

WIPO



PCT/A/32/4 Add.1

ORIGINAL: English

DATE: September 12, 2003

E

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

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

ASSEMBLY

**Thirty-Second (14th Ordinary) Session
Geneva, September 22 to October 1, 2003**

**PROPOSED AMENDMENTS OF THE REGULATIONS UNDER THE PCT:
FURTHER CONSEQUENTIAL AMENDMENTS**

Document prepared by the International Bureau

PROPOSED AMENDMENTS

1. The Annex to this document contains proposals for amendment of the Regulations under the Patent Cooperation Treaty (PCT) related to reform of the PCT.¹
2. The proposed amendments are consequential on previous amendments introducing the new designation system (automatic indication of all designations and all elections possible under the PCT) that were adopted by the PCT Assembly on October 1, 2002, with effect from January 1, 2004 (see document PCT/A/31/10).
3. Rule 53.2(a) sets out the mandatory contents of a demand for international preliminary examination, including item (iv) which refers to “election of States.” However, from January 1, 2004, all possible elections will, in effect, be made automatically by virtue of amended Rule 53.7, which provides: “The filing of a demand shall constitute the election of all Contracting States which are designated and are bound by Chapter II of the Treaty.” It is

¹ References in this document to “Articles” and “Rules” are to those of the Patent Cooperation Treaty (PCT) and the Regulations under the PCT (“the Regulations”), or to such provisions as proposed to be amended or added, as the case may be. References to “national laws,” “national applications,” “the national phase,” etc., include reference to regional laws, regional applications, the regional phase, etc.

therefore proposed to amend Rule 53.2(a) by deleting item (iv). A consequential amendment is proposed to Rule 60.1(a). The absence of these amendments from the previous package of amendments was an oversight.

ENTRY INTO FORCE; TRANSITIONAL ARRANGEMENTS

4. Consistently with the decisions adopted in connection with the related amendments that were adopted previously (see document PCT/A/31/10, paragraph 45(ii) and Annex VI, paragraph 3(b)(i)), it is proposed that the Assembly adopt the following decisions in relation to entry into force and transitional arrangements in respect of the proposed amendments:

“The amendments set out in Annex I:

(a) shall enter into force on January 1, 2004; and

(b) shall apply to any international application in respect of which a demand for international preliminary examination is filed on or after January 1, 2004, whether the international filing date of the international application is before, on or after January 1, 2004.”

5. *The Assembly of the PCT Union is invited:*

(i) to adopt the proposed amendments of the Regulations under the PCT set out in the Annex to this document;

(ii) to adopt the proposed decisions set out in paragraph 4, above, relating to entry into force and transitional arrangements in respect of the proposed amendments.

[Annex follows]

ANNEX

PROPOSED AMENDMENTS OF THE REGULATIONS UNDER THE PCT¹

Rule 53
The Demand

53.1 [No change]

53.2 *Contents*

(a) The demand shall contain:

(i) to (iii) [No change]

~~(iv) election of States,~~

(iv)~~(v)~~ where applicable, a statement concerning amendments.

(b) [No change]

53.3 to 53.9 [No change]

Rule 60
Certain Defects in the Demand

60.1 *Defects in the Demand*

(a) Subject to paragraphs (a-*bis*) and (a-*ter*), if the demand does not comply with the requirements specified in Rules 53.1, 53.2(a)(i) to (iii) ~~(iv)~~, 53.2(b), 53.3 to 53.8 and 55.1, the International Preliminary Examining Authority shall invite the applicant to correct the defects within a time limit which shall be reasonable under the circumstances. That time limit shall not be less than one month from the date of the invitation. It may be extended by the International Preliminary Examining Authority at any time before a decision is taken.

(a-*bis*) to (g) [No change]

60.2 [*Remains deleted*]

[End of Annex and of document]

¹ The text on the basis of which the presently proposed amendments are shown includes the amendments previously adopted by the Assembly to enter into force on January 1, 2004 (see document PCT/A/31/10, paragraph 45, Annex V and Annex VI, paragraph 3). Proposed additions and deletions are indicated, respectively, by underlining and striking through the text concerned.