

WIPO



PCT/A/II/5

ORIGINAL: English/French

DATE: October 3, 1978

E

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

INTERNATIONAL PATENT COOPERATION UNION (PCT UNION)

ASSEMBLY

Second Session (1st Ordinary)

Geneva, September 25 to October 3, 1978

REPORT

Adopted by the Assembly

Opening of the Session

1. See the General Report, Chapter I,* and, as concerns the participants and officers, Annex I of the present report.

Agenda

2. See the General Report, Chapter II.*

Officers

3. The Assembly unanimously elected Mr. Valentin Bykov (Soviet Union) as Chairman and H.E. Martin Nzue Nkoghe (Gabon) and Mr. Paul Braendli (Switzerland) as Vice-Chairmen.

Observers

4. See the General Report, Chapter IV.*

* The General Report is contained in document AB/IX/19.

Past Activities

5. See the General Report, Chapter V.*

Contributions and Working Capital Funds

6. See the General Report, Chapter VII.*

Financial Regulations; Auditors; Working Capital Fund

7. See the General Report, Chapter VIII.*

Program and Budget

8. See the General Report, Chapter X.*

PCT Regulations

9. Questions relating to the fixing of fees. Discussions were based upon document PCT/A/II/2.

10. In introducing the amendments proposed in the above-mentioned document, the Director General recalled that when the Assembly fixed the amounts of the international fee (Rule 15) and the handling fee (Rule 57) in its first session (April 1978), he had been asked to propose to the present session a revision of the relevant provisions of the Regulations which would spell out the interpretation of those Rules adopted by the Assembly at the said first session according to which 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 other applicable national currencies other than the US dollar and the Swiss franc are to be fixed by the Director General after consultation with the country of each such currency. The proposal which he made in the said document, which contained drafts of Rules 15.1, 15.2, 15.3, 16.1(b) and 57, was intended to carry out the instructions of the Assembly. The Director General stated that, in the intervening period since the said first session, there had been a decline of about 16.6 per cent in the value of the US dollar in relation to the Swiss franc and that all other currencies in which the fees fixed under the PCT were at present being paid had sustained about the same decline in value in relation to the Swiss franc. He would therefore propose at a later stage of the discussion the maintaining of the amounts fixed in currencies other than the Swiss franc at the time of the said first session and the realignment of the amount prescribed in the Regulations in Swiss francs with the amount prescribed in US dollars. The amount of the fees in yen, which had been agreed by him with the Japanese Patent Office but which had yet to come into effect, could be lowered. Such a solution would apply at least for the remainder of the period until the Spring of 1979, when it had previously been agreed that the level of fees would be reviewed and could be changed.

11. In response to a question by the Delegation of the United States of America as to the nature of the consultations which were envisaged in the proposed amendments, for the purpose of fixing, on the basis of amounts established by the Assembly in Swiss francs, the amounts of the fees in other currencies specified by the receiving Offices, it was agreed that there would be thorough consultations between the Director General and the Offices concerned which were most likely to result in an understanding, on the basis of which the Director General would fix the amounts. It was noted, in this regard, that, since the proposals

would require that the amounts in a currency other than the Swiss franc would be the equivalent, in round figures, of the amounts established in Swiss francs by the Assembly, there was not much room for substantive negotiation as to the amounts to be fixed and thus little ground for apprehension as to the outcome of such consultations which would mainly be directed to arriving at rounded-off figures.

12. Several delegations noted that the proposal of the Director General whereby Rules 15 and 57.2 would be amended so that the amounts of the fee would no longer be contained in the Regulations themselves but would be established in Swiss francs by a decision of the Assembly and then be published in the Gazette, would result in a lowering to two-thirds of the required majority for taking decisions by the Assembly concerning fees. While being prepared to accept that the amounts of the fees would no longer appear in the text of the Rules themselves, they were not prepared to forego the security afforded by the provisions of the Treaty in relation to the majority of three-fourths required for effecting a change in the amounts of the fees specified in the Regulations. An alternative means, possibly by including the amounts in an Annex which would be an integral part of the Regulations and to which the higher majority for amendments to the Regulations would apply, would have to be found.

13. The Delegations of the United States of America, the United Kingdom and France suggested that, in addition to the proposed fixing of new amounts of fees whenever the exchange rate between the Swiss franc and any other currency in which amounts of fees were fixed would differ by more than 10 percent from the rate previously applied, provision should be made for a periodic, possibly annual, review of the amounts of fees fixed in currencies other than the Swiss franc. This would enable the amounts of fees in such other currencies to be reviewed which would allow to remedy the undesirable situation that a currency might, for a significant period, differ by a substantial percentage (although lower than 10 percent) from the exchange rate applicable at the time the amounts in that currency were fixed.

14. The Delegations of the United States of America, Luxembourg and France, as well as the Observer of UNICE, said that the proposed minimum period of fifteen days from notification in the Gazette of the new amounts fixed in currencies other than Swiss francs after which such new amounts would come into effect, was insufficient to enable their administrations to give effect to changes in the amounts of fees fixed in their currencies and would cause difficulties for applicants and their professional representatives in taking into account the new amounts. The International Bureau said that the proposal of the Director General envisaged consultations as to the time at which changes would be notified and, thereafter, take effect.

15. The International Bureau could, as alternatives to what had been proposed, consider provisions under which either a maximum period after publication in the Gazette was specified for the coming into effect of the new amounts as well as a minimum period or the time at which the change took effect would be subject to agreement between the Director General and the Office concerned, provided that an ultimate time limit of two months from the publication of the new amounts in the Gazette would apply to their coming into effect.

16. The representative of the EPO, referring to the practice of the European Patent Office of fixing the amount of the international search fee not only in one currency, but in the currencies of all of its member States, suggested that the proposed amendment of Rule 16.1(b) be modified to take into account this situation.

17. The Delegation of the Netherlands noted, and the International Bureau agreed, that any modifications to be made to the proposal of the Director General concerning Rule 15 would,

where applicable, also have to be made in relation to the Director General's proposals concerning Rules 16.1(b) and 57.2.

18. In response to a question raised by the Observer of CEIF, the International Bureau confirmed that, in the application of Rule 15.4(a) in the case of a change in the amounts of fees, the amount which would apply in the case dealt with in the second sentence of the said rule would be that applying on the date of receipt of the international application. The Assembly noted with approval the statement of the International Bureau.

19. The Assembly invited the International Bureau to present to it revised drafts of the relevant Rules directed to satisfying the difficulties which Delegations had raised in connection with the principle that the amounts of fees would be established by a decision of the Assembly and not specified in the Regulations. The International Bureau was also asked to give consideration to the possibility of preparing a text which would provide for a review of fees on a periodic basis and also to take into account the fixing by the EPO of the amount of the international search fee in more than one currency.

20. The Assembly noted, however, on the basis of a statement by the International Bureau to that effect, that, having regard to the extremely short time set aside for the consideration of substantive questions at the present session of the Assembly, the shortness of time remaining and the complexities which have been found in attempting to meet the wishes of the Assembly, it was not possible for the Assembly to complete its consideration of the Director General's proposals at the present session.

21. The Director General made the proposal that the Assembly should, as an interim measure until its next session, merely amend those Rules which fix the amounts of fees so as to adjust the amounts in Swiss francs to those expressed in US dollars, taking into account the present rate of exchange. He added that this adjustment would have relatively small budgetary implications, taking into account the present low number of international applications filed and the envisaged review of the situation at the Spring 1979 session of the Assembly.

22. The Delegations of the United States of America, Germany (Federal Republic of), France, Switzerland, the Netherlands and the representative of the EPO supported the proposal of the Director General.

23. The Director General added that, if his proposal was adopted, there was no need to adjust the amounts fixed in currencies other than the US dollar and the Swiss franc for the time being, except for the possible lowering of the amounts in yen.

24. The Delegation of Japan said that it was its understanding that the changing by the Assembly at its present session of the amounts in Swiss francs of international fees fixed under Rules 15 and 57 did not affect the application of the amounts of those fees in yen previously established by consultation between the Director General of WIPO and the Japanese Patent Office until such time as new amounts of those fees in yen would be fixed and a date for entry into effect would be determined by further consultations between the Director General and the Japanese Patent Office. The International Bureau confirmed the understanding of the Delegation of Japan. The Assembly took note of the said understanding.

25. The Assembly adopted the new amounts of the fees in Swiss francs indicated below for Rules 15.2 and 57.2:

Basic fee:	250 Swiss francs
Supplement per sheet over 30 sheets:	4.50 Swiss francs
Designation fee:	60 Swiss francs
Handling fee:	75 Swiss francs.

26. The Assembly amended accordingly the amounts of fees expressed in Swiss francs in Rules 15.2(a)(i) and (ii) and (b) and 57.2(a) and (b) with effect on and from October 3, 1978. These Rules, as amended by the Assembly, are set out in Annex II to the present Report.

27. Amendment of Rule 15.1. Discussions were based on Part I of document PCT/A/II/3.

28. The Assembly agreed to adopt, with effect on and from October 3, 1978, the amendment of Rule 15.1(ii) set out in paragraph 4 of document PCT/A/II/3 which would take into account, for the purposes of the calculation of designation fees, a "double designation," in an international application, of certain Contracting States, namely, as a State for which a national patent is desired, and also as a State for which a European patent is desired. The Assembly noted that this amendment and a related modification of the Administrative Instructions submitted for consultations with the interested Offices (see paragraphs 51 to 54 below and Section 203^{bis} (new) referred to in Annex III of this report) clarified the obligation of the applicant, in the case of such "double designation," to pay one designation fee in respect of the designation of the State for the purposes of a national patent and another fee for the designation of that State for the purposes of a European patent, provided that, where more than one State is designated for the purposes of a European patent, only one fee would be payable in respect of the several designations of States for the purposes of a European patent.

29. The Rule, as amended by the Assembly, is set out in Annex II to the present Report.

30. Interpretation of Rule 47.2. Discussions were based on Part II of document PCT/A/II/3.

31. In introducing this question, the International Bureau said that it was its intention to use, for the purposes of communicating the international application to the designated Offices under Article 20, the pamphlet which it would print for the purposes of publishing the international application under Rule 48.1(a). This procedure would be far more economical in that it would avoid the additional work which would be involved if a separate copy were prepared by other means for the purposes of the communication and would enable the communication to be more easily administered by the International Bureau. Moreover, the quality of the reproduction of the international application in the pamphlet would be of a higher standard than if other means of reproduction available to it were to be used. The interpretation of Rule 47.2, which the International Bureau was proposing for adoption by the Assembly, could be drawn from an interpretation of that Rule and Rule 48. The International Bureau said that, in certain exceptional circumstances, it might have to reproduce the international application as a whole, or certain parts of it. For example, in the case of the amendment of the claims under Article 19, it might have to add a copy of the amendments to

the pamphlet for the purpose of communication if the publication of the amended claims would be too late.

32. In response to a question from the Delegation of Japan as to the application of the proposed interpretation in the case where the language in which the international application was published was different from that in which it was filed, the International Bureau said that, under Rule 47.3, the International Bureau was required primarily to communicate the international application in its language of publication. The designated Offices, nevertheless, had the option, under the said Rule, of specially requesting the communication of the international application in the language in which it was filed or in both the language in which it was published and the language in which it was filed. The communication in the language in which the application was filed would, in the event of such a request, be one of the exceptional cases to which it had already referred.

33. The Delegation of the United States of America said that it could not fully agree with the interpretation proposed by the International Bureau. In its view, a designated Office which was prepared to accept a copy of the pamphlet as the communication under Article 20, should be regarded as the exception rather than as the rule. What designated Offices were entitled to receive under Article 20 was the international application together with the international search report. In its view, the obligations of the International Bureau under Article 20 would not be satisfied by a mere communication of the pamphlet. The Delegation felt that the carefully prescribed physical requirements as to international applications contained in the PCT provided an assurance to the designated Offices as to the physical characteristics of the international applications which they would receive. In this regard, it was to be noted that the pamphlet would be printed recto-verso, whereas the prescribed physical requirements specified that only one side of the sheet should be used. Moreover, the request, which was a prescribed part of the international application, was not included as such in the pamphlet. Not all elements of information contained in the request would be reproduced in the pamphlet. The United States Patent and Trademark Office did not wish to receive an international application which was printed recto-verso and which did not include all the information contained in the request.

34. The Delegation of the Federal Republic of Germany said that it shared the concern of the Delegation of the United States of America both from a viewpoint of the lack of necessary data contained in the request and also as regards the difficulties connected with the use of a pamphlet printed recto-verso for Patent Office purposes.

35. The Delegation of the United Kingdom said that it could accept the pamphlet for the purposes of communication under Article 20 subject to the exceptions which had been noted and especially those which might arise from the need to meet time limits.

36. The representative of the EPO said that the European Patent Office could accept the use of the pamphlet, to the extent possible, for the purposes of the communication under Article 20, subject to its receiving those parts of the request necessary to provide the bibliographic information not contained on the front page of the pamphlet. It also had some reservations concerning the quality of the drawings which it would receive.

37. The Observer of CEIF said that he saw difficulties in the fact that the pamphlet did not set out all of the bibliographic data contained in the request. Moreover, the check list, prescribed by the Regulations and included on the request form, was not reproduced in the pamphlet. The acceptability of the pamphlet as a communication was important to applicants having regard

to the provisions of Article 22 which would require the applicant to furnish a copy of the international application to the designated Offices where the communication by the International Bureau under Article 20 had not been completed by the time the requirements of Article 22 would apply.

38. Replying to the questions which had been raised, the International Bureau recalled that the idea of using the pamphlet for the communication of the international application, under Article 20, was not new; indeed, the suggestion had been first made even before the Washington Diplomatic Conference and had been consistently maintained by the International Bureau. The most important concerns militating in favor of using the pamphlet for communication were that this form of communication allowed important economies to be made, facilitated and streamlined the administrative procedure and constituted a safer system than individual reproduction of the international application. The International Bureau was only aware of one item of bibliographic information which was of interest to the designated Offices and which did not, at present, appear on the front page of the pamphlet. If the lack of necessary data on the front page was an obstacle to the acceptance of the pamphlet for communicating the international application, steps could easily be taken to overcome that obstacle. So far as drawings were concerned, it was felt that, having regard to the different methods which would be used in the case of the printing of the pamphlet and the separate reproduction of the international application if it were not possible to use the pamphlet for communication of the application, the designated Offices would receive reproductions of a higher quality if they were to accept the pamphlet. It was true that the pamphlet did not reproduce the request as such and, indeed, reproduced the bibliographic data in a form which would take into account actions taken during the international phase, for example, corrections invited by the receiving Office, but from an Office viewpoint this would be an advantage as against the receipt of a request form which would have been subject to correction in the international phase. Moreover, the PCT system gave to the receiving Offices, supported by notifications as to formal deficiencies from the International Searching Authorities and the International Bureau, responsibilities in relation to matters of formalities which removed the need for the designated Offices to go into these questions. This was evidenced by the fact that on certain questions the receiving Office was given the responsibility of making final decisions. Since the pamphlet reflected the results of the performance of these responsibilities, the designated Offices would be better served by receiving the pamphlet rather than the request. As regards the wish to receive the communication under Article 20 in a reproduction on one side only, there was no provision in the PCT obliging the International Bureau to provide the copies prepared for communication in that form. The omission of the check list was of no legal significance since, even though it was required to appear on the request form, it was not one of the items which form part of the request. While appreciating the concerns and practical needs of the designated Offices from a practical viewpoint, acceptance of the proposed interpretation by the designated Offices was of supreme importance, having regard to the concern, already expressed by the Observer of CEIF, that the applicant should have an assurance that the communication by the International Bureau was accepted by the designated Office as satisfying the requirements of Articles 20 and 22.

39. After further discussion of this question, the International Bureau stated that there was no unanimous acceptance of its proposed interpretation by the Assembly in so far as difficulties had been found by certain delegations in accepting a communication which did not contain the request or which could involve the acceptance of printed matter on both sides of the sheet. The Assembly noted that the question required further study since, due to lack of time, the questions raised by certain delegations could not be considered in more detail and resolved at the present session.

40. In conclusion, the Assembly noted a statement by the International Bureau that it would continue to study the question during the period up to the next session of the Assembly in the Spring of 1979, for which the International Bureau might present further proposals in that matter. In that period, the International Bureau would, on a transitional basis, apply the interpretation of Rule 47.2 which it had proposed, it being understood, however, that any designated Office expressing a wish to receive, for the purposes of the communication under Article 20, a copy of the request in addition to the pamphlet or a copy of the pamphlet printed on one side only, or both, would receive the communication in a manner meeting those wishes.

41. The Delegation of the United States of America indicated, and the International Bureau noted, the wish of the United States Patent and Trademark Office to receive, if the pamphlet is used for the purpose of the communication under Article 20, a copy with sheets printed on one side only as well as a copy of the request in respect of each international application so communicated to it.

42. Interpretation of Rule 48.3(b). Discussions were based upon Part II of document PCT/A/II/3.

43. In introducing this question, the Director General said that the International Bureau recommended to the Assembly the adoption of the interpretation of this Rule which it was putting before the Assembly for its consideration at the request of the EPO. The proposal for the adoption of this interpretation followed a previous discussion at the first session of the Assembly. The adoption of the proposed interpretation was supported by the Delegations of Germany (Federal Republic of), Sweden, Switzerland and the United Kingdom.

44. In response to a question from the Delegation of Japan whether it would not be better to amend the Rule, the International Bureau said that, in its view, the proposed interpretation was supported by both the text and the philosophy of the PCT. In particular, the Rule was directed to the distribution of tasks under the PCT system and was not intended to give rise to a right to damages to third parties. An amendment was therefore not necessary.

45. In conclusion, the Assembly adopted the following interpretation of the said Rule:

“1. PCT Rule 48.3(b) does not prevent the International Searching Authority from leaving the preparation of the required translation to the applicant and/or to the receiving Office, provided that the International Searching Authority ensures to have the translation ready in time to permit the communication under PCT Article 20 by the prescribed date, or, if the international publication is due at an earlier date than the said communication, to permit international publication by the prescribed date.

“2. PCT Rule 48.3(b) contains no ground for the applicant or third parties to hold the International Searching Authority liable for damages caused by inaccuracy of the translation.”

46. The Delegation of the Netherlands expressed its appreciation of the adoption of this interpretation which, by opening to residents and nationals of the Netherlands the possibility of filing international applications in the Dutch language, had removed one of the few obstacles remaining in the way of ratification of the PCT by the Netherlands.

Official Texts

47. Upon a proposal by the International Bureau, the Assembly designated Arabic as a language in which the Director General shall establish, under Article 67(1)(b), an official text of the PCT.

48. The Delegation of Italy suggested to the Assembly that it should also designate Italian as a language in which an official text of the PCT shall be established under Article 67(1)(b). Approval of the ratification by Parliament and by the President of the Republic had already been obtained and the Government of Italy intended, within the shortest time, to deposit the instrument of ratification of the PCT with the Director General. The Government of Italy attached the greatest importance to the establishment of an official text of the PCT in the Italian language. The Delegation of Italy recalled, in this context, that an Italian translation of the PCT had already been published in 1975 by WIPO and that this translation could be used as the basis for establishing an official text.

49. The International Bureau proposed, on the basis of the declaration made by the Delegation of Italy, that the necessary decision be made by the Assembly designating Italian as a language in which the Director General shall establish an official text of the PCT under Article 67(1)(b). On the basis of such a decision, the International Bureau would take the necessary steps for the establishment of the said official text, including consultations with the Governments of the two countries using Italian as an official language, namely Italy and Switzerland, and with a view to preparing an updated version of the 1975 translation, taking into account the amendments made so far to the Regulations.

50. The Assembly, thereupon, designated Italian as a language in which the Director General shall establish, under Article 67(1)(b), an official text of the PCT and noted the intention of the International Bureau to enter into consultations with, and seek the assistance of, the Governments of Italy and Switzerland with a view to preparing an agreed updated translation which would then be used as a basis for the decision of the Director General.

Consultations with the Receiving Offices and the International Searching and Preliminary Examining Authorities Relating to Modifications of the Administrative Instructions

51. 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 Rule 89.2(a).

52. The consultations concerned proposals by the Director General for modifications of the Administrative Instructions, relating to changes in several Sections of, and new Sections to be inserted in, the Administrative Instructions (concerning Sections 201, 203^{bis}, 317, 412 and 502) and for changes relating to Annex C, Appendix II of the Administrative Instructions and to form PCT/RO/101 ("Request") and the Annexes thereto, as well as to forms PCT/IB/301 ("Notification of Receipt of Record Copy"), PCT/IB/302 ("Notification of Designation"), PCT/IB/308 ("Notification Informing the Applicant of the Communication of the International Application to the Designated Offices"), PCT/IB/331 ("Notification of Election") and PCT/IB/332 ("Information Concerning Elected Offices Notified of their Election") annexed to the said Administrative Instructions. For the proposed modifications, reference is made to Part III of document PCT/A/II/3.

53. The consultations resulted in the decision of the Director General to make the proposed modifications of the Administrative Instructions referred to above, subject to some amendments resulting from proposals made during the consultations. The said amendments, as well as certain observations made during the consultations, are reflected in Annex III to this Report. Part III of document PCT/A/II/3, as modified by Annex III to this Report, contains the full text of the modifications of the Administrative Instructions referred to above, as decided by the Director General.

54. The Assembly noted the results of the consultations and the intention of the Director General to proceed to the promulgation of the modifications referred to above with effect from their publication in the Gazette. The Assembly also noted that, as regards forms to be used by the International Bureau which were the subject of the consultations, the International Bureau would apply the changes provisionally in advance of such promulgation. The Assembly noted, furthermore, that several of the suggestions, made during the consultations, relating to certain forms used by the International Bureau, were not taken up by the Director General for the modifications made at this stage but would be the subject of further study by the International Bureau.

Report on Printing of Pamphlets Publishing International Applications

55. The Assembly was informed by the International Bureau that about 190 record copies of international applications had been received up to mid-September, i.e., during the first three and a half months of PCT operations. Although some increase of the number of filings per month could be expected from the imminent entry into force of the PCT for Japan, the number of applications to be published in the first half of 1979 would stay at a rather low level. Consequently, the tenders received from a number of printing firms for the printing of PCT publications, which were based on much higher figures of pamphlets of international applications to be published, could not be used. It was much more economical for the low number foreseen to do the printing of pamphlets in-house and it was, therefore, the intention of the Director General to proceed accordingly at least as long as the situation did not change substantially. This would also allow the International Bureau to gain experience. In this framework, work would be undertaken in studying the possibility of recording the contents of the front pages of the pamphlets on an electronic memory so that Gazette entries could be generated from that memory and indexes generated automatically. A report on the experience with the said printing activities would be provided at the next session of the Assembly.

56. The Assembly noted this information provided by the International Bureau with approval.

Adoption of the Report of the Session

57. This Report was unanimously adopted on October 3, 1978.

[Annexes follow]

ANNEXE I

ANNEX I

LISTE DES PARTICIPANTS ET BUREAUX
LIST OF PARTICIPANTS AND OFFICERS

LISTE DES PARTICIPANTS
LIST OF PARTICIPANTS

I. ETATS MEMBRES DE L'UNION PCT
STATES MEMBERS OF THE PCT UNION

(dans l'ordre alphabétique français des noms des Etats)
(in the French alphabetical order of the names of the States)

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

Erich HAEUSSER, President, German Patent Office, Munich

Ulrich C. HALLMANN, Leitender Regierungsdirektor, German Patent Office, Munich

BRESIL/BRAZIL

Ubirajara QUARANTA CABRAL, Président, Institut national de la propriété industrielle, Ministère de l'industrie et du commerce, Rio de Janeiro

ETATS-UNIS D'AMERIQUE/UNITED STATES OF AMERICA

Michael K. KIRK, Director, Office of Legislation and International Affairs, Patent and Trademark Office, Department of Commerce, Washington

Lee SCHROEDER, Industrial Property Specialist, Office of Legislation and International Affairs, Patent and Trademark Office, Department of Commerce, Washington

FRANCE

Georges Richard YUNG, Chargé de mission a la direction, Institut National de la Propriété industrielle, Paris

JAPON/JAPAN

Zenji KUMAGAI, Director General, Patent Office, Ministry of International Trade and Industry, Tokyo

Toyomaro YOSHIDA, Counsellor for International Affairs, General Administration Department, Patent Office, Ministry of International Trade and Industry, Tokyo

LUXEMBOURG

Jean-Pierre HOFFMANN, Directeur, Service de la propriété industrielle, Ministère de l'économie nationale, Luxembourg

MADAGASCAR

Solofo RABEARIVELO, Conseiller, Mission permanente, Genève

ROYAUME-UNI/UNITED KINGDOM

Edward Frederick BLAKE, Principal Examiner, Patent Office, London

SENEGAL

Abdou DIARRA, Conseiller technique, Ministère du développement industriel et de l'artisanat, Dakar

SUEDE/SWEDEN

Claes UGGLA, Chairman, Court of Patent Appeals, Stockholm

SUISSE/SWITZERLAND

Roger Kämpf, Chef de section, Bureau fédéral de la propriété intellectuelle, Berne

Jean-Marc SALAMOLARD, Juriste, Bureau fédéral de la propriété intellectuelle, Berne

UNION DES REPUBLIQUES SOCIALISTES SOVIETIQUES/UNION OF SOVIET SOCIALIST REPUBLICS

Valentin BYKOV, Deputy Chairman, USSR State Committee for Inventions and Discoveries, Moscow

Larissa TCHOBANIAN, Expert, External Relations Department, USSR State Committee for Inventions and Discoveries, Moscow

II. OBSERVATEURS SPECIAUX/SPECIAL OBSERVERS

AUSTRALIE/AUSTRALIA

F. SMITH, Commissioner of Patents, Patent, Trade Marks and Designs Office, Canberra

BELGIQUE/BELGIUM

Jacques DEGAVRE, Conseiller adjoint, Ministère des affaires économiques, Bruxelles

DANEMARK/DENMARK

Dagmar SIMONSEN, Chief of Division, Patent Office, Copenhagen

ESPAGNE/SPAIN

Ernesto RUA BENITO, Jefe del Servicio de Estudios, Registro de la Propiedad Industrial, Madrid

FINLANDE/FINLAND

Ragnar MEINANDER, Counsellor of Government, Ministry of Education, Helsinki

Auri Heikki RISKU, Patent Agent, Patent Agents' Association in Finland, Helsinki

IRLANDE/IRELAND

Joe QUINN, Controller of Patents, Designs and Trade Marks, Patents Office, Dublin

NORVEGE/NORWAY

Arne Georg GERHARDSEN, Director General, Patent Office, Oslo

PAYS-BAS/NETHERLANDS

Jacob DEKKER, Président, Office des brevets, Rijswijk

Huib J.G. PIETERS, Conseiller en propriété industrielle, Ministère des Affaires Economiques, Den Haag

OFFICE EUROPEEN DES BREVETS (OEB)/EUROPEAN PATENT OFFICE (EPO)

J.C.A. STAEHELIN, Vice-Président, Office européen des brevets, Munich

III. ETATS OBSERVATEURS/OBSERVER STATES

BULGARIE/BULGARIA

Bogomil TODOROV, Minister Plenipotentiary, Ministry of Foreign Affairs, Sofia

ITALIE/ITALY

Italo PAPINI, Ministre plénipotentiaire, Délégué aux accords pour la propriété intellectuelle, Ministère des Affaires étrangères, Rome

REPUBLIQUE DEMOCRATIQUE ALLEMANDE/GERMAN DEMOCRATIC REPUBLIC

Dieter SCHACK, Head, Department of International Cooperation, Office for Inventions and Patents, Berlin

TCHECOSLOVAQUIE/CZECHOSLOVAKIA

Jaroslav PROŠEK, Head, Trademarks Department, Office for Inventions and Discoveries, Prague

IV. ORGANISATIONS INTERGOUVERNEMENTALES
INTERGOVERNMENTAL ORGANIZATIONS

CONSEIL D'ASSISTANCE ECONOMIQUE MUTUELLE (CAEM)/COUNCIL FOR
MUTUAL ECONOMIC ASSISTANCE (CMEA)

Igor TCHERVIKOV, Conseiller, Moscou

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

J. Frederic FAURE, Administrateur, Bruxelles

Keith MELLOR, Administrateur, Bruxelles

V. ORGANISATIONS INTERNATIONALES NON GOUVERNEMENTALES/
INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS

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

Maurice MATHEZ, F. Hoffmann-La Roche & Cie., S.A., Bâle

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

Martin VAN DAM, Patent Agent, Eindhoven

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

Christian GUGERELL, International Patent Department, Scherico Ltd., Lucerne

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

Paul FELDMANN, Engineer, Opfikon

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

Ernest GUTMANN, Ingénieur-conseil en propriété industrielle, Paris

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

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

Reinhard KOCKLÄUNER, Patent Assessor, Hoechst AG, Wiesbaden

VI. BUREAUX/OFFICERS

Président/Chairman:	Valentin BYKOV	(Union soviétique/Soviet Union)
Vice-présidents/ Vice-Chairmen:	Martin NZUE NKOGHE Paul BRAENDLI	(Gabon) (Suisse/Switzerland)

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

Dr. A. BOGSCH, Directeur général/Director General

Klaus PFANNER, Vice-directeur général/Deputy Director General

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

Jordan FRANKLIN, Chef de la Section administrative, Division "PCT"/Head, Administrative
Section, PCT Division

Vitaly TROUSSOV, Conseiller principal, Division "PCT"/Senior Counsellor, PCT Division

Normando SCHERRER, Conseiller, Division "PCT"/Counsellor, PCT Division

Daniel BOUCHEZ, Conseiller technique, Division "PCT"/Technical Counsellor, PCT
Division

Akira OKAWA, Conseiller, Division "PCT"/Counsellor, PCT Division

[L'annexe II suit/
Annex II follows]

ANNEX II

Rule 15
The International Fee

15.1 Basic Fee and Designation Fee

Each international application shall be subject to the payment of a fee for the benefit of the International Bureau (“international fee”) consisting of

(i) a “basic fee,””and

(ii) as many “designation fees” as there are States designated in the international application for which a national patent is sought, provided that, where a regional patent is sought for certain designated States, only one designation fee shall be due for such purpose.

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 250 Swiss francs,

(ii) if the international application contains more than 30 sheets: US\$165.00 or 250 Swiss francs plus US\$3.00 or 4.50 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 60 Swiss francs.

Rule 57
The Handling Fee

57.2 Amount

(a) The amount of the handling fee shall be US\$50.00 or 75 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 75 Swiss francs for each additional language.

[Annex III follows]

Amendments made to the Proposals of the Director General during Consultations with the receiving Offices and the International Searching and Preliminary Examining Authorities relating to Modifications of the Administrative Instructions

1. In this Annex, any reference to “Rule” is to a Rule of the Regulations under the Patent Cooperation Treaty (PCT), to “Section” is to a Section of the Administrative Instructions under the PCT, to “Annex” is to an Annex of the Administrative Instructions and to “form” is to a form annexed to those Administrative Instructions.

2. The following paragraphs reproduce the modifications of the Administrative Instructions only to the extent that the Director General amended his original proposals in the light of the consultations. The modifications not reproduced here were decided upon by the Director General in the form set out in Part III of document PCT/A/II/3.

Section 201(b)

3. Text as contained in document PCT/A/II/3 without amendment.

Section 203bis

4. Text as contained in document PCT/A/II/3 without amendment.

Section 317

5. Text as contained in document PCT/A/II/3, subject to replacing the words, “in the right hand margin adjacent to the designation so enclosed within square brackets,” by “in the margin” to provide greater flexibility to the receiving Office in indicating the deletion of a designation.

Section 412

6. The new Section 412 reads as follows:

“Section 412

“Fee for Copies of Certain Documents

“(a) The International Bureau shall make a charge of 6 Swiss francs to designated and elected Offices for a copy of any document cited in the international search report requested under Rule 44.3(c) or any document cited in the international preliminary examination report requested under Rule 71.2(c).

(b) When mailing by air is requested the actual cost of such mailing shall be additionally charged.”

7. With respect to the proposed fee of 3 Swiss francs for copies of the priority document requested under Rule 17.2(a) (see Section 412 in paragraph 14 of document PCT/A/II/3), the representatives of several of the Offices being consulted requested the deletion of the proposed fee and none of the Offices being consulted spoke in favor of retaining that fee. The representative of the United States Patent and Trademark Office suggested, in this context, that, since the amount of the proposed fee was not large, it should be included in the designation fee. The representative of the Swiss Intellectual Property Office suggested that fees of such small amount were not practical because their administration would cost more than the revenue they produce; it was for this consideration that his Office objected to the proposed fee.

8. The International Bureau said that a separate fee was proposed because the possibility of a copy of the priority document being requested would not exist when the priority of an earlier application was not claimed and, in any event, would only apply when a request was made by the designated Office for the supply of the copy. It was too early to consider augmenting the designation fees in general for that purpose since only experience would show the number of cases in which a copy of the priority document would have to be supplied. A different level of the designation fee, depending on whether a copy of the priority document would be requested, was neither possible nor practical.

[9. In conclusion, the Director General stated that, in view of the objections raised during the consultations, he would, for the time being, promulgate the new Section 412 without the inclusion of the said fee but would revert to the matter at a later date either by taking up his original proposal or by making a new proposal on a different basis. Before doing so, a study would be made which would take into account the observations made during the consultations and the results of practical experience as to the situations and number of cases in which copies were requested and as to the number of Offices which made such requests not on a case-by-case but on an automatic basis.]

Section 503

10. Text as contained in document PCT/A/II/3 without amendment.

Annex C of the Administrative Instructions

11. Text as contained in document PCT/A/II/3 without amendment.

Form PCT/RO/101

12. The heading of Box II will read as follows:

“II. APPLICANT² (The data concerning each applicant named in Box IX must appear in this box or, to the extent that space is insufficient, in the supplemental box.) Additional information is contained in supplemental box. ”

13. In the heading of Box IX, the following text will be added:

“Where this box is used, all applicants indicated in Box II must be indicated in this box. Only applicants indicated in Box II can be indicated in this box.”

14. Furthermore, in Box IX “Name of Applicant” will be replaced by “Names of Applicants” and, in Box X, “Name of Inventor” will be replaced by “Names of Inventors. ”

15. Note 18 will be completed by the following sentences:

“Where Box IX is used, only those applicants may be indicated in it which are also indicated in Box II. All the applicants appearing in Box II must also be indicated in Box IX.

“Where the United States of America is one of the designated States, the applicant or applicants named in respect of the United States of America must be the inventor or inventors.”

Annex to Form PCT/RO/101

16. The proposal contained in paragraph 18 of document PCT/A/II/3 will be implemented with the proviso that the reverse side of the sheet will not be used.

Forms PCT/IB/301, 302, 308, 331 and 332

17. As contained in Annexes I to V of document PCT/A/II/3, subject to the correction of small errors of typing and presentation.

[End of Annex III and of document]