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INTERNATIONAL PATENT COOPERATION UNION
(PCT UNION)

COMMITTEE ON REFORM
OF THE PATENT COOPERATION TREATY (PCT)

First Session
Geneva, May 21 to 25, 2001

REFORM OF THE PCT:
PROPOSALS BY DENMARK

Document prepared by the International Bureau

1. The proposals appearing on the following pages were made by Denmark in a submission to the International Bureau received on April 3, 2001. Background information appears in document PCT/R/1/2.¹

2. *The Committee is invited to consider the proposals contained in this document.*

¹ The working documents for the Committee's session are available on WIPO's web site at the following address: http://www.wipo.int/pct/en/reform/index_1.htm

PROPOSALS BY DENMARK

WITH REFERENCE TO DOCUMENT PCT/R/1/2 CONCERNING
THE REFORM OF THE PATENT COOPERATION TREATY

Prefatory remarks

The USPTO's first stage of the suggested reform contains considerations regarding the question of bringing the PCT in line with the PLT. We agree in principle that this work is essential in order to unite the two conventions.

It seems like a suitable solution to set up a special body to consider different proposals not only from the USPTO but also from other member states. This special body should consist of a limited number of member States, International Searching and Preliminary Examining Authorities and non-governmental organisations. However, we believe that this special body should report to all of the member states prior to reporting to the Assembly so that the member states including the specialists will have the opportunity to discuss the proposals of the special body before the meeting of the Assembly.

The special body should however, only consider the changes in the first stage, since the more thorough reform of the PCT needs a more detailed consideration.

Concerning the proposed changes in the first stage we have the following comments:

Elimination of the concept of designations (proposal 1)

Since most of the PCT applications designate all countries due to the fact that the applicant now only pay for six designations, we agree to the remarks stated by USPTO and is in favour of the proposal. How this would influence the fees should be discussed more thoroughly.

Elimination of 20-month deadline (proposals 5,6,7,8 and 9)

It's the opinion of the Danish delegation that the 20- month period is still reasonable, as the distinction between the 20 and the 30-month period preserves the system's flexibility. If an elimination of the 20-month period were to be carried out, it would, most likely, require changes in existing time limits concerning publication of the application and the international novelty search. Such changes require further and more thorough considerations.

In regard to the proposal on a "Super International Searching Authority", we can not support the proposal, since such an authority implies further centralisation of the patent system. Also, the proposal would inevitable create an increased workload on the ISA/IPEA, which we do not find desirable.

When it comes to the accommodation of further deferral of national phase entry, it's our opinion that the suggested possibility of deferrals at six-month intervals from the 30th month would diminish the legal certainty.

Bringing the PCT rules in accordance with the PLT rules (proposals 2,3,4 and 15)

In general the idea of bringing the PCT rules in line with the PLT rules is appealing. However, by eliminating all residency and nationality requirements the proposal may have the effect, as the USPTO points out, of reducing the incentive for non-PCT members to join the PCT. We believe that in principle any state should be a member of the PCT, and therefore be subject to the PCT-rules, in order to use the PCT system. Since the proposal is aimed at the developing and least developed countries we are open for discussions on this matter, even though the proposal, in our point of view, does not benefit the current members.

Electronic filing and publication (proposals 11,13 and 14)

We agree that electronic filing/processing is an important part of the future. Whether it can create the advantages stated by the USPTO is yet to be seen. The electronic filing and processing alone can not obviate the need for many of the review and handling functions throughout the patent offices of the world, but it could be a step in the direction of a more up to date system.

Remaining proposals (10 and 12)

While proposal 10 would be a logical consequence of an implementation of the proposals, proposal 12 seems a bit out of context, since this proposal is directed to the industrialised countries in order to respond to the developing countries' request for further assistance. However, we agree in principle.

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