

The Patent Cooperation Treaty (PCT) Diplomatic Conference (1970)



Background (1)

■ Executive Committee of the International (Paris) Union

- Based on a proposal by the US delegation
- Sept. 29, 1966: adopted recommendation that the BIRPI* Director urgently undertake “a study on solutions tending to reduce the duplication of effort both for applicants and national patent offices in consultation with outside experts to be invited by him and giving due regard to the efforts of other international organizations and groups of States to solve similar problems, with a view to making specific recommendations for further action, including the conclusion of special agreements within the framework of the Paris Union”

* BIRPI: French acronym for United International Bureaux for the Protection of Intellectual Property, WIPO's predecessor organization

Background (2)

■ 1967:

- ❑ BIRPI Director consulted with experts from 6 States with the highest number of patent applications: France, Germany, Japan, Soviet Union, United Kingdom, United States (January-April 1967)
- ❑ Based on the consultations, BIRPI prepared a draft Treaty (tentative title: “Patent Cooperation Treaty,” May 31, 1967)
- ❑ Discussed at meeting of Committee of Experts (34 States, 2 observer States, 7 IGOs, 10 NGOs, October 1967)
- ❑ Reviewed by Conference of Representatives of Paris Union (Dec. 1967):
 - “Treaty should be vigorously pursued”

Background (3)

■ 1968:

- ❑ 7+ meetings in first six months
- ❑ 2nd drafts published as working documents on July 15, 1968 for Committee of Experts meeting (December 1968) which proposed revisions

■ 1969:

- ❑ March 1969: revised drafts issued for consideration by 3 meetings in April/May
- ❑ July 1969: issued further revised drafts which were considered at Sept. 1969 Paris Union Executive Committee
- ❑ All Paris States and 9 NGOs were invited to submit written comments on 1969 Drafts

Background (4)

■ 1970:

- ❑ Preparatory Study Group held in March (40 States, 9 IGOs, 11 NGOs) agreed on revisions to 2/3 of draft rules
- ❑ BIRPI issued new documents for convenience of Diplomatic Conference (May 1970)

The Conference itself (1)

■ Leadership:

- Conference President:
Eugene Braderman (US
delegation Co-Chairman;
Deputy Assistant Secretary
for Commercial Affairs and
Business Activities,
Department of State)



The Conference itself (2)

■ Leadership:

- Vice Presidents: from 16 countries:
 - Argentina, Australia, Brazil, Cameroon, France, Germany (Federal Republic), Hungary, Italy, Ivory Coast, Japan, Philippines, Soviet Union, Spain, Sweden, United Arab Republic, United Kingdom
- Secretary General: Arpad Bogsch



The Conference itself (3)

- Opening (May 25, 1970):
 - Georg Bodenhausen (BIRPI Director)



Dr. Georg Bodenhausen, Director, BIRPI

“...It can therefore truly be said that this Conference is in many respects a “first,” particularly in that for the first time it will try to achieve, on a worldwide scale, substantial international collaboration in one of the most important fields of industrial property, namely, that of applications for patents or inventors’ certificates, the search for their novelty, and possibly their examination as to other criteria of patentability or grant.”

Mr. Edward Armitage, Head of the UK delegation and Comptroller-General of Patents, Designs and Trade Marks

“We should not be modest about what we are now doing. This is the biggest breakthrough in patents since 1883. It is the first real exercise in cooperation at the working procedural level on patent processing. I think we should not expect perfection immediately. It is really quite important that we should approach this, as the Soviet Delegate has said, in a spirit of compromise. The first and really almost the last objective is to emerge with a workable treaty and that is what we should all direct our minds to here.”

The Conference itself (4)

- Opening (May 25, 1970):
 - Bodenhausen (BIRPI Director)
 - Stans (US Secretary of Commerce)
 - Braderman (Conference President/Deputy Assistant Secretary for Commercial Affairs and Business Activities, US Department of State)
 - Committees established
 - Treaty and Regulation drafts presented



The Conference itself (5)

■ Participants:

- ❑ 55 voting government delegations (199 delegates)
- ❑ 23 non-voting (observer) government delegations (32 representatives)
- ❑ 11 IGOs (19 representatives)
- ❑ 11 NGOs (35 representatives)



The Work of the Conference (1)

■ During the Conference:

- ❑ Working hours: 9:00 to 12:30, and 14:00 to 17:30
- ❑ Plenary:
 - 3 sessions: May 25, June 17, June 19
- ❑ Main Committee I (Chapters I to III of Treaty and related Rules)
 - 28 sessions: May 25-30, June 1-6, 8, 10, 12, 15 (including 2 Saturdays)
- ❑ Main Committee II (Chapters IV and V (administrative and final provisions) and related Rules)
 - Included Working Groups on specific issues and drafting committees
 - 13 sessions (June 1-5, 11-12, 15)
- ❑ Main Committees met in parallel, established drafting committees and used working groups to work on texts of specific provisions

The Work of the Conference (2)

■ During the Conference (cont.):

□ Considered:

- 131 documents in Main series (PCT/DC)
- 16 Working Group series (PCT/DC/WG)
- 10 in Information series (PCT/DC/INF)
- 13 In Miscellaneous series (PCT/DC/MISC)

□ Amendments proposed in writing by 35 States in 81 documents

□ The records of the Conference contain the verbatim minutes of Plenary, and summary minutes of both Main Committees, prepared by the International Bureau after the Conference based on tape recordings

- <https://www.wipo.int/pct/en/texts/washington.html>

The Work of the Conference (3)

- All participants, whether representing governments or organizations, had the right and opportunity to participate in the debates but only representatives of the member States of the Paris Union had the right to propose amendments and to vote
- Most of the Conference's work was advanced via consensus, but there were also instances where votes were taken on various proposals
- Simultaneous interpretation was available in English, French, Russian and Spanish at Plenary Sessions and in Main Committees

Adoption

■ June 17, 1970:

□ Unanimous: 44 Paris Union States voted for, no abstentions

➤ “Footnote”: “Forty-seven Paris Union Members had the right to vote; forty-four voted for and none against. When abstentions were called for no delegation came forward.”



French delegation (Mr. Rastoin)

“The Draft Patent Cooperation Treaty, whose principles we have unanimously approved, is important. Its implementation may represent a considerable step forward compared with the situation as it stands... The worldwide expansion of new technology will continue and that is why a treaty facilitating both the spread and the protection of inventions and innovations comes, I believe, in good time. Apart from the substance of the provisions adopted, it is also encouraging to note that the proceedings of this Conference have provided the opportunity for a display of the spirit of true international cooperation, the spirit which already motivated our predecessors on the occasion of the conclusion of the Paris Convention in 1883.”

Malagasy delegation (Mr. Razafinbahiny)

“Mr. President, Ladies and Gentlemen, the Delegation of Madagascar would like to express its satisfaction with this Treaty which is shortly to be signed. We believe that the very fact that the fundamental question – the question of the developing countries – has been largely taken into account can only give cause for satisfaction. The developing countries themselves have, at the same time, raised a number of problems, which have been taken into consideration in the text of the Treaty, and again we have every reason to be satisfied...”

German delegation (Mr. Haertel)

“Mr. President, Ladies and Gentlemen, the German Delegation is satisfied with the outcome of this Conference. It regards the conclusion of the Patent Cooperation Treaty as the most important event in the field of international patent law since the founding of the Paris Union in 1883.”

Brazilian delegation (Mr. Diniz)

“Mr. Chairman, the Brazilian Delegation is going to sign the Patent Cooperation Treaty today. In so doing, we are convinced that we are associating ourselves with an important instrument for the economic development of the Contracting States and, especially, of the developing countries. In so doing today, we want to show our gratitude to all the delegations who have unanimously given their support to the special provisions contained in Chapter IV. Permit me to express our confidence in the efficient implementation by governments of the provisions of this Chapter, under the inspired leadership of Dr. Bodenhausen and Dr. Bogsch.”

Japanese delegation (Mr. Aratama)

“Mr. Chairman, we are very glad to see that the Patent Cooperation Treaty has been unanimously adopted by this Diplomatic Conference and that the Treaty is now open for signature. This Treaty is the result of continuous efforts on the part of a number of people from all the continents of the world. It is true that in the course of the preparation and also during this Conference we sometimes had difficulties, but nothing gives me greater pleasure than the fact that all the difficulties were overcome by the spirit of cooperation shown by all the participants. I am convinced, Mr. Chairman, that this Treaty, when it enters into force, will open up a new era of international cooperation in the field of patents and will contribute greatly to the development of technology.”

Signature (1)

- June 19, 1970—Treaty opened for signature



Signature (2)

■ Final Act:

FINAL ACT

In accordance with decisions of the Executive Committee of the Paris Union for the Protection of Industrial Property in September 1966 and of the Conference of Representatives of that Union in December 1967, preparations by member States of the Paris Union and by the United International Bureaux for the Protection of Intellectual Property, and on invitation of the Government of the United States of America, the Washington Diplomatic Conference on the Patent Cooperation Treaty was held from May 25 to June 19, 1970.

The Conference adopted the Patent Cooperation Treaty, which was then opened for signature at Washington on June 19, 1970.

IN WITNESS WHEREOF, the undersigned, being Delegates of the States invited to the Conference, have signed this Final Act.

DONE at Washington, on June 19, 1970, in the English and French languages, the original to be deposited with the Director General of the World Intellectual Property Organization.

Algeria (A. Dahmouche); Argentina (Pedro E Real); Australia (K. B. Petersson); Austria (Lorenz); Belgium (Walter Loridan); Brazil (Miguel A O de Almeida); Cameroon (Michel Koss Epangue); Canada (A. M. Laidlaw); Central African Republic (M. G-Douathe); Denmark (E. Tuxen); Federal Republic of Germany (Rupprecht v Keller, Kurt Haertel); Finland (Erkki Tuuli); France (G. Rastoin); Holy See (Mario Peressin); Hungary (E. Tasnádi); Indonesia (Achmad Dahlan Ibrahim); Iran (Dr. A. Aslan Afshar); Ireland (M. J. Quinn); Israel (Z. Sher, Mayer Gabay); Italy (Giorgio Ranzi); Ivory Coast (F. Coulibaly); Japan (B. Yoshino, Y. Aratama); Luxembourg (Jean Wagner); Madagascar (Jules A. Razafimbahiny); Malta (A. Mercieca); Monaco (Dr. Charles Schertenleib); Netherlands (Phaf); Niger (Joseph Amina); Norway (Leif Nordstrand); People's Republic of the Congo (Ekani); Philippines (Suarez); Poland (Jerzy Michalowski); Romania (Corneliu Bogdan); South Africa (T. Schoeman); Spain (Aurelio Valls Carreras); Sweden (Göran Borggård); Switzerland (Dr. Walter Stamm); Togo (A. J. Ohin M.D.); Union of Soviet Socialist Republics (Yevgeniy Artemiev); United Arab Republic (Moh. Abdel Salam); United Kingdom of Great Britain and Northern Ireland (Edward Armitage, James David Fergusson); United States of America (Eugene M. Braderman, William E. Schuyler, Jr.); Uruguay (M. E. Capurro-Avellaneda); Yugoslavia (Dr. Stojan Pretnar).

Signature (3)

■ Final Act signed by:

- Algeria, Argentina, Australia, Austria, Belgium, Brazil, Cameroon, Canada, Central African Republic, Denmark, Federal Republic of Germany, Finland, France, Holy See, Hungary, Indonesia, Iran, Ireland, Israel, Italy, Ivory Coast, Japan, Luxembourg, Madagascar, Malta, Monaco, Netherlands, Niger, Norway, People's Republic of the Congo, Philippines, Poland, Romania, South Africa, Spain, Sweden, Switzerland, Togo, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Yugoslavia (44)









Signature (4)

■ Treaty Signature:

- 20 states signed: Algeria, Brazil, Canada, Denmark, Finland, Germany (Federal Republic), Holy See, Hungary, Ireland, Israel, Italy, Japan, Norway, Philippines, Sweden, Switzerland, United Arab Republic, United Kingdom, United States of America, Yugoslavia





Signature (5)

- Later signature: Treaty remained open for signature until the end of 1970
 - Additional 15 States signed between June 19 and December 31, 1970:
 - Argentina, Austria, Belgium, France, Iran, Ivory Coast, Luxembourg, Madagascar, Monaco, Netherlands, Romania, Senegal, Soviet Union, Syria, Togo

Resolution

- The Conference also unanimously adopted a Resolution recommending certain interim measures pending entry into force of the Treaty
 - Proposed by Algeria, Germany, Japan, Soviet Union and Sweden
 - Mainly consisted of setting up Interim Committees (on technical assistance, technical cooperation and administrative questions) to study and advise on issues
 - Expressed the “desire that the organizations of inventors, industries, and the patent profession be associated, as in the preparation of the Treaty, in the preparatory work referred to in the present Resolution”