

WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

INTERNATIONAL PATENT COOPERATION UNION (PCT UNION)

ASSEMBLY

Nineteenth Session (8th Ordinary)
Geneva, September 23 to October 2, 1991

REPORT

Adopted by the Assembly

INTRODUCTION

1. The Assembly was concerned with the following items of the Consolidated Agenda (document AB/XXII/1 Rev.): 1, 2, 3, 5, 8, 12, 14, 15, 22, 27 and 28.
2. The report on the said items, with the exception of item 8, is contained in the General Report (document AB/XXII/22).
3. The report on item 8 is contained in this document.
4. Mr. Alfons Schäfers (Germany) was elected Chairman of the Assembly.

ITEM 8 OF THE CONSOLIDATED AGENDA:**MATTERS CONCERNING THE PCT UNION**General

5. The Delegations of France and Germany observed that there had been extraordinary growth in the use of the PCT system in recent years. They were pleased that the growth was continuing in spite of the present economic situation in various countries.

6. The Delegations of Poland and Czechoslovakia, noting that their countries had recently joined the PCT, expressed their appreciation to the International Bureau for the assistance rendered in this connection.

Finances of the PCT Union

7. Discussions were based on document PCT/A/XIX/1.

8. The discussions focused on the following five matters:

(i) the proposed participation of the PCT Union in the financing of certain activities in which it had not previously participated (see paragraph 4 of document PCT/A/XIX/1);

(ii) the proposed "Alternative Financing Arrangement" (see paragraph 8 of document PCT/A/XIX/1);

(iii) the proposed allocation of the surplus of the PCT Union for the 1992-93 biennium to the special reserve fund for additional premises and computerization (see paragraph 25 of document PCT/A/XIX/1);

(iv) the determination of the amount of the reimbursement of the PCT deficit-covering contributions during the 1992-93 biennium (see paragraph 27 of document PCT/A/XIX/1);

(v) the proposed increase of the PCT fees by 10% effective January 1, 1992 (see paragraph 37 of document PCT/A/XIX/1).

9. Proposed participation of the PCT Union in the financing of certain activities in which it had not previously participated. The Delegations of France, Switzerland, Germany, the United States of America, the United Kingdom, Belgium, Australia and Denmark stated that they supported this new orientation of the PCT Union, involving support for development cooperation activities, on the understanding that the activities concerned would be relevant to the development of the PCT system.

10. The Director General said that he agreed with that understanding which already resulted from paragraph 5 of document PCT/A/XIX/1, giving the main examples of such activities in the field of development cooperation, and Annex 3 of document AB/XXII/2, which indicated the amounts of the said participation of the PCT Union in the activities concerned.

11. The Delegations of Poland, Sri Lanka and Brazil expressed support for the proposal, as it would result in an increase of the level of development cooperation activities. In their view, the participation of the PCT Union in development cooperation was important not only for developing countries but also for the PCT system.

12. The Delegations of Canada, Romania, the Soviet Union, Sudan, Côte d'Ivoire, the Netherlands, Finland, Spain, Mongolia, the Democratic People's Republic of Korea and Luxembourg said that they supported the proposal.

13. Support for the proposal was also expressed by three delegations of States not members of the PCT Union, namely, the Delegations of the United Republic of Tanzania, India and Portugal.

14. On a vote by show of hands, the Assembly unanimously accepted the proposed participation of the PCT Union in the financing of certain activities in which it had not previously participated, on the understanding that the activities concerned would be relevant to the development of the PCT system, as indicated in the documents mentioned above.

15. Proposed "Alternative Financing Arrangement". The Delegations of France, Switzerland, Germany, the United States of America, the United Kingdom, Canada, Belgium, Denmark and Australia stated that they did not agree with the proposal. The Delegations of Switzerland, Germany, the United States of America and the United Kingdom said that they considered that surplus funds should be kept for purely PCT needs. In this context, the Delegations of Switzerland and the United States of America noted, in particular, the requirement for investments for additional premises. The latter two Delegations added that they considered that users of the PCT system would object to a fee increase if at the same time PCT reserves were to be allocated as proposed under the Alternative Financing Arrangement.

16. The Delegation of Japan expressed some concern over implementing at the present time the proposed Alternative Financing Arrangement since, in its view, that could only be done once it was clear that there would be sufficient surpluses in the Fee-financed Unions also in the future so that such financing would be possible on a continuing basis.

17. The Delegation of the Soviet Union said that it maintained the position it had expressed in the Budget Committee (see document AB/XXII/3, paragraph 21) namely, that it would be premature to support the Alternative Financing Arrangement.

18. The Delegation of Portugal, as the representative of a country which intended to accede to the PCT in the near future, said that it did not support the Alternative Financing Arrangement.

19. The Delegations of Sri Lanka, Brazil, Romania, Sudan, Côte d'Ivoire, the Netherlands, Mongolia, the Democratic People's Republic of Korea and Luxembourg said that they supported the proposed Alternative Financing Arrangement. The Delegation of Sri Lanka noted that the resulting reduction of the burden of contributions would be of benefit to all countries. The Delegation of the Netherlands added that it considered the proposal to be totally justified.

20. The Delegation of the United Republic of Tanzania also supported the proposed Alternative Financing Arrangement.
21. The Delegation of Bulgaria said that it abstained as concerns the proposed Alternative Financing Arrangement.
22. On a vote by show of hands, the Assembly decided not to approve the proposed Alternative Financing Arrangement, by a majority of 16 votes against, with 8 votes for and one abstention.
23. Proposed allocation of the surplus of the PCT Union for the 1992-93 biennium to the special reserve fund for additional premises and computerization. The Delegations of France, Sri Lanka, Switzerland, the United States of America, Belgium, Brazil, Romania, the Soviet Union, Sudan, Côte d'Ivoire, the Netherlands, Mongolia, the Democratic People's Republic of Korea and Luxembourg said that they supported the proposal.
24. The Delegations of Germany, the United Kingdom and Australia said that they agreed that funds would be needed for computerization projects but urged caution as regards the provision of reserves for building premises for future needs. The Delegation of Canada said it was not convinced that reserves needed to be increased for additional premises.
25. On a vote by show of hands, the Assembly decided unanimously, with the abstention of the Delegation of Germany, that the surplus of the PCT Union for the 1992-93 biennium go to the special reserve fund for additional premises and computerization.
26. Amount of the reimbursement of PCT deficit-covering contributions during the 1992-93 biennium. The delegations of several countries supported--and no delegation objected to--the recommendation of the WIPO Budget Committee that the reimbursement of the PCT deficit-covering contributions be at the amount of 6,580,819 francs during the 1992-93 biennium, in order to complete that reimbursement.
27. The Assembly decided that the reimbursement of the PCT deficit-covering contributions be at the amount of 6,580,819 francs during the 1992-93 biennium, in order to complete that reimbursement.
28. Proposed 10% increase of the PCT fees. The Delegation of France said that, after long consultations with the interested circles, it agreed with the proposed fee increase. The Delegations of Poland, Sri Lanka, Italy, Switzerland, Brazil, Romania, the Soviet Union, Sweden, Sudan, Côte d'Ivoire, the Netherlands, Finland, Austria, Bulgaria, Mongolia, the Republic of Korea, the Democratic People's Republic of Korea and Hungary stated that they supported or could accept the proposed fee increase. The Delegations of Sri Lanka, Switzerland and Brazil said that the proposed fee increase was very modest and much less than the rate of inflation over the period since the last fee increase. The Delegation of Austria noted the experience of certain Offices where excessive deferring of fee increases had, in the end, led to very large eventual increases, which had had very adverse effects for applicants.
29. The observer Delegation of Portugal expressed itself in favor of the proposed fee increase.

30. The Delegations of Germany, Japan, Belgium, Denmark, Australia and Spain said that they were not convinced that the fees should be increased. The Delegations of Japan, Belgium and Spain added that a fee increase might discourage applicants.
31. The Delegation of Luxembourg said that it would prefer a fee increase of less than 10%.
32. The Delegations of the United States of America, the United Kingdom and Canada said that fees should not be increased without a clear need, and noted that a surplus was expected to result for the PCT Union even without a fee increase; they therefore opposed the proposed fee increase. The Delegations of the United States of America and Canada said that a fee increase might have an adverse effect on the number of filings. The Delegation of Canada added that PCT users in Canada strongly opposed a fee increase in light of the large reserves available to the PCT Union.
33. The Director General pointed out that, for a number of countries, the proposed 10% fee increase amounted to considerably less (for example, about 6% in Canada) when expressed in their national currencies, due to exchange rate changes.
34. The Delegation of Norway suggested that perhaps a 5% fee increase could be an acceptable compromise.
35. In order to promote a consensus, the Chairman proposed that the fee increase be 8% instead of 10%.
36. The Delegations of Japan, Finland, Norway, Luxembourg, Spain and Belgium said that, in order to achieve a consensus, they were willing to support the Chairman's proposal.
37. The Delegations of Germany, Australia and Denmark stated that, while they saw no justification for a fee increase, they would not oppose an 8% increase, in order to demonstrate their willingness to achieve a consensus.
38. The Delegations of the United States of America, Canada and the United Kingdom said that they saw no need for a fee increase and expressed themselves against any increase.
39. The Assembly, noting the opposition of the three Delegations mentioned in the preceding paragraph, decided to increase the PCT fees by 8%, effective January 1, 1992.
40. The amended Schedule of Fees for the PCT system, resulting from the said 8% increase, is reproduced in the Annex.
41. Other matters. In reply to a suggestion by the Delegation of France that consideration might be given to distribute part of the surplus of the PCT Union to the PCT Contracting States, as was the case for the Madrid Union, the Director General said that the situation was quite different in those two Unions. In the Madrid Union, the national and regional Trademark Offices received no national or regional fees from the owners of the international registrations but received fees only from the International Bureau and since the amount of the fees received from the International Bureau may be lower than their costs, there was a justification for Member States to share in the surplus. On the other hand, in the PCT Union, the national and regional Patent Offices received their national or regional fees in the same amount as what

they received outside the PCT procedure; consequently, there was no justification for any share in the surplus.

42. The Delegations of Switzerland, Germany and the United Kingdom stated that they agreed that there should not be any distribution of part of the surplus of the PCT Union to the PCT Contracting States.

43. The Delegation of Germany observed that the Madrid Union bore the costs of one delegate per Member State of the Madrid Union attending meetings of the Madrid Union. In light of the financial situation of the PCT Union, the Delegation proposed that Rule 84 of the PCT Regulations be changed to allow the PCT Union to bear the expenses of one or two delegates from each Member State of the PCT Union to participate in PCT meetings.

44. The Delegations of the United States of America, the United Kingdom, Japan and Belgium said that the proposal of the Delegation of Germany would require further study.

45. The Delegation of Denmark said that it supported the proposal of the Delegation of Germany.

46. The Director General said that paying from PCT funds for one delegate per PCT Contracting State would be particularly useful for developing countries, in allowing them to participate regularly in PCT meetings. There would, however, be important budgetary consequences if one had to pay for several delegates from each PCT Contracting State for each PCT meeting.

47. The Chairman proposed that the International Bureau and the PCT Contracting States consider the matter of a possible change to Rule 84 of the PCT Regulations with a view to possibly presenting a concrete proposal to one of the next sessions of the Assembly.

48. The proposal of the Chairman contained in the preceding paragraph was adopted by the Assembly.

Progress Report on the DICAPS Project

49. Discussions were based on document PCT/A/XIX/2.

50. The Delegation of France noted that the cost estimates indicated in the document for the DICAPS system amounted to approximately twice the cost estimates submitted to the Assembly of the PCT Union in 1989, but expressed its understanding for such a cost increase, taking into account the considerable development of the PCT.

51. The Delegation of the United Kingdom asked to what extent the cost estimates indicated in the document under consideration could differ from the final costing of the DICAPS system, and invited the International Bureau to indicate what savings could be expected in its operations from the implementation of the DICAPS system.

52. The International Bureau replied that, as far as the cost of the DICAPS system was concerned, the final costing of the system was not expected to differ from the present cost estimate by more than 10%. With respect to the savings expected from the implementation of the DICAPS system, the International Bureau stated that the further rationalization of its

operations under the PCT would undoubtedly bring significant savings, in particular in human resources and mailing costs.

53. The Delegation of Japan expressed its satisfaction with the progress achieved so far. At the same time, the said Delegation expressed its concern, already expressed at the seventeenth session of the Assembly of the PCT Union, about the lack of any international standard concerning the production of CD-ROMs for the purpose of making available patent documents as facsimile images. The Delegation expressed the hope that the Permanent Committee for Industrial Property Information (PCIPI) would be able to produce standards covering the production of such CD-ROMs as soon as possible.

54. The Assembly noted with satisfaction the progress report contained in document PCT/A/XIX/2.

[Annex follows]

ANNEX

SCHEDULE OF PCT FEES APPLICABLE FROM JANUARY 1, 1992

<u>Fees</u>	<u>Amounts</u>
1. Basic Fee (Rule 15.2(a))	
(i) if the international application contains not more than 30 sheets	762 Swiss francs
(ii) if the international application contains more than 30 sheets	762 Swiss francs plus 15 Swiss francs for each sheet in excess of 30 sheets
2. Designation Fee (Rule 15.2(a))	185 Swiss francs per designation for which the fee is due, with a maximum of 1,850 Swiss francs, any such designation in excess of 10 being free of charge
3. Handling Fee (Rule 57.2(a))	233 Swiss francs
4. Supplement to the Handling Fee (Rule 57.2(b))	233 Swiss francs
<u>Surcharges</u>	
5. Surcharge for late payment (Rule 16 <i>bis</i> .2(a))	Minimum: 289 Swiss francs Maximum: 728 Swiss francs

[End of Annex and of document]