

# WIPO



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**WORLD INTELLECTUAL PROPERTY ORGANIZATION**

GENEVA

## **INTERNATIONAL PATENT COOPERATION UNION (PCT UNION)**

### **ASSEMBLY**

**First Session (1st Extraordinary)**

**Geneva, April 10 to 14, 1978**

### REPORT

*Adopted by the Assembly*

#### INTRODUCTION

1. The Assembly of the International Patent Cooperation (PCT) Union (hereinafter referred to as "the Assembly") held its first (extraordinary) session in Geneva from April 10 to 14, 1978.
2. Up to the date of the opening of the session, 18 States (hereinafter referred to as "member States") had deposited their instruments of ratification of, or accession to, the PCT with the Director General of WIPO. The following 12 member States were represented at the session: Brazil, Cameroon, France, Germany (Federal Republic of), Luxembourg, Madagascar, Senegal, Soviet Union, Sweden, Switzerland, United Kingdom and United States of America. The following six member States were not represented at the session: Central African Empire, Chad, Congo, Gabon, Malawi and Togo.
3. Pursuant to the decision referred to in paragraph 33 below, the following 12 States participated in the session as special observers: Australia, Austria, Canada, Denmark, Finland, Hungary, Ireland, Japan, Netherlands, Norway, Romania and Spain, whereas the following five States were represented by observers: Algeria, German Democratic Republic, Italy, Portugal, and Uruguay.
4. Pursuant to the said decision, two intergovernmental organizations, the European Patent Organisation and the African Intellectual Property Organization (OAPI), participated as

special observers and one such organization, the Interim Committee of the Community Patent, as observer.

5. Pursuant to the said decision, the following ten non-governmental organizations were represented by observers: Committee of National Institutes of Patent Agents (CNIPA), Council of European Industrial Federations (CEIF), European Federation of Industrial Property Representatives of Industry (FEMIP), Inter-American Association of Industrial Property (ASIPI), International Association for the Protection of Industrial Property (AIPPI), International Federation of Inventors Associations (IFIA), International Federation of Patent Agents (FICPI), Pacific Industrial Property Association (PIPA), Union of European Patent Attorneys and Other Representatives Before the European Patent Office (UNEPA) and Union of Industries of the European Community (UNICE).

6. The number of participants was about 90. The list of participants is contained in Annex I to this Report.

#### OPENING OF THE SESSION

7. The session was opened by the Director General of WIPO, Dr. Arpad Bogsch, who also presided during the adoption of the agenda and the Rules of Procedure and the election of officers. In welcoming the participants, the Director General underlined the great significance of the first session of the Assembly in the history of the Patent Cooperation Treaty. He extended a special welcome to the Guests of Honor (Mr. J. Bob van Benthem, Professor George H. C. Bodenhausen, Mr. Denis Ekani, Dr. Kurt Haertel, Dr. Albrecht Krieger, Professor François Savignon and Mr. William E. Schuyler, Jr) who had accepted his invitation to be present at the session, extended to them in recognition of their outstanding contributions in connection with the establishment and bringing into force of the PCT. The opening address by the Director General appears as Annex II to this Report.

8. The Delegation of the Federal Republic of Germany (Guest of Honor, Dr. Albrecht Krieger) expressed, in the name of its Government, satisfaction at the entry into force of the PCT and the convening of the first session of the Assembly. The Delegation, recalling that its country was the second State to meet, with its ratification, the conditions for entry into force of the PCT contained in Article 63(1) of the Treaty, expressed its hope and concern that further States would become party to the Treaty at an early date and thus make it applicable on a truly world-wide scale. The Delegation expressed its appreciation of the excellent preparatory work bringing about the establishment and entry into force of the PCT and its gratitude and congratulations to all those in WIPO and in the participating countries who had helped to make this project a success. In this context he paid particular tribute to the outstanding contribution of Director General Dr. Arpad Bogsch, the spiritual father of this Treaty. He also referred to the essential role of the efficient staff of WIPO, mentioning specially the excellent work of Deputy Director General Dr. Klaus Pfanner. The Delegation hoped, furthermore, that the Treaty would meet the aims expressed in the original recommendation of the Executive Committee of the Paris Union in 1966, of making more economic, quicker and more effective the protection of inventions throughout the world for the benefit of inventors, the general public and Governments, and make a substantial contribution to the development of technological progress. The Delegation, also recalling the priority which its country gave to participation in international political and economic cooperation, underlined the importance of the PCT, particularly the possibilities offered under

it for international and international-type search and international preliminary examination for the developing countries as well as the possibilities provided under Chapter IV for facilitating acquisition by them of technology. The Delegation also underlined the importance it attached to the coordination of the systems provided under the PCT and under the European Patent Convention, particularly bearing in mind that the European Patent Office would be more closely integrated into the system of the PCT in the performance of its functions as an International Searching and International Preliminary Examining Authority.

9. The Delegation of the United States of America (Guest of Honor, William E. Schuyler, Jr.) paid a tribute to the role played in the establishment of the PCT from its inception by Dr. Arpad Bogsch, now Director General of WIPO. Recalling that the signing of the PCT in Washington in 1970 had been a major step since it had involved the reaching of agreement in an extremely complex situation, the first session of the Assembly marked a second major step, since such a session was the consequence of several nations having adopted the PCT. The session signified the launching of what it was hoped would be a long and successful venture. The auspices for such success were present in the fact that the PCT would play its role within the framework of the Paris Convention--perhaps the longest and most successful multinational Treaty. The third major step, the acceptance of the new system by the users who would make it work, was still to be achieved and was not wholly within the control of the States represented at the Assembly. But what was in the power of those States was that the terms on which the PCT may be used by applicants are reasonable. Furthermore, adequate publicity should be given to all aspects of the PCT, including the fact that it would operate in coordination with the European Patent system, as had already been noted by the Delegation of the Federal Republic of Germany, and that it was the first Convention in the field of intellectual property to have included in it preferential provisions for the benefit of developing countries. It was clearly predictable that the PCT would be one of the most important factors in favor of the developing countries in the transfer and receipt of technology as well as in the development of their capacity to generate their own technology. Once a full appreciation of the facilities offered by the PCT was attained, it was to be expected that through it there would be an increase in the membership of developing countries in both the Paris Convention and the PCT.

10. The Delegation of Switzerland extended its congratulations on the occasion of a historic first session of the PCT Assembly, in particular to the Director General, both for his outstanding personal contribution in bringing about this important new Treaty, and in his capacity as the Head of an Organization which, with its excellent staff, had shown a high degree of efficiency in preparing the Treaty and enabling its rapid implementation after its entry into force. The Delegation recalled that the importance its country attached to the PCT had been demonstrated by Switzerland being one of the first countries to ratify. There was little need to highlight the advantages of the PCT for inventors in the member States and for the member States themselves, particularly such States which were developing countries, since the benefits to be gained from a system in which formalities examination, search and substantive examination would only be required once spoke for themselves. The information services will be of substantial benefit to the developing countries and the Delegation therefore hoped that the PCT would have all the success which it deserved and that all those participating in and using the system will obtain the advantages it was devised to offer.

11. The Representative of the European Patent Organisation, noting the special observer status provided for that Organisation in the Assembly, and speaking both in his capacity as President of the European Patent Office and as a Guest of Honor, conveyed his

congratulations to the member countries and to the Director General and staff of WIPO on the occasion of the holding of the first session of the Assembly and the entry into force of the PCT. The Representative expressed the strong desire of his Office for close cooperation with the International Bureau both in view of the role which the European Patent Office was expected to play in the framework of the PCT and also because the activities of both Organizations under the PCT and the European Patent Convention, following upon careful nurturing by national delegations, would be taken up on precisely the same day. Noting that, on both sides, the staff had made strenuous preparations for their tasks, the Representative pointed out that the systems for which the two Organizations would be responsible were in no way obligatory for the applicants and that it would be necessary for both systems to demonstrate their value in comparison with what had existed previously. In this, fortunately, they were not competing against each other since the two systems were complementary, the PCT providing a world-wide filing basis and the European patent system thereafter enabling the granting, on a common basis, of patents for countries in its regional group.

12. The Delegation of Austria recalled its participation in the setting up of the PCT, a Treaty which, in its view, constituted an important factor in the protection of inventions and the encouragement of innovations on a world-wide basis. It paid tribute to the outstanding role played by the Guests of Honor, but in particular by the Director General whose great personal merits in connection with this Treaty were well-known. It also referred to the excellent work and untiring efforts of the staff of WIPO, mentioning in this context in particular the Deputy Director General responsible for the implementation of the PCT, Dr. Pfanner, and his immediate collaborators. The Delegation also noted that the amendment of its national patent law in 1973 enabled the Austrian Patent Office to carry out isolated patent searches and render assistance to developing countries in accordance with an agreement concluded with WIPO, and that this possibility had been enlarged by a recent amendment of that law which now provided for the carrying out of isolated preliminary examination for the grant of patents as well. The Delegation said that the Austrian Patent Office intended to continue those services in its capacity as an International Searching and International Preliminary Examining Authority after the entry into force for Austria of the Treaty. It therefore wished that the Austrian Patent Office should be appointed in those capacities at the present session, on condition that Austria ratifies the PCT, an event which was expected in the very near future, so that the Austrian Patent Office would be able to start these activities immediately after the PCT becomes applicable to it. The Delegation of Austria stressed furthermore the readiness of the Austrian Patent Office, in the case of its appointment as International Searching and Preliminary Examining Authority by the Assembly, to act as such under the PCT in favor of developing countries. The Austrian Patent Office was in the position to use in this context English, French and German as working languages. The Austrian Patent Office was ready not only to conclude appropriate agreements with all interested developing countries for that purpose, but also to continue its activities in the framework of the WIPO Technical Assistance Program in favor of all developing countries.

13. The Delegation of Sweden noted that gratitude was due to the United States of America for its initial launching in 1966 of the idea of the PCT which proved itself to be a valid basis for the historic step towards the further international cooperation manifested by the first session of the PCT Assembly. The Delegation's gratitude and warm congratulations also went to the Director General whose great skill and untiring efforts had resulted in the present Treaty and the new-born Union. The importance of the contributions of many Delegations could not be over-emphasized. Without the cooperative spirit of all participating countries, the PCT would never have been brought into existence. Emphasizing that the Swedish

Government had, from the very beginning, favored a world-wide patent cooperation treaty, the Delegation noted that, furthermore, the PCT was regarded as an important link between countries of different social and economic systems as well as between industrialized and developing countries. The Delegation of Sweden underlined the necessity to serve patent applicants in the Nordic countries who otherwise would not enjoy their own facilities with regard to language and traditions with a PCT Authority. The Swedish Government also saw an important role for the Swedish Patent Office in connection with assistance to developing countries. It was convinced that the PCT would provide a powerful instrument to the developing countries to improve their patent documentation standards and, in this regard, it was important to recognize that the PCT did not take away part of the sovereignty of countries served by a PCT Authority. On the contrary, a developing country would be placed in a position to form, even with minimum resources of its own, its own judgment as to whether or not a patent should be granted. This would be an important step towards developing a patent system in the developing countries which could serve their particular needs. The Swedish Patent Office, as a prospective International Authority under the PCT, was ready to render its services and to receive and process international applications in the four Nordic languages as well as in English, and, eventually, in the light of applicants' preferences and forthcoming cooperation with the developing countries also in French, German and Spanish.

14. The Delegation of the Soviet Union drew attention to the enormous and useful work carried out during the preparatory period of the PCT both in national Offices and by the staff of the International Bureau. The State Committee for Inventions and Discoveries of the USSR Council of Ministers had always tried to make a useful contribution to the preparatory work. The Delegation agreed with what had been said by previous Delegations on the merits of all who had participated in it. Figuratively speaking, the preparatory work had been towards the creation of the "launching ground" and a preparation for the "launch" itself. The first session of the Assembly should give the green light for the start or, at least, determine its date. It should not be expected that the way would be smooth and easy, especially at the beginning. In particular, there were problems of languages in the PCT procedure, as had been already mentioned. Although there would be these, and probably also other, problems, they could be solved with a real spirit of cooperation and a constructive approach which had characterized the work of all the preparatory bodies of the PCT. The Delegation hoped that this first complicated stage of the course would be completed successfully and pledged, for its part, a full contribution to the solution of problems.

15. The Delegation of the United Kingdom associated itself with the warm expression of gratitude by the Delegations which had already spoken, for the work of the Director General and his staff in bringing events to the point highlighted by the first session of the Assembly, the importance of which its Government fully appreciated. The PCT had real and practical importance to research-based industry as well as a substantial political significance. The present session of the Assembly would, in a sense, put the finishing touches to the preparatory work carried out following the Washington Conference which has set a splendid example of international cooperation. The Delegation hoped that the PCT would afford the expected advantages to industries and inventors throughout the world, including the developing countries, and wished it great success to this end.

16. The Delegation of Luxembourg recalled that its country, although not large, had been one of the first to ratify the PCT. Although the Delegation foresaw many problems in the months ahead, they could undoubtedly be solved with the adoption of a practical approach. In this

regard, the Delegation had always had a high regard for the efficiency of the International Bureau and, moreover, had appreciated the cooperation which it had received.

17. Noting that its country's instrument of ratification of the PCT had not yet been deposited, but nevertheless could be expected to be deposited in a short time, the Delegation of Japan expressed its strong desire to be regarded by the Assembly, to the extent possible, as if it were a member State, since, on March 31, 1978, the Bill for the ratification of the PCT had been approved by the Japanese Diet and, moreover, the Bill for the national legislation implementing the PCT and enabling the Japanese Patent Office to act as an International Searching and Preliminary Examining Authority, had been approved by the Japanese House of Representatives on April 7, 1978. The instrument of ratification would be deposited by the Government of Japan as soon as possible after the Bill had been passed by the other House of the Japanese Diet. The Delegation declared that the services of the Japanese Patent Office as an International Searching and Preliminary Examining Authority were offered, subject to it being appointed by the Assembly as such an Authority, to all nationals and residents of the countries of Asia that would be party to the PCT, on the same conditions as these services would be available to its own nationals.

18. The Delegation of France, after expressing its great satisfaction with the progress shown by the first session of the Assembly, an event which it considered to be outstanding in the long history of industrial property, said that it was able, through the Head of the Delegation, who was also the Chairman of the Administrative Council of the European Patent Organisation, to assure the Assembly of the close cooperation of that Organisation within the framework of the PCT. Great credit was due to both the Director General and his predecessor, Guest of Honor, Professor Bodenhausen. Activities under the PCT and the European Patent Convention would be complemented and reinforced by the simultaneous entry into force of the two Conventions. Moreover, the newly established European Patent Organisation would be greatly helped in broadening more rapidly its relations with the developing countries by the possibility that would be open to it within the framework of the PCT.

19. The Delegation of Italy said that it wished to be associated with the well merited praise that had been directed to the founding fathers of the PCT who had produced a historic document. Its country had signed the Treaty at the time and considered it with great attachment. The procedure for ratification by Italy was developing quickly, the Italian Senate having already approved the Bill for the ratification of the PCT as well as the corresponding Bills for other industrial property conventions. The ratification of the PCT by its Government was expected within a short period. The full support of its competent authorities in the implementation of the PCT in Italy was assured once the ratification of the PCT by Italy has been achieved.

20. The Delegation of Finland expressed gratitude to the Director General, Dr. Arpad Bogsch, and Deputy Director General, Dr. Klaus Pfanner, under whose guidance the International Bureau was carrying out activities concerning the PCT, in which the Delegation was closely interested. The Delegation was able to inform the Assembly that preparations for ratification of the PCT by its country were sufficiently advanced to enable this to take place in the first half of 1979.

21. The Delegation of the Netherlands expressed its desire to join the other Delegations in paying tribute to the International Bureau in paving the way for the first session of the

Assembly. In particular, the Delegation wished to mention the eminent role played by the Director General and the work which had been carried out through the Interim Committees over a period of eight years. The Director General had actively participated in that work on many occasions throughout that time, along with Deputy Director General Dr. Klaus Pfanner. Recently, Deputy Director General Dr. Felix Sviridov had participated as well. The Delegation had been impressed both by the fact that the results achieved in Committee work had always been based on thinking which had been originated in the staff of the International Bureau and by the enormous amount of work which had been done. The long period of parallel elaboration of both the PCT and the European Patent Organisation procedures had been characterized by cooperation and the avoidance of duplication of work. It also informed the Assembly that the ratification of the PCT by its country was expected to take place before the end of the year. The time required was normal having regard to its national parliamentary procedures and should not be regarded as showing in any way a lack of interest in the PCT.

22. The Delegation of Norway said that its country had always taken a positive attitude to the PCT and that the preparations for the ratification of the Treaty were in their final phase. A proposal containing the draft of the necessary national legislation, together with a recommendation to ratify the PCT, was expected to be put before its Parliament in the near future. The Delegation expected that Norway would be a member of the PCT in 1979. The Delegation congratulated the Director General and his staff for the excellent results they had achieved. It was convinced that the PCT would be of great mutual benefit to all its Contracting States and expressed the wish that the Treaty be ratified by all member States of the Paris Convention for the Protection of Industrial Property.

23. The Representative of AIPPI said that his Organization was extremely grateful to WIPO, and especially to its Director General, Dr. Arpad Bogsch, for the spirit of cooperation which had always enabled the views of the interested circles to be heard and taken into account on questions concerning the implementation of the PCT. This had been particularly important since the success of the PCT procedure depended on industries making use of the possibilities it provided to them. The Representative also paid tribute to the former Comptroller-General of the United Kingdom Patent Office, Mr. Edward Armitage, who was unfortunately unable to be present at the session but who deserved to be specially commended for his merits in connection with the preparation of the Treaty. In view of the long tradition of his Organization in the field of industrial property, the Representative felt confident that he was speaking on behalf of all of the private circles in wishing every success in the future operations of the PCT.

24. Supporting the interventions of other Delegations, the Delegation of Spain said that it highly appreciated the role played by the Director General of WIPO, Deputy Director General Dr. Klaus Pfanner and by the staff of the International Bureau as well as by the Guests of Honor of the Assembly, and thanked them for their incalculable contribution to the elaboration of the PCT procedure and for the numerous documents prepared by the International Bureau to ensure the coming into force of the PCT. Stressing the advantages and facilities offered by the PCT procedure, the Delegation, nevertheless, pointed out that certain changes of its national patent legislation were necessary to adapt this legislation to the PCT and other international treaties before its country would be able to become a party to the Treaty.

25. The Delegation of Brazil said that its country considered the PCT to represent a landmark in the field of the protection of industrial property and was firmly convinced that the PCT

would bring about favorably balanced advantages for all Contracting States. Moreover, Brazil hoped that the PCT would increase the cooperation it enjoyed with developed countries and would help Brazilian inventors to participate in the development of technology. It considered the PCT to be one of the most important advances for Patent Offices all over the world. Recalling Brazil's ratification of the Paris Convention in 1884 and that of the PCT in early 1978, the Delegation expressed the wish that WIPO would continue to play its role of a large forum where all problems of industrial and intellectual property could be treated, adding its best wishes to the Director General for the success of the PCT.

26. The Delegation of Hungary noted that its country had participated in the PCT project from the very beginning, and was among the countries that had signed the Treaty in 1970 in Washington. It had always been convinced of the future effectiveness of the PCT in the field of protection of industrial property. After the coming into force of the PCT and its functioning, its Government would be in a more favorable position than before to form its attitude on the question of ratification so that it was to be hoped that in the near future, and not later than next year, its Government would take a positive position on that question. In the meantime, the Delegation of Hungary would be actively and willingly contributing to the practical implementation of the aims set out in the PCT.

27. The Delegation of Algeria said that it wished the PCT every success and that its country would participate in PCT activities as before. Algeria was also among those countries that had signed the PCT in 1970 in Washington and the possibility of ratification of the PCT was now under the close consideration of its Government. The patent information and technical assistance services foreseen under Chapter IV of the Treaty were considered a particular advantage to developing countries.

28. The Delegation of Portugal expressed its desire to be fully associated with the congratulatory expressions of the other Delegations.

#### ADOPTION OF THE RULES OF PROCEDURE OF THE ASSEMBLY

29. The Assembly adopted, as its Rules of Procedure, the draft Rules of Procedure contained in Annex I of document PCT/A/I/2. The Rules of Procedure adopted by the Assembly are contained in Annex III to this Report.

#### ELECTION OF OFFICERS

30. The Assembly unanimously elected Mr. D. Ekani (Cameroon) as Chairman and Mr. P. Braendli (Switzerland) and Mr. L. Komarov (Soviet Union) as Vice-Chairmen

31. Mr. E. M. Haddrick, Head, PCT Division, WIPO, acted as Secretary of the Assembly.

#### ADOPTION OF THE AGENDA

32. The Assembly adopted as its agenda the draft agenda contained in document PCT/A/I/1.Rev., subject to the deletion, upon the proposal of the Director General of item 9

and to bringing forward item 13 on the copyright protection of PCT publications as item 6 and renumbering the other items accordingly.

#### ADMISSION OF SPECIAL OBSERVERS AND OBSERVERS

33. The Assembly decided to admit to its sessions, as special observers or observers, the States and organizations appearing in Annex II of document PCT/A/I/2. The said States and organizations are set out in Annex IV to this Report.

#### QUESTIONS RELATED TO COPYRIGHT PROTECTION OF PCT PUBLICATIONS

34. Discussions were based on paragraphs 21 to 26 of document PCT/A/I/2 and Annex XIV thereto.

35. The Delegation of France, speaking also in the name of the Administrative Council of the European Patent Organisation, said that the claim of the International Bureau of WIPO to receive royalties on the basis of a copyright held by it in certain PCT publications would introduce a notion of copyright hitherto unknown. That notion was incompatible with the basic principles of patent law requiring the disclosure of inventions contained in patent applications in order that they may become part of the state of the art, and free access, uninhibited by any copyright, to patent documents publishing such inventions. Moreover, the Delegation of France, speaking in the name of its country only, was of the opinion that the international conventions on copyright did not provide for a copyright for the International Bureau in such official publications, since protection under the said conventions was available only where works were protected under national law. In France, as in most countries, official publications were not the subject of copyright.

36. The Delegations of the United States of America, Norway, Portugal, Germany (Federal Republic of) and Brazil supported the statement made by the Delegation of France whereas the Delegations of the United Kingdom and the Netherlands supported the general tenor of that statement.

37. The Director General said that he could not accept the view that Protocol 2 of the Universal Copyright Convention did no more than assure protection to works of the kind protected by national laws. If this were the case, there would be no need of the said Protocol since such works would, then, already be protected on the basis of the fact that they were first published in a Contracting State (Switzerland). In any case, and quite independently of copyright considerations, it would be in the interest of the member States if the national Offices supplying copies of international applications for a price would remit to the International Bureau a portion of such price. The income resulting therefrom for the International Bureau would reduce the need for contributions by Governments to the International Bureau. Furthermore, there seemed to be no reason why commercial publishers should have a free ride. Denying or reducing the revenues that were contemplated in the calculations of the PCT Working Group on Budgetary Questions would certainly delay, and possibly delay ad infinitum, the reaching of the break-even point in the PCT budget of WIPO with the consequence that member States would have to continue to cover the yearly deficits.

38. In the ensuing discussion, the Delegations of France, the United Kingdom and the Netherlands said that a different position could possibly be taken in relation to publications other than the PCT pamphlet, containing the published international application. According to certain statements, publications such as the Gazette, the Guides, classified abstracts and the like could be protected. The Delegation of the United Kingdom proposed that, in order to prevent unauthorized commercial copying, copyright protection should be enforced against commercial firms for all kinds of PCT publications, even for the pamphlet. What was essential in the view of this Delegation was to ensure that Patent Offices were, within the framework of their tasks, just as free to copy PCT pamphlets as they were with respect to national patent documents, the said framework of tasks being understood in the extended sense of including information services through the Offices themselves or through associated libraries.

39. The Delegations of Germany (Federal Republic of), the United States of America and the Netherlands pointed to the practical difficulties that would be encountered in administering solutions based on payments to the International Bureau on the basis of fees paid in individual cases by persons wishing to obtain copies. The Delegation of the Netherlands added, however, that it might view favorably a solution involving the payment of lump sum amounts by Offices fixed on the basis of the number of international applications reproduced by each Office. The Delegation of the United States of America stated that it was opposed to any action being taken by the International Bureau, including the affixing of a copyright notice, in order to obtain and enforce copyright protection for the PCT pamphlet.

40. The Delegation of the Federal Republic of Germany, supported by the Delegation of France, noted that in the case of the Gazette certain material such as treaties and legislation would not in any case enjoy copyright protection.

41. In conclusion, the Assembly did not approve the proposals contained in paragraph 25 of document PCT/A/I/2 and it decided that no copyright notice should be placed on pamphlets publishing international applications, or any part thereof as referred to in PCT Rule 48, and that no copyright of the International Bureau, even if existing, should be enforced in respect thereof.

42. The Delegation of the Federal Republic of Germany, supported by the Delegations of the United Kingdom and France, stated that, in its view, the limitation of the decision referred to in the preceding paragraph to pamphlets did not entail a decision on the question of copyright in other PCT publications, including the Gazette. Whether such copyright existed, depended on the contents of the relevant publication and on national law.

43. The Director General said that the International Bureau would, naturally, implement the decisions of the Assembly; he also said that such decisions would probably entail financial consequences for the member States since they would have to cover the deficits.

APPOINTMENT OF INTERNATIONAL SEARCHING AUTHORITIES AND  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITIES AND APPROVAL OF  
THE AGREEMENTS BETWEEN THOSE AUTHORITIES AND THE INTERNATIONAL  
BUREAU

44. Discussions were based on documents PCT/A/I/3 to 8, containing initialled texts of draft Agreements between the International Bureau and the prospective International Searching and International Preliminary Examining Authorities and a related proposal by the Government of the Federal Republic of Germany (Annex II of document PCT/A/I/5)

General

45. The Assembly adopted the procedure suggested by the International Bureau for the approval of the draft Agreements submitted to it, their signature by both parties and the appointments of the Authorities under Articles 16(3) and 32(3) of the PCT to be made by the Assembly. In considering the draft Agreements, the Assembly followed the numerical order of the preparatory documents containing the said draft Agreements.

46. When considering the draft Agreements, the Assembly discussed the question of the number of copies of published international applications, of the Gazette and of each other PCT publication of general interest published by the International Bureau to be furnished by it free of charge to International Searching or Preliminary Examining Authorities and to national Offices, in accordance with PCT Rule 87. The Assembly noted in this context with approval a declaration of the Director General according to which the International Bureau would interpret Rule 87 in the sense that an Authority acting as a receiving Office, as an International Searching Authority and as an International Preliminary Examining Authority has the right to obtain a total of 5 free copies of PCT publications and that the United States Patent and Trademark Office, in view of the ongoing active consideration of its becoming an International Preliminary Examining Authority, shall be treated as such for that purpose.

47. The Assembly noted declarations by the Delegations of Sweden, Austria and the United States of America that their Patent Offices, when appointed as International Searching Authority and--in the case of the Patent Offices of Austria and Sweden--as International Preliminary Examining Authority, were ready, subject to the satisfactory conclusion of negotiations, to act in that capacity for Brazil. Furthermore, the Assembly noted the declaration by the Delegations of Austria and Sweden that the Patent Offices of the said countries, once appointed as International Searching and Preliminary Examining Authority, would be ready to act in that capacity for the African Intellectual Property Organization.

Agreement between the Royal Patent and Registration Office of Sweden and the International Bureau in relation to the establishment and functioning of the Royal Patent and Registration Office of Sweden as an International Searching and International Preliminary Examining Authority

48. Discussions were based on document PCT/A/I/3, Annex I.

49. Upon the proposal by the Delegation of Sweden, the Assembly approved the following modifications with respect to Article 3 and Annex A:

(i) Article 3(1)(ii) was amended to read as follows:

“any State indicated in Annex A of this Agreement,”

(ii) in Annex A the following new item 1 was inserted:

“The States specified for the purposes of Article 3(1)(ii) of the Agreement are the States, regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations, with which Sweden, in accordance with its obligations undertaken within the framework of the European Patent Organisation, has concluded an agreement for that purpose”;

(iii) the title of Annex A was amended accordingly.

50. Upon an intervention of the Delegation of Norway, it was agreed that Article 3(1) of the draft Agreement, which specifies that “the Authority undertakes to act as an International Searching Authority for all international applications filed with the receiving Offices of ....,” should not be interpreted to mean that a given receiving Office could not specify other Authorities if it had this possibility.

51. The draft Agreement, amended as proposed by the Delegation of Sweden, was approved by the Assembly.

52. The Delegation of Finland expressed its satisfaction at the approval of the said draft Agreement. It added that the use of the Finnish language by the Swedish Patent Office acting as an International Searching Authority and as an International Preliminary Examining Authority would facilitate the ratification of the PCT by Finland.

Agreement between the United States Patent and Trademark Office and the International Bureau Concerning the Functions of the United States Patent and Trademark Office in the Capacity of an International Searching Authority

53. Discussions were based on documents PCT/A/I/3, Annex II and PCT/A/I/3 Corr.

54. The Assembly approved the draft Agreement, subject to the deletion of paragraphs (2) and (3) of Article 12 and the replacement of Annex C as indicated in document PCT/A/I/3 Corr.

Agreement between the Patent Office of the United Kingdom and the International Bureau in relation to the functioning of the Patent Office of the United Kingdom as an International Preliminary Examining Authority

55. Discussions were based on document PCT/A/I/4.

56. The Assembly approved the draft Agreement as contained in document PCT/A/I/4.

Agreement between the International Bureau and the European Patent Organisation in relation to the establishment and functioning of the European Patent Office as an International Searching and International Preliminary Examining Authority

57. Discussions were based on document PCT/A/I/5, Annex I.
58. The Assembly approved the draft Agreement, subject to the deletion of Article 16.
59. The Delegation of the Netherlands, referring to discussions which had taken place between the Netherlands Patent Office and the European Patent Office with respect to the use by the European Patent Office of the Dutch language when acting as an International Searching Authority, said that, although the European Patent Office was prepared to carry out searches on international applications filed in Dutch, it declared not to be in a position to take the responsibility of preparing or checking the English translations of such applications prepared in accordance with PCT Rule 48.3(b) for the purpose of international publication.
60. Since the possibility of filing international applications in the Dutch language would be of great importance for nationals and residents of the Netherlands once this country would, later this year, become a Contracting State of the PCT, the Delegation of the Netherlands requested clarification as to the interpretation of PCT Rule 48.3(b). In its opinion, that Rule permitted to contract out the work connected with the translation, or to use translations provided by the applicant (which it was sure that Netherlands applicants would be only too glad to supply), provided that the ultimate responsibility for the translation remained with the International Searching Authority. The Delegation of the Netherlands also expressed the opinion that, as a matter of policy, the European Patent Office and other International Searching Authorities should cover as many languages as their facilities permit and if necessary broaden their language facilities for that purpose.
61. The International Bureau expressed the view that PCT Rule 48.3(b), and in particular the words "The translation shall be prepared under the responsibility of the International Searching Authority" should not be interpreted to mean that the work involved should always be carried out by the International Searching Authority itself. However, the ultimate responsibility for the said translation, particularly with respect to its accuracy, would rest with that Authority. On the other hand, any broadening of the language coverage of the International Searching Authorities would be welcome.
62. The representative of the European Patent Organisation underlined that the language facilities of the European Patent Office would permit the carrying out of searches in the Dutch language but were not sufficient to assume the task of preparing or checking the English translation of International applications filed in Dutch. Consequently the problems raised in connection with the possibility by the EPO acting as an International Searching Authority of international applications filed in Dutch would only be removed if PCT Rule 48.3(b) could be interpreted so as to permit the International Searching Authority to use, for the purposes of that Rule, an English translation prepared by the applicant and to be relieved from the checking of the said translation. Such considerations would also be applicable to other languages and any extension of the language coverage of an International Searching Authority would be greatly facilitated by such an interpretation of PCT Rule 48.3(b).
63. The International Bureau said that PCT Rule 48.3(b) did not allow the International Searching Authority to require the applicant to prepare an English translation of the international application. However, there was nothing in the PCT that would prevent the International Searching Authority or the receiving Office to accept an English translation submitted by the applicant himself. This, then, would be used by the International Searching Authority, but would not relieve it from its responsibility under the said Rule.

64. The Assembly concluded that PCT Rule 48.3(b) should be interpreted as stated by the International Bureau. The question of the use of the Dutch language by the EPO as an International Searching Authority was a matter to be further discussed within the framework of the European Patent Organisation.

Agreement between the Patent Office of Japan and the International Bureau in relation to the establishment and functioning of the Patent Office of Japan as International Searching and International Preliminary Examining Authority

65. Discussions were based on document PCT/A/I/6.

66. The Delegation of Japan confirmed the desire of the Japanese Patent Office to be appointed by the Assembly, at its first session, as an International Searching and International Preliminary Examining Authority despite the fact that Japan had not yet ratified the PCT, this is in order to be able to begin its activity as an International Authority immediately upon entry into force of the Treaty for Japan without having to wait for a decision by the Assembly in a subsequent session. The Delegation again affirmed the declaration made at the opening of the session that the Japanese Patent Office would act as an International Authority not only for nationals and residents of Japan but also for nationals and residents of Asian countries party to the PCT (see paragraph 17 of this Report).

67. The Assembly approved the draft Agreement contained in Annex I to document PCT/A/I/6 and noted the Protocol of Agreement contained in Annex II, line 4 of page 3 of the said Annex being amended, upon a proposal by the Delegation of Japan, to read as follows "Have agreed to record the following."

Agreement between the Federal Minister for Trade, Commerce and Industry of Austria and the International Bureau in relation to the establishment and functioning of the Austrian Patent Office as an International Searching and International Preliminary Examining Authority

68. Discussions were based on document PCT/A/I/7.

69. The Delegation of Austria expressed the willingness of the Austrian Patent Office to be appointed as an International Searching and International Preliminary Examining Authority, even though Austria had not yet ratified the PCT. Since it was expected that Austria would ratify the PCT during the period between the first and the second session of the Assembly, the Assembly was invited to appoint at its first session the Austrian Patent Office as an International Searching and International Preliminary Examining Authority in order to enable it to begin its activities as such immediately upon entry into force of the Treaty for Austria without having to wait for a decision by the Assembly in a subsequent session. The Delegation also stressed the importance for developing countries of the role to be played by the Austrian Patent Office, particularly within the framework of Chapter IV of the PCT.

70. The Assembly approved the draft Agreement contained in Annex I to document PCT/A/I/7, subject to an amendment to Annex A of the Agreement, as proposed by the Delegation of Austria to the effect that in paragraphs 1 and 3 of the said Annex the following words were added: "with which Austria, in accordance with its obligations undertaken within the framework of the European Patent Organisation, has concluded an Agreement for that

purpose.” The Assembly also noted the Protocol Agreement contained in Annex II to document PCT/A/I/7.

Agreement between the State Committee for Inventions and Discoveries of the USSR Council of Ministers and the International Bureau in relation to the functioning of the State Committee for Inventions and Discoveries of the USSR Council of Ministers as an International Searching and International Preliminary Examining Authority

71. Discussions were based on document PCT/A/I/8.

72. The Assembly approved the draft Agreement contained in the Annex to the said document, subject to an amendment of Article 11, as proposed by the Delegation of the Soviet Union, to the effect that the words “one of the languages” in the third line of that Article be changed to read “the languages.”

Appointment

73. The Assembly noted that the following Agreements and Protocols of Agreements relating to the establishment and functioning of the offices concerned as an International Searching and/or International Preliminary Examining Authority were signed on April 11, 1978 (listed in the sequence of the preparatory documents submitted to the Assembly):

(i) the Agreement between the Royal Patent and Registration Office of Sweden and the International Bureau;

(ii) the Agreement between the United States Patent and Trademark Office and the International Bureau;

(iii) the Agreement between the Patent Office of the United Kingdom and the International Bureau;

(iv) the Agreement between the International Bureau and the European Patent Organisation;

(v) the Protocol of Agreement between the Patent Office of Japan and the International Bureau;

(vi) the Protocol of Agreement between the Federal Minister for Trade, Commerce and Industry of Austria and the International Bureau;

(vii) the Agreement between the State Committee for Inventions and Discoveries of the USSR Council of Ministers and the International Bureau;

74. The Assembly thereupon made the following appointments:

(i) As International Searching and Preliminary Examining Authorities:

(a) the Patent Office of Austria (as from the date on which the Agreement attached to the Protocol of Agreement referred to above will be signed and Austria will become bound by the PCT);

(b) the Patent Office of Japan (as from the date on which the Agreement attached to the Protocol of Agreement referred to above will be signed and Japan will become bound by the PCT);

(c) the State Committee for Inventions and Discoveries of the USSR Council of Ministers;

(d) the Royal Patent and Registration Office of Sweden (as from May 17, 1978, the date on which Sweden will become bound by the PCT);

(e) the European Patent Office;

(ii) As an International Searching Authority:

(f) the United States Patent and Trademark Office;

(iii) As an International Preliminary Examining Authority:

(g) the Patent Office of the United Kingdom.

Gradual application of International Preliminary Examination as far as the European Patent Office is concerned

75. Discussions were based on document PCT/A/I/5 and, in particular, Annex II thereto.

76. The Delegation of the Federal Republic of Germany introduced its proposal contained in Annex II of document PCT/A/I/5.

77. The Assembly took the following decision:

“The Assembly of the International Patent Cooperation (PCT) Union,

“Considering the Agreement concluded between the International Bureau of the World Intellectual Property Organization and the European Patent Organisation in as far as it concerns international preliminary examination,

“Considering Article 65(l) of the Patent Cooperation Treaty,

“Notes that in respect of international applications for which the European Patent Office would be the only competent International Preliminary Examining Authority, demands for international preliminary examination will be accepted by the European Patent Office as from the dates which result from the application of the provisions of the said Agreement.”

FIXING THE DATE FROM WHICH INTERNATIONAL APPLICATIONS MAY BE  
FILED AND THE DATE FROM WHICH DEMANDS FOR INTERNATIONAL  
PRELIMINARY EXAMINATION MAY BE SUBMITTED

78. Discussions were based on document PCT/A/I/2.

79. The Assembly fixed June 1, 1978, as the date from which international applications may be filed and demands for international preliminary examination may be submitted.

AMENDMENTS TO THE REGULATIONS UNDER THE PATENT COOPERATION  
TREATY (PCT)

80. Discussions were based on documents PCT/A/I/2 (paragraphs 10 to 13 and Annexes III, IV and V thereof), and PCT/A/I/9, prepared by the International Bureau, and on a proposal by the Delegation of Sweden for the amendment of Rule 48.3 as contained in document PCT/A/I/10. Amendments to Rules in the Regulations in which fees are prescribed are dealt with separately in paragraphs 88 to 97 of this Report and the proposal relating to Rule 48.3 in paragraphs 100 and 101 of this Report.

Rule 4.4(c)

81. The Assembly agreed to adopt the amendment to this Rule as proposed by the International Bureau in the light of a communication received from the United States Patent and Trademark Office and as contained in document PCT/A/I/9.

Rules 4.10(d), 11.6(a) and (b), and 11.13(a)

82. The Assembly agreed to adopt the draft amendments to these Rules as set out in Annex III of document PCT/A/I/2.

Rule 32bis: Withdrawal of the Priority Claim

83. The Assembly agreed to adopt a new Rule 32bis relating to the withdrawal of the priority claim as set out in Annex III of document PCT/A/I/2.

Rules 48.2(a)(v) and 48.3(c)

84. The Assembly agreed to adopt the draft amendments to these Rules as set out in Annex III of document PCT/A/I/2.

Rules 58.2, 58.3 and 61.1(b)

85. The Assembly agreed to adopt the draft amendments to these Rules as set out in Annex V of document PCT/A/I/2.

Rule 74bis: Notification of Withdrawal under Rule 32

86. The Assembly agreed to adopt a new Rule relating to notification to the International Preliminary Examining Authority of withdrawals under Rule 32 as set out in Annex III of document PCT/A/I/2.

#### Rules 86.3 and 86.4

87. The Assembly agreed to adopt the draft amendments to these Rules as set out in Annex III of document PCT/A/I/2.

#### Amendments relating to fees (Rules 15.2 and 57.2)

88. In accordance with a wish expressed by the PCT Preparatory Committee, the International Bureau drew to the attention of the Assembly paragraphs 11 and 12 of document PCT/A/I/2 dealing with matters concerning the amounts of certain fees and the prices of certain PCT publications, it being understood, in particular, that the decision adopted by the Assembly in relation to the level of fees would be applied by the International Bureau in relation to the prices of certain PCT publications.

89. The Delegation of Switzerland said that it was agreeable to the lower level of fees for an initial period of one year but was firmly opposed to the use of two currencies, since the PCT budget was expressed in Swiss francs and a large proportion of the expenses of the International Bureau would be incurred in that currency. Any weakening of the US dollar would cause a serious deficit in the budget. Moreover, applicants would choose whichever was the weaker of the two currencies. In these circumstances, the Delegation favored the use only of Swiss francs.

90. The Delegation of France said that, in view of the declarations of the Director General in this connection, it supported the Delegation of Switzerland. Lowering the level of fees adopted by the PCT Working Group on Budgetary Questions by 40% would not involve a great risk. Fundamental objections of a legal nature had, however, to be raised against expressing the amounts of the fees in two currencies. While a choice of either of the currencies at present appearing in the Regulations could meet those objections, the reasons given by the Delegation of Switzerland in relation to the currency in which the expenses were incurred made it logical to use Swiss francs.

91. The Delegations of the Netherlands and the United Kingdom supported the views expressed by the Delegations of Switzerland and France.

92. The Delegation of the United States of America underlined the importance to applicants in its country of avoiding administrative complications and uncertainty which would be caused to applicants if they should be confronted with the need to follow exchange rate variations for the purposes of paying filing fees. Possible losses due to expressing the fees in US dollars, even for those who considered that this would occur, would be of minimal significance. At least for an initial period, the system of two currencies, adopted in 1970, should be maintained.

93. The Delegation of the Federal Republic of Germany supported the proposals of the International Bureau, underlining that a main consideration was that the expression of the fees in two currencies was not a new solution and that to use a single currency would involve the change of a decision of principle taken by the Washington Conference in 1970. Moreover, it

was to be understood that the solution adopted would apply for a transitional period of one year.

94. The Delegation of Brazil supported the position taken by the Delegation of the Federal Republic of Germany.

95. On a question raised by the Delegation of the United Kingdom, the Director General said that the applicant would not have a choice between the two currencies since, according to PCT Rule 15.3(b), the receiving Office prescribed the currency of payment and would probably choose its national currency. It was expected that this solution would be adopted by each receiving office in the framework of the system of handling of fees proposed by the International Bureau and to be agreed upon between the receiving Offices and the International Bureau. Naturally, if an Office wanted to allow applicants to pay in a foreign currency, nothing in the PCT prevented it from doing so. According to the said system, the table of fees published by each receiving Office would stipulate the amounts applicants would have to pay. The receiving Offices were free to choose the currency on the basis of which they wanted their equivalent schedule of fees to be established. The receiving Office itself did not incur any risk since its obligation was merely to transfer to the International Bureau whatever amounts it had received and any gains or losses would belong to or be borne by the International Bureau.

96. The Delegation of Switzerland, pointing to the fact that at present the exchange rate between the US dollar and the Swiss franc is at 1.80, said that, while maintaining its main proposal, it could accept as a compromise the adjustment of the amounts indicated in US dollars to this present exchange rate, if the expression of the fee in US dollars was maintained. This proposal was supported by the Delegation of Japan. However, the Delegation of Japan preferred the use only of Swiss francs to make easier the handling of fees by the receiving Office. After further discussions, the proposal of the Delegation of Switzerland was adopted by the Assembly. The Delegation of France maintained, however, its objections of principle against the use of two currencies.

97. The Assembly agreed to adopt the following fees in Rules 15.2 and 57.2:

basic fee:	US\$ 165.00 or 300 Swiss francs
supplement per sheet over 30:	US\$ 3.00 or 6 Swiss francs
designation fee:	US\$ 40.00 or 80 Swiss francs
handling fee:	US\$ 50.00 or 96 Swiss francs

98. It was agreed that the amounts of the fees fixed in the Regulations in US dollars and Swiss francs are to be considered only as a basis on which the amount of the fees in the various national currencies (other than US dollars and Swiss francs) are fixed by the Director General after consultation with the country of each currency. Such agreement is based on an interpretation of Rule 15.3(b) and similar provisions of the Regulations which vest the right of expressing fees in national currencies in the receiving Offices. The said amounts are the rounded up or rounded down equivalents of the amounts indicated in the Regulations. The Director General was asked to propose to the next session of the Assembly a revision of the relevant provisions of the Regulations so that they spell out this interpretation. The Assembly

noted the following amounts of fees fixed in the applicable currencies, it being understood that it was not an obligation in the future to submit similar information to the Assembly with a view to their being noted by it:

Country Currency	PCT FEES			
	Basic	Supplement per sheet over 30 sheets	Designation	Handling
	Rule 15.2(a)(i)	Rule 15.2(a)(ii)	Rule 15.2(b)	Rule 57.2(a)
Brazil Cruzeiros	2900	50	720	900
France French Francs	735	14	180	225
Germany (Federal Republic of) Deutsche Mark	325	6	80	100
Luxembourg Luxembourg Francs	5060	90	1250	1560
Soviet Union Roubles	110	2	30	35
Sweden Swedish Kronor	740	14	185	230
United Kingdom Pounds Sterling	83	1.5	21	25

99. In conclusion, the Assembly amended the Rules referred to in paragraph 81 to paragraph 97 above, as set out in Annex V of this Report.

#### Proposal for the amendment of Rule 48.3

100. The Delegation of Sweden, introducing its proposal for the amendment of Rule 48.3, as contained in document PCT/A/I/10, stressed the heavy burden, placed on certain International Searching Authorities by the requirements of Rule 48.3(b), of carrying the responsibility for translations into English of applications filed in languages other than the five languages specified in that Rule. This burden could negatively affect the attractiveness of the PCT for applicants not wishing to use one of the languages in more worldwide use. In most cases an English translation will anyhow appear in the national (regional) phase in a few months after the publication and it will only rarely occur that the international application be processed in this phase without a translation into at least one of the languages enumerated in Rule 48.3. As the costs of translation had increased enormously in the past five to ten years, everything should be tried to avoid unnecessary translations. However, taking into consideration the earlier discussions concerning the use of the Dutch language for international applications (see paragraphs 59 to 64 of this Report), it might be worthwhile to await practical experience on the subject before a substantial debate on this subject could be entered into. For this reason, the Delegation withdrew its proposal at this time.

101. The Assembly noted the withdrawal of the said proposal.

ESTABLISHMENT OF THE COMMITTEE FOR TECHNICAL COOPERATION;  
APPOINTMENT OF ITS MEMBERS; ADOPTION OF ITS RULES OF PROCEDURE

102. Discussions were based on document PCT/A/I/2.

103. The Assembly adopted the draft decisions concerning the PCT Committee for Technical Cooperation (PCT/CTC) as set out in Annex VI of document PCT/A/I/2. The text of the decisions adopted by the Assembly is contained in Annex VI of this Report.

104. The Assembly also adopted the Rules of Procedure of the PCT Committee for Technical Cooperation (PCT/CTC) as set out in Annex VII of document PCT/A/I/2. The text of the Rules of Procedure adopted by the Assembly is contained in Annex VII of this Report.

ESTABLISHMENT OF THE COMMITTEE FOR TECHNICAL ASSISTANCE;  
APPOINTMENT OF ITS MEMBERS; ADOPTION OF ITS RULES OF PROCEDURE

105. Discussions were based on document PCT/A/I/2.

106. The Assembly adopted the draft decisions concerning the PCT Committee for Technical Assistance (PCT/CTA) as set out in Annex VIII of document PCT/A/I/2. The text of the decisions adopted by the Assembly is contained in Annex VIII of this Report.

107. The Assembly also adopted the Rules of Procedure of the PCT Committee for Technical Assistance (PCT/CTA) as set out in Annex IX of document PCT/A/I/2. The text of the Rules of Procedure adopted by the Assembly is contained in Annex IX of this Report.

ESTABLISHMENT OF THE COMMITTEE FOR ADMINISTRATIVE AND LEGAL  
MATTERS; ADOPTION OF ITS RULES OF PROCEDURE

108. Discussions were based on document PCT/A/I/2.

109. The Assembly adopted the draft decisions concerning the PCT Committee for Administrative and Legal Matters (PCT/CAL) as set out in Annex X of document PCT/A/I/2. The text of the decisions adopted by the Assembly is contained in Annex X to this Report.

110. The Assembly also adopted the Rules of Procedure of the PCT Committee for Administrative and Legal Matters (PCT/CAL) as set out in Annex XI of document PCT/A/I/2. The text of the Rules of Procedure adopted by the Assembly is contained in Annex XI to this Report.

111. The Delegation of the Netherlands, referring to a need to avoid an overlap between the mandates of PCT/CTC and PCT/CAL, said that, in its understanding of the delimitation of the mandates of the said two Committees, PCT/CTC would, particularly in view of the fact that it would be closely associated with the Permanent Committee on Patent Information, deal only with patent documentation matters in the framework of the PCT even though the provisions of the PCT concerning PCT/CTC would allow for an interpretation giving to it a broader jurisdiction. All matters not purely relating to documentation would be within the mandate of PCT/CAL. With respect to the Guidelines for International Search and the Guidelines for

International Preliminary Examination, this would mean that, while the Guidelines for International Preliminary Examination are exclusively within the mandate of PCT/CAL, the competence was divided between PCT/CTC and PCT/CAL, as far as the Guidelines for International Search were concerned. Those Guidelines would be within the mandate of PCT/CTC as far as matters of documentation were concerned, whereas all other matters in the said Guidelines would be within the competence of PCT/CAL. Such delimitation of the mandate of the two Committees would correspond to the decisions taken last year when establishing the Permanent Committee on Patent Information and would avoid an overlap between the mandates of the two newly established PCT Committees.

112. Upon a statement by the Director General confirming the interpretation given by the Delegation of the Netherlands, the Chairman stated the agreement of the Assembly with that interpretation.

#### CONSULTATIONS WITH THE RECEIVING OFFICES AND THE INTERNATIONAL SEARCHING AND PRELIMINARY EXAMINING AUTHORITIES RELATING TO THE ADMINISTRATIVE INSTRUCTIONS

113. On the occasion of the present session of the Assembly, consultations were held with the receiving Offices and the International Searching and Preliminary Examining Authorities relating to the Administrative Instructions, as provided in PCT Rule 89.2(a). The results of such consultations, as reflected in the following paragraphs, were noted by the Assembly on the basis of a report by the Director General.

114. Consultations were based on the Administrative Instructions as contained in document PCT/INT/2 and, as far as Annex F of the said document was concerned, on the French version of the forms provided by the International Bureau for the purpose of the consultations. A printed version of the Administrative Instructions, excluding the forms contained in Annex F other than the four "printed" forms, was also made available; this version contained the following changes from the Administrative Instructions as contained in document PCT/INT/2, resulting, mainly, from the amendments of the Regulations:

(i) In Section 102(b), reference to form PCT/RO/126 was deleted from the list of mandatory forms (previously under the subheading "Other Forms") in accordance with the decision of the PCT Interim Advisory Committee for Administrative Questions at its 1977 session;

(ii) The footnote previously indicated against Section 108(a) was deleted;

(iii) The footnote previously indicated at the end of the text of Section 110 was deleted;

(iv) Section 407(d) was amended, having regard to new Rule 86.4(b), and a footnote added;

(v) A footnote was added to Annex F indicating the inclusion only of the four printed forms;

(vi) Printed forms: The change indicated in Circular No. 21 from the Director General relating to the appointment of agents was included in the Request form (PCT/RO/101) and the Demand form PCT/IPEA/401);

(vii) The search report form was rearranged as agreed to by the PCT Interim Advisory Committee for Administrative Questions at its 1977 session.

115. During the consultations, it was noted in connection with the Request form (PCT/RO/101), that an indication would have to be provided for permitting applicants to specify the International Searching Authority for carrying out international search on those kinds of international applications for which several International Searching Authorities are competent in accordance with PCT Rule 35.2(a)(ii).

116. Furthermore, during the consultations, information was provided by the International Bureau as to a limited number of small modifications in a certain number of forms, arising from the amendments of the Regulations adopted by the Assembly. It was noted that master copies of the said forms, reflecting the amendments were already available for those Offices wishing to print the forms, or certain forms themselves and that the forms in their final form now to be published by the International Bureau would reflect those modifications.

117. It was understood in the consultations and noted by the Assembly that the promulgation of the Administrative Instructions by the Director General in accordance with PCT Rule 89.2(a) would be upon the understanding that, as regards Section 103(a), as long as a receiving Office does not yet have available forms in the language of the international application, the applicant may use for the purposes of his international application forms available from the receiving Office in another language and the receiving Office and the competent International Searching and Preliminary Examining Authority may also use forms in that language for the purposes of their communications with the applicant.

118. The Assembly noted that, in light of the favorable advice of the receiving Offices and the International Searching and Preliminary Examining Authorities relating to the Administrative Instructions, the Director General would now, in application of PCT Rules 89.2(a) and 89.3, promulgate the Administrative Instructions and publish them in the first issue of the Gazette to appear on May 1, 1978, fixing June 1, 1978 as their date of entry into force.

#### **PUBLISHED ITEMS OF NON-PATENT LITERATURE AGREED UPON BY INTERNATIONAL SEARCHING AUTHORITIES FOR THE PURPOSES OF THE PCT MINIMUM DOCUMENTATION**

119. The Director General informed the Assembly of the conclusions reached at the meeting of the International Searching Authorities, convened by him for the purpose of these Authorities agreeing upon the published items of non-patent literature which would, upon publication by the International Bureau, form part of the minimum documentation by virtue of Rule 34.1(b)(iii). The consultations were based on document PCT/INT/I, which contained a PCT minimum list of non-patent literature, together with changes to the entries contained in the Annex to the said document which the Director General had communicated to all the prospective International Searching Authorities prior to the meeting. All of the International Searching Authorities appointed at the session of the Assembly had participated in the

discussions and had unanimously agreed upon the items. The International Bureau would publish in the Gazette the relevant parts of the said document, thereby establishing the published items of non-patent literature pertaining to the minimum documentation. The Assembly noted the statement of the Director General.

#### CLOSING OF THE SESSION

120. At the closing meeting of the Assembly, the Delegation of Japan expressed its gratitude to the Assembly and to the International Bureau for their cooperation and understanding due to which the Japanese Patent Office had been appointed as an International Searching and Preliminary Examining Authority during the session. Noting that, during the session, the Bill for the national legislation implementing the PCT had made further progress in the procedure before the House of Counsellors of the national Diet and thus, that parliamentary approval for both the PCT and the national laws had virtually been obtained, the Delegation said that it was convinced that the PCT would come into effect for Japan on October 1, 1978. At the same time, the Japanese Patent Office could start to act as an International Searching and Preliminary Examining Authority. The Delegation underlined the firm intention of Japan to cooperate fully with the other member countries and with the International Bureau within the framework of the PCT and bearing in mind, in particular, the offer of the services of the Japanese Patent Office in the interests of the nationals and residents of Asian countries.

121. The Delegation of Austria also expressed its gratitude for the appointment of the Austrian Patent Office as an International Searching and Preliminary Examining Authority. The Delegation said that its country was situated at the meeting point of different economic, social and political systems, and that it had endeavored in the past, and would continue in the future, to direct its efforts to serving as a bridge connecting such systems. Its country would be pleased to ratify the PCT since the PCT would promote international cooperation in the field of industrial property, notwithstanding the differences in the economic and political systems of its member States. The Delegation said, furthermore, that its country would continue its efforts in the interests of the developing countries, not only within the framework of its national programs, but also in relation to WIPO programs, particularly under the PCT.

122. The Delegations of Austria and the United States of America expressed on behalf of all Delegations gratitude to the Chairman who, with outstanding ability and a profound understanding of the questions considered by the Assembly, had guided it through its first session. The Chairman, in turn, thanked the Delegations for the honor done to him in appointing him to the chair and the spirit of cooperation in which the deliberations of the Assembly had taken place.

123. The Assembly unanimously adopted this Report on April 14, 1978.

[Annexes I to XI follow]

ANNEX I/ANNEXE I

LIST OF PARTICIPANTS/  
LISTE DES PARTICIPANTS

(in the English alphabetical order of the names of the States)  
(dans l'ordre alphabétique anglais des noms des États)

I. MEMBER STATES/ETATS MEMBRES

BRAZIL/BRESIL

Dr. U. Q. CABRAL, President, Instituto Nacional da Propriedade Industrial, Rio de Janeiro

CAMEROON/CAMEROUN

M. D. EKANI, Directeur Général, Organisation Africaine de la Propriété Intellectuelle,  
Yaoundé

FRANCE

M. G. VIANES, Directeur, Institut national de la propriété industrielle, Paris

M. F. SAVIGNON, Professeur associé, Université des Sciences juridiques, Strasbourg

M. P. GUERIN, Attaché de direction, Institut national de la propriété industrielle, Paris

M. A. NEMO, Conseiller, Mission permanente, Genève

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

Dr. A. KRIEGER, Ministerialdirektor, Federal Ministry of Justice, Bonn

Dr. E. HÄUSSER, President, German Patent Office, Munich

Dr. M. DEITERS, Ministerialdirigent, Federal Ministry of Justice, Bonn

Mr. U. C. HALLMANN, Leitender Regierungsdirektor, German Patent Office, Munich

Mr. A. SCHÄFERS, Regierungsdirektor, Federal Ministry of Justice, Bonn

Mr. N. HAUGG, Regierungsdirektor, German Patent Office, Munich

Dr. A. MÜHLEN, First Secretary, Permanent Mission, Geneva

LUXEMBOURG

M. J.-P. HOFFMANN, Directeur du Service, Service de la Propriété Industrielle,  
Luxembourg

MADAGASCAR

M. S. RABEARIVELO, Conseiller, Mission permanente de Madagascar, Genève

SENEGAL

M. P. CRESPIAN, Conseiller, Mission permanente du Sénégal, Genève

SOVIET UNION/UNION SOVIETIQUE

Mr. L. KOMAROV, Deputy Chairman, State Committee for Inventions and Discoveries of the USSR Council of Ministers, Moscow

Mr. E. BURYAK, Head, International Patent Cooperation Division, All-Union Research Institute of the State Patent Examination, Moscow

Mr. S. EGOROV, First Secretary, Permanent Mission, Geneva

SWEDEN/SUEDE

Mr. G. BORGGARD, Director General, Royal Patent and Registration Office, Stockholm

Mr. L. JONSON, Chief of Legal Affairs, Ministry of Trade, Stockholm

Mr. U. JANSSON, Examiner, Royal Patent and Registration Office, Stockholm

SWITZERLAND/SUISSE

M. P. BRAENDLI, Directeur, Bureau fédéral de la propriété intellectuelle, Berne

M. R. KAMPF, Chef de Section, Bureau fédéral de la propriété intellectuelle, Berne

UNITED KINGDOM/ROYAUME-UNI

Mr. R. BOWEN, Assistant Comptroller, The Patent Office, London

Mr. E. F. BLAKE, Senior Examiner, The Patent Office, London

Mr. D. CECIL, First Secretary, Permanent Mission, Geneva

UNITED STATES OF AMERICA/ETATS-UNIS D'AMERIQUE

Delegate

Mr. L. F. PARKER, Acting Commissioner of Patents and Trademarks, United States Patent and Trademark Office, Department of Commerce, Washington, D.C.

Alternate Delegate

Mr. H. D. HOINKES, International Patent Specialist, Office of Legislation and International Affairs, United States Patent and Trademark Office, Department of Commerce, Washington, D.C.

Advisors

Mr. D. W. BANNER, Commissioner Designate, United States Patent and Trademark Office, Department of Commerce, Washington, D.C.

Mr. G. R. CLARK, Vice-President, Sunbeam Corporation, Chicago, Illinois

Mr. L. O. MAASSEL, Patent Procedure Specialist, Office of the Assistant Commissioner for Patents, United States Patent and Trademark Office, Department of Commerce, Washington, D.C.

Mr. W. E. SCHUYLER, Jr., Intellectual Property Owners Inc., Washington, D.C.

Mr. I. A. WILLIAMSON, Jr., First Secretary, Permanent Mission, Geneva

II. SPECIAL OBSERVERS/OBSERVATEURS SPECIAUX

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AUSTRIA/AUTRICHE

Dr. O. LEBERL, President, Austrian Patent Office, Director General, Industrial Property Section, Federal Ministry of Trade, Commerce and Industry, Vienna

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Mr. H. IWATA, Director General, 4th Examination Department, Japanese Patent Office, Tokyo

Mr. Y. HASHIMOTO, Appeal Examiner-in-Chief, Appeal Department, Japanese Patent Office, Tokyo

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Dr. S. de VRIES, Deputy Member, Patents Council, Patent Office, Rijswijk

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Mr. O. OS, Head of Division, Norwegian Patent Office, Oslo

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Dr. V. TUDOR, Conseiller, Mission permanente, Genève

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Sr. J. DELICADO MONTERO-RIOS, Director, Departamento Estudios y Asuntos Internacionales Registro de la Propiedad Industrial, Madrid

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M. J. STAEHELIN, Vice-président, Office européen des brevets, Munich

Dr. U. SCHATZ, Directeur principal, Office européen des brevets, Munich

M. J. A. H. van VOORTHUIZEN, Directeur, Office européen des brevets, Rijswijk

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GERMAN DEMOCRATIC REPUBLIC/REPUBLIQUE DEMOCRATIQUE ALLEMANDE

Ms. C. MICHEEL, Third Secretary, Permanent Mission, Geneva

ITALY/ITALIE

Sr. S. SAMPERI, Directeur du Bureau national des brevets, Ministère de l'Industrie et du Commerce, Rome

Sr. I. PAPINI, Delegato per gli Accordi di Proprieta Intellettuale, Ministero Affari Esteri, Rome

Sr. M. F. PINI, First Secretary, Permanent Mission, Geneva

PORTUGAL

M. R. SERRAO, Directeur des Services, Instituto Nacional da Propriedade Industrial,  
Lisbonne

URUGUAY

Sr. A. MOERZINGER, Third Secretary, Permanent Mission, Geneva

Intergovernmental Organizations  
Organizations intergouvernementales

INTERIM COMMITTEE OF THE COMMUNITY PATENT/COMITE INTERIMAIRE  
POUR LE BREVET COMMUNAUTAIRE

M. G. A. U. M. van GREVENSTEIN, Directeur-Général, Comité intérimaire pour le brevet  
communautaire, Bruxelles

Mr. K. MELLOR, Administrator, Interim Committee of the Community Patent, Brussels

International Non-Governmental Organizations  
Organisations internationales non-gouvernementales

COMMITTEE OF NATIONAL INSTITUTES OF PATENT AGENTS (CNIPA)/COMITE  
DES INSTITUTS NATIONAUX D'AGENTS DE BREVETS

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FEDERATIONS INDUSTRIELLES D'EUROPE

Mr. M. van DAM, Patent Agent, Eindhoven, Netherlands

EUROPEAN FEDERATION OF INDUSTRIAL PROPERTY REPRESENTATIVES OF  
INDUSTRY/FEDERATION EUROPEENNE DES MANDATAIRES DE L'INDUSTRIE EN  
PROPRIETE INDUSTRIELLE (FEMIP)

Dr. C. GUGERELL, Scherico Ltd., Lucerne, Switzerland

INTER-AMERICAN ASSOCIATION OF INDUSTRIAL PROPERTY  
(ASIPI)/ASSOCIATION INTERAMERICAINE DE LA PROPRIETE INDUSTRIELLE

Mr. D. MERRYLEES, Chartered Patent Agent, Rio de Janeiro, Brazil

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

Mr. G. R. CLARK, International Patent and Trademark Association, Chicago, Illinois, United States of America

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

Mr. S. E. ANGERT, Engineer, Stockholm, Sweden

Mr. P. FELDMANN, Engineer, Opfikon-Glattbrugg, Switzerland

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

M. E. GUTMANN, Conseil en propriété industrielle, Paris, France

M. G. E. KIRKER, Ingénieur-conseil en propriété industrielle, Genève, Suisse

PACIFIC INDUSTRIAL PROPERTY ASSOCIATION (PIPA)

Mr. D. J. MUGFORD, Chief Patent and Trademark Counsel, Bristol-Myers Company, New York, United States of America

UNION OF EUROPEAN PATENT ATTORNEYS AND OTHER REPRESENTATIVES  
BEFORE THE EUROPEAN PATENT OFFICE (UNEPA)/UNION DES CONSEILS  
EUROPEENS EN BREVETS ET AUTRES MANDATAIRES AGREES AUPRES DE  
L'OFFICE EUROPEEN DES BREVETS

Dr. U. KADOR, Patentanwalt, Munich, Germany (Federal Republic of)

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

Dr. R. KOCKLAÜNER, Patent Assessor, Hoechst AG, Wiesbaden, Germany (Federal Republic of)

IV. OFFICERS/BUREAU

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Vice-Chairmen/Vice-présidents: Mr. P. BRAENDLI (Switzerland/Suisse)  
Mr. L. KOMAROV (Soviet Union/Union soviétique)

Secretary/Secrétaire: Mr. E. M. HADDRICK (WIPO/OMPI)

V. INTERNATIONAL BUREAU OF WIPO  
BUREAU INTERNATIONAL DE L'OMPI

Dr. A. BOGSCH, Director General/ Directeur général

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

Mr. F. A. SVIRIDOV, Deputy Director General/Vice-directeur général

Mr. E. M. HADDRICK, Head, PCT Division/Chef de la Division "PCT"

Mr. J. FRANKLIN, Head, Administrative Section, PCT Division/Chef de la Section administrative, Division "PCT"

Mr. V. TROUSSOV, Senior Counsellor, PCT Division/Conseiller principal, Division "PCT"

Mr. N. SCHERRER, Counsellor, PCT Division/Conseiller, Division "PCT"

Mr. D. BOUCHEZ, Technical Counsellor, PCT Division/Conseiller technique, Division "PCT"

Mr. Y. GYRDYMOV, Technical Counsellor, PCT Division/Conseiller technique, Division "PCT"

Mr. A. OKAWA, Consultant, PCT Division/Consultant, Division "PCT"

[Annex II follows]

ANNEX II

OPENING SPEECH

of

Dr. Arpad Bogsch

Director General of the

World Intellectual Property Organization (WIPO)

Honorable Delegates,  
Esteemed Guests of Honor,  
Ladies and Gentlemen,

I have the honor to open the first session of the Assembly of the International Patent Cooperation Union, also called the PCT Union.

This meeting is an event of great significance in the history of the Patent Cooperation Treaty since it marks the occasion on which what, until now, has been a mere plan becomes a living reality.

The plan was drawn up in Washington in 1970 at the Diplomatic Conference which adopted the Patent Cooperation Treaty.

The main substantive work of that Conference was carried out in what was called Main Committee I. It was presided over by Mr. William Schuyler, then Commissioner of Patents of the United States of America. He is here today in two capacities: as a guest of honor invited by me and as a delegate of his country. His merits in connection with the Patent Cooperation Treaty are both great and numerous. Not only was he the Chairman of Main Committee I and not only did he have a decisive role in preparing the Washington Conference, but he also played a decisive part in bringing about the ratification of the Treaty by the United States. Indeed, in this matter, the views of private circles in the United States, including in particular those of the American Bar Association, were determinative, and it is thanks in a large measure to Bill Schuyler that these views were favorable and so articulated that the US Congress acted favorably both as to the ratification of the Treaty and as to the adoption of the necessary implementing legislation.

The other main committee of the Washington Diplomatic Conference, Main Committee II, was presided over by Mr. Bob van Benthem, then President of the Netherlands Patent Office. He, too, is here in two capacities: as a guest of honor, in recognition of the eminent role he played in bringing the PCT into existence, and as the representative of the European Patent Office, of which he is now the President. In his new capacity, Bob van Benthem's merits in connection with the Patent Cooperation Treaty still prevail, close cooperation between his Office and the organs of the Patent Cooperation Treaty being indispensable for the smooth functioning of the latter. He has already given many proofs of his readiness to contribute to such cooperation.

Mr. Denis Ekani, Director General of the African Industrial Property Office, represented that Office in the Washington Diplomatic Conference. His Office acts as the industrial property office of twelve African countries. At Washington, he was the representative of the only regional patent office in the world. His attitude then and ever since has pointed the way to constructive cooperation between a regional system and a worldwide system such as that

which the Patent Cooperation Treaty is intended to represent. It is largely thanks to his continued constructive attitude that the first ratifications of the Treaty came from African countries members of his Organization. Thus, the role played by our guest of honor, Mr. Denis Ekani, was of the utmost importance in making the Treaty operational.

May I now greet, as guest of honor and delegate of the Federal Republic of Germany, Mr. Albrecht Krieger. His merits in the field of international cooperation in matters of industrial property are well known and have frequently placed his country in the forefront of that field. It is to a great extent because of the personal merit of Albrecht Krieger that, among all the European countries, his was the first to ratify the Patent Cooperation Treaty. This event was of decisive significance for the acceptance and entry into force of the Patent Cooperation Treaty.

Mr. François Savignon is also a guest of honor. It was he, in fact, who led the French Delegation in the Washington Diplomatic Conference. He was then the Director of the French National Institute of Industrial Property. In that position, and in his present position as professor and director of an Institute at the Strasbourg University specially devoted to work for developing countries, François Savignon's interest in and merits in connection with international cooperation have been and continue to be of the highest order.

It is a pleasure to be able to greet here as a guest of honor Mr. Kurt Haertel. He is usually considered to be the main artisan of the European Patent Conventions, and rightly so. But his role in the Washington Diplomatic Conference, as a delegate of the Federal Republic of Germany, was also extremely active and important: it was Kurt Haertel who saw to it, among other things and with the help of fellow Europeans, that the Patent Cooperation Treaty and the European Patent Conventions would be not only compatible but also complementary.

I have kept for the end of the list of our guests of honor Professor George Bodenhausen. Not because his were the smallest merits--on the contrary, in actual fact--but because, as the former Director General of the World Intellectual Property Organization, he is still, in some ways, not only a guest but also a host. The success of the Washington Diplomatic Conference was, to a great extent, the result of foresight and courage on the part of what was then called BIRPI, which he directed at that time. Foresight, because he recognized the need for and the feasibility of such a far-reaching international system as that provided for by the Patent Cooperation Treaty. Courage, because doubts about the Treaty's feasibility and criticism of the proposed solutions were never lacking. Without the perseverance and the imperturbability of George Bodenhausen, without his diplomatic skill and his awareness of what was needed in practice--after all he was a practicing lawyer before assuming the direction of BIRPI--the preparatory work leading to the Washington Diplomatic Conference would probably never have been completed. The Patent Cooperation Treaty was prepared and adopted at a time when Professor Bodenhausen was at the helm of BIRPI, and I congratulate him today when one of the most important accomplishments of his tenure has become a reality.

Ladies and Gentlemen, I hope you will forgive me for having dwelt for a few minutes on the merits of our guests of honor. Naturally, there were and are many other persons--most of you here today, in fact--who had the great merit of making the Patent Cooperation Treaty an institution which will really function. May I thank and congratulate each and every one of you, for this new instrument and this new institution are achievements you can be proud of. Your devotion to them will, I have no doubt, make the governments, the inventors and the

industry of your countries grateful to you. And I hope that this gratitude will give you much satisfaction in your work.

Now that you are on the point of making a new start to this work, and on behalf of the World Intellectual Property Organization, may I express my ardent wishes for its entire success.

[Annex III follows]

RULES OF PROCEDURE OF THE ASSEMBLY OF THE  
INTERNATIONAL PATENT COOPERATION (PCT) UNION

Rule 1: Application of the General Rules of Procedure

The Rules of Procedure of the Assembly of the International Patent Cooperation (PCT) Union shall consist of the General Rules of Procedure of WIPO, supplemented and amended by the provisions set forth hereinafter.

Rule 2: Special Observers

(1) The following shall be invited as “special observers” to all sessions of the Assembly:

- (i) States not members of the PCT Union which contribute to the budget of the PCT Union,
- (ii) intergovernmental authorities having the power to grant patents effective in one or more States members of the PCT Union.

(2) Special observers shall have the same rights in the sessions of the Assembly as States members of the Assembly, except the right to vote.

Rule 3: Draft Agenda

The draft agenda of each session shall be drawn up by the Director General. In the case of ordinary sessions, such draft shall follow the instructions of the Executive Committee once the Executive Committee is established (see PCT Articles 53(9) and 54(6)(a)). In the case of extraordinary sessions, the said draft shall include the item or items mentioned in the request referred to in Article 53(11)(c) of the Patent Cooperation Treaty.

Rule 4: Publication of the Report

The report on the work of each session, or a summary drawn up by the International Bureau, shall be published in the Gazette of the PCT Union and in the reviews of the World Intellectual Property Organization La Propriété industrielle and Industrial Property.

[Annex IV follows]

SPECIAL OBSERVERS AND OBSERVERS

Special Observers

- (i) the States not members of the PCT Union which contribute to the budget of the PCT Union, that is at present: Australia, Austria, Belgium, Canada, Cuba, Denmark, Egypt, Finland, Hungary, Iran, Ireland, Israel, Japan, Netherlands, Norway, Philippines, Romania, Spain, Yugoslavia (19)
- (ii) the European Patent Office
- (iii) the Office of the African Intellectual Property Organization (OAPI)

Observers

- (i) all States members of the Paris Union which are not members of the PCT Union and which have no special observer status,
- (ii) the following intergovernmental organizations
  - United Nations (UN)
  - Council for Mutual Economic Assistance (CMEA)\*
  - Commission of the European Communities (CEC)\*
  - Interim Secretariat for the Community Patent Convention\*
- (iii) the following International non-governmental organizations:
  - Asian Patent Attorneys Association (APAA)
  - Committee of National Institutes of Patent Agents (CNIPA)
  - Council of European Industrial Federations (CEIF)
  - European Federation of Agents of Industry in Industrial Property (FEMIP)
  - European Industrial Research Management Association (EIRMA)
  - Inter-American Association of Industrial Property (ASIPI)
  - International Association for the Protection of Industrial Property (AIPPI)
  - International Chamber of Commerce (ICC)
  - International Federation of Inventors' Associations (IFIA)
  - International Federation of Pharmaceutical Manufacturers Associations (IFPMA)
  - International Federation of Patent Agents (FICPI)
  - Licensing Executives Society (International) (LES)
  - Pacific Industrial Property Association (PIPA)
  - Union of European Patent Attorneys and Other Representatives Before the European Patent Office (UNEPA)
  - Union of Industries of the European Community (UNICE)

[Annex V follows]

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\* Where the agenda of the session contains one or more specific items which, in the opinion of the Director General, is of special and direct interest to this Organization, the invitation will be extended to it to attend during the discussion of that specific item or those specific items.

AMENDMENTS TO THE REGULATIONS  
UNDER THE PATENT COOPERATION TREATY  
(PCT)

Adopted by the Assembly of the International  
Patent Cooperation (PCT) Union on April 14, 1978

TABLE OF AMENDMENTS

Rule 4.4(c) .....	Amended
Rule 4.10(d) .....	Amended
Rule 11.6(a) .....	Amended
Rule 11.6(b) .....	Amended
Rule 11.13(a) .....	Amended
Rule 15.2(a) .....	Amended
Rule 15.2(b) .....	Amended
Rule 32bis.1 .....	New rule added
Rule 48.2(a) .....	Amended
Rule 48.3(c) .....	Amended
Rule 57.2(a) .....	Amended
Rule 57.2(b) .....	Amended
Rule 58.2 .....	New rule added
Rule 58.3 .....	New rule added
Rule 61.1(b) .....	Amended
Rule 74bis.1 .....	New rule added
Rule 86.3(a) .....	Amended
Rule 86.3(b) .....	New rule added
Rule 86.4(a) .....	Amended
Rule 86.4(b) .....	New rule added

## **Rule 4**

### **The Request (Contents)**

#### *4.4 Names and Addresses*

(c) Addresses shall be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address and, in any case, shall consist of all the relevant administrative units up to, and including, the house number, if any. Where the national law of the designated State does not require the indication of the house numbers, failure to indicate such number shall have no effect in that State. It is recommended to indicate any telegraphic and teleprinter address and telephone number.

#### *4.10 Priority claim*

(d) If the filing date of the earlier application as indicated in the request does not fall within the period of one year preceding the international filing date, the receiving Office, or, if the receiving Office has failed to do so, the International Bureau, shall invite the applicant to ask either for the cancellation of the declaration made under Article 8(1) or, if the date of the earlier application was indicated erroneously, for the correction of the date so indicated. If the applicant fails to act accordingly within 1 month from the date of the invitation, the declaration made under Article 8(1) shall be cancelled ex officio. The receiving Office effecting the correction or cancellation shall notify the applicant accordingly and, if copies of the international application have already been sent to the International Bureau and the International Searching Authority, that Bureau and that Authority. If the correction or cancellation is effected by the International Bureau, the latter shall notify the applicant and the International Searching Authority accordingly.

## **Rule 11**

### **Physical Requirements of the International Application**

#### *11.6 Margins*

(a) The minimum margins of the sheets containing the request, the description, the claims, and the abstract, shall be as follows:

top: 2 cm

left side: 2.5 cm

right side: 2 cm

bottom: 2 cm

(b) The recommended maximum, for the margins provided for in paragraph (a), is as follows:

top: 4 cm

left side: 4 cm

right side: 3 cm

bottom: 3 cm

### *11.13 Special Requirements for Drawings*

(a) Drawings shall be executed in durable, black, sufficiently dense and dark, uniformly thick and well defined, lines and strokes without colorings.

## **Rule 15 The International Fee**

### *15.2 Amounts*

(a) The amount of the basic fee shall be:

(i) if the international application contains not more than 30 sheets: US \$165.00 or 300 Swiss francs,

(ii) if the international application contains more than 30 sheets US \$165.00 or 300 Swiss francs plus US \$3.00 or 6 Swiss francs per sheet in excess of 30 sheets.

(b) The amount of the designation fee for each designated State or each group of designated States for which the same regional patent is sought shall be: US \$ 40.00 or 80 Swiss francs.

## **Rule 32bis Withdrawal of the Priority Claim**

### *32bis.1 Withdrawals*

(a) The applicant may withdraw the priority claim made in the international application under Article 8(1) at any time before the international publication of the international application.

(b) Where the international application contains more than one priority claim, the applicant may exercise the right provided for in paragraph (a) in respect of one or more or all of them.

(c) Where the withdrawal of the priority claim, or, in the case of more than one such claim, the withdrawal of any of them, causes a change in the priority date of the international application, any time limit which is computed from the original priority date and which has not already expired shall be computed from the priority date resulting from that change. In the case of the time limit of 18 months referred to in Article 21(2)(a), the International Bureau may nevertheless proceed with the international publication on the basis of the said time limit as computed from the original priority date if the withdrawal is effected during the period of 15 days preceding the expiration of that time limit.

(d) For any withdrawal under paragraph (a), the provisions of Rule 32.1(c) and (d) and Rule 74bls.1 shall apply *mutatis mutandis*.

## **Rule 48**

### **International Publication**

#### *48.2 Contents*

- (a) The pamphlet shall contain:
- (i) a standardized front page,
  - (ii) the description,
  - (iii) the claims,
  - (iv) the drawings, if any,
  - (v) subject to paragraph (g), the international search report or the declaration under Article 17(2)(a); the publication of the international search report in the pamphlet shall, however, not be required to include the part of the international search report which contains only matter referred to in Rule 43 already appearing on the front page of the pamphlet,
  - (vi) any statement filed under Article 19(1), unless the International Bureau finds that the statement does not comply with the provisions of Rule 46.4.

#### *48.3 Language*

(c) If the international application is published in a language other than English, the international search report to the extent that it is published under Rule 48.2(a)(v), or the declaration referred to in Article 17(2)(a), and the abstract shall be published both in that language and in English. The translations shall be prepared under the responsibility of the International Bureau.

## **Rule 57**

### **The Handling Fee**

#### *57.2 Amount*

(a) The amount of the handling fee shall be US \$50.00 or 96 Swiss francs augmented by as many times the same amount as the number of languages into which the international preliminary examination report must in application of Article 36(2), be translated by the International Bureau.

(b) Where, because of a later election or elections, the international preliminary examination report must, in application of Article 36(2), be translated by the International Bureau into one or more additional languages, a supplement to the handling fee shall be payable and shall amount to US \$50.00 or 96 Swiss francs for each additional language.

**Rule 58**  
**The Preliminary Examination Fee**

*58.2 Failure to pay*

(a) Where the preliminary examination fee fixed by the International Preliminary Examining Authority under Rule 58.1(b) is not paid as required under that Rule, the International Preliminary Examining Authority shall invite the applicant to pay the fee or the missing part thereof within one month from the date of the invitation.

(b) If the applicant complies with the invitation within the prescribed time limit, the preliminary examination fee will be considered as if it had been paid on the due date.

(c) If the applicant does not comply with the invitation within the prescribed time limit, the demand shall be considered as if it had not been submitted.

*58.3 Refund*

The International Preliminary Examining Authorities shall inform the International Bureau of the extent, if any, to which, and the conditions, *if any*, under which, they will refund any amount paid as a preliminary examination *fee* where the demand is considered as if it had not been submitted under Rule 57.4(c), Rule 58.2(c) or Rule 60.1(c), and the International Bureau shall promptly publish such information.

**Rule 61**  
**Notification of the Demand and Elections**

*61.1 Notifications to the International Bureau, the Applicant, and the International Preliminary Examining Authority*

(b) The International Preliminary Examining Authority shall promptly inform the applicant in writing of the date of receipt of the demand. Where the demand has been considered under Rules 57.4(c), 58.2(c) or 60.1(c) as if it had not been submitted, the International Preliminary Examining Authority shall notify the applicant accordingly.

**Rule 74bis**  
**Notification of Withdrawal under Rule 32**

*74bis.1 Notification of the International Preliminary Examining Authority*

If, at the time of the withdrawal of the international application or of the designation of all designated States under Rule 32.1, a demand for international preliminary examination has already been submitted and the international preliminary examination report has not yet issued, the International Bureau shall promptly notify the fact of withdrawal, together with the date of receipt of the notice effecting withdrawal, to the International Preliminary Examining Authority.

**Rule 86**  
**The Gazette**

*86.3 Frequency*

(a) Subject to paragraph (b) the Gazette shall be published once a week.

(b) For a transitional period after the entry into force of the Treaty terminating upon a date fixed by the Assembly, the Gazette may be published at such times as the Director General considers appropriate having regard to the number of international applications and the amount of other material to be published.

*86.4 Sale*

(a) Subject to paragraph (b), the subscription and other sale prices of the Gazette shall be fixed in the Administrative Instructions.

(b) For a transitional period after the entry into force of the Treaty terminating up on a date fixed by the Assembly, the Gazette may be distributed on such terms as the Director General considers appropriate having regard to the number of international applications and the amount of other material published therein.

[Annex VI follows]

DECISIONS CONCERNING THE PCT COMMITTEE FOR  
TECHNICAL COOPERATION (PCT/CTC)

The Assembly of the PCT Union, at its first session held from April 10 to 14, 1978, adopts the following decisions:

1. With reference to PCT Article 56(1) and (2), the Assembly hereby establishes the PCT Committee for Technical Cooperation (PCT/CTC) and appoints, in addition to the ex-officio members according to PCT Article 56(2)(b), all States members of the PCT Union as members of the said Committee, it being understood that the appointment of any State which will become a member of the PCT Union in the future shall take effect on the date on which such State becomes a member of the PCT Union. Finally, the Assembly decides that once the number of States members of the PCT Union reaches 30, it will, in its session following such an event, reconsider the question of the composition of the said Committee.
2. With reference to PCT Article 56(8), the Assembly decides that it will itself establish and, where necessary in the future, amend the Rules of Procedure of the PCT Committee for Technical Cooperation (PCT/CTC).
3. With reference to its decision under PCT Article 56(8), the Assembly hereby establishes the Rules of Procedure of the PCT Committee for Technical Cooperation as set out in Annex VII.
4. With reference to the decision taken by the Executive Committee of the Paris Union and the WIPO Coordination Committee in their September 1977 sessions, establishing the WIPO Permanent Committee on Patent Information (WIPO/PCPI), in which it was agreed, inter alia, that the meetings of PCT/CTC “shall be joint“ with those of WIPO/PCPI, “it being understood that the activities of the said Committees will be coordinated and it being further understood that, where decisions are made by [PCT/CTC]..., only the members of [PCT/CTC]...should vote“ (AB/VIII/16, Annex B, Decision, paragraph 4), and recommending that the Assembly of the PCT Union “endorse the above measures,“ the Assembly decides to endorse the measures in question.

[Annex VII follows]

RULES OF PROCEDURE OF THE PCT COMMITTEE  
FOR TECHNICAL COOPERATION (PCT/CTC)

Rule 1: Application of the General Rules of Procedure

The PCT Committee for Technical Cooperation (PCT/CTC, hereinafter referred to as “the Committee”), being, within the meaning of Rule 12 of the General Rules of Procedure of WIPO, a subsidiary body of the PCT Assembly, the provisions of the said General Rules of Procedure shall be the Rules of Procedure of the Committee, supplemented and amended by the provisions set forth hereinafter.

Rule 2: Special Observers

(1) States and intergovernmental authorities not members of the Committee which have the status of special observer in the PCT Assembly shall be invited as “special observers” to all sessions of the Committee.

(2) Special observers shall have the same rights in the sessions of the Committee as States members of the Committee, except the right to vote.

Rule 3: Joint Meetings with the WIPO Permanent Committee on Patent Information

The meetings of the Committee shall be joint with those of the WIPO Permanent Committee on Patent Information, it being understood that the activities of the two Committees shall be coordinated and that, where decisions are made by the Committee, only the members of the Committee shall vote.

[Annex VIII follows]

DECISIONS CONCERNING THE PCT COMMITTEE FOR  
TECHNICAL ASSISTANCE (PCT/CTA)

The Assembly of the PCT Union, at its first session held from April 10 to 14, 1973, adopts the following decisions:

1. With reference to PCT Article 51(1) and (2)(a), the Assembly hereby establishes the PCT Committee for Technical Assistance (PCT/CTA) and elects all States members of the PCT Union as members of the said Committee, it being understood that the election of any State which will become a member of the PCT Union in the future shall take effect on the date on which such State becomes a member of the PCT Union. Finally, the Assembly decides that once the number of States members of the PCT Union reaches 30, it will, in its session following such an event, reconsider the question of the composition of the said Committee.
2. With reference to PCT Article 51(5), the Assembly decides that it will itself establish and, where necessary in the future, amend the Rules of Procedure of the PCT Committee for Technical Assistance (PCT/CTA).
3. With reference to its decision under PCT Article 51(5), the Assembly hereby establishes the Rules of Procedure of the PCT Committee for Technical Assistance as set out in Annex IX.
4. With reference to the decision taken by the Executive Committee of the Paris Union and the WIPO Coordination Committee in their September 1977 sessions, establishing the WIPO Permanent Committee on Patent Information (WIPO/PCPI), in which it was agreed, *inter alia*, that the meetings of PCT/CTA “shall be joint” with those of the WIPO Permanent Committee for Development Cooperation Related to Industrial Property, “it being understood that the activities of the said Committees will be coordinated and it being further understood that, where decisions are made by [PCT/CTA]..., only the members of [PCT/CTA]... should vote” (AB/VIII/16, Annex B, Decision, paragraph 4), and recommending that the Assembly of the PCT Union “endorse the above measures,” the Assembly decides to endorse the measures in question.

[Annex IX follows]

RULES OF PROCEDURE OF THE PCT COMMITTEE  
FOR TECHNICAL ASSISTANCE (PCT/CTA)

Rule 1: Application of the General Rules of Procedure

The PCT Committee for Technical Assistance (PCT/CTA, hereinafter referred to as “the Committee”), being, within the meaning of Rule 12 of the General Rules of Procedure of WIPO, a subsidiary body of the PCT Assembly, the provisions of the said General Rules of Procedure shall be the Rules of Procedure of the Committee, supplemented and amended by the provisions set forth hereinafter.

Rule 2: Special Observers

(1) States not members of the Committee which have the status of special observer in the PCT Assembly, as well as intergovernmental authorities which have such a status, shall be invited as “special observers” to all sessions of the Committee.

(2) Special observers shall have the same rights in the sessions of the Committee as States members of the Committee, except the right to vote.

Rule 3: Observers

The Director General shall, on his own initiative or at the request of the Committee, invite representatives of interested international non-governmental organizations to attend the sessions of the Committee in an observer capacity.

Rule 4: Joint Meetings with the WIPO Permanent Committee for Development Cooperation Related to Industrial Property

The meetings of the Committee shall be joint with those of the WIPO Permanent Committee for Development Cooperation Related to Industrial Property, it being understood that the activities of the two Committees shall be coordinated and that, where decisions are made by the Committee, only the members of the Committee shall vote.

[Annex X follows]

DECISIONS CONCERNING THE PCT COMMITTEE FOR  
ADMINISTRATIVE AND LEGAL MATTERS (PCT/CAL)

The Assembly of the PCT Union, at its first session held from April 10 to 14, 1978, adopts the following decisions:

1. With reference to PCT Article 53(2)(a)(viii), the Assembly hereby establishes the PCT Committee for Administrative and Legal Matters (PCT/CAL) and appoints all States members of the PCT Union and the International Searching and Preliminary Examining Authorities as members, it being understood that, where any such Authority is the national Office of a State member of the PCT Union, that State shall not be additionally represented on the Committee. It is also understood that the appointment of any State which will become a member in the future shall take effect on the date on which such State becomes a member of the PCT Union.
2. The Assembly decides that it will itself establish and, where necessary in the future, amend the Rules of Procedure of the PCT Committee for Administrative and Legal Matters (PCT/CAL).
3. with reference to its decision concerning the establishment and amendment of the Rules of Procedure of the PCT Committee for Administrative and Legal Matters, the Assembly hereby establishes those Rules of Procedure as set out in Annex XI.

[Annex XI follows]

RULES OF PROCEDURE OF THE PCT COMMITTEE FOR  
ADMINISTRATIVE AND LEGAL MATTERS (PCT/CAL)

Rule 1: Composition

The PCT Committee for Administrative and Legal Matters (PCT/CAL, hereinafter referred to as “the Committee”) shall have as members the States members of the PCT Union and the International Searching and Preliminary Examining Authorities, it being understood that, where any such Authority is the national Office of a State member of the PCT Union, that State shall not be additionally represented on the Committee.

Rule 2: Terms of Reference

The Committee shall deal with matters concerning

(i) the relationship between the International Bureau on the one hand and the applicants, the receiving Offices, the designated Offices, the elected Offices, the International Searching Authorities and the International Preliminary Examining Authorities on the other hand,

(ii) the relationship between the applicants on the one hand and the receiving Offices, the designated Offices, the elected Offices, the International Searching Authorities and the International Preliminary Examining Authorities on the other hand,

(iii) the relationship between the receiving Offices, the designated Offices and the elected Offices on the one hand and the International Searching Authorities and the International Preliminary Examining Authorities on the other hand,

(iv) fees, forms, procedures and publications under the PCT,

(v) other administrative and legal questions concerning the application of the PCT.

Rule 3: Application of the General Rules of Procedure

The Committee, being, within the meaning of Rule 12 of the General Rules of Procedure of WIPO, a subsidiary body of the PCT Assembly, the provisions of the said General Rules of Procedure shall be the Rules of Procedure of the Committee, supplemented and amended by the provisions set forth hereinafter.

Rule 4: Special Observers

(1) States not members of the Committee which have the status of special observer in the PCT Assembly, as well as intergovernmental authorities which have such a status and which are not members of the Committee, shall be invited as “special observers” to all sessions of the Committee.

(2) Special observers shall have the same rights in the sessions of the Committee as members of the Committee, except the right to vote.

Rule 5: Observers

The Director General shall, on his own initiative or at the request of the Committee, invite representatives of interested organizations to attend the sessions of the Committee in an observer capacity.

Rule 6: Working Groups

The Committee may, with the approval of the Assembly, set up working groups for the purposes of dealing with specific questions. It shall decide their composition, terms of reference, duration and rules of procedure.

[End of Annex and of Document]