine-translation tools for translations to and from Arabic, Chinese and Russian must be identified.

48. The following options would be considered and the quality of the obtained machine-translation engines would be assessed with a view to determining which to retain:

(i) Training WIPO Translate so that it can also handle Madrid translations in Arabic, Chinese and Russian. If the Terminology Database is enriched with records in these languages, as proposed in paragraphs 39 to 45, above, it would be possible to train WIPO Translate. In such case, the only cost would be the purchase of a server (hardware) to support the additional translation workload. The cost of a new server is approximately 10,000 Swiss francs.

(ii) Relying on machine-translation services provided by one or more external providers. Based on a review of the rates charged by some of the leading providers, it is estimated that the increase in yearly cost resulting from this option would be in the range of 4,000 to 10,000 Euros.

49. A combination of both solutions could be desirable in function of the language pairs concerned.

COLLECTING A CORPUS OF TRANSLATED LISTS OF GOODS AND SERVICES

50. To reduce the initial investment required in the Terminology Database and to support the training of WIPO Translate, it would be extremely useful if Contracting Parties would be willing to share with the International Bureau any language pairs of lists of goods and services in their possession.

PROVIDING HOLDERS WITH A TRANSLATION OF ALL DECISIONS FROM THE OFFICES OF THE DESIGNATED CONTRACTING PARTIES

51. One of the most important consequences for users of the introduction of the proposed new languages into the Madrid System on an equal footing with the existing languages is that they would receive communications, such as notifications of provisional refusal, from the Offices of the designated Contracting Parties in not only English, French and Spanish, but also in Arabic, Chinese and Russian.

52. Using modern translation technologies, the International Bureau could make translations of all these communications available in all six languages, including the notifications of provisional refusal. This would be a step forward compared to the current situation, where the International Bureau only makes available translations of final decisions into English, French and Spanish.

53. In line with the practice that has been in existence for many years for final decisions, the machine-translation output of the above-mentioned communications would not be subject to post-editing.

STANDARDIZING DECISIONS FROM OFFICES OF DESIGNATED CONTRACTING PARTIES IN MACHINE-READABLE FORMAT

54. To improve the quality of machine-translation of decisions and to help to address concerns on the part of certain right-holders regarding the perceived additional complexity of the introduction of Arabic, Chinese and Russian languages into the Madrid System, it would be vital for the Offices of the Contracting Parties concerned to issue their decisions in a highly standardized and machine-readable format.

55. Using such format would make the said decisions and their translation easier to understand for users. The International Bureau would design the required formats and, in so doing, would work closely with the Offices of the Contracting Parties requesting the introduction of Arabic, Chinese and Russian with a view to their implementation.

56. Standardizing decisions in machine-readable format in the context of the introduction of new languages into the Madrid System would set a most helpful precedent with benefits beyond translation, because of the important gains in efficiency, quality and access to information that such standardization offers.

INTRODUCING A DIFFERENTIATED TRANSLATION PRACTICE

57. Currently, the International Bureau has the same translation practice for all Madrid translations into English, French and Spanish, irrespective of whether the Offices of designated Contracting Parties work in those languages or not.

58. In line with the principles of the Revised Policy on Languages at WIPO, introducing a differentiated translation practice, depending on whether a language is used by the Offices of designated Contracting Parties, would significantly reduce the yearly cost of Madrid System translations, in particular, if the proposed new languages were to be introduced.

59. Under such differentiated translation practice, post-editing of machine-translation into a given language would only be performed if the Office of a designated Contracting Party is to be notified in this language³⁷. An analysis of the Madrid website traffic conducted since the previous session of the Working Group reveals that the translations into languages which are not so notified are accessed only very infrequently³⁸.

60. Combining the proposal to enrich the Terminology Database with the implementation of a differentiated translation practice would further reduce the yearly translation cost of introducing Arabic, Chinese and Russian into the Madrid System on an equal footing with English, French and Spanish. For instance, based on the information gathered through the RFI process and assuming (i) a 65 per cent automated translation (from the enriched Terminology Database), (ii) adequate quality machine-translation for the remaining 35 per cent, and (iii) no post-editing of the machine-translation of final decisions, the estimated additional yearly cost (based on 2020 figures) would be between 698,000 and 854,000 Swiss francs with a differentiated translation practice, but between 2.41 and 2.97 million Swiss francs with the current practice.

VIII. REVISED COST ESTIMATE

GENERAL CONSIDERATIONS

61. As requested by the Working Group, the International Bureau has updated the cost estimate for the simultaneous introduction of the Arabic, Chinese and Russian languages into the Madrid System on an equal footing with English, French and Spanish. The information gathered since the previous session of the Working Group has enabled the International Bureau to adjust three key assumptions in its cost estimation model. These adjustments explain the difference between the cost estimate that appears in this document and the previous estimate annexed to document MM/LD/WG/18/5.

³⁷ Under this practice, post-editing would be performed only when notifying a Contracting Party of the international registration (whether it is mentioned in the international application or the subject of a subsequent designation) and of recordings that affect this Contracting Party.

³⁸ Between March 27 and April 22, 2021, there were 591,226 views of international registrations in Madrid Monitor. 6,306 of those views (one per cent) were in a language other than the language(s) in which the international registration was notified to the Office of the designated Contracting Parties.

62. First, while the previous cost estimate relied on direct translation rates for PCT-related documents, the new estimate relies on post-editing rates for indications of goods and services, which are lower. For example, the direct translation fee per word between English and Arabic used in the previous cost estimate was 0.28 Swiss francs. The fee per post-edited word between English and Arabic used in the current estimate ranges between 0.108 and 0.127 Swiss francs. As indicated earlier, the International Bureau estimated the fees per post-edited word following the RFI process.

63. Second, while the previous cost estimate assumed an initial 20 per cent automatic translation rate, increasing 2.5 per cent each year, the new estimate assumes that the International Bureau has made the necessary up-front investment to translate the Terminology Database into the new languages and that it has achieved no less than 65 per cent automatic translation rate in these new languages. Therefore, in the current estimate, the number of words that would be subject to machine-translation and post-editing is lower.

64. Third, the previous cost estimate assumed that machine-translation engines for Arabic, Chinese and Russian would be less performant than those for English, French and Spanish and that, therefore, all translations into these new languages would require post-editing. The new estimate assumes that, *inter alia*, as a result of the training of WIPO Translate on the basis of the expanded Terminology Database (see paragraphs 39 to 49, above) the quality of machine-translation outputs in Arabic, Chinese and Russian would match those in English, French and Spanish. The new estimate therefore follows the current translation practice of not post-editing the machine-translation output of final decisions, which further lowers the number of words that would be post-edited and subject to quality control.

65. In turn, all of the above would lower the number of translators required to control the quality of the post-editing services.

66. For the sake of consistency, everything else remains constant. The new cost estimate continues to assume that the introduction of the proposed new languages would be simultaneous. The new cost estimate continues to take into account the number of words subject to translation in 2019, as a baseline, as well as the growth rates estimated that year. The new estimate also continues to assume that the International Bureau would have an indirect translation practice for the new languages, with English as the relay language.

Updated Cost Estimate in Millions of Swiss Francs

	Possible one-Time Investment					Possible Increase in annual operating costs					
	(a) Cost of translating the terminology database	(b) Cost of ICT developments ³⁹	(c) Cost of translating internal and external documents and services ⁴⁰	(d) Cost of deploying WIPO Translate in the new languages	(e) Total possible one-time investment (a+b+c+d)	Current practice			Differentiated translation practice		
						(f) Cost of post-editing machine translation outputs	(g) Cost of part-time translators (QA) ⁴¹	(h) Total possible increase in annual operating costs under current practice (f+g)	(i) Cost of post-editing machine translation outputs	(j) Cost of part-time translators (QA)	(k) Total possible increase in annual operating costs under differentiated translation practice (i+j)
	Between 2.36 and 4.31	Approximately 0.31	Approximately 0.18	Approximately 0.01	Between 2.86 and 4.81						
2020						Between 2.19 and 2.75	Approximately 0.22	Between 2.41 and 2.97	Between 0.63 and 0.79	Approximately 0.06	Between 0.69 and 0.85
2021						Between 2.29 and 2.87	Approximately 0.23	Between 2.52 and 3.10	Between 0.66 and 0.83	Approximately 0.07	Between 0.73 and 0.90
2022						Between 2.38 and 2.99	Approximately 0.24	Between 2.62 and 3.23	Between 0.69 and 0.86	Approximately 0.07	Between 0.76 and 0.93
2023						Between 2.48 and 3.12	Approximately 0.25	Between 2.73 and 3.37	Between 0.72 and 0.90	Approximately 0.07	Between 0.79 and 0.97
2024						Between 2.58 and 3.24	Approximately 0.26	Between 2.84 and 3.50	Between 0.75 and 0.93	Approximately 0.08	Between 0.83 and 1.01

³⁹ This refers to the cost of the ICT developments that would be required to introduce the new languages, as indicated in paragraph 9 of document MM/LD/WG/18/5, and described in paragraphs 29 and 30 of its Annex (https://www.wipo.int/edocs/mdocs/madrid/en/mm_ld_wg_18/mm_ld_wg_18_6.pdf).

⁴⁰ This refers to the initial investment of engaging translators in an Individual Contractor Service (ICS) contract to ensure all relevant information and services are available in the proposed languages, as indicated in paragraph 5 of document MM/LD/WG/18/5. The length of the ICS contracts per new language has been estimated at six months, down from two years, because the new cost model assumes that this would be assisted by machine translation.

⁴¹ This refers to the cost of engaging one translator per new language, on an ICS contract, to control the quality of the machine-translation post-editing services provided by external translation agencies, as indicated in paragraph 24 of the Annex to document MM/LD/WG/18/5. Since the number of words that would be machine-translated has decreased in the new cost model because of the one-time investment in the terminology database, it is now foreseen that the translators could be engaged on a part-time basis.

67. The introduction of new languages into the Madrid System will require one-time investments and annual recurring expenditure. The one-time investment may be financed from the Madrid reserves in accordance with the Reserves policy of the Organization, should Member States so decide. Such use of the Madrid reserves will result in a reduction of the Union's reserves to the extent these are used to fund the relevant projects. The annual recurring expenditure that results from language expansion will increase the Madrid Union's annual expenditure. This will result in a reduction of the Madrid Union's operating result for the relevant period. The existing level of the Madrid Union Reserves permits the financing of the one-time investments. Regarding recurring expenditure, the Secretariat considers that, based on the current growth projections until 2024 from the Chief Economist, the estimated level of expenditure for the differentiated translation practice can be absorbed by the Madrid Union.

68. The Working Group is invited to:

(i) consider the information contained in this document;

(ii) express its views on the content of this document, in particular, on the elements described in paragraphs 39 to 60; and,

(iii) provide further guidance to the International Bureau on a possible way forward.

[End of document]