

WIPO



PCT/A/26/2

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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

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

ASSEMBLY

**Twenty-Sixth (15th Extraordinary) Session
Geneva, September 7 to 15, 1998**

REPORT

adopted by the Assembly

1. The Assembly was concerned with the following items of the Consolidated Agenda (document A/33/1 Prov.2): 1, 2, 4, 6, 7, 9, 14, 15, 20 and 21.
2. The report on the said items, with the exception of item 15, is contained in the General Report (document A/33/8).
3. The report on item 15 is contained in the present document.
4. In the absence of its Chair and two Vice-Chairs, the Assembly unanimously elected Mrs. América Néstar Santos Riveras (Cuba) as Acting Chair.

ITEM 15 OF THE CONSOLIDATED AGENDA:

AMENDMENT OF THE SCHEDULE OF FEES UNDER THE PCT

5. Discussions were based on document PCT/A/26/1.
6. The Secretariat introduced the proposals set out in document PCT/A/26/1 and proposed a minor amendment to item 4 of the proposed amended Schedule of Fees set out in Annex 1 to document PCT/A/26/1, whereby the words “in accordance with and to the extent provided for in the Administrative Instructions” would be placed before, rather than after, the word “filed.” This would make it clear that both the international application on paper and the copy thereof in electronic form would have to be filed in accordance with and to the extent provided for in the Administrative Instructions in order to qualify for the proposed fee reduction.
7. The Secretariat also proposed a further minor drafting change to the French text of item 4 of the proposed amended Schedule of Fees, namely, to replace the words “en même temps qu’” by the word “avec.”
8. With regard to the proposed modifications of the Administrative Instructions implementing Rule 89~~ter~~ to the extent provided for in those modifications, as set out in Annex 2 to document PCT/A/26/1, which had been issued for the purposes of consultation under Rule 89.2(b), the International Bureau asked that any comments by delegations be communicated to the International Bureau during the session of the Assembly. Further guidance with regard to the application of the proposed fee reductions, including information on the equivalent amounts of the 200 Swiss franc fee reduction in currencies other than Swiss francs, would be provided by the International Bureau to receiving Offices when promulgating the modifications of the Administrative Instructions.
9. The Delegation of the Netherlands, speaking on behalf of Group B, expressed its support for the proposed amendments of the Schedule of Fees and noted the intentions of the Director General as regards the proposed modifications of the Administrative Instructions.
10. The Delegation of Mexico expressed its support for the measures proposed in paragraph 16(a) and (b) of document PCT/A/26/1, which would promote greater use of the PCT system. With respect to the reduction of PCT fees, the delegation requested that the Secretariat carry out a study of whether the 75% fee reduction presently applicable to natural persons who were nationals and residents of certain States (now appearing as item 5 of the proposed amended Schedule of Fees) could be extended to certain entities such as universities and research institutions. Such an extension would encourage countries such as Mexico to strengthen the use of the PCT.
11. The Delegation of Cuba expressed its support for the proposed fee reductions, agreeing with the Delegation of the Netherlands, and for the study requested by the Delegation of Mexico.
12. The Director General stated that, if it was the wish of the Assembly, the Secretariat was prepared to carry out such a study.

13. The Assembly:

- (i) unanimously adopted the proposed amendments to the Schedule of Fees as set out in the Annex to this report and decided that they would enter into force on January 1, 1999;
- (ii) noted that the Director General intended to promulgate modifications of the Administrative Instructions implementing Rule 89^{ter} of the PCT Regulations to the extent provided for in those modifications as set out in Annex 2 to document PCT/A/26/1 and revised taking into account the results of consultations with interested Offices pursuant to Rule 89.2(b) of the PCT Regulations during the Assembly's session, with effect from January 1, 1999.

14. The Delegation of the Netherlands, speaking on behalf of Group B, made the following statement:

“Group B notes with satisfaction the adoption of the proposal. However, having said so, we would like to point out that there should, in principle, be no surplus and that, if there will be any, it should be kept to a minimum in the fee-financed Unions, such as the PCT Union. The International Bureau must continue to strive to reduce excess revenues and to maintain fiscal stringency in the expenditure budget. Taking into consideration the size of the possible surplus at the end of this biennium, which will be accumulated into the reserve fund which has already a considerable size, Group B considers the revised PCT fees to be still too high; further substantial reduction could be possible. Therefore, with a view to ensuring transparency and accountability, we would like to request the International Bureau to submit documentation to the members of the PCT Union, including future projections such as the increase of applications, with respect to the Schedule of Fees, which enables members of the Union to evaluate whether the revised fees are appropriate. Finally, Madam Chair, we would like to underline that fee reduction as such does not mean automatically the decrease of total income of this Union since the increase in applications will be able to compensate for the reduction. Rather, in the long term, we may expect the increase of total income by the appropriate fee reduction. Thank you, Madam Chair.”

15. The Director General stated that the Secretariat had noted the statement made by the Delegation of the Netherlands on behalf of Group B and that, if it was the wish of the Assembly, the requested projections would be prepared by the Secretariat and provided to Contracting States.

16. Speaking later in the General Assembly, the Delegation of Mexico made, on behalf of the Group of Latin American and Caribbean countries, the following statement:

“I would like to begin by thanking the Secretariat for preparing and distributing the statement made on Friday by the Delegation of the Netherlands speaking on behalf of Group B. On behalf of the Latin American and Caribbean Group, I should like to say that we were very surprised by this statement because, as proposed by Group B itself, we had agreed to discuss the budget surplus at the next regular session of the Budget Committee. We are not prejudging, of course, the right of any Group or any individual delegation to make a statement, but there was a political agreement under items 5 and 6

of the agenda to take this up in the Budget Committee next March. We see that Group B has requested or suggested that a study on this subject be carried out within the context of the PCT. The Group of Latin American and Caribbean countries feels that this study, or indeed any study that affects the use of the income of the PCT in the context of the overall work of WIPO, should be carried out only after we have had this discussion in the Budget Committee.”

[Annex follows]