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**WORLD INTELLECTUAL PROPERTY ORGANIZATION**  
GENEVA

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

**ASSEMBLY**

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

SCHEDULE OF FEES ANNEXED TO THE REGULATION UNDER THE PCT:  
PROPOSAL BY THE UNITED STATES OF AMERICA

*Document prepared by the International Bureau*

1. The International Bureau received, on July 16, 2003, a proposal on fees submitted by the United States of America. The said proposal is contained in the Appendix to this document.

2. *The Assembly is invited to consider the proposal contained in the Appendix to this document.*

[Appendix follows]

PROPOSAL BY THE UNITED STATES OF AMERICA

MATTERS CONCERNING THE PCT UNION:

PROPOSED AMENDMENT TO THE SCHEDULE OF FEES

ANNEXED TO THE REGULATIONS UNDER THE PCT

*Introduction*

1. This document contains a proposal for an amendment of the Schedule of Fees annexed to the Regulations under the Patent Cooperation Treaty (PCT). The proposal concerns the concept of the “flat” international filing fee for the automatic indication of all designations possible under the PCT that was approved by the PCT Assembly in September 2002 with effect from January 1, 2004 (see paragraph 45 and Annex V of PCT/A/31/10).

2. It is proposed that the international filing fee be fixed at 1350 Swiss francs and that a handling fee of 200 Swiss francs remain a separate fee applied only to applications in which a demand is filed. This is proposed in order to reflect the current fee level in effect for applicants that now make the maximum number of designations (five). That is, the international filing fee of 1350 Swiss francs would, in effect, combine the current basic fee of 650 Swiss francs and the maximum designation fee of 700 Swiss francs. This proposal will ensure that applicants who, under the present system and fee structure, use only the Chapter I procedure will not be disadvantaged by having to pay considerably higher fees than is presently the case under Chapter I.

*Background*

3. The current fee structure of the PCT system includes a basic fee, a designation fee and, for international applications in which a demand is filed under PCT Chapter II, a handling fee. In addition, the maximum number of payable designation fees is currently five. For the year 2003, the fees are fixed at a basic fee of 650 Swiss francs, a designation fee of 140 Swiss francs and a handling fee of 233 Swiss francs. Because most PCT applicants indicate five or more designations per application, the great majority of applicants pay the maximum fee for designations of 700 Swiss francs. Under the current fee structure, therefore, most applicants using only Chapter I of the PCT pay a maximum fee of 1350 Swiss francs, and those utilizing Chapter II of PCT pay a maximum fee of 1583 Swiss francs.

4. A fee reduction was envisioned for the PCT that would have reduced the maximum number of payable designations to four with effect from January 1, 2003 (see paragraphs 347 of WO/PBC/4/2 and paragraph 60 of PCT/A/31/6) in the 2001 meeting of the PCT Assembly. Assuming that the existing fee level had remained the same, this would have resulted in a basic fee of 650 Swiss francs, a maximum designation fee of 560 Swiss francs, or a total of 1210 Swiss francs, plus a handling fee for international applications in which a demand had been filed of 233 Swiss francs. In other words, the envisaged fee reduction, which eventually was not enacted in light of the revision to the PCT Regulations of September 2002 (see paragraph 7 of this document), would have resulted in maximum fees under Chapter I of the PCT of

1210 Swiss francs, and maximum fees under both Chapters I and II of the PCT of 1443 Swiss francs as from January 1, 2003.

*PCT Reform and Fees*

5. The PCT Assembly, in September 2002, unanimously adopted new regulations (see PCT/A/31/10), that provide for a combined search and examinations system, as well as automatic designation of all Contracting States, among other changes. In light of these changes, the designation-based fees system will no longer be continued as from January 1, 2004. Instead, the Assembly agreed to a single "flat" international filing fee as part of the amendment package (see paragraph 45 and Annex V of PCT/A/31/10). The new fee would combine the current basic and designation fees. At current levels, this fee would be 650+700 or 1350 Swiss francs, while the fee envisioned by the reduction in paragraph 4 above would be 650+560 or 1210 Swiss francs.

6. Rather than attempting to implement the envisaged fee reduction, the International Bureau proposed that, in light of the significant revisions to the Regulations of the PCT, a review of the fee structure and the possible reduction of fees should be undertaken, in the context of the necessary determination of the new "international filing fee" (paragraph 27 of PCT/A/31/10). Although certain delegations at the 2002 PCT Assembly expressed concerns about this approach and doubts about the prospects for a fee reduction via this approach, the rationale of the International Bureau was eventually adopted.

7. The International Bureau produced a new proposal with respect to PCT fees for consideration at the May 2003 meeting of the Working Group on Reform of the PCT in document PCT/R/WG/4/8. In light of the fact that all applications will now require some type of report (International Preliminary Report on Patentability (Chapter I) and International Preliminary Report on Patentability (Chapter II)), the International Bureau proposed rolling the handling fee into the international filing fee, thereby applying a handling fee to all international applications. This is in contradistinction to the current system in which only those applications where the applicant files a demand are charged handling fees.

8. The International Bureau proposed an amount of 1530 Swiss francs for the new fee. This represents a fee of 1297 Swiss francs in addition to the current level of 233 Swiss francs for a handling fee. This is 877 Swiss francs higher than the reduction originally envisioned for January 1, 2003, as noted above, and additionally would provide that each and every international application be subject to a handling fee. That is, in addition to the issue of the handling fee, the International Bureau's proposal does not provide the previously promised 8% reduction in fees or any reduction to compensate for the delay in implementing that reduction. Rather, the International Bureau proposes a substantial increase in PCT international fees. The International Bureau has indicated that the specific figures are based on the calculation of estimated income in the context of WIPO's proposed program and budget for 2004-2005 presented in document WO/PBC/6/2 (paragraph 5 of PCT/R/WG/4/8). The current PCT fees in effect in 2003, the original reduction plan described in paragraph 4 above, WIPO's fee proposal in PCT/R/WG/4/8 and WO/PBC/6/2, and the fees under this proposal are compared in Annex II of this document.

9. The United States of America proposed that the Working Group on Reform of the Patent Cooperation Treaty, at its fourth session May 19-23, 2003, recommend adoption of the originally envisaged fee reduction (in PCT/R/WG/4/8 Add. 1). In view of the strong support for a separate handling fee, it was agreed that the International Bureau would prepare a

revised proposal with regard to the amount of the international filing fee and the handling fee, the latter being retained as a separate but reduced fee, taking into account the need to generate the same level of income from fees as mentioned in documents PCT/R/WG/4/8 and WO/PBC/6/4 (see Summary of the Session by the Chair, PCT/R/WG/4/14, paragraph 32). While the United States regrets that consensus on PCT fee reduction was not possible in May, the present proposal ensures that the current maximum fee level for Chapter I applicants is maintained at 1350 Swiss francs, and is applied to all Chapter I applications. This proposed fee, while not as low as we would prefer at this time, is submitted in the spirit of compromise, taking into account the views that have been expressed on this critically important matter at recent PCT meetings. The United States will pursue appropriate reductions in PCT fees in the future, particularly as improvements in PCT infrastructure and information technology projects are implemented.

*Proposal*

10. It is proposed that the international filing fee be fixed at 1350 Swiss francs and the handling fee remain a separate fee applied only to application *sin* which a demand is filed. It is proposed that, as agreed by the Working Group on PCT Reform in May, the new fee schedule reflects a modest reduction in the handling fee. It is proposed that the handling fee be reduced from 233 Swiss francs to 200 Swiss francs to provide such modest reduction. This reflects a figure that has been informally mentioned by certain parties in the past and is consistent with the recommendation of the PCT Working Group to maintain a separate and reduced handling fee for Chapter II applications.

11. The Assembly of the PCT Union is invited to adopt the proposed amendment to the Schedule of Fees annexed to the Regulations under the PCT as appearing in Annex I of this document and to decide that it will enter into force on January 1, 2004, and that it will apply only in respect of international applications filed on or after that date.

[Annex I follows]

ANNEXI

PROPOSED AMENDMENT OF  
THE REGULATIONS UNDER THE PCT

SCHEDULE OF FEES

*(as proposed to be amended with effect from January 1, 2004)*

<b>Fees</b>	<b>Amounts</b>
1. International Filing Fee: (Rule 15.2)	1350 Swiss francs plus 15 Swiss francs for each sheet of the international application in excess of 30 sheets
2. Handling Fee: (Rule 57.2)	200 Swiss francs

**Reductions**

3. The international filing fee is reduced by 200 Swiss francs if the international application is, in accordance with and to the extent provided for in the Administrative Instructions, filed:
  - (a) on paper together with a copy thereof in electronic form; or
  - (b) in electronic form.
4. All fees payable (where applicable, as reduced under item 3) are reduced by 75% for international applications filed by any applicant who is a natural person and who is a national of and resides in a State whose per capita national income is below US\$3,000 (according to the average per capita national income figures used by the United Nations for determining its scale of assessments for the contributions payable for the years 1995, 1996 and 1997); if there are several applicants, each must satisfy those criteria.

[Annex II follows]

## ANNEXII

## COMPARISON OF PCT FEES

*(all fees shown in Swiss francs)*

	<b>Basic Fee</b>	<b>Designation Fee</b>	<b>Maximum Designations</b>	<b>Maximum Combined Fee</b>	<b>Maximum Combined Fee with Handling Fee (plus 233 Sfr)</b>
<b>Current PCT Fees</b>	650	140	5 (700 Sfr)	1350	1583
<b>Original Reduction Plan</b>	650	140	4 (560 Sfr)	1210	1443
<b>WIPO Proposal (in PCT/R/4/8)</b>					1530 flat fee for all cases
<b>Proposal in this Document</b>				1350 flat fee	Plus 200 Sfr for ONLY those cases in which a demand is made

[End of Annex II and of document]