

WIPO



PCT/AAQ/V/6.

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WORLD INTELLECTUAL PROPERTY ORGANIZATION  
GENEVA

**PATENT COOPERATION TREATY**

**INTERIM ADVISORY COMMITTEE FOR ADMINISTRATIVE QUESTIONS**

**Fifth Session: Geneva, November 12 to 19, 1974**

REPORT

prepared by the International Bureau

INTRODUCTION

1. The "PCT Interim Advisory Committee for Administrative Questions" (hereinafter referred to as "the Interim Committee") held its fifth session in Geneva from November 12 to 19, 1974.

2. The members of the Interim Committee are those States - 40 in number - which have signed, or acceded to, the PCT, and, pursuant to a decision of the Executive Committee of the Paris Union, any other country which pledges a special contribution to the PCT budget. There is one State, Australia, which so far has qualified under the latter criterion. The following 21 States were represented: Austria, Belgium, Brazil, Canada, Denmark, Egypt, Finland, France, Germany (Federal Republic of), Hungary, Iran, Japan, Luxembourg, Netherlands, Norway, Soviet Union, Sweden, Switzerland, Syrian Arab Republic, United Kingdom, United States of America. The following 19 countries were not represented: Algeria, Argentina, Australia, Cameroon, Central African Republic, Chad, Holy See, Ireland, Israel, Italy, Ivory Coast, Madagascar, Malawi, Monaco, Philippines, Romania, Senegal, Togo, Yugoslavia.

3. Two intergovernmental organizations, the International Patent Institute (IIB) and the United Nations Conference on Trade and Development (UNCTAD), were represented by observers.

4. The following seven non-governmental organizations were represented by observers: International Association for the Protection of Industrial Property (AIPPI), Council of European Industrial Federations (CEIF), European Federation of Industrial Property Representatives of Industry (FEMIPPI), International Federation of Patent Agents (FICPI), International Federation of Inventors' Associations (IFIA), Union of Industries of the European Community (UNICE), Union of European Professional Patent Representatives (UNION).

5. The number of participants was approximately 50. The list of participants is annexed to this report.

OPENING STATEMENTS

6. The session was opened by Mr. K. Pfanner, Deputy Director General of WIPO, who welcomed the participants on behalf of the Director General.

7. Mr. Pfanner introduced Mr. Jordan Franklin, who had recently taken up duty as the Head of the PCT Section, Industrial Property Division, WIPO.

#### OFFICERS OF THE SESSION

8. The Interim Committee unanimously elected Mr. J. Dekker (Netherlands) as Chairman and Mr. F.R. Burnett (United States of America) and Mr. T. Takeda (Japan) as Vice-Chairmen.

9. Mr. J. Franklin, Technical Counsellor, Head of PCT Section, WIPO, acted as Secretary of the Interim Committee.

#### AGENDA

10. The Interim Committee adopted its agenda as contained in document PCT/AAQ/V/1.

#### ADMINISTRATIVE INSTRUCTIONS

11. Discussions were based on document PCT/AAQ/V/2, containing the second revised draft of the Administrative Instructions.

12. The Interim Committee considered the draft of the Administrative Instructions section by section. All sections of the draft not referred to in the following paragraphs were approved by the Interim Committee without comment. Proposals for amendment which, after discussion, were not retained, are not reproduced here. In this report, references to Articles are to the PCT, to Rules are to the Regulations under the PCT and to Sections are to the Administrative Instructions. Suggestions concerning the revision of the PCT forms which were made during the discussion of the Administrative Instructions were noted by the International Bureau for that purpose, but are not reproduced in this report.

#### Table of Contents

13. It was decided that the title of PART I, "INTRODUCTORY PROVISIONS," should be changed to read "INSTRUCTIONS RELATING TO GENERAL MATTERS."

#### Sections 102 and 103

14. It was decided that, for the reasons set forth in paragraph 7 of the introductory part of document PCT/AAQ/V/2, discussion of these Sections would be deferred until a later session of the Interim Committee.

#### Section 105

15. It was decided that the clause ", for the purpose of identifying that application", should be placed after the word "sufficient" in line 2.

#### Section 107

16. It was decided to ask the International Bureau to study the possibility of using two-letter codes also for the International Authorities hitherto having codes with more letters, for example "SA" instead of "ISA" to indicate the International Searching Authority and "EA" instead of "IPEA" to indicate the International Preliminary Examining Authority.

#### Section 108

17. It was decided to combine paragraphs (a) and (b) into a single paragraph.

18. The Delegation of the United States of America suggested that, in item (iii) of both paragraphs (a) and (b), the wording "first filed" be changed to read "earliest filed and still valid," since the present wording did not seem to cover the case of a revocation of the power of attorney.

#### Section 201

19. It was decided to maintain both alternatives, bearing in mind that the solution eventually adopted should follow the practice prevailing in the industrial property field at the time of final adoption of the Administrative Instructions.

#### Section 202

20. The Delegation of Japan stated that this Section, by using the term "designated," could appear to be limited to those indications of names of States which occur in connection with designations of States in the request under Rule 4.9. It was decided to clarify the text accordingly (for instance, by using the term "referred to").

21. It was decided that the words "in parenthesis, after the indication of the name of any State" should be replaced by "in the appropriate space provided for in the request form." This should be done in order to give more freedom for the most appropriate arrangement of layout in the request form.

#### Section 203

22. For paragraph (b) of this Section an amendment similar to that agreed for Section 202 was adopted.

#### Section 204

23. Wherever, in citing Article 4(1)(ii), the word "sentence" is used, it should be replaced by "clause."

#### Section 206

24. It was decided that the question whether an amended claim should maintain the original number (and consequently be indicated as "(amended)") or whether such claim should bear a new number (and consequently be indicated as "new") should be determined by the choice of the applicant and not by objective criteria. The International Bureau was asked to clarify this Section accordingly.

#### Section 207

25. The Delegation of Japan proposed that the common representative should be indicated also on the first page of the request form. This question was deferred since the possibility of introducing that indication on the first page of the request form required further study in connection with the revision of the forms.

#### Section 208

26. It was agreed that the title should read "Arrangement of Elements and Numbering of Sheets of the International Application."

27. The Delegation of Japan proposed that the elements of the international application should appear in the following order: the request, the claims, the description, the drawings, the abstract. The Delegation of the United States of America suggested that, in order to facilitate searching, the order should be the following: the request, the drawings, the abstract, the description, the claims. The International Bureau pointed out that the order

appearing in this Section was based on the order used in Article 3(2) and Rule 11.2. Those provisions identify the elements of the international application but do not necessarily require the elements to be set forth in the order given. The Delegations of France, Norway and the United Kingdom supported the order presented in this Section. It was decided to maintain for the moment the present order subject to the possibility of reconsideration when the form of publication of the international application was finally decided.

28. The representative of AIPPI, supported by the representative of FEMIPPI, proposed that the numbering of the sheets of the international application begin with the description in order to avoid forcing the applicant into any renumbering when making national filings based on that application. The Delegation of France supported this view. The International Bureau pointed out that a strict construction of Rule 11.7 would require that the numbering begin with the request, if the present order of the elements of the international application was maintained. However, possibilities for practical solutions in this matter, which could accommodate the wish expressed, could be examined. It was decided to ask the International Bureau to reconsider this question and to defer any decision on it until the form of publication was finally decided.

#### Section 302

29. On a proposal of the Delegation of the Soviet Union, it was decided to ask the International Bureau to clarify this Section by specifying the words to be indicated in the international application when a priority claim was regarded as not having been made.

30. The Delegation of Sweden referred to the case where an international application claimed a priority and, prior to submitting the priority application number, that application was considered withdrawn and the applicant sought review under Article 25 before a designated Office. In this context the question was raised whether the applicant would still be required to submit the priority application number within the time limit set forth in the PCT or whether national law would apply. The International Bureau stated that, since the application would have entered the national phase before the designated Office, that Office would, for that question, apply the national law.

31. The Delegation of the United States of America queried whether an applicant who at the time of filing had claimed a priority and who later, but before the end of the priority year, decided to withdraw his priority claim, could shift to the international filing date as the basis for the calculation of time limits under the PCT. The Delegation of the United Kingdom, supported by the Delegation of Austria, referring to Article 2(xi) and Article 8, stated that if the applicant originally claimed a priority date, that date would continue to be used to calculate the time limits during the international phase.

#### Section 303

32. The representative of FEMIPPI, supported by the representatives of UNICE, CEIF and AIPPI, proposed, in particular, that provision be made on the request form for the indication of the applicant's file number, further, that that number should be exempted from deletion under Rule 4.17 and this Section, and that that number should be used in all correspondence with the applicant.

33. The International Bureau, noting that Rule 4.17 prohibited the inclusion of such additional matter in the request form, suggested the possibility that the applicant indicate his file number in a separate document accompanying the filing of the application. The receiving Office could then use that number in its notification of receipt provided for under Section 301. The Delegations of the Netherlands and of Germany (Federal Republic of) suggested that the use of a reference to the applicant's file number was of primary importance only at the time of filing.

34. In response to a query from the International Bureau seeking to determine which national Offices indicated the applicant's file number only in the receipt given at the time of filing and which Offices indicated it in all communications to the applicant, the following replies were received. The Delegations of the United Kingdom and the United States of America stated that their Offices used this indication only at the time of filing, whereas the Delegations of Denmark,

Germany (Federal Republic of), Sweden and Switzerland stated that their Offices used this indication in all communications to the applicant. It was decided to ask the International Bureau, on the basis of these replies, to consider, in the context of the revision of the Administrative Instructions and of the further work on the PCT forms, whether the indication in question should be used in all communications to the applicant.

#### Section 305

35. It was noted that in the French text the words "record copy" should be replaced by their equivalent in French.

36. It was decided that the word "stamp" in paragraphs (a) and (b) be replaced by the word "mark." Further, the International Bureau was asked to clarify this Section to indicate that the words "record copy" should be marked on that copy only after the preparation of the additional copies.

#### Section 307

37. In response to a question from the Delegation of the United Kingdom as to why an additional digit allowing for correctional re-runs (check digit) was not added, the International Bureau stated that, after careful study, it had been established that the implementation of that proposal would give rise to difficulties in properly identifying the international application number. Moreover, a computer was necessary to provide international application numbers with a check digit and to make use of such digit. It was decided to ask the International Bureau to refer this matter to the Technical Committee for Standardization (TCST) of ICIREPAT for consideration. Decision should be deferred until the results of that consideration were known.

38. In response to a comment from the Delegation of the United States of America that the separate later marking "PCT" as the first element of the international application number would be difficult and time consuming, the International Bureau replied that the inclusion of "PCT" in the international application number was desirable to clearly distinguish the international application number from the provisional file number. This view was shared by the Delegations of France and the United Kingdom, which felt that, in view of the existence of other (regional) treaties, that addition was necessary to identify clearly the treaty under which the application originated. It was decided to maintain the addition "PCT" but to ask the International Bureau to study further the question whether a distinction between the two numbers was necessary or whether "PCT" could not be used with both numbers.

#### Section 310

39. It was decided that, in paragraph (a), line 2, "International Bureau" should be changed to "receiving Office." Likewise, in line 3, "Bureau" should be changed to "Office."

#### Section 311

40. It was decided to provide in the Administrative Instructions for the re-numbering of the sheets not only by the receiving Office but also by the International Bureau. On a proposal by the Delegation of Japan to use a numbering system only affecting the added or deleted sheets, the Delegation of the Netherlands stated that for the publication of the international application consecutive numbering was very important and should be applied without exception. The International Bureau was asked to consider whether, in the light of this observation, the proposal of the Delegation of Japan should be implemented.

#### Section 313

41. It was decided to replace the word "stamp" by the word "mark." The

International Bureau was asked to examine whether a shorter expression could be found to replace the use of the words "Filled in by the receiving Office" (for example, "Filled in by RO").

Section 314

42. The same consideration as referred to under the previous Section should be given to the possibility of shortening the expressions used in paragraph (b) of this Section.

Section 403

43. It was decided to ask the International Bureau to study the question whether the numerical references appearing in the text of this Section should not be completed by words similar to those appearing in its titles.

Section 404

44. It was decided to ask the International Bureau to examine the question whether six, rather than five, digits should be required in the serial number.

Section 502

45. It was decided to ask the International Bureau to provide, if not already provided for, that any applicant may request the forwarding, to any designated Office, of copies of the protest and the decision thereon at any time, that is, even after the International Searching Authority's having transmitted the copy of the said protest and decision to the International Bureau. In such a case, the request would have to be addressed to the International Bureau rather than the International Searching Authority.

Section 503

46. In connection with paragraph (a), it was decided to modify item (iv) so that it would require the identification of the date of publication as indicated on the patent document. Furthermore, it was decided to ask the International Bureau to examine all the various kinds of patent documents included in the minimum documentation to see whether they indicated the date of their publication and to investigate to what extent the date so indicated corresponded to the actual date of publication. Finally, it was decided to omit item (vi).

47. In connection with paragraph (b), it was decided to modify item (iii) so that it would require the indication of the full date (year, month, day) of the publication of the book (or other separately issued publication) if it appeared on the book itself, and only allow the indication of less than the full date (year and month only, or year only) where the book indicated only such less precise data; furthermore, that where the book itself contained no indication of its date of publication but such was readily available from other sources, the date should be indicated, provided the source was authoritative (for example, the records of the National Library containing it). Finally, it was decided to modify item (v) so that it would require the indication of the place of publication if it appeared, as such, in the book, whereas if it did not appear there but the location of the publisher was indicated, then that location should be regarded and indicated as the place of publication.

48. In connection with paragraph (c), it was decided that item (iv) should require the indication also of the number of the page on which the article ends. In addition, the question should be studied whether item (iii) should be amended in a way similar to item (v) of paragraph (b).

49. In connection with paragraph (d), it was decided that the last three lines should be replaced by words requiring the indication of the bibliographic data of the abstract rather than those of the full text document.

50. It was also suggested that an example be included at the end of each paragraph.

#### Section 504

51. It was decided to revise the drafting of paragraph (a) along the following lines: "where the international application must be provided with different classification symbols according to the principles to be followed in the application of the International Patent Classification to any given patent document, the international search report shall indicate all such symbols."

#### Section 508

52. It was decided to complete this Section by a paragraph (d) along the following lines: "where any document cited in the international search report is a document whose publication date is earlier than the international filing date but later than the claimed priority date, it shall be indicated by the letter "P" placed next to the citation of the said document."

53. The Delegation of the Federal Republic of Germany proposed that this Section be completed by a further paragraph requiring the indication, by a letter "F," of members of a family of patent documents, provided that, where members of several such families were cited, the indication should differentiate among the families through the use of "F1," "F2," "F3," etc., symbols. It was decided to reserve a decision on this proposal until the substantive question concerning the extent to which members of a family should be cited had been decided.

#### Section 509

54. It was decided to ask the International Bureau to study a proposal of the Delegation of the United States of America, read to the meeting and filed with the International Bureau, for the rewording of this Section.

55. The Delegation of Japan suggested that paragraph (a) be deleted, since, where any cited document was relevant to all the claims, no special indication was necessary. The Director General replied that the system proposed in the draft would be more practical for all those concerned and would guarantee that the writer of the search report had really considered the question whether the citation referred to all the claims, without exception.

#### Annex A

56. At the request of the Delegation of the Federal Republic of Germany, it was decided that the short title of its country would be changed into "Germany (Federal Republic of)."

#### Annex B

57. It was decided to add "IB" as a code for identifying the International Patent Institute, it being understood that such code would be deleted if or when the International Patent Institute ceased to exist as such.

#### Annex D

58. It was decided to ask the International Bureau to study the possibility of emphasizing the international application number by requiring that it appear in larger and/or bolder characters or that it be underlined.

Annex F

59. A citation error in paragraph 4 will have to be corrected.

60. The Delegation of the United States of America asked that this Annex refer also to Rules 19.3, 23.1(c), 22.4, 49.1(a) and (c), 86.1, 89.3 and possibly also to Rules 18.4(c), 35.1 and 35.2(b). The Delegation of the Soviet Union said that it would communicate to the Secretariat, in writing, proposals for completing this Annex. The Director General said that these proposals would be studied but that he saw no need for the inclusion in the Annex of any elements covered by Rule 86.1(iii).

61. It was decided that the International Bureau should study the possibility of publishing, in each issue of the Gazette, the information concerning each published application in the order of its International Patent Classification symbol. The international publication numbers should follow that order.

62. In connection with item 3, it was noted that the full list of the non-patent literature would be published once, and changes made in that list whenever they were decided upon. One could envisage the publication of the full list once a year in order to show, cumulatively, its latest state.

FORMS

63. The Interim Committee had before it document PCT/AAQ/V/3.

64. The Delegation of France said that, while it was ready to accept that, for practical reasons and in the preliminary stages, the drafts of the various forms be prepared only in English, it had expected to receive the report of the Working Group (PCT/AAQ/WGF/I/10) in French.

65. The Director General said that since the said report frequently referred to the forms (which existed in English only), it was believed that the report itself would suffice in English but that he would see to it that the report be translated into French.

66. It was agreed that, for the moment at least, the survey referred to in the said report would not be carried out and that, on the basis of the discussions of the Working Group, the International Bureau would revise the forms and submit them (for the moment still only in English) to the next session of the Interim Committee. The revision should also take into account any problems peculiar to national Offices of countries having more than one official language.

PROGRAM FOR 1975

67. It was decided that the program of the Interim Committee for 1975 should include the following questions:

(i) further revision of the draft Administrative Instructions, including the forms;

(ii) elaboration of the first draft of a model agreement between the International Bureau and an International Searching Authority;

(iii) a review of the compatibility and consistency of the solutions envisaged in the framework of the PCT, the European Patent Organization (EPO) and any other regional arrangement, as far as questions within the jurisdiction of the Interim Committee are concerned;

(iv) preparation of first drafts of guidelines for receiving Offices and of guidelines for applicants;

(v) planning for testing the draft Administrative Instructions, including the PCT forms, for their compliance with practical requirements, through simulation of PCT procedures.



68. It was understood that the International Bureau would prepare working documents on items (i), (ii), (iii), and, after consultations with the Soviet Office for Inventions--on whose proposal item (v) was based--on item (v). As far as item (iv) was concerned, it was understood that the guidelines would also or mainly serve the purpose of a commentary on the use of the PCT forms, and that the International Bureau would go as far as other tasks permitted it. The Director General said that the International Bureau was ready to proceed accordingly with the exercise referred to in item (v).

69. It was also understood that, because of the volume of the tasks involved, the Interim Committee should have a longer session in 1975 than was its present session.

70. It was decided that no Working Group of the Interim Committee should be convened before the Interim Committee's next session in 1975.

71. This report was unanimously adopted by the Interim Committee at its closing meeting on November 19, 1974.

[Annex follows]



PCT/AAQ/V/6  
PCT/TAS/IV/8  
PCT/TCO/IV/18

ANNEXE/ANNEX

LISTE DES PARTICIPANTS/  
LIST OF PARTICIPANTS

I. ETATS/STATES

ALLEMAGNE (REPUBLIQUE FEDERALE D')/GERMANY (FEDERAL REPUBLIC OF)

- Dipl.-Ing. K.-H. HOFMANN (Head of Delegation for TAS and TCO)  
Abteilungspräsident  
German Patent Office  
Berlin Branch
- Mr. U. C. HALLMANN (Head of Delegation for AAQ)  
Regierungsdirektor  
German Patent Office  
Munich
- Mr. W. MASSALSKI  
Oberregierungsrat  
German Patent Office  
Berlin Branch

AUTRICHE/AUSTRIA

- Mr. G. GALL  
Oberkommissär  
Federal Ministry for Trade, Commerce  
and Industry  
Section for Industrial Property  
Vienna
- Mr. G. MAUTNER-MARKHOF  
Third Secretary  
Permanent Mission of Austria  
Geneva

BELGIQUE/BELGIUM

- M. J. VERLINDEN  
Secrétaire d'Administration  
Service de la propriété industrielle  
et commerciale  
Ministère des Affaires économiques  
Bruxelles

BRESIL/BRAZIL

- Mr. G. F. MARTINS  
Secretary of Embassy  
Brazilian Delegation  
Geneva

CANADA

- Mr. R. B. MCKENZIE  
Section Head  
Electrical and Physical Sciences Division  
Patent Office  
Department of Consumer and Corporate Affairs  
Hull, Quebec

DANEMARK/DENMARK

Mrs. D. SIMONSEN  
Head of Department  
Danish Patent Office  
Copenhagen

Mrs. L. ØSTERBORG  
Chief of Section  
Danish Patent Office  
Copenhagen

EGYPTE (REPUBLIQUE ARABE D')/EGYPT (ARAB REPUBLIC OF)

Mr. S. A. ABOU-ALI  
First Secretary  
Permanent Mission of Egypt  
Geneva

ETATS-UNIS D'AMERIQUE/UNITED STATES OF AMERICA

Mr. R. F. BURNETT  
Special Assistant to Assistant Commissioner  
for Patents  
United States Patent Office  
Washington

Mr. H. D. HOINKES  
Legislative and International Patent Specialist  
United States Patent Office  
Washington

Mr. L. O. MAASSEL  
Patent Procedure Specialist  
United States Patent Office  
Washington

FINLANDE/FINLAND

Mr. E. WUORI  
Deputy Director General  
National Board of Patents and Registration  
of Trade Marks  
Helsinki

Mr. P. SALMI  
Head of Section  
National Board of Patents and Registration  
of Trade Marks  
Helsinki

FRANCE

M. R. LABRY  
Conseiller d'Ambassade  
Direction des Affaires économiques  
et financières  
Ministère des Affaires étrangères  
Paris

M. P. GUERIN  
Attaché de direction  
Institut national de la propriété industrielle  
Ministère de l'industrie, du commerce et  
de l'artisanat  
Paris

HONGRIE/HUNGARY

- Mr. E. TASNADI  
President  
National Office of Inventions  
Budapest
- Mr. G. SZEMZÖ  
Examiner  
National Office of Inventions  
Budapest

IRAN

- Mr. H. JAMSHIDI  
Director General  
Department for Registration of Companies  
and Industrial Property  
Ministry of Justice  
Teheran

JAPON/JAPAN

- Mr. T. TAKEDA  
Examiner  
Applied Physics Division  
Second Examination Department  
Patent Office  
Tokyo
- Mr. T. YOSHIDA  
Japanese External Trade Organization (JETRO)  
Düsseldorf  
Germany (Federal Republic of)

LUXEMBOURG

- M. F. SCHLESSER  
Ministère de l'économie nationale  
Luxembourg

NORVEGE/NORWAY

- Mr. O. OS  
Overingeniør  
Norwegian Patent Office  
Oslo

PAYS-BAS/NETHERLANDS

- M. J. DEKKER  
Vice-président  
Office des brevets  
Rijswijk (ZH)

REPUBLIQUE ARABE SYRIENNE/SYRIAN ARAB REPUBLIC

- M. A. JOUMAN-AGHA  
Ministre Conseiller  
Mission permanente de la République  
arabe syrienne  
Genève

ROYAUME-UNI/UNITED KINGDOM

- Mr. D. G. GAY  
Superintending Examiner  
Patent Office  
London
- Mr. A. F. C. MILLER  
Principal Examiner  
Patent Office  
London
- Mr. R. SUMMERS  
Senior Principal  
Patent Office  
London

SUEDE/SWEDEN

- Mr. L. TÖRNROTH  
Primary Examiner  
National Patent and Registration Office  
Stockholm
- Mrs. E. HENRIKSSON  
Legal Adviser  
National Patent and Registration Office  
Stockholm

SUISSE/SWITZERLAND

- M. R. KÄMPF  
Chef de la Section du droit des brevets et  
des dessins et modèles  
Bureau fédéral de la propriété intellectuelle  
Berne
- M. E. CAUSSIGNAC  
Président d'une Section des recours  
Bureau fédéral de la propriété intellectuelle  
Berne
- M. M. LEUTHOLD  
Chef de Section  
Bureau fédéral de la propriété intellectuelle  
Berne
- M. J. MIRIMANOFF-CHILIKINE  
Collaborateur juridique  
Bureau fédéral de la propriété intellectuelle  
Berne

UNION SOVIETIQUE/SOVIET UNION

- Mr. L. E. KOMAROV  
Deputy Chairman  
State Committee for Inventions and Discoveries  
of the USSR Council of Ministers  
Moscow
- Mr. A. S. IGNATIEV  
Expert  
State Committee for Inventions and Discoveries  
of the USSR Council of Ministers  
Moscow
- Mrs. E. V. MAKHLUEVA  
Deputy Head  
International Patent Cooperation Division  
All-Union Research Institute of State Patent  
Examination

II. ORGANISATIONS INTERGOUVERNEMENTALES/INTERGOVERNMENTAL ORGANIZATIONS

CONFERENCE DES NATIONS UNIES SUR LE COMMERCE ET LE DEVELOPPEMENT (CNUCED)/  
UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD)

Mr. P. ROFFE  
Economics Affairs Officer  
Transfer of Technology Branch  
Geneva

INSTITUT INTERNATIONAL DES BREVETS (IIB)/INTERNATIONAL PATENT INSTITUTE

M. J. A. H. VOORTHUIZEN  
Directeur Technique Adjoint  
Rijswijk (Z.H.)

M. A. VANDECASTEELE  
Conseiller au Service technique  
Rijswijk (Z.H.)

III. ORGANISATIONS NON-GOUVERNEMENTALES/NON-GOVERNMENTAL ORGANIZATIONS

ASSOCIATION INTERNATIONALE POUR LA PROTECTION DE LA PROPRIETE INDUSTRIELLE (AIPPI)/  
INTERNATIONAL ASSOCIATION FOR THE PROTECTION OF INDUSTRIAL PROPERTY (IAPIP)

Mr. M. MATHEZ  
Director  
F. Hofmann-La Roche & Co., Ltd.  
Basle

CONSEIL DES FEDERATIONS INDUSTRIELLES D'EUROPE/COUNCIL OF EUROPEAN  
INDUSTRIAL FEDERATIONS (CEIF)

Mr. D. LCHAT  
Paris

Dr. R. KOCKLAEUNER  
Hoechst A.G.  
Wiesbaden-Biebrich

FEDERATION EUROPEENNE DES MANDATAIRES DE L'INDUSTRIE EN PROPRIETE INDUSTRIELLE (FEMIP)

Dr. F. A. JENNY  
CIBA-GEIGY AG  
Basle

Dr. R. KOCKLAEUNER

FEDERATION INTERNATIONALE DES INGENIEURS-CONSEILS EN PROPRIETE INDUSTRIELLE (FICPI)/  
INTERNATIONAL FEDERATION OF PATENT AGENTS

M. P. O. LANGBALLE  
Président d'Honneur de la FICPI  
Copenhague

FEDERATION INTERNATIONALE DES ASSOCIATIONS D'INVENTEURS/INTERNATIONAL  
FEDERATION OF INVENTORS ASSOCIATIONS (IFIA)

Dr. F. BURMESTER  
Reutlingen  
Germany (Federal Republic of)

Mr. H. ROMANUS  
Chief Engineer  
Stockholm

Mr. S.-E. ANGERT  
Patent Agent  
Stockholm

UNION DES INDUSTRIES DE LA COMMUNAUTE EUROPEENNE (UNICE)/UNION OF INDUSTRIES OF  
THE EUROPEAN COMMUNITY

M. M. G. E. MEUNIER  
Conseil d'industrie en propriété industrielle.  
ACEC  
Service des brevets  
Charleroi

Dr. R. KOCKLAEUNER

UNION DES MANDATAIRES AGREES EUROPEENS EN BREVETS/UNION OF EUROPEAN PROFESSIONAL  
PATENT REPRESENTATIVES

M. A. R. EGLI  
Conseiller en brevet  
Zurich

Mr. W. F. SCHAAD  
Patentanwalt  
Zurich

IV. ORGANISATIONS OBSERVATEURS/OBSERVER ORGANIZATIONS

CENTRE INTERNATIONAL DE DOCUMENTATION EN MATIERE DE BREVETS/INTERNATIONAL  
PATENT DOCUMENTATION CENTER (INPADOC)

Mr. G. RUBITSCHKA  
Head  
Commercial Department  
Vienna

Mr. G. QUARDA  
Assistant Technical Director  
Vienna

THE INSTITUTION OF ELECTRICAL ENGINEERS (INSPEC)

Mr. R. B. COX  
Manager  
Product Development  
Hitchin  
United Kingdom



V. ORGANISATION MONDIALE DE LA PROPRIETE INTELLECTUELLE (OMPI)/WORLD INTELLECTUAL  
PROPERTY ORGANIZATION (WIPO)

Dr. A. BOGSCH, Directeur général/Director General

Mr. K. PFANNER, Vice-Directeur général/Deputy Director General

Mr. P. CLAUS, Conseiller technique/Technical Counsellor, Chef de Section/Head of  
Section, Division de la Propriété industrielle/Industrial Property  
Division

Mr. J. FRANKLIN, Conseiller technique/Technical Counsellor, Chef de la Section PCT/  
Head, PCT Section, Division de la Propriété industrielle/Industrial  
Property Division

Mr. N. SCHERRER, Conseiller/Counsellor, Section PCT/PCT Section, Division de la  
Propriété industrielle/Industrial Property Division

Mr. Y. GYRDYMOV, Assistant technique/Technical Officer, Section PCT/PCT Section,  
Division de la Propriété industrielle/Industrial Property Division

Mr. F. IIZUKA, Consultant, Section PCT/PCT Section, Division de la Propriété  
industrielle/Industrial Property Division

Mr. J. KOHNEN, Assistant juridique/Legal Officer, Section PCT/PCT Section,  
Division de la Propriété industrielle/Industrial Property Division

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