

WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

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

ASSEMBLY

**Thirty-Sixth (16th Ordinary) Session
Geneva, September 24 to October 3, 2007**

REPORT

adopted by the Assembly

1. The Assembly was concerned with the following items of the Consolidated Agenda (document A/43/1).
2. The report on the said items, with the exception of item 8, is contained in the General Report (document A/43/16).
3. The report on item 8 is contained in the present document.
4. Mrs. Ásta Valdimarsdóttir (Iceland) was elected Chair of the Assembly; Mr. Matti Päts (Estonia) and Mr. Yin Xintian (China) were elected Vice-Chairs. In the absence of the Chair and both Vice-Chairs, Mr. Barney De Schneider (Canada) was elected acting Chair and presided over those parts of the discussions referred to in paragraphs 62 to 105.

ITEM 8 OF THE CONSOLIDATED AGENDA:

MATTERS CONCERNING THE PCT UNION INCLUDING
(A) PROPOSAL OF THE UNITED STATES OF AMERICA AND JAPAN;
(B) PROPOSAL OF BRAZIL AND (C) ANY OTHER PROPOSALProposed Amendment of the Schedule of Fees Annexed to the Regulations under the PCT

5. Discussions were based on document PCT/A/36/11, containing a proposal by the United States of America and Japan, and document PCT/A/36/12, containing a proposal by Brazil.

6. The Delegation of the United States of America, in introducing the proposal contained in document PCT/A/36/11, stated that it believed that the reduction in PCT fees was both wanted and reasonable, given the ever growing surplus being generated by the PCT system and the shrinking proportion of PCT fees that were actually dedicated to the PCT system. It further stated that it believed that the proposal could be adopted without prejudice to WIPO's ongoing work in all areas, including its development-related activities.

7. The Delegation of the United States of America noted that, in all but one biennium for the past 20 years, income generated by the PCT system had increased, in most cases quite significantly. As noted by the International Bureau in its comments on the Final Report of the Desk-to-Desk Assessment of the Human and Financial Resources of WIPO (paragraph 9 of document WO/GA/34/12), WIPO's budget had multiplied by a factor of more than 5 in the past 20 years, from 99 million Swiss francs to 531 million Swiss francs. Over the same time, WIPO's staff had more than quadrupled, from 300 staff in 1986 to 1,260 staff today. The PCT system, which now funded the bulk of WIPO's budget, had made possible the expansion of WIPO activities in all areas of its work. Nevertheless, as noted by the United Nations Joint Inspection Unit when it recommended that a desk-to-desk assessment be done, WIPO's budget should not be based solely on its income but should be based on actual needs and good management practices. According to the desk-to-desk results, WIPO may have grown too large without regard to actual needs. The report noted that as many as 200 posts in the Secretariat could be redundant. The Delegation stated that it believed that a PCT fee reduction would both help to curb the unrestrained growth of the Secretariat and encourage greater use of the PCT, especially among small and medium-sized enterprises, by applicants from both developed and developing countries.

8. The Delegation of the United States of America further noted that, during the Program and Budget Committee's session held in February 2007, the Secretariat of WIPO had produced charts that indicated the expected financial impact of a 15% fee reduction. While the Delegation appreciated the Secretariat's efforts in producing those charts, it believed that they were misleading in two respects. First, they ignored future growth in PCT filings, which had been the historical trend, as well as any additional growth that may be induced by reduced fees. Second, they assumed that WIPO would proceed with all of the spending that had been proposed – even that which had been rejected by WIPO Member States such as on security costs. The Delegation noted that the Secretariat, in its proposal on use of WIPO reserve funds, had proposed a substantial reduction of spending on security, mainly because the Building Foundation for the International Organizations (FIPOI) had agreed to fund much of the costs of enhanced security. The Delegation therefore believed that the charts cast the proposed 15% PCT fee reduction in an unwarranted negative light.

9. The Delegation of the United States of America expressed the view that its proposal would have a positive rather than a negative effect on the financial future of the Organization. It also noted that the so-called "Industry Trilateral", representing PCT users in Japan, Europe and the United States of America, strongly supported the PCT fee reduction proposal made by Japan and the United States of America. The confidence of users of the PCT system would be critical to its continued success. Excessive diversion of PCT fee income could well jeopardize the existing confidence.

10. The Delegation of Japan recalled that the effect of the proposal in document PCT/A/36/11 would be to reduce the PCT international filing fee from 1,400 Swiss francs to 1,190 Swiss francs and the handling fee from 200 Swiss francs to 170 Swiss francs. The Delegation believed that the proposal could be realized in the current robust PCT situation where in 2006 the number of PCT applications grew by 7.9% to a total of 147,500 applications, and noted specifically that double-digit growth had occurred in several countries, including the Republic of Korea and China. Furthermore, a reduction of fees would stimulate more use of the PCT, promoting IP protection across all business sectors and business sizes on a global scale, which was one of the major missions of the Organization. In this context, the Delegation recalled that Trilateral PCT users, that is, applicants from Japan, Europe and the United States of America, had expressed strong support for the 15% fee reduction proposal. The Delegation believed that the Organization should respond to the users' voice. The Delegation also believed that a PCT fee reduction would lead to an increase in WIPO's budget, benefiting various important activities of WIPO, including development activities. Given the current situation where more and more new users were entering the PCT world and using PCT services, especially users from developing countries and small and medium-sized enterprises, a fee reduction would assist and benefit those users.

11. The Delegation of Japan pointed out that WIPO was a unique organization in that 90% of its income came from users' fees, of which 75% came from users of the PCT. From this perspective, the Delegation considered it advisable to use any surplus generated due to unexpected PCT growth for the benefit of users. Reduction of fees could be the most explicit and direct way of returning benefits to the major financial contributors. By so doing, a good relationship and confidence between WIPO and users could be expected to form and grow.

12. The Delegation of Japan set out one possible scenario for achieving a 15% fee reduction as described in Annex II of document PCT/A/36/11, noting that there might also be other possible ways of reaching that goal. It stated that the chart in that Annex showed that a 30.4 million Swiss francs surplus was generated in the PCT Union, after reflecting additional PCT-related expenditure necessary to handle unexpected PCT growth. For the next (2008-2009) biennium, given the Secretariat's projection of future PCT growth of 5 to 6% per year, and reflecting additional expenditure necessary to handle the expected increase in PCT applications, it could be seen that a surplus of 57.2 million Swiss francs would be generated. Therefore, during this biennium and the next biennium, a total of 87.6 million Swiss francs could be expected to be generated, which could be used as resources for PCT fee reduction. This amounted to 18% of the PCT income, so a 15% reduction could be realized. Additionally, it was considered that the reserve from the previous biennium could be used as resource for a fee reduction. Furthermore, given that a fee reduction would stimulate the filing of PCT applications, PCT income would exceed that projected by the Secretariat, generating a further resource for fee reduction. The Delegation expressed its hope that the Assembly would make an appropriate decision for the right direction of PCT development.

13. The Delegation of Brazil noted that its proposal in document PCT/A/36/12 had been issued on the previous day, but that the same proposal had been discussed during the last session of the Program and Budget Committee, so that members had had an opportunity to consider it several weeks in advance of the PCT Assembly. The Delegation emphasized that its proposal was an alternative to, rather than complementary to, the 15% fee reduction proposed by the United States of America and Japan in document PCT/A/36/11, and it was important to specify why it was an alternative proposal. The 15% reduction of fees as proposed by the US and Japan, which would be applicable to applicants from all PCT Member States, would, as indicated by certain calculations referred to by the Secretariat, impact disproportionately on the income of WIPO in the future. That would create much uncertainty as to whether the Organization would be able to meet all its financial obligations and commitments and whether there would be enough resources for the Organization to fulfill its mission. Such a result would be particularly unfortunate at the present time when Member States were about to commit to the adoption of the 45 agreed recommendations of a WIPO development agenda to be implemented in a cross-cutting fashion and involving the creation of a committee on development of intellectual property which would have quite a lot to deal with in the next couple of years.

14. The Delegation of Brazil also considered that the issue of favoring users which was raised by the proposal for a 15% reduction needed to be carefully scrutinized. The Delegation noted that, based on information provided by the Secretariat during the Program and Budget Committee debate, a 15% reduction as proposed by the United States of America and Japan would, on the one hand, greatly impact the future income of WIPO, transforming a projected surplus over 60 million dollars for the next biennium into a deficit. On the other hand, the benefits to users would be minimal if not insignificant, since the fees charged for international applications under the PCT represented no more than 1% of the total cost incurred by users seeking to obtain patent protection abroad via the PCT or otherwise in contrast to the remaining 99% relating to the cost of engaging agents or lawyers, translation costs, and national fees. The Delegation therefore believed that the proposed 15% fee reduction would be insignificant from the point of view of benefits to users at large, and excessive in terms of its impact on the future income of WIPO and on WIPO's current and new missions.

15. The Delegation of Brazil did not, however, dismiss *a priori* some of the arguments presented by the proponents of the 15% reduction proposal. As a principle, Brazil believed that the Organization should attempt to maintain its expenditures within the Budget adopted by Member States. Certainly, the idea of recurring surpluses could perhaps lead to broad allocation of resources and the permanent expectation of more funds at each new cycle. The Delegation was also sensitive to a certain point to the argument that perhaps the Organization as a whole should not rely disproportionately on PCT revenue. It should also be borne in mind, however, that the PCT system as a whole had been of benefit to its users from its inception in that it offered considerable savings in comparison with the alternative whereby protection relying on the Paris Convention needed to be obtained by applying directly in individual countries. The PCT system was a creation of the membership of the Organization as a whole rather than only of the Member States of the PCT Union, and of course the Organization had other sources of income and did not rely exclusively on the PCT.

16. The Delegation of Brazil also expressed its deep concern as to the imbalance of international applications under the PCT viewed from a north-south perspective. This was something that Brazil would wish to see corrected, or at least encouragement should be provided that could lead to such correction. For 2006, an approximate calculation showed a 9-to-1 gap comparing applications originating from developed countries with those

originating from developing countries. Putting aside applications originating from China and the Republic of Korea for the purposes of the calculation, the gap would be even greater.

17. The Delegation of Brazil noted that this was not a new issue, a first step having been taken in 1997 in an attempt to encourage the filing of more applications by applicants from developing countries. At that time a decision was taken to provide developing countries with a 75% reduction in fees for international applications under the PCT, according to criteria defining who would be the beneficiaries of the reduction. The Delegation's proposal in document PCT/A/36/12 was intended to maintain the 75% reduction that was currently applicable and also to broaden the criteria to apply to all developing country members of the Group of 77 and all those considered as developing countries in the context of the Organisation for Economic Co-operation and Development (OECD). The Delegation's proposal was intended to provide those developing countries which did not currently benefit from the 75% reduction with a 37.5% reduction. In the light of the recent debate in the Program and Budget Committee and of the additional information provided by the Secretariat, although the Delegation adhered to the general thrust of its proposal for a further reduction to the benefit not only of developing countries, it was prepared to reconsider specific details, including the figures contained therein, during either plenary or informal discussions.

18. The Delegation of Algeria, speaking on behalf of the African Group, thanked the United States and Japan, and Brazil, for their respective proposals relating to PCT fee reductions for filing and handling fees. The Group noted that, according to figures from the Secretariat, a 15% reduction for international filing and for handling would give a shortfall of 6 to 8 million Swiss francs in the budget for the biennium 2008-2009. This would mean that the implementation of the Program and Budget for that biennium as presented by the Director General, would generate a deficit of 52.1 million Swiss francs. That, therefore, would reduce the reserves of the Organization to the end of 2007 to 700,000 Swiss francs: a substantial cut in the possible expenditure for that biennium, whereas the percentage recommended for reservations or reserves for this Organization varies between 18 and 27. Such a situation would call into question the allocation of resources for funding a range of projects including the supplementary funding for the development agenda and the creation of a new IT platform for the Madrid system, as well as the projects on security services and the new building. The Group felt that the reduction as proposed by the US and Japan would have strongly negative financial repercussions across all the activities and programs of WIPO. It was pointed out that, according to Secretariat estimates, the reduction proposed on the fees would only account for 1% of the total costs of an application. Such reduction would therefore not have much of an impact on the levels of filing. However, the Brazilian proposal, which the Group did not believe would jeopardize WIPO's budget would provide substantial benefit for developing countries, and was considered worth further examination. The Group agreed with the statement of the Brazilian delegation that a possible adjustment to that proposal might allow a balance to be struck between patent filings from developed and developing countries and try to encourage further filings from developing countries. It was necessary to discuss figures relating to the two proposals to reach a conclusion on proposals which would enable the Organization to fully take on and fulfill the balanced mandate set out in the WIPO Convention.

19. The Delegation of Colombia expressed its thanks for the proposals by the Delegations of the United States of America, Japan and Brazil, which it believed to have a strong foundation and to favor development and innovation in certain countries. The Delegation stated that it should be borne in mind that the PCT procedure contained two phases: the international phase and the national phase. The Delegation referred to the national phase, in

particular, and wished to outline Colombia's experience with that phase of the system. Colombia had acceded to the Treaty in 2001 and since then had observed that, of the number of PCT international applications submitted by natural persons in Colombia, only one had been able to enter the national phase. This was due to the fact that the other applications were filed by applicants who did not have the economic resources to enter national phase. Most of such applicants had great expectations when filing PCT applications because they benefited from a 75% fee reduction. Yet, when those applications entered the national phase in the countries where protection was sought, it was economically impossible for them to continue with the process for three main reasons: the cost of engaging patent attorneys for the purposes of national phase processing; the cost of the national filing fee; and the cost of maintenance fees levied for applications that are undergoing national processing. This meant that the PCT did not in practice live up to the expectations of applicants from developing countries as they were unable to complete the national phase. The Delegation considered that this problem concerned not only Colombia but all developing countries.

20. The Delegation of Colombia therefore proposed examination of the data contained in the report on program outputs for the biennium 2004-2005. In 2005, a total of about 122,000 PCT applications were filed, representing an increase of 14.2% over the biennium 2002-2003. Applications from 23 developing countries increased by 46%. It would be very useful to investigate how many of the 11,000 applications from developing countries filed in 2002-2003 had managed to enter the national phase in at least three countries. The results of such a study would undoubtedly bear out the Delegation's concerns. The Delegation explained that it had not used the figure of about 16,000 applications as in the report since the end of the 30-month period for entering the national phase had not expired for all of the applications referred to.

21. The Delegation of Colombia therefore believed that a reduction in the fees payable in the international phase would not have a great economic impact, although it would make the PCT more accessible to inventors in developing countries. The Delegation rather emphasized the importance of examining the accessibility and benefit of the national phase for applicants from developing countries and countries in transition.

22. The Delegation of Poland, speaking on behalf of the Group of Central European and Baltic States, thanked the proponents of the proposals relating to future levels of PCT fees. The Group would support a slight decrease in the PCT fees for the next budgetary biennium. The main element necessary for long-term programming was not so much the level of fees but the predictability of that level in the longer term. A situation where the Assembly discussed a sharp increase in the fees in one biennium and a sharp decrease two years later was, understandably, not comfortable for the Organization and its policy planners since it made the long-term planning of activities more difficult. For that reason, the Group considered that any changes in the fees should be made by way of small increments over a period of time and should reflect trends in the financial position of the Organization. The Group noted that some burden would be involved in implementing an increased level of development activities related to the outcome of the work of the Provisional Committee on Proposals Related to a WIPO Development Agenda (PCDA), but did not consider that it should be financed entirely from the PCT fees; a necessary budgetary balance should be maintained, and patent applicants should not bear alone the costs of those activities. The Group believed that the long-term trend, parallel to progress in the present activities aiming at increased cost-effectiveness of the Organization, should be a steady decrease in the fees. This would be perceived as a benchmark of success of the Organization in implementing even better cost management policies.

23. The Delegation of Barbados thanked the Delegations of the United States of America, Japan and Brazil for their proposals on the reduction of PCT fees and stated that it supported a reduction in PCT fees, provided that such a reduction would not put in jeopardy the adoption and subsequent implementation of the Program and Budget for the next biennium. The Delegation expressed the view that the criteria presently applied under the PCT Schedule of Fees (per capita national income below 3,000 US dollars 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) ought not to be the only determinant of eligibility for the 75% fee reduction.

24. The Delegation of Barbados further noted that, in comparison with other countries, Barbados was small with a very small population, and production usually suffered from dis-economies of scale. In order to recover the often considerable expense which a Barbadian inventor would have invested in bringing an invention to the stage where it could be patented, the inventor would have to look outside of Barbados. This made it necessary for the inventor to patent the invention not only in Barbados but also abroad. Similarly, Barbadian inventors may wish to have their inventions manufactured outside of Barbados, either because the necessary expertise to do so was not available in Barbados or because the cost of manufacturing in Barbados would be prohibitive. Again, this would also make it necessary for the inventor to patent the invention outside of Barbados. Given these circumstances, it was important that the PCT System be attractive to potential inventors in small countries like Barbados. A significant reduction in the fee for PCT applications filed by natural persons would facilitate this.

25. The Delegation of Barbados also noted that, at present, notwithstanding these and other factors, no special differential treatment was extended to natural persons in Barbados who wished to use the PCT system. The result was that Barbados was one of the very few members of the Group of 77 whose nationals were required to pay PCT fees in full. The Delegation of Barbados therefore welcomed the proposal of Brazil, in particular, as it would provide for special and differential treatment to be extended to small countries like Barbados. The Delegation believed that natural persons from Barbados who file international applications under the PCT system should be entitled to the same percentage reduction in PCT fees as natural persons from the vast majority of developing countries.

26. The Delegation of China stated that the PCT system had proved to be an efficient, convenient and practical means of filing patent applications internationally. Rational and wide-ranging use of the system would provide better protection for applicants worldwide. The system had now been in operation for almost 30 years and, during that time, the Schedule of Fees had proved to be reasonable. In the view of the Delegation, the accuracy of the projected surplus for the next two year biennium needed to be discussed, including that which was envisaged under the proposal by the Japan and the United States of America. Noting that PCT income was one of the main pillars of WIPO's resources, the Delegation expressed concern about the impact that any change in PCT income may have on the work of the Organization. Referring to the financial difficulties that the Organization had experienced in recent years, forcing it to reduce or even suspend certain activities, in particular, development cooperation activities, the Delegation stated that, in its view, the surplus of the 2006-2007 biennium was in part the result of the reduction or suspension of those activities. The envisaged surplus should not be used to reduce PCT fees but rather to resume those activities that had been affected by the financial difficulties and to fund the work relating to the envisaged establishment of the WIPO Committee on Development that had been approved by the WIPO Assemblies.

27. The Delegation was thus opposed to the proposal for a 15% reduction of PCT fees. The Delegation on the other hand welcomed the proposal by Brazil, noting that it would be beneficial for developing countries since it would facilitate participation by applicants from developing countries in the international patent system.

28. The Delegation of Belize stated that it wished to thank the Delegation of the United States of America for its proposal and noted that it had always treasured the advice and assistance received from the United States Patent and Trademark Office. Referring to the statement by the Delegation of the United States of America that WIPO's budget should be based on needs and not fee income, the Delegation of Belize expressed the view that, in its opinion and from reading document WO/PBC/12/4, the needs of the Organization would be expanding rather than decreasing. Noting that the implementation of several important projects listed in document WO/PBC/12/4, such as funding of activities relating to the Development Agenda or the establishment of new IT platforms for both the Madrid and the Hague Systems, would be jeopardized if the 15% fee reduction were approved, the Delegation expressed its concerns about the proposal by the United States of America and Japan. The Delegation further stated that it supported the remarks by the Delegation of Barbados regarding the extension of the PCT fee reduction to certain developing countries which, at present, because of the criterion applied, did not benefit from any reduction in PCT fees.

29. The Delegation of Nigeria stated that it believed that PCT fees had become a very effective tool as a pillar of resource generation for WIPO. This meant that anything done in connection with the setting of PCT fees would automatically affect the overall resources of WIPO. Consequently, it was necessary to be extremely careful. To that end, the Delegation fully supported the statement by the Delegation of Algeria on behalf of the African Group on this matter. It agreed that any reduction would disproportionately affect WIPO's activities and programs in the next biennium, and in particular progress regarding the development agenda. The argument that efficiency in the Secretariat could be increased by reducing resources might not hold at all. Looking internationally, corporations that were short of money engaged in business that had nothing to do with resources. Attempts to improve the efficiency of the Secretariat should focus on doing just that, and not on reducing the resources allocated to the Secretariat. Consequently, the Delegation would be very reluctant to support a 15% reduction in the PCT fees. It considered that doing so would also hinder the progress of most developing countries, some of which lacked the capacity to make effective use of the PCT system. Some of the resources coming from the PCT should go into helping capacity building in developing countries, as had been pointed out by the Delegation of Barbados. A significant amount could be done with that money.

30. While recognizing that the proposal put forward by the Delegation of Brazil might not be perfect, the Delegation of Nigeria considered that the proposal sought to reach out to a greater percentage of countries in furtherance of the ambitions, expectations and objectives expected of a specialized United Nations agency. It was necessary to consider what the mission of WIPO was. As a specialized agency of the United Nations, WIPO's mission should go beyond the sole purpose of making a profit. This meant that activities of WIPO should help the development of as many countries as possible in terms of economic impact. In the short term, this might not provide the greatest resources coming to WIPO, but it would expand the base of countries from which applications were made, and consequently fees received, through the PCT system, increasing for the future the amount of money that would come to WIPO. Therefore, it was better to invest more in developing countries, which meant investing

in future surpluses for WIPO. With this in mind, the Delegation supported the proposal by Brazil and did not support the 15% reduction in fees proposed by the United States of America and Japan.

31. The Delegation of Cuba stated that it opposed the proposal for a 15% fee reduction, noting the impact that such reduction may have on the financial resources of the Organization, in particular, those allocated to development cooperation and the implementation of the development agenda. The Delegation expressed its support for the proposal by Brazil concerning fee reductions for applicants from developing countries, noting that those applicants were the ones who least used the PCT system.

32. The Delegation of Indonesia could understand the desire to significantly reduce the PCT fees but considered that, taking into consideration that the majority of Contracting States of the PCT were countries with developing economies, the proposal made by the Delegation of Brazil was the most suitable one. It considered that the proposal of Brazil was also in line with the figures provided by the Secretariat.

33. The Delegation of South Africa, noting the resources needed to fund development cooperation related activities, stated that it could not support the proposal for a 15% decrease in PCT fees. In order to allow users from developing countries to gain easier access to the benefits of the PCT system, which at present was mostly used by applicants from developed countries, the Delegation stated that it supported the proposal by Brazil.

34. The Delegation of Trinidad and Tobago thanked the Delegations of Brazil, Japan and the United States of America for their proposals, which both headed in the same direction and which both might have the effect of broadening the user base of the PCT system in developing countries and among small and medium-sized enterprises. The Delegation supported the statements made by the Delegations of Barbados and Belize. It was also mindful of the other very significant overhead costs faced by patent applicants in addition to the PCT fees. The experience of clients of the Intellectual Property Office of Trinidad and Tobago was that external filing and commercialization costs could range from 40,000 to 500,000 United States dollars, on top of approximately 2,000 dollars in PCT fees. In this regard, Trinidad and Tobago supported the proposal made by the Delegation of Brazil for a reduction in PCT fees to a level that would both encourage applicants and also not impact significantly on the income and any dependent development initiatives of WIPO. In the near future, if levels of PCT use increased in accordance with the trend, deeper reductions in PCT fees could be considered, when more data was available on the effects on users and the apportioning of the Program and Budget of WIPO in its development cooperation activities.

35. The Delegation of Benin, speaking on behalf of the least-developed countries (LDCs), considered that the proposal by the United States and Japan would significantly affect the allocation of budgetary resources and the implementation of the recommendations of the PCDA. This would jeopardize the policies that had been started up in WIPO to the benefit of developing countries generally, and more specifically LDCs. Therefore LDCs would not be able to go along with the proposal to reduce the PCT filing and handling fees by 15%. With regard to the Brazilian proposal, LDCs were still waiting for additional information and the Delegation requested the Secretariat to provide further information on the implications of that proposal for the budget.

36. The Delegation of Portugal, on behalf of the European Community and its 27 Member States, stated that this issue merited an in-depth analysis by all PCT Member States and that the European Community was open to engage in a discussion and to look for a consensus on the matter. It was ready to consider the possibility of a limited PCT fee reduction that should not jeopardize the financial equilibrium of the Organization, allowing for a limited increase in the level of reserves of the Organization and the future predictability of revenues, as well as an in-depth examination during one or two years in order to evaluate the consequences of the fee reduction.

37. The Delegation of Kenya aligned itself with the views of the African group as stated by the Delegation of Algeria. It considered that the proposal by Brazil was the more favorable of the two proposals and that it would not affect negatively the work of WIPO. The Delegation was concerned that the proposal by the United States of America and Japan for a 15% decrease in PCT fees would impact negatively on WIPO's reserves. It also believed that a 15% reduction in fees would have negative financial implications for the program of WIPO, including the development agenda. Therefore, the Delegation favored the proposal by Brazil, but noted that further input was required based on actual figures before it could be properly considered.

38. The Delegation of Ecuador thanked the Delegations of the United States of America, Japan and Brazil for their proposals. Ecuador, as had previously been stated in the Program and Budget Committee, was interested in the proposal by Brazil and believed it to be the right path to follow in supporting developing countries such as Ecuador. Through proposals of this sort, it would be possible to address the imbalance which existed in international filing under the PCT, whereby the great majority of Contracting States were developing countries but most of the applications come from the developed States.

39. The Delegation of Chile noted that the Chilean congress was analyzing the accession of Chile to the PCT and, as a future member of the PCT and more particularly because of the implication of the reduction in fees and the impact that that could have on the Program and Budget of WIPO, the Delegation expressed its views on the proposals for a reduction in fees. The Delegation considered that the proposals made by the United States and Japan and by Brazil set out issues that were of extreme importance in WIPO for its member States and for society more broadly. Chile observed that reductions in patenting costs for inventors in developing countries would contribute to ensuring that the PCT system had a positive impact on national promotion of inventiveness in the economies of Contracting States. For this reason, the Delegation considered that the proposal by Brazil was a major contribution. It would allow progress in the international patent system by facilitating access by developing countries' inventors to the system through the PCT. The proposal by Brazil was a positive one, because it would not jeopardize the ordinary budget of the Organization. Issues relating to implementing the development agenda proposals, in particular, needed to be borne in mind. The Delegation considered that a reduction in costs for users from developing countries was something which could be extended in the future to institutions such as research centers, universities and institutes of higher education. These were becoming increasingly important in Chile as promoters of innovation.

40. The Delegation of Switzerland was in principle in favor of a reduction in fees, bearing in mind the financial situation of the Organization, and thanked the Delegations of the United States of America, Japan and Brazil for their proposals. However, the Delegation was not certain that this was the appropriate time to start reducing fees; these doubts extended to both the proposal by the United States of America and Japan and to that by Brazil. The Delegation

considered that the current situation did not permit a proper analysis of the financial situation of the Organization in the medium term. By way of example, it was known that the Organization would be implementing the IPSAS accounting standards, which might cast the financial situation of the Organization in a different light. The proposal by Brazil had real merit, as did that by the United States of America and Japan. However, the Delegation considered that the proposal by Brazil left open a range of questions, particularly of exactly what should be the definition of the applicants who could benefit from the proposed reduction. However, the Delegation did not believe that any reduction in the level of fees should proceed at this time.

41. The Delegation of the United States of America stated that it wished to respond to some of the points that had been raised with regard to the proposal it had made with the Delegation of Japan. It noted that some 94% of WIPO's budget would be supplied by fees provided by its services, with some 80% coming from the PCT system alone. Of that PCT income, some 65% of PCT fees went to activities outside of the PCT system, including development cooperation activities such as those relating to WIPO's development agenda. The Delegation, noting that the vast majority of users of the PCT system came from the United States of America, Japan and Europe, referred to a letter dated September 6, 2007, sent to WIPO's Director General by the so-called "Industry Trilateral", made up of Business Europe, the Intellectual Property Owners Association, the American Intellectual Property Law Association and the Japan Intellectual Property Law Association, voicing strong support for a 15% reduction in PCT fees. The Delegation quoted from that letter as follows: "We are aware that PCT funds subsidize other WIPO programs. While we are interested in any of these programs and activities, we believe the amount of surplus PCT fees that will be generated in the next biennium far exceeds the amount that PCT applicants should reasonably be expected to subsidize other activities of WIPO and that the proposal to reduce PCT fees is justified and fair to all concerned. We urge therefore that the 15% fee reduction be adopted as proposed."

42. The Delegation of the United States of America further stated that Group B countries had shown a great deal of flexibility in adopting the 45 proposals during the discussions in the PCDA and requested that members of the Assembly show similar flexibility in supporting the proposal for a 15% fee reduction. The Delegation noted that serious questions had been raised by the Joint Inspection Unit with regard to budgeting based on income rather than needs and to certain management issues, and expressed the view that any Organization that saw a five-fold increase in its budget and a four-fold increase in its staff in a period of 20 years would face serious management challenges.

43. The Delegation of the United States of America continued to press for what it regarded as a justified fee decrease. It further stated that it believed that the figures presented by the Secretariat were biased against such a fee decrease, noting that the papers that were presented by the Secretariat during the recent session of the Program and Budget Committee with regard to utilization of the reserves contemplated five projects which would completely deplete the reserves in the next biennium, the bulk of which were funded by PCT fees. As noted by other delegations, these were projected reserves and the Secretariat was proposing to spend them without the possibility of a PCT fee decrease. In doing so, the Secretariat was rejecting a proposal by certain countries that represent the majority of PCT users.

44. In concluding, the Delegation of the United States of America stated that, as a major contributor to WIPO through the PCT, it was not in a position to approve a budget that did not reflect a significant decrease in PCT fees in the order of 15%. With regard to the proposal by

Brazil, it stated that it would favor instead an across the board fee reduction and could not at this time support further amending the PCT Schedule of Fees beyond the current reduction granted to natural persons from low income countries. In this context, the Delegation questioned why certain developing countries with a higher income should receive preferential treatment under the PCT, especially since, as had been noted by the Delegation of Brazil, PCT costs represented in many cases only 1% of overall patent costs. It further expressed the hope that the PCT Assembly could support a PCT fee reduction for all users, which could be of an amount between that proposed by United States of America and Japan and that proposed by Brazil.

45. The Secretariat explained that the figures on the impact of the proposed PCT fee reduction which had formed the basis of the discussions in the Program and Budget Committee had been based on an objective model using, upon the request of Member States, two different scenarios, one simulating a 15% reduction of PCT fees and one simulating a 5% reduction, using the same number of applications that it had used as the basis for estimating the income in the proposed Program and Budget for 2008 and 2009. In its view, this did not constitute a biased method but simply a mathematical operation. The simulations had shown that, if a 15% reduction were approved, the next biennium would end with a deficit of 52 million Swiss francs, based on the assumption that the Program and Budget as proposed by the Director General would be approved by the Member States.

46. The Secretariat added that the Program and Budget of the Organization was not driven by income but by demand and the needs of its Member States. If it were income driven, the Secretariat would not propose a Program and Budget with a surplus but rather a balanced budget, using all the income. The fact that the Organization's staff had increased four-fold, and its budget correspondingly, during the last 20 years was mainly due to the success and growth of the PCT system and of the other international registration systems, allowing the resources of the Organization to grow in parallel.

47. The Delegation of El Salvador thanked the Delegations of the United States of America and Japan for their proposal and noted that it would have been beneficial, so as to take the right decisions, if more information on the possible impact of the proposed fee reduction would be available. With regard to the proposal by Brazil, the Delegation stated that it viewed it positively, noting that it would not impact on the Organization's ability to properly finance present and future programs and activities.

48. The Delegation of Congo felt that the proposal for fee reduction would negatively affect a range of programs of great importance to WIPO. It noted that the Secretariat had just stated that the proposed 15% reduction would have a negative impact. Therefore the Delegation expressed its support for the proposal by Switzerland. In addition, it reminded the Assembly that what was at stake involved WIPO administered programs for which there had already been a consensus to implement. As such, it expressed the need to maintain the PCT fees as they were, and carry out a further study on the issue over the next three years. For the sake of the efficiency of the Organization, the Delegation felt that this would be the wiser direction to take at this point in time, considering that it was necessary to save the reserves for the programs foreseen by the Organization for the benefit of Member States. The Delegation also recalled that some other Delegations had said that the reserves themselves should be used to fund certain programs, rather than development-related issues. If so, perhaps certain fees would need to be reduced and if specific fees were to be reduced, it might hinder the successful achievement of the programs and the work that had been set out by WIPO.

49. The Delegation of the United States of America thanked the Secretariat for its explanations but noted that it still disagreed with a number of statements that had been made. It continued to be of the opinion that the charts produced by the Secretariat were biased and misleading because they assumed spending at a level that had been proposed by the Secretariat for the 2008-2009 Program and Budget but which had not been approved by the Program and Budget Committee at its session in September 2007. Furthermore, the charts ignored growth in demand that in the view of the Delegation could very well occur beyond the conservative projection of the Secretariat. The Delegation believed that WIPO's budget was indeed income-driven, noting that, under the proposed program and budget the Secretariat proposed spending all of the reserves beyond the target level.

50. The Delegation of Japan expressed its support for the statements made by the Delegation of the United States of America and questioned the accuracy of the impact assessment carried out by the Secretariat, noting that it was based on a projection of an increase of 5 or 6% in international filings under the PCT over the next biennium and the assumption that expenditures were fixed as proposed by the Secretariat. It expressed the view that it was not healthy for the Organization to increase expenditures every time that income increased.

51. The Delegation of Japan further expressed the view that, in general, a fee reduction would be a positive element which would stimulate PCT filings by applicants seeking patent protection globally, and noted that the issue of reduction of PCT fees should be seen from the perspective of its impact on PCT operations and on the PCT Union. A wish for some kind of fee reduction was shared by a number of delegations, and the Delegation hoped that a reduction might be agreed so as to meet a variety of priorities.

52. The Delegation of Ukraine stated that it had examined the issue of PCT fees several times in the context of the discussions in the Program and Budget Committee. It maintained its position that any possible negative results deriving from the reduction of PCT fees should be avoided. It would be beneficial first to assess several scenarios for possible fee reductions, and the Delegation suggested that a reduction could commence with a 2 or 3% decrease in the 2008-2009 biennium rather than immediately with a 15% reduction. The results of the first year could then be used to analyze and forecast what can be done in the second year of the biennium. In this way, greater use of the PCT would be encouraged, which would be of great benefit to applicants, while the financial situation of WIPO would not be hindered. With regard to the expenses of the PCT sector, the Delegation mentioned that it had asked for relevant financial information. The Delegation considered that such information would be very useful in its assessment of proposals concerning fees.

53. The Delegation of Senegal supported the statement made by the Delegation of Benin on behalf of the least developed countries. With regard to the proposal by the United States of America and Japan, the Delegation expressed the view that the kind of measure proposed would introduce an imbalance between the income and the expenditure of the Organization. This would deprive the Organization of one of the means necessary to carry out the policies and programs that Member States had asked for. The Delegation could thus not endorse the proposal to reduce the PCT fees by 15%. With regard to the proposal by Brazil, the Delegation noted that it was incomplete and that the Delegation could thus not support it without examining it in greater detail. Consequently, the Delegation proposed that consideration of this proposal should be put on the agenda of the 37th session of the PCT Assembly in 2008.

54. The Delegation of Argentina stated that, although Argentina was not a Contracting State of the PCT, it wished to make a statement as a Member State of WIPO. As such, it had taken part in discussions on this item in the WIPO Program and Budget Committee as well as on other occasions. The Delegation expressed its concern about the proposal by the United States of America and Japan to reduce PCT fees, as it might have a negative effect on the budget of the Organization and particularly on the implementation of the development agenda, which would benefit from available funds under the 2008-2009 budget. In this context, the Delegation felt that the proposal by Brazil seemed to cover both the expectations of those delegations that were concerned about broader access to the PCT system and those of developing and least developed countries that wanted to join the system. The Delegation expressed the view that the proposal by Brazil, providing for special treatment for applicants from developing countries, would encourage those applicants, including small and medium sized enterprises, to participate in the PCT system. On the other hand, the proposal by the United States of America and Japan would encourage applicants who already participated in the system to file even more applications. The Delegation further expressed the view that the proposal by Brazil would be an incentive for those States who have not yet joined the PCT to do so.

55. The Chair, in summarizing the discussions to this stage, stated that, while many delegations had supported the proposal by Brazil, other delegations had indicated their preference for an across-the-board fee reduction which would benefit all applicants. In addition, the Delegation of Brazil had itself indicated the need for further informal consultations so as to refine its proposal. With regard to the proposal by the United States of America and Japan, the Chair noted that many delegations had expressed concerns or opposed the proposal, noting its impact on the envisaged program and budget of the Organization, in particular, on development cooperation related activities. The Chair thus stated her intention to hold informal consultations so as to seek a balanced approach with regard to both proposals.

56. The Secretariat stated that it wished to clarify certain aspects with regard to the proposal by Brazil. The Secretariat explained that, under the existing Schedule of Fees under the PCT, a 75% reduction was granted to individuals from developing countries whose per capita income, assessed by reference to the 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, was less than US\$ 3,000. In addition, a 75% reduction was granted to all applicants from least developed countries, whether individuals or legal persons. Under the proposal by Brazil, a different class of countries would benefit from the 75% reduction, since it referred to countries that were members of the Group of 77 or States classed as a developing country by the OECD Development Assistance Committee. A comparison of the list of countries that qualified for a fee reduction under the existing Schedule of Fees with the list of countries that would qualify for such a reduction under the proposal by Brazil showed that the proposal by Brazil would affect only eight countries that were members of the PCT which, at present, did not benefit from any fee reduction, but would benefit from a 37.5% reduction under the proposal by Brazil; those countries were Antigua and Barbuda, Bahrain, Barbados, Libya, Oman, Singapore, Trinidad and Tobago, and the United Arab Emirates.

57. The Secretariat stated further that, under the proposal by Brazil, the threshold to qualify for a fee reduction of 75% would change from the *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 to those figures used by the United Nations for determining its scale of assessments for the contributions payable for the years 2005, 2006 and 2007. This

would result in some 39 countries seeing their reduction reduced from the present 75% to 37.5%, with the consequence that, over the next biennium, it was projected that WIPO would have an additional income of about 1.6 million Swiss francs.

58. In addition, the Secretariat stated that it wished to make an observation with regard to the comment made by the Delegation of Colombia, which it had also raised in the Program and Budget Committee, namely, that the PCT was not meeting the expectations of applicants from developing countries with regard to national phase processing of PCT applications, noting the often prohibitively high national fees due upon national phase entry. The Secretariat noted that this was an effect of the cost of patenting at the national level rather than an effect of the PCT system. The effect of the PCT was to delay the payment of national filing fees, from 12 months when filing under the Paris Convention route direct, to 30 months when filing under the PCT. In addition, the basis upon which applicants had to decide whether to proceed with their applications before the national Offices was strengthened, noting the time gained since the filing of the application in which to evaluate the technical and commercial viability of the invention, and the further information gained during the international phase in the form of the international search report and the international preliminary report on patentability. The concerns expressed by the Delegation of Columbia were thus more the result of the costs that have to be incurred at the national level, whether after 12 months or after 30 months, and were not a direct effect of the PCT.

59. The Secretariat also wished to contribute to the discussions on the influence of the PCT fees on the decision to file a patent application. According to calculations by the Organization, using the Global IP Estimator software, PCT fees were less than 1% of the total cost of patenting internationally, a figure which had also been mentioned in the discussions in the Program and Budget Committee. However, from the point of view of the applicant, it would appear that the fact that the PCT costs would only be around 1% of the overall cost of patenting an invention would not necessarily mean that an applicant would not assess the cost of the PCT services by reference to the value of those services to the applicant, as opposed to the total cost that the applicant has to pay to patent his invention. In this context, the Secretariat noted that, in its estimation, PCT applications accounted for only about 48% of international patent applications, international patent applications being defined as patent applications that are filed in more than one country, and that the PCT therefore had to compete with the alternative filing mechanism available under the Paris Convention direct route.

60. The Delegation of Brazil expressed its appreciation for the information and comments provided by the Secretariat. It pointed out, as it had already done in the Program and Budget Committee, that its proposal needed to be refined, and that certain additional data and information that had been provided by the Secretariat should be taken into account. The Delegation stated that, this notwithstanding, the intention of its proposal was clear, namely, to provide an additional benefit in the form of additional fee reductions to applicants from developing countries, and to be as inclusive as possible with regard to all developing countries.

61. The Delegation of Colombia stated that it agreed with the statement by the Secretariat that the costs to be incurred by applicants for national processing of PCT applications were not a direct consequence of the PCT system. However, the Delegation suggested that the Secretariat should carry out a study on the number of applications filed by individuals from developing countries that had been able to enter the national phase. The Delegation stated

that its own statistics in this respect would be a matter of concern and that therefore, in its view, a study to be carried out by the Secretariat would be beneficial to applicants and inventors from developing countries.

62. Following informal consultations, the acting Chair summarized the results of those consultations as follows. There continued to be no consensus on the proposals for PCT fee reductions by, on the one hand, the United States of America and Japan, and, on the other hand, Brazil. One delegation, speaking on behalf of a regional group, had indicated that it would not be prepared to move to discussions on any of the remaining items on the consolidated agenda of the Meetings of the Member States of WIPO until the matter related to item 12 of that agenda had been addressed. Other delegations, speaking on behalf of other regional groups, had indicated their willingness to further discuss the proposals for PCT fee reductions. The acting Chair further noted that, during the informal consultations, there had been agreement among delegations to request the International Bureau to carry out a study on the eligibility criteria for determining the group of developing and least developed countries whose applicants should benefit from a reduction of PCT fees and to present that study to the next session of the PCT Assembly in September-October 2008. In conclusion, the Chair suggested that the session of the Assembly be adjourned and that the Chair of the General Assembly be requested to resume the Meeting of the Member States of WIPO.

63. The Delegation of the United States of America requested clarification from the acting Chair as to whether he proposed to suspend the meeting of the PCT Assembly as opposed to adjourning it, so that delegations would have the possibility of a resumption later in the day.

64. The Delegation of Algeria stated that it, too, requested clarification, noting that the discussions in the PCT Assembly on proposed fee reductions had explicitly been scheduled to take place before the discussions on the WIPO Program and Budget so as to know the outcome of those discussions before starting the discussions on the WIPO Program and Budget.

65. The Delegation of Brazil stated that, in its view, it would not be possible to suspend the meeting of the PCT Assembly before agreement had been reached, be it an agreement on any of the proposals or an agreement not to agree. The matter could not simply be passed on to the Chair of the General Assembly, noting that it was within the competence of the PCT Assembly and not the General Assembly to take a decision on the proposals for PCT fee reduction.

66. The Delegation of Spain stated that it supported the statement by the Delegation of Brazil.

67. The Delegation of the United States of America stated that it, too, shared the sentiment expressed by the Delegations of Brazil and Spain, and expressed the view that the meeting should be suspended as opposed to being adjourned, noting that there was enough time left for attempting to make progress on the matter.

68. The Delegation of Nigeria stated that, in its view, the matter could not be left open indefinitely. If the meeting were to be adjourned, it should be made clear when the meeting would be reconvened to take a decision on the matter. The Delegation, referring to previous statements by other delegations as to the link between the matter at hand with other issues, in particular, item 12 on the agenda of the Meeting of the Member States of WIPO, stated that adjourning the meeting and leaving the matter at hand open would mean that no solution

would be found for an indefinite period, noting that item 12 had already been closed and that it would take a two-thirds majority to reopen discussions on that item.

69. The Delegation of Brazil stated that it wished to clarify that, while its proposal, as modified, was for a 90% fee reduction for applicants from those countries which at present, under the criteria set out in the current Schedule of Fees, benefited from a 75% fee reduction, the proposal was meant to be as inclusive as possible. The Delegation was thus open to an *ad hoc* decision which would allow all developing countries, including those which, under the present Schedule of Fees, did not benefit from any fee reduction, to be included in the group of countries benefiting from the reduction. The Delegation further stated that, during the informal consultations, it had made a proposal for a 2.5% across-the-board fee reduction for all applicants, and that it supported the proposal for a study to be carried out by the Secretariat on the criteria for determining the group of developing and least developed countries whose applicants should benefit from a reduction of PCT fees.

70. The Delegation of Algeria requested the Chair to indicate when it was intended to resume the meeting of the PCT Assembly so as to ensure that the matter at hand was not left open beyond the end of the Meeting of the Member States of WIPO. The Delegation further stated that it would have no objection to suspending the meeting if indeed further informal consultations took place; if, however, there was no readiness to go back to informal consultations to negotiate the proposals at hand, then the meeting should not be suspended but be closed.

71. The Delegation of Congo stated that, in its view, noting the various proposals for PCT fee reductions made by several delegations, the Secretariat should present a balanced proposal that could be negotiated among delegations in a satisfactory manner.

72. Following further informal consultations, the Delegation of Brazil, speaking on behalf of the Group of Latin American and Caribbean countries, stated that the Group wished to support the modified proposal by Brazil for a 90% fee reduction which would benefit applicants from certain developing countries, based on the criteria set out in the current Schedule of Fees. The Delegation stated further that it supported the proposal to request the International Bureau to carry out a study on the eligibility criteria for determining those developing and least developed countries whose applicants should benefit from a reduction of PCT fees and to present that study to the next session of the Assembly in September-October 2008. Finally, it proposed to take an *ad hoc* decision to allow those eight developing countries which at present did not benefit from any fee reduction to be included in the group of developing countries which did benefit, thus bridging the present north-south discrepancy in the use of the PCT without jeopardizing the implementation of WIPO's Program and Budget.

73. The Delegation of the United States of America, speaking on behalf of Group B, stated that it recognized that there was no consensus yet on the two proposals for PCT fee reductions by, on the one hand, the United States of America and Japan, and, on the other hand, Brazil, but that it was aware of active ongoing informal consultations on this matter and several other agenda items. The Delegation stated that it thus could not support closure of the debate on the item of PCT fee reductions.

74. The Delegation of France, referring to the proposal by Brazil, noted that, in its view, during informal consultations, an agreement had emerged that the eligibility criteria for determining who should benefit from a reduction of PCT fees should be based on economic grounds. The Delegation stated that it attached great importance to this point and expressed the view that the study to be carried out by the Secretariat should proceed along those lines.
75. The Delegation of Switzerland stated that it wished to be associated with the statement by the Delegation of the United States of America, speaking on behalf of Group B, and that it therefore was not prepared, at this stage of the debate, in particular, before item 12 of the agenda of the Meeting of Member States of WIPO had been satisfactorily settled, to start discussing any decision on PCT fee reductions.
76. The Delegation of Japan noted that it wished to echo the statement made by the Delegation of the United States of America. Since there was no consensus on the question of a PCT fee reduction, it would not be appropriate to close the debate at this point.
77. The Delegation of Spain stated that it associated itself with the position expressed by the Delegations of the United States of America, Switzerland and Japan.
78. The Delegation of Portugal stated that it wished to endorse the position expressed by the Delegations of the United States of America, Switzerland and Japan.
79. The Delegation of the Netherlands stated that it supported that position as well.
80. The Delegation of Algeria stated that it could not understand the meaning of the statements made by several delegations that the debate could not be closed because of debates that were ongoing on other agenda items. The item under consideration in the PCT Assembly was a separate agenda item, and there was no link in the agenda that would make one agenda item conditional upon another. The Delegation expressed its disappointment that, following the earlier break in proceedings, the time had not been used for further informal consultations and hoped that there would still be informal contacts in good faith before the meeting ended. The Delegation stated further that there may have been some confusion between the closure of the debate and the closure of the meeting and that it wished to formally propose, on behalf of the Group of African states, to close the debate, invite all parties to engage in informal consultations, and to resume the meeting as soon as everybody was read. The Delegation, referring to Rules 18(1) and 19(1) of WIPO's General Rules of Procedure, thus formally requested closure of the debate and suspension of the meeting so that, when it was resumed, only two things could be done: to adopt any decision that may have been reached by consensus and/or to adopt the report.
81. The Delegation of Oman stated that it supported the motion by the Delegation of Algeria.
82. The Delegation of the United States of America, referring to Rule 27(1) of WIPO's General Rules of Procedure, requested that the voting on the motion by the Delegation of Algeria be by roll call.
83. The Delegation of the Spain stated that it supported the request made by the Delegation of United States of America.

84. The Secretariat explained that it was its understanding that the Delegation of Algeria had moved both suspension of the meeting and closure of the debate, and that the Delegation wished to first vote on the motion for suspension of the meeting. The vote on this motion would normally be by show of hands.

85. Following the Secretariat's explanations, the Delegation of Algeria stated that it wished to clarify that it did not want to first vote on the motion for suspension of the meeting; rather, it wished to first vote on the motion for closure of the debate so that informal consultations could take place to try to find a common solution, following which the meeting should be reconvened to adopt any decision and the report.

86. The Secretariat, in response to the intervention by the Delegation of Algeria, stated that Rule 20 of WIPO's General Rules of Procedure specified a particular order of procedural motions as follows: (a) to suspend the meeting; (b) to adjourn the meeting; (c) to adjourn the debate on the question under discussion; and (d) to close the debate on the question under discussion.

87. The Delegation of Algeria stated that it did not agree with the Secretariat's interpretation of Rule 20 of WIPO's General Rules of Procedure, noting that that Rule established an order of priority when there were several procedural motions presented by different countries but not when, as in this case, a delegation presented a single motion with two components, one for the closure of the debate and a second component for the adjournment of the meeting. Should there be a problem with this interpretation, the Delegation stated that it wished to withdraw the second part of the motion in accordance with Rule 22 and move that the debate be closed.

88. The Chair stated that he considered Rule 20 did apply to the two motions put forward by the Delegation of Algeria.

89. Following further clarification by the Delegation of Algeria, the Secretariat stated that, following the withdrawal of the motion to suspend the meeting by the Delegation of Algeria, the vote would be on the motion to close the debate.

90. The Delegation of Brazil, referring to Rule 18(2) of WIPO's General Rules of Procedure, stated that there would be a need for a debate on the motion.

91. The Delegation of South Africa stated that it supported the motion by the Delegation of Algeria.

92. The Delegation of the United States of America urged other delegations to oppose the motion to close the debate. It stated its belief that consultation on the substantive matters could lead to a successful conclusion of the meeting.

93. The Delegation of Brazil expressed the view it would be an unfortunate course of action to resort to the Rules of Procedure without trying to solve the issue at hand. The Delegation stated that the countries belonging to the Group of Latin American and Caribbean countries felt that there should be an attempt to reach consensus on all items and that recourse to voting should be avoided at all costs. The Delegation stated that it expected that many Latin American and Caribbean countries would abstain in the vote.

94. The Delegation of the United Kingdom, noting that the Delegation was not sure whether the last intervention by the Delegation of Brazil constituted the required second argument against the motion, stated that, if it did not, the Delegation wished to speak against the motion.

95. The Delegation of Switzerland requested clarification as to how the vote would take place, whether it would be by roll call or not. Furthermore, the Delegation wished clarification as to which Members of the PCT Union were entitled to vote.

96. The Delegation of Senegal stated that, under WIPO's General Rules of Procedure, once delegations had spoken in favor or against a motion, the motion should immediately be put to the vote without further discussion.

97. The Delegation of Italy stated that it shared the sentiments expressed by the Delegation of Brazil. The Delegation noted its frustration about the lack of dialogue and the inability to reach a compromise.

98. The Secretariat confirmed that voting would be by roll call and further explained the voting procedures set out in Rule 27 of WIPO's General Rules of Procedures.

99. The Delegation of the United States of America stated that it felt it important to address the question put by the Delegation of Switzerland as to which of Members of the PCT Union would be entitled to vote.

100. The Delegation of Algeria stated that it believed that the intervention by the Delegation of the United States of America had been humble because it would represent one of the countries concerned by the question as to which delegations had the right to vote or not, noting that the arrears of the United States of America were what they were. The Delegation suggested that the Delegation of the United States of America and delegations of other countries that had arrears should be given the right to vote as they were given the right to vote the last time the Assembly had voted in 1997. If that was not agreed, the Delegation suggested taking a vote on that particular procedural point.

101. The Secretariat explained that Member States that were more than two years in arrears would not have the right to vote in the event of a vote. In reference to the statement made by the Delegation of Algeria about the vote in 1997, the Secretariat noted that, at that time, the Member States of WIPO had agreed a specific agreement had been reached which gave all Member States of WIPO the right to vote, irrespective of whether or not they were in arrears with their contributions. Upon a request for further clarification by the Delegation of the United States of America, the Secretariat clarified that the specific 1997 agreement related specifically to the election of the Director General, as distinct from the provisions of the PCT Treaty which specified which delegations were eligible to vote. In terms of delegations eligible to vote, the Secretariat noted that there were 137 Members of the PCT Union of which 15 were not eligible to vote.

102. The Secretariat further explained that the motion was to close the debate on the question of PCT fee reductions, relating to the proposals by the United States of America and Japan, and of Brazil. Any delegation voting "yes" would be voting to close the debate on that question; any delegation voting "no" would be voting not to close the debate on the question.

103. The result of the vote was as follows:

Comoros: yes; Costa Rica: abstention; Croatia: no; Cuba: yes; Denmark: no; Dominica: absent; Egypt: yes; El Salvador: abstention; United Arab Emirates: absent; Ecuador: abstention; Spain: no; Estonia: no; United States of America: no; The Former Yugoslav Republic of Macedonia: no; Russian Federation: abstention; Finland: no; France: no; Gambia: yes; Georgia: absent; Greece: no; Grenada: absent; Guatemala: absent; Equatorial Guinea: absent; Honduras: abstention; Hungary: no; India: yes; Indonesia: yes; Ireland: no; Iceland: no; Israel: absent; Italy: no; Japan: no; Kazakhstan: abstention; Kenya: yes; Kyrgyzstan: abstention; Lesotho: yes; Latvia: no; Liberia: abstention; Liechtenstein: absent; Lithuania: no; Luxembourg: no; Madagascar: yes; Malaysia: yes; Malawi: abstention; Mali: yes; Malta: absent; Morocco: yes; Mexico: abstention; Moldova: no; Monaco: no; Mongolia: absent; Montenegro: absent; Mozambique: yes; Namibia: yes; Nicaragua: abstention; Norway: no; New Zealand: absent; Oman: yes; Uganda: yes; Uzbekistan: absent; Papua New Guinea: abstention; Netherlands: no; Philippines: yes; Poland: no; Portugal: no; Syrian Arab Republic: yes; Republic of Korea: no; Lao People's Democratic Republic: yes; Democratic People's Republic of Korea: yes; Czech Republic: no; United Republic of Tanzania: yes; Romania: no; United Kingdom: no; Saint Lucia: absent; Saint Kitts and Nevis: abstention; San Marino: absent; Saint Vincent and the Grenadines: absent; Senegal: yes; Serbia: no; Seychelles: yes; Sierra Leone: yes; Singapore: yes; Slovakia: no; Slovenia: no; Sudan: yes; Sri Lanka: yes; Sweden: no; Switzerland: no; Swaziland: yes; Tajikistan: absent; Trinidad and Tobago: abstention; Tunisia: yes; Turkmenistan: absent; Turkey: no; Ukraine: no; Viet Nam: yes; Zambia: yes; Zimbabwe: yes; South Africa: yes; Albania: absent; Algeria: yes; Germany: no; Antigua and Barbuda: abstention; Armenia: absent; Australia: no; Austria: no; Azerbaijan: absent; Bahrain: yes; Barbados: abstention; Belarus: yes; Belgium: no; Belize: abstention; Benin: yes; Bosnia and Herzegovina: no; Botswana: yes; Brazil: abstention; Bulgaria: no; Cameroon: yes; Canada: no; China: yes; Cyprus: no; Colombia: abstention.

104. The Secretariat, in announcing the result of the vote, explained that the motion was to close the debate on the question. In total, there were 82 votes; 55 votes were needed for the motion to succeed. There had been 40 votes in favor of the motion, and 42 votes against the motion. There were 19 abstentions which, under the WIPO General Rules of Procedure, did not count as votes. The motion to close the debate had thus been defeated.

105. In the event, the debate in the PCT Assembly on the question of fee reductions was not resumed.

Flexibility Formula for Administration of the PCT

106. Discussions were based on document PCT/A/36/5.

107. The Delegation of France expressed its concern regarding paragraph 14 of document PCT/A/36/5, relating to the allocation of posts under the flexibility formula to PCT administration and to supporting WIPO activities. It requested information from the Secretariat about the type of "support activities" that were referred to in the document in order to be assured that those activities actually concerned the administration of the PCT. With reference to the ongoing discussions on a proposed revision of the Financial Regulations of the Organization, which also contained a provision concerning flexibility mechanisms, and

noting that those discussions had not reached any conclusion on this point, the Delegation requested that any decision taken on the flexibility formula for PCT administration should not in any way jeopardize the final form of the mechanism to be set out in the Financial Regulations. Furthermore, the Delegation requested that the decision paragraph set out in document PCT/A/36/5 be modified to clarify that the Assembly approved the revision of the flexibility formula only for the 2008-2009 biennium.

108. The Secretariat explained that the reference in document PCT/A/36/5 to “supporting activities” referred to the common services of the Organization, as used by the PCT, such as the legal services, IT systems, and the building and conference services. With regard to the relationship between the flexibility formula for the PCT administration and the flexibility mechanism under consideration in the context of the proposed revision of the Financial Regulations of the Organization, the Secretariat observed that the intention was to further work on that flexibility mechanism, with the aim of making a recommendation to the Assemblies in 2008. Consequently, the discussions were in a transitional period. The idea behind the Financial Regulations proposed by the Secretariat was that there would be a mathematical formula for each biennium that would be approved by the Member States for the Program and Budget. For the next year, it would be necessary to find a solution while awaiting the finalization of the Financial Regulations including the provision on the flexibility mechanism. Consequently, the Secretariat saw no problem should the Assembly now adopt the revision of the flexibility formula for the PCT administration. It noted that there were similar proposals concerning both the Madrid and the Hague systems, and confirmed that any decision at this time would not prejudice what would be decided in the context of revising the Financial Regulations. Consequently, the Secretariat considered that it would be prudent to adopt the proposal enabling the PCT to use the new flexibility formula for the next biennium and to continue working in the Program and Budget Committee to try to find a principle which satisfied all Member States.

109. The Delegation of Japan sought clarification regarding staff costs as described in paragraph 7 of document PCT/A/36/5. It appeared that marginal staff costs had been calculated by multiplying the salary of a G6 staff by the ratio of the current staff numbers and numbers of international applications, but the Delegation wondered whether streamlining effects where cost savings could be made by outsourcing could be reflected in such a categorization. The Delegation believed that these staff costs could be reduced by outsourcing compared to the current cost for the same additional application growth.

110. The Secretariat responded that the increasing use of outsourcing was one reason that it was proposed to move to a new flexibility formula. However, there was also a staff component involved, noting that not all the work was outsourced, and thus a need to calculate that portion of the staff component. This was done at the G6 level as a result of considering what additional posts were required in the International Bureau as a result of growth. Generally, these fell into a number of categories. First, in some cases additional posts were required because of the change in the composition of demand under the PCT. While, for example, there was a growth rate last year of about 8%, that growth was distributed very differently across the world. In the case of China, it was around 60%, so that additional posts were required to acquire skills, in particular language skills, that were necessary to be able to deal with the change in composition of demand. There was also an additional call for some services, for example, legal services, noting the growing number of legal questions from applicants directed at the International Bureau. Increased use of the system also attracted calls to the PCT Infoline, which dealt with thousands of calls from applicants or potential applicants. There were a variety of different functionalities within the PCT that were affected

by growth, and the best way to approach it, in the view of the Secretariat, was to take the level of G6 as an average, which was not considered to be an exaggerated level. This was the level of a Senior Examiner but was far below the level of a Legal Adviser.

111. The Delegation of Brazil queried what policies and procedures applied to the outsourcing of translation services in PCT. In terms of the geographical extension of the service provider, it questioned whether it was possible to outsource not only locally but internationally. If the trend was to increase outsourcing, and the new proposal for the flexibility formula seemed to point in that direction, then the Delegation was particularly interested to know whether all Contracting States could eventually be considered as possible sources of the services required.

112. The Secretariat assured the Delegation of Brazil that outsourcing was undertaken using a rigorous, open, international competition. Requests for tender were always published on the WIPO website and, as a matter of practice, the result was that the International Bureau outsourced widely internationally. This applied not only to PCT translations but also to other areas in the PCT. For example, some proofreading and information technology services had been outsourced and they often ended up with contracts at the other end of the world.

113. The Assembly approved the revision of the flexibility formula for the 2008-2009 biennium so that it is applied on the basis of 341,870 Swiss francs for every variation of 1,000 international applications from the budgeted number of international applications, noting that this decision would not prejudice the envisaged revision of the Financial Regulations of the Organization.

Extension of the Appointments of the International Authorities

114. Discussions were based on document PCT/A/36/4 relating to the proposed extension, under Articles 16 and 32, of the appointments as International Searching Authorities and International Preliminary Examining Authorities (“International Authorities”) of all 13 existing International Authorities, namely: the Austrian Patent Office; the Australian Patent Office; the Canadian Commissioner of Patents; the State Intellectual Property Office of the People’s Republic of China; the European Patent Office; the Spanish Patent and Trademark Office; the National Board of Patents and Registration of Finland; the Japan Patent Office; the Korean Intellectual Property Office; the Russian Federal Service for Intellectual Property, Patents and Trademarks; the Swedish Patent and Registration Office; the United States Patent and Trademark Office; and the Nordic Patent Institute. Draft agreements between the International Bureau and each of those Authorities were set out in the Appendix to document PCT/A/36/4.

115. The Secretariat informed the Assembly that the PCT Committee for Technical Cooperation, at its 23rd session, which was being held concurrently with the Assembly’s session, had recommended to the Assembly that the appointment of all of the International Authorities be extended by a period of 10 years, until December 31, 2017 (see the Committee’s report in document PCT/CTC/23/5, paragraph 7). The Secretariat had informed the Committee of a number of changes to the text of those draft agreements, as set out in document PCT/CTC/23/5, paragraph 5.

116. The Assembly:

(i) approved the texts of the agreements appearing in Annex I to this report relating to the functioning of the International Authorities mentioned in paragraph 114, above;

(ii) extended the appointments of those Authorities until December 31, 2017.

Appointment of the Brazilian National Institute of Industrial Property as an International Authority

117. Discussions were based on document PCT/A/36/6, conveying the wish of the Government of Brazil that the Brazilian National Institute of Industrial Property (INPI) be appointed as an International Searching Authority and International Preliminary Examining Authority under the PCT.

118. The Secretariat informed the Assembly that the PCT Committee for Technical Cooperation, at its 23rd session, which was being held concurrently with the Assembly's session, had recommended to the Assembly that INPI be appointed as an International Authority (see the Committee's report in document PCT/CTC/23/5, paragraphs 8 to 11).

119. The Delegation of Brazil emphasized the importance which it attached to INPI's application to become an International Authority. It was important to the Brazilian Government to have a strong intellectual property Office and it had invested heavily in order to assure that Brazilian citizens could rely on a good environment for the protection of their intellectual property. The Government had made major efforts to enhance the technical capabilities of INPI. A large number of examiners had been hired, with almost 300 already in place, well trained and fully capable of doing a good job, not only for Brazilian citizens but for whoever might need PCT services in Portuguese and also in Spanish and in English. Much work had been done to ensure that INPI would be able to deliver high quality services. In particular, a quality management system was now in place and would be fully operational by the end of 2007. Consequently, INPI expected to be able to operate as an International Authority by early 2008. INPI had expressed its sincere intention to provide a good service to everybody using them. Consequently, the Delegation asked the Assembly to support its application.

120. The Delegations of Algeria (on behalf of the African Group), Canada, El Salvador, Cuba, Kenya, Portugal, Ecuador, China, India, South Africa, Mexico, the Russian Federation, the United States of America, the Dominican Republic, Spain, Finland, Denmark (on behalf of the Nordic Patent Institute), Indonesia, Germany, the Republic of Korea, Austria, Oman, France, Honduras, Japan, Italy, Sudan, Namibia, Egypt and Benin (on behalf of the least-developed countries) expressed their support for the proposal to appoint INPI as an International Authority. (Certain other delegations had expressed support for the proposal earlier, during the session of the PCT Committee for Technical Cooperation; see document PCT/CTC/23/5.)

121. In expressing support for the proposal, the Delegation of Canada recognized the value of the creation of an International Authority in the region, given the service available for users and potential users of the system from International Authorities, and noted the steps which the Brazilian Office had taken to improve quality. The Delegation of El Salvador recognized the great work which had been undertaken by Brazil, and welcomed the application for

appointment of a further Authority able to operate in Spanish and therefore supported the proposal for both technical and linguistic reasons. The Delegation of Cuba noted the importance of having an International Authority operating in the region. The Delegation of Kenya observed that the proposal would allow Portuguese-speaking African countries to make use of the expertise of the Brazilian Office. The Delegations of China and the Dominican Republic noted that such an appointment would promote use of the PCT system in the Latin American region. The Delegation of India expressed its conviction that the Brazilian National Institute of Industrial Property fulfilled all the basic requirements for appointment. The Delegation of Mexico noted that the Mexican Institute of Industrial Property had enjoyed close cooperation with the Brazilian National Institute of Industrial Property for many years, and was sure that INPI would be successful. The Delegation of the United States of America welcomed further involvement in the PCT by the Latin American region and developing countries. The Delegation of Spain welcomed the fact that INPI would accept international applications in Spanish, promoting the use of that language in the region. The Delegation of Finland noted the value of having an International Authority able to work in the Portuguese language. The Delegations of Denmark, speaking on behalf of the Nordic Patent Institute, and Austria looked forward to welcoming INPI to the family of International Authorities. The Delegation of Germany expressed its confidence, noting the long-standing cooperation which existed between the German Patent and Trade Mark Office and INPI, that INPI would meet the high and demanding standards which were required of an International Authority. The Delegation of Benin, speaking on behalf of the least-developed countries, considered that the appointment of INPI as an International Authority would address an important problem and was sure that the Office's activities would be highly successful.

122. The Assembly, having heard the representative of the Brazilian National Institute of Industrial Property and taking into account the advice of the PCT Committee for Technical Cooperation:

(i) approved the text of the draft Agreement between the Brazilian National Institute of Industrial Property and the International Bureau set out in Annex II to this report; and

(ii) appointed the Brazilian National Institute of Industrial Property as an International Searching Authority and International Preliminary Examining Authority with effect from the entry into force of that Agreement until December 31, 2017.

123. The Delegation of Brazil thanked the Assembly for the support which had been expressed and expressed the conviction that INPI would justify the confidence which had been placed in it.

Appointment of the Indian Patent Office as an International Authority

124. Discussions were based on document PCT/A/36/10, conveying the wish of the Government of India that the Indian Patent Office be appointed as an International Searching Authority and International Preliminary Examining Authority under the PCT.

125. The Secretariat informed the Assembly that the PCT Committee for Technical Cooperation, at its 23rd session, which was being held concurrently with the Assembly's session, had recommended to the Assembly that the Indian Patent Office be appointed as an International Authority (see the Committee's report in document PCT/CTC/23/5, paragraphs 12 to 15).

126. The Delegation of India explained the salient features of India's endeavors to modernize its intellectual property regime. The Indian Government had followed a four-pronged strategy. The first and foremost matter had been to meet India's international obligations with respect to intellectual property. While doing so, India had taken due care to ensure that the creation of a vibrant and strong intellectual property regime was complementary to public interest concerns. India had also undertaken a major effort to modernize its intellectual property administration. Alongside that, it had launched a massive awareness and sensitization program on intellectual property issues. Its objective was to create an intellectual property regime which was efficient, transparent and user friendly. As a first step, India had embarked on a process of rationalization of its IP legislative framework in order to meet both its international and domestic obligations. Thereafter, it launched a well-thought-out modernization program which emphasized the creation of world class infrastructure and extensive use of IT in its activities. This first phase, implemented at a cost of 30 million United States dollars, was now complete, and India was on the verge of launching the second phase of the modernization process. The second phase was far more ambitious, both in financial terms, as well as in the context of capacity building and human resource development. It was intended to increase the strength of the Indian Patent Office's personnel, particularly patent examiners, four-fold. It was hoped to attract highly qualified personnel. A detailed road map had been worked out for training, sensitization and exposure to some of the best practices and systems in the world. The focus would also include the digitization of records, enhancement and strengthening of databases, and the introduction of the most modern search engines. In addition, India had initiated the establishment of a National Institute of Intellectual Property Management, with standards comparable with the best in the world. This Institute would become functional in the near future. It would address, in a holistic manner, major issues relating to training, education and research, and would, above all, function as an IP think-tank. In close collaboration with its private sector, including top-level industry associations, India had launched a nationwide awareness and sensitization program. All these activities would cater to the emerging needs and requirement of IP personnel and other stakeholders, such as policy-makers, industry, the judiciary and patent attorneys, as well as establishing effective linkages with other centers of excellence in the field of education and learning. The Delegation stated that India, which had witnessed an IT revolution in the past few decades, was now on the threshold of an IP revolution. The gains from the first wave of modernization of India's IP regime were self-evident. The number of patent applications had gone up seven-fold in the last six years. More importantly, patent grants had kept pace and had gone up significantly. Moreover, the Indian Patent Office had recently launched a facility for electronic filing of patent applications. The revenues generated by the Indian Patent Office had gone up 16-fold in the same period, touching a record high of 42 million United States dollars last year. Against this backdrop, there was a great expectation of success with the second phase of modernization. A WIPO delegation comprising a number of experts had visited the Indian Patent Office earlier in the year and observed, "The Indian Patent Office has been dramatically transformed in recent years. New buildings, an effective and well-supported new IT system and an enthusiastic and well-qualified staff provide the essential base for a high quality examining Office." The Delegation requested the Assembly to give favorable consideration to the proposal for the appointment of the Indian Patent Office as an International Authority.

127. The Delegations of Algeria (on behalf of the African Group), Canada, Indonesia, Brazil, Sri Lanka, China, Malaysia, the Russian Federation, Austria, Italy, Oman, South Africa, the United States of America, the Republic of Korea (on behalf of the Asian Group), Mexico, Papua New Guinea, Sudan, Egypt, Nepal, Cuba, France, Spain, Namibia, Finland, Denmark (on behalf of the Nordic Patent Institute), Kenya, Germany, Japan, Portugal and Benin (on

behalf of the least-developed countries) expressed their support for the proposal to appoint the Indian Patent Office as an International Authority. (Certain other delegations had expressed support for the proposal earlier, during the session of the PCT Committee for Technical Cooperation; see document PCT/CTC/23/5.)

128. In expressing support for the proposal, the Delegation of Canada recognized the importance that it would have for the region. The Delegation of Brazil restated its intention, which had earlier been expressed in the Committee for Technical Cooperation, that INPI cooperate with the Indian Patent Office as the Offices of two developing countries beginning to act as International Authorities. The Delegation of Sri Lanka observed that the appointment of the Indian Patent Office as an International Authority would be useful to the South Asian region and would support the use of the PCT by nationals from that region. The Delegation of China noted that international applications from the Asian region had increased significantly in number in recent years and considered that the appointment of the Indian Patent Office as an International Authority would be of benefit to developing countries in the region. The Delegations of Austria and Finland, and of Denmark, speaking on behalf of the Nordic Patent Institute, looked forward to welcoming the Indian Patent Office to the family of International Authorities. The Delegation of the United States of America particularly welcomed further involvement in the PCT by the South Asian region and developing countries. The Delegation of Germany welcomed the extension of the geographical involvement in the international patent system and the Indian Patent Office's commitment to meeting the high quality standards required for an International Authority. The Delegation of Benin, speaking on behalf of the least-developed countries, considered that the appointment of the Indian Patent Office as an International Authority would address an important problem and was sure that the Office's activities would be highly successful.

129. The Assembly, having heard the representative of the Indian Patent Office and taking into account the advice of the PCT Committee for Technical Cooperation:

(i) approved the text of the draft Agreement between the Indian Patent Office and the International Bureau set out in Annex III to this report; and

(ii) appointed the Indian Patent Office as an International Searching Authority and International Preliminary Examining Authority with effect from the entry into force of that Agreement until December 31, 2017.

130. The Delegation of India thanked the Assembly for the breadth of support which had been given to the appointment of the Indian Patent Office as an International Authority.

131. Referring to all of the three, related, previous items on the Assembly's agenda, the Secretariat expressed its gratitude to the 13 existing International Authorities for their support for the PCT system. The Secretariat was delighted by the extension of their appointments and was privileged to have the close cooperation which it enjoyed with the Authorities, which together formed the lynchpin of the system. Equally, the Secretariat wished to express congratulations to Brazil and India on their appointment as International Authorities and looked forward to working with them.

Reform of the PCT

132. Discussions were based on document PCT/A/36/1.

133. The Secretariat proposed that, now that the work of both the Committee on Reform of the PCT and the Working Group on Reform of the PCT had been completed and the mandate of both bodies had come to an end, should the need arise to consider a matter which required submission to the Assembly, a Working Group of the PCT Assembly should be convened to do preparatory work rather than submitting the matter straight to the Assembly. The Secretariat further proposed that, subject to the availability of sufficient funds, the same financial assistance that had been made available to enable attendance of certain delegations at the sessions of the Committee and the Working Group on Reform of the PCT should also be made available to enable attendance of certain delegations at the sessions of the new Working Group. Those financial arrangements were that the Organization had offered financial assistance to two countries per region so as to enable one delegate from each country to attend sessions; in addition, the same financial assistance was offered to China and to three regional Offices, namely, ARIPO, OAPI and the Eurasian Patent Office.

134. The Assembly:

(i) noted the report of the ninth session of the Working Group on Reform of the PCT contained in document PCT/R/WG/9/8 and reproduced in Annex I of document PCT/A/36/1;

(ii) decided that the work of both the Committee on Reform of the PCT and the Working Group had been completed and that the mandate of both bodies, which were established by the Assembly at its 29th session in 2000 and at its 30th session in 2001, respectively, had come to an end; and

(iii) approved the proposal concerning the convening of a new Working Group, and the proposal to offer financial assistance to enable attendance of certain delegations at the sessions of that Working Group, as set out in paragraph 133, above.

Proposed Amendments of the PCT Regulations: Use of Results of Earlier Searches; Restoration of Right of Priority by the Receiving Office; International Applications Considered Withdrawn

135. Discussions were based on document PCT/A/36/2. The Secretariat informed the Assembly that a number of corrections to the French text only of the proposed amendments had been agreed with the Delegation of France and would be included in the text of the amendments as adopted.

136. The Delegation of the Syrian Arab Republic expressed its support especially for the amendments relating to the use of earlier searches, which should encourage use of earlier searches and reduce the amount of search fees.

137. The Assembly:

(i) adopted the amendments of the Regulations under the PCT set out in Annex IV to this report;

(ii) decided that those amendments shall enter into force on July 1, 2008, and shall apply to international applications whose international filing date is on or after July 1, 2008;

(iii) noted, in connection with the addition of new Rule 4.12, that an “earlier search” under that Rule includes an earlier search carried out under the responsibility of an Authority or Office which contracts out searches as well as a search carried out by an Authority or Office itself; and

(iv) noted, in connection with the addition of new Rules 4.12(ii) and 12*bis*.1(e), that an international application is only considered to be “substantially the same” as the application in respect of which the earlier search was carried out (where applicable, except that the international application is filed in a different language) if both applications are the same in substance, including the inventions described and claimed; any changes may relate only to minor clerical or administrative matters, such as formatting, correction of minor errors, or inclusion or omission of matter not specific to the invention but which is required for applications in some States but not others (for example, details of public funding used in the development of the invention); any International Searching Authority would be free to require the applicant to clarify what the differences were between the international application and the earlier application concerned.

Proposed Amendments of the PCT Regulations: Supplementary International Search

138. Discussions were based on document PCT/A/36/7, containing a proposal by France, and document PCT/A/36/7 Add., containing a proposal by Japan and Spain.

139. The Secretariat, in introducing document PCT/A/36/7, noted that the reference in paragraph 11(i) to “Article 11 of the applicable agreement” should be corrected to read “Article 3 of the applicable agreement”.

140. The Delegation of France commended the International Bureau and Delegations which had taken part in the work on the Reform of the PCT for the excellent results and the benefits which would be enjoyed by users. The proposal under consideration related to the introduction of a supplementary international search system as part of the PCT system. This subject had been debated and reviewed in detail within the Working Group on Reform of the PCT since 2004. At its last session, the Chairman of the Working Group concluded that agreement had been reached on the text of amendments which would need to be made in the PCT Regulations, subject to any reservations and possible drafting changes to be made by the Secretariat. However, because of a lack of consensus on the desirability of such a system, the Working Group was only able to present a report with details of this possible set of Rules annexed. However, the Delegation of France believed that the proposal needed to be submitted to the PCT Assembly because it would enhance the PCT procedure and offer flexibility in its use.

141. The Delegation of France emphasized the importance of reaffirming the principle that the international search should permit as much prior art as possible to be discovered. According to Article 15 of the PCT, the international search should allow a clear knowledge of the prior art to be gained during the international phase. It was essential that the applicant and designated Offices should be able to fully use the international search report to determine whether an international application met the criteria of novelty and inventive step. However,

based on the observation that no Office in the world was in a position to carry out in-depth searches in all languages, and in spite of developments in databases, it appeared useful to consider a supplementary search, mainly with the aim of discovering earlier documents in languages in which the Office conducting the supplementary search was competent and which were not official languages of the Authority carrying out the main international search. Furthermore, some Authorities may have particular specializations which would allow them to discover documents in areas not covered by the Authority carrying out the main international search, in order to bridge any gaps in the main search. The proposal for supplementary international search would therefore enhance the PCT system as well the quality of patent applications by allowing applicants to discover the relevant prior art at as early as possible a stage during the international phase and in as exhaustive a fashion as possible. The Delegation therefore considered the proposal to be in the interests of the users, since it would allow them to gain a clearer vision of the prior art during the international phase. It was observed that the proposal was supported in the Working Group by the great majority of user representatives.

142. The Delegation of France noted that the proposed new system would be optional both for applicants and for the International Authorities. It would be up to the PCT users, according to their needs, to have recourse to the supplementary international search system. Each International Authority would also be free to participate or not in the supplementary international search system. The system provided for a certain amount of flexibility in the implementation of supplementary international searches, to avoid problems in internal procedures. In conclusion, the Delegation considered that the proposal offered a practical way of meeting the expectations of users, while ensuring appropriate flexibility for International Authorities. The Delegation had been discussing the proposal with other delegations and hoped that it would achieve a consensus. Noting that this was an innovative procedure, the Delegation agreed that it would be appropriate for the International Bureau to give reports on implementation of the new system to the PCT Assembly, and noted that the Delegations of Japan and Spain had made proposals on that point. Finally, the Delegation of France emphasized that it was essential to maintain all ongoing efforts to enhance the quality of the main international search.

143. The Delegation of Japan stated that it was still opposed to the introduction of a supplementary international search in the PCT system. The Delegation had expressed a variety of reasons for its opposition at the 9th session of the Working Group on Reform of the PCT in April 2007. Details of those arguments were set out in document PCT/A/36/1, Annex I, pages 36 to 44. Some of the main points of opposition were as follows. First, the International Searching Authority was the primary authority with full responsibility to establish the international search report and manage its quality as required by the PCT. Therefore, the Delegation believed that supplementary international search was not an appropriate change having regard to that philosophy of the Treaty. The Delegation particularly doubted the effectiveness of supplementary international search since the Authority conducting it would lack the obligation and motivation to conduct a search of a quality similar to the national search. Second, the Delegation was concerned that introduction of supplementary international search into the PCT system would give rise to further expense and make the PCT system more complicated, putting a burden on the PCT Union. Rather, the opposite goal should be sought, namely, greater cost-effectiveness and streamlining of the PCT system. Third, though the proponents of the proposal had argued that there was a user need for supplementary international searches, the Delegation was not convinced that the user need was sufficiently well identified beyond the mere desire to create another option. On the contrary, the Delegation was concerned that supplementary international search would make

the PCT system unequal in its delivery of service to different applicants, depending on their financial situation. Following the strong expression of opposition by Japan, and while making an alternative proposal, the Delegations of Japan and Spain had opposed the transmission of the proposal to the Assembly and had not joined a consensus in the Working Group.

144. However, the Delegation of Japan had noted the proposal for introduction of supplementary international searches submitted to the Assembly by the Delegation of France. After careful and intensive consideration and in a constructive spirit, Japan had therefore decided to make a compromise proposal, submitted jointly with Spain, whereby if supplementary international search was adopted by the Assembly, the understanding elaborated in document PCT/A/36/7 Add. should also be adopted. The proposed understanding consisted of three elements:

(a) all International Searching Authorities shall continue making efforts to improve the quality of the main international search and that the quality of the international search should be reviewed by the PCT Meeting of International Authorities; and

(b) the International Bureau shall report on the financial and operational situation of the supplementary international search system to the Meeting of International Authorities and to the PCT Assembly for their assessment; and

(c) the Assembly shall review the supplementary international search system three years after the date of entry into force of the system.

145. By this understanding, the Delegation of Japan considered that it would be possible to maintain the motivation to secure and improve use of International Searching Authorities' resources and to assess the complete picture of supplementary international search, including its financial implications, its operation, and practical needs. Finally, it would be possible to review the system after three years, possibly including the issue of whether the system operated well enough to continue with it or not. Consequently, while the Delegation still opposed the introduction of supplementary international search in principle, it would not block a consensus to adopt the proposal made by France, if the understanding proposed by Japan and Spain were also to be adopted by the Assembly.

146. The Delegation of Spain observed that it had always supported the changes that had been made to the PCT system in recent years to the extent that they would enhance the patent system and be a benefit to the users. However, with regard to the proposal to introduce supplementary international searches, the Delegation had already raised concerns. The Delegation had considered that such a system might be contrary to the philosophy of the PCT, which provided for a single high quality international search. In the opinion of the Delegation, introducing this system should require that there be benefit for the overall PCT system. However, the supplementary international search proposal gave an erroneous image of the system, which was in contrast to the increase in applications of the PCT. Moreover, it would derail the PCT system itself because the national phase was the stage intended to add information to the international search with national documents that were not part of the PCT minimum documentation. The Delegation considered that the proposal might be anticipating the national phase and that this would lead to the PCT system becoming much more complicated. The new system might also have adverse effects on the workload for International Authorities as well as introduce a risk of contradictory search results. However, in light of the great support for the proposal shown by various other delegations, the

Delegations of Japan and Spain had cooperated to prepare a consensus approach which had been outlined by the Delegation of Japan and was submitted to the Assembly for its approval so that the amendments to the PCT regulations could also be approved by the Assembly.

147. The Delegation of Germany stated that it shared some of the concerns that had been expressed by the Delegations of Japan and Spain. However, the Delegation could go along with the compromise put forward by those Delegations and would not oppose the proposal of France on that basis.

148. The Delegation of the United States of America stated its support for the proposal of the Delegation of France and also that of the Delegations of Japan and Spain.

149. The Delegation of the Republic of Korea expressed support for the introduction of the supplementary international search system, which would give more options, both to International Searching Authorities and applicants. The Delegation emphasized the importance of quality management for International Searching Authorities and supported the proposal by Japan and Spain.

150. The Delegation of Norway associated itself with the statement by the Delegation of the United States of America.

151. The Delegation of the Syrian Arab Republic expressed its concern about the proposal for supplementary international searches, since it considered that the proposal went against the general principle in the Treaty of there being a single search during the international phase.

152. The Representative of the European Patent Office thanked the Delegations of France, Japan and Spain and expressed support for their proposals.

153. The Assembly:

(i) adopted the amendments of the Regulations under the PCT set out in Annex V to this report;

(ii) decided that those amendments shall enter into force on January 1, 2009, and shall apply to international applications whose international filing date is on or after January 1, 2009, and shall further apply to any international application whose international filing date is before January 1, 2009, and in respect of which the time limit for making a supplementary search request under new Rule 45*bis*.1(a) expires on or after January 1, 2009;

(iii) approved the inclusion in the applicable agreement under PCT Article 16(3), where an International Searching Authority notifies the Director General that it is prepared to carry out supplementary international searches, of the provisions set out in paragraph 11 of document PCT/A/36/7, as modified according to paragraph 139, above, with effect from a date to be agreed upon by the Authority and the Director General;

(iv) noted that supplementary international searches will not be available in practice until such time as at least one International Searching Authority is prepared to offer that service;

(v) urged all International Searching Authorities to continue to make efforts to improve the quality of the main international search, and decided that the quality of the international search shall be reviewed by the Meeting of International Authorities under the PCT;

(vi) decided that the International Bureau shall report to the Meeting of International Authorities under the PCT and to the Assembly on the financial and operational situation of the supplementary international search system; and

(vii) decided that the Assembly shall review the supplementary international search system three years after the date of entry into force of the system.

Proposed Amendments of the PCT Regulations: Addition of Korean and Portuguese as Languages of Publication

154. Discussions were based on documents PCT/A/36/8 and 9.

155. The Delegation of Brazil, in introducing its proposal to include Portuguese in the list of languages referred to in Rule 48.3 in which international applications may be published, stated its expectation that the inclusion of Portuguese, together with the appointment of the Brazilian National Institute of Industrial Property as an International Authority, would result in an increased use of the PCT system by applicants from Brazil and other lusophone countries, and especially by small and medium enterprises, noting that it would become possible for international applications to be filed, searched and published in Portuguese. This would remove the need for the applicant to provide a translation during the international phase. The Delegation therefore considered that this proposal was synergistic with the proposal to appoint the Brazilian National Institute of Industrial Property as an International Authority, which proposal had been approved by the Assembly during the present session. The Delegation believed that it was appropriate to approve Portuguese as a language of publication since there were a huge number of Portuguese speakers in the world, for many of whom this change would facilitate access to the PCT. Portuguese was the official language, or one of the official languages, in nine countries, of which four were already members of the PCT. Those nine countries had a total population of more than 240 million people. The Delegation noted that the cost of adding Portuguese as a language of publication would be very low and requested the Assembly to approve the proposal.

156. The Delegation of the Republic of Korea, in introducing its proposal that Korean be added to the list of publication languages under the PCT system, stated that the Republic of Korea was already fifth in the world in terms of numbers of PCT applications filed and, according to the International Bureau's figures on trends, may rank fourth by the end of 2007. It was therefore time for Korean to become a PCT publication language. There were four reasons in support of the proposal. Firstly, if Korean were to become a language of publication, there would be a substantial increase in PCT applications from the Republic of Korea. Up until now, only 13% of international applications originating from the Republic of Korea were filed through the PCT system. By adding Korean to the list of publication languages, however, the PCT would be made more attractive to Korean users and there would thus be a substantial increase in PCT revenue, which could mean more support for developing countries and least developed countries. Secondly, if there were any concern about increased costs to the system, the Delegation was confident that any cost incurred by publication in the Korean language would be compensated by the increase in PCT applications originating from the Republic of Korea. In fact, PCT applications from the Republic of Korea had increased

by more than 20% over the last three years and would increase further after the addition of Korean as a language of publication, as shown in the analysis submitted by the Delegation. The Delegation stated further that, in the event that the cost would exceed the increase in fee revenues, the Republic of Korea was willing to compensate for the deficit. Finally, the Delegation stated that the Republic of Korea was willing to provide any IP Office with an automatic Korean-to-English machine translation service free of charge, so that there should be no problem with access to Korean patent documents. There also would be an Internet site, providing a search service to the public with high quality translation, with accuracy exceeding 80%. This system had been tested by examiners of the European Patent Office, the United States Patent and Trademark Office and the Japan Patent Office, and all had been satisfied by its quality. Consequently, the Republic of Korea sought the support of the Contracting States for its proposal.

157. The Delegation of Algeria, speaking on behalf of the African Group, stated that, after having studied the relevant documents concerning the proposals to include Portuguese and Korean as languages of publication under the PCT, the reasons presented by the Delegations of Brazil and the Republic of Korea fully justified the addition of the two languages and, thus, it fully supported the proposals.

158. The Delegation of Benin, speaking on behalf of the least developed countries, stated its support for the proposal to add Portuguese and Korean as official languages of publication under in the PCT, and associated itself with the statement by the Delegation of Algeria.

159. The Delegation of Poland, speaking on behalf of the Group of Central European and Baltic States, stated that, in its view, it was justified that the languages most widely understood and used in the world, as well as those languages spoken in the countries that are the biggest users of the PCT system, should be PCT publication languages. Therefore, the Delegation supported the inclusion of Korean and Portuguese as languages of publication under the PCT. However, it would be important that such an inclusion did not hinder the financing of other related PCT services for the benefit of Member States. While it was of the opinion that both proposals were well substantiated, including from a financial point of view, it nevertheless requested the Secretariat's financial assessment of the costs incurred by such addition.

160. The Delegation of Mozambique supported the statements made by the Delegations of Algeria and Benin with regard to the inclusion of Portuguese as a language of publication under the PCT. Noting that Mozambique was a PCT Contracting State, the Delegation expressed the view that the inclusion of Portuguese would be most helpful for the users of the system in general and, in particular, users in Mozambique. The Delegation also supported the proposal for the inclusion of Korean as a language of publication, for the same reasons as those presented by the Delegation of Benin.

161. The Delegation of Singapore, speaking on behalf of the ASEAN countries, expressed its support for the proposal that Korean be included as one of the languages of publication under the PCT. It felt that acceptance of the proposal would encourage even greater use of the PCT system by applicants from the Republic of Korea. Similarly, it supported the proposal that Portuguese be included as one of the languages of publication under the PCT.

162. The Delegation of Portugal, speaking on behalf of the European Community and its 27 Member States, stated that it supported the addition of Portuguese and Korean as languages of publication under the PCT. Speaking on its own behalf, it supported in

particular the addition of Portuguese as a language of publication. The Delegation nevertheless suggested that the PCT Assembly should discuss which criteria and procedures should be applied when deciding to add new PCT publication languages in the future.

163. The Delegation of Australia supported the addition of Korean and Portuguese to the list of languages of publication under the PCT. However, it noted that the PCT system was set up to simplify the filing of international applications and assist industries to navigate the system in an easy way, and that the system as such did not foresee that every language of the world could become a language of publication under the PCT. It thus supported the suggestion made by the Delegation of Portugal to define criteria for the future addition of other publication languages and requested the International Bureau to prepare, for the next meeting of the PCT Assembly in 2008, a proposal as to the criteria to be used to assess any future request for the addition of a language of publication under the PCT.

164. The Delegation of the United States of America supported the statement made by the Delegation of Australia, both in supporting the addition of Korean and Portuguese as languages of publication under the PCT and with regard to criteria for adding new languages of publication under the PCT. It therefore wished to support the request made to the International Bureau to develop such criteria for discussion at the next PCT Assembly.

165. The Delegation of Canada supported the addition of Korean and Portuguese as languages of publication under the PCT and associated itself with the comments made by the Delegation of Portugal, as well as statements made by the Delegations of Australia and the United States of America with respect to establishment of criteria for the addition of new languages of publication.

166. The Delegation of Japan expressed its thanks to the Delegations of Brazil and the Republic of Korea for their explanations of the proposals and stated that it supported the inclusion of Korean and Portuguese as languages of publication. The Delegation highlighted two features that previous speakers had referred to. Firstly, noting that the addition of new languages would require additional financial and human resources of the Organization, it was important to note that these implications should be assessed to ensure that they would not affect the operation of PCT system. Secondly, while it was important that PCT services be used by many countries in all geographical regions, it had to be kept in mind that the addition of languages of publication under the PCT would have not only financial and human resource implications for the Organization but also implications as to the accessibility and readability of published international applications. Therefore, the Delegation of Japan expressed its hope that each Office or Authority would take positive measures to deliver easy accessible and readable English translations of international applications by using machine translation. In this context, the Delegation wished to thank the Republic of Korea for the explanation of its Korean-English machine translation project in document PCT/A/36/8.

167. The Delegation of the Russian Federation supported the addition of Portuguese and Korean as languages of publication under the PCT.

168. The Delegation of Tanzania stated that it fully supported the addition of Portuguese and Korean as languages of publication under the PCT, for the reasons advanced by the Delegations of Algeria and Benin.

169. The Delegation of Indonesia stated that it fully supported the addition of Korean and Portuguese as languages of publication under the PCT.

170. The Delegation of Barbados stated that it, too, supported the addition of Portuguese and Korean as languages of publication under the PCT for the reasons advanced by other delegations.

171. The Delegation of China stated that it, too, supported the addition of Portuguese and Korean as languages of publication under the PCT.

172. The Secretariat, in responding to the question raised by the Delegation of Poland on the financial implications of the addition of Portuguese and Korean as languages of publication under the PCT, noted that it had informally worked with the Delegations of the Republic of Korea and Brazil to assess the financial implications for PCT operations. The Secretariat confirmed that the figures provided by the Delegation of the Republic of Korea in document PCT/A/36/8 were accurate, while noting that the projected growth of international applications from the Republic of Korea was a projection made by the Delegation based on the national evaluation of filing trends. Regarding the addition of Portuguese as a language of publication, the Secretariat affirmed that the financial implications in this respect were modest and less than 100,000 Swiss francs per year on the basis of the existing volume of work, which the International Bureau could easily accommodate.

173. In response to the suggestion made by several delegations to develop criteria for assessing future requests for the addition of languages of publication under the PCT, the Secretariat stated that it was happy to do so and that it would make proposals for possible criteria available for consideration at the next session of the PCT Assembly in 2008.

174. The Assembly:

(i) adopted the amendments of the Regulations under the PCT set out in Annex VI to this report;

(ii) decided that those amendments shall enter into force on January 1, 2009, and shall apply to international applications whose international filing date is on or after January 1, 2009; and

(iii) decided that the Secretariat would develop criteria for assessing future requests for the addition of languages of publication under the PCT, for consideration at the next session of the Assembly in 2008.

175. The Delegation of Brazil thanked the Assembly, on behalf of the Government of Brazil, for having approved the proposal to add Portuguese as a language of publication under the PCT.

176. The Delegation of Portugal, speaking on behalf of the Government of Portugal, expressed its thanks to the Assembly and also to the Delegation of Brazil for having put forward its proposal.

177. The Delegation of the Republic of Korea expressed its thanks for the support for its proposal and stated that it believed that this decision by the Assembly would be of great benefit for the users of the PCT system.

Quality Management Systems for PCT International Authorities

178. Discussions were based on document PCT/A/36/3.

179. The Delegation of Spain noted that quality management was important for both the private and public sectors, at the national and international level, and must be given priority in order to ensure that the needs of users were met. The PCT system required that minimum criteria be met by International Authorities in carrying out their functions and, in particular, Authorities must have in place quality management systems, including internal assessment mechanisms. Chapter 21 of the PCT International Search and Preliminary Guidelines set out substantive requirements in this regard. The Spanish Patent and Trademark Office had been following a strategy of developing a comprehensive quality policy along those lines, and in recent years had made significant improvements. One of the most important steps in this respect was the obtaining last September of ISO 9001 certification in relation to the Office's quality management systems for all aspects of its work under the PCT. That certification showed that the Office met the most advanced nationally and internationally recognized quality management standards. The obtaining of such a certification was one way in which the PCT system, particularly in relation to the carrying out of international searches, could be strengthened in the future.

180. The Assembly noted the contents of document PCT/A/36/3.

[Annexes follow]

ANNEX I

APPROVED DRAFT AGREEMENTS BETWEEN THE INTERNATIONAL BUREAU
AND THE INTERNATIONAL SEARCHING AND
PRELIMINARY EXAMINING AUTHORITIES UNDER THE PCT

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AT: Draft Agreement with the Federal Minister of Transport, Innovation and Technology of the Republic of Austria

Agreement

between the Federal Minister of Transport, Innovation and Technology
of the Republic of Austria
and the International Bureau of the World Intellectual Property Organization

in relation to the functioning of the Austrian Patent Office
as an International Searching Authority
and International Preliminary Examining Authority
under the Patent Cooperation Treaty

Preamble

The Federal Minister of Transport, Innovation and Technology of the Republic of Austria and the International Bureau of the World Intellectual Property Organization,

Considering that the PCT Assembly, having heard the advice of the PCT Committee for Technical Cooperation, has appointed the Austrian Patent Office as an International Searching and Preliminary Examining Authority under the Patent Cooperation Treaty and approved this Agreement in accordance with Articles 16(3) and 32(3),

Hereby agree as follows:

Article 1

Terms and Expressions

- (1) For the purposes of this Agreement:
 - (a) “Treaty” means the Patent Cooperation Treaty;
 - (b) “Regulations” means the Regulations under the Treaty;
 - (c) “Administrative Instructions” means the Administrative Instructions under the Treaty;
 - (d) “Article” (except where a specific reference is made to an Article of this Agreement) means an Article of the Treaty;
 - (e) “Rule” means a Rule of the Regulations;
 - (f) “Contracting State” means a State party to the Treaty;
 - (g) “the Authority” means the Austrian Patent Office;
 - (h) “the International Bureau” means the International Bureau of the World Intellectual Property Organization.

(2) All other terms and expressions used in this Agreement which are also used in the Treaty, the Regulations or the Administrative Instructions have, for the purposes of this Agreement, the same meaning as in the Treaty, the Regulations and the Administrative Instructions.

Article 2
Basic Obligations

(1) The Authority shall carry out international search and international preliminary examination in accordance with, and perform such other functions of an International Searching Authority and International Preliminary Examining Authority as are provided under, the Treaty, the Regulations, the Administrative Instructions and this Agreement.

(2) In carrying out international search and international preliminary examination, the Authority shall apply and observe all the common rules of international search and of international preliminary examination and, in particular, shall be guided by the PCT International Search and Preliminary Examination Guidelines.

(3) The Authority shall maintain a quality management system in compliance with the requirements set out in the PCT International Search and Preliminary Examination Guidelines.

(4) The Authority and the International Bureau shall, having regard to their respective functions under the Treaty, the Regulations, the Administrative Instructions and this Agreement, render, to the extent considered to be appropriate by both the Authority and the International Bureau, mutual assistance in the performance of their functions thereunder.

Article 3
Competence of Authority

(1) The Authority shall act as International Searching Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international search, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(2) The Authority shall act as International Preliminary Examining Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international preliminary examination, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(3) Where an international application is filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), paragraphs (1) and (2) apply as if that application had been filed with a receiving Office which would have been competent under Rule 19.1(a)(i) or (ii), (b) or (c) or Rule 19.2(i).

Article 4
Subject Matter Not Required to Be Searched or Examined

The Authority shall not be obliged to search, by virtue of Article 17(2)(a)(i), or examine, by virtue of Article 34(4)(a)(i), any international application to the extent that it considers that such application relates to subject matter set forth in Rule 39.1 or 67.1, as the case may be, with the exception of the subject matter specified in Annex B to this Agreement.

Article 5
Fees and Charges

(1) A schedule of all fees of the Authority, and all other charges which the Authority is entitled to make, in relation to its functions as an International Searching Authority and International Preliminary Examining Authority, is set out in Annex C to this Agreement.

(2) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement:

- (i) refund the whole or part of the search fee paid, or waive or reduce the search fee, where the international search report can be wholly or partly based on the results of an earlier search (Rules 16.3 and 41.1);
- (ii) refund the search fee where the international application is withdrawn or considered withdrawn before the start of the international search.

(3) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement, refund the whole or part of the preliminary examination fee paid where the demand is considered as if it had not been submitted (Rule 58.3) or where the demand or the international application is withdrawn by the applicant before the start of the international preliminary examination.

Article 6
Classification

For the purposes of Rules 43.3(a) and 70.5(b), the Authority shall indicate solely the International Patent Classification.

Article 7
Languages of Correspondence Used by the Authority

For the purposes of correspondence, including forms, other than with the International Bureau, the Authority shall use the language or one of the languages indicated, having regard to the language or languages indicated in Annex A and to the language or languages whose use is authorized by the Authority under Rule 92.2(b), in Annex D.

Article 8
International-Type Search

The Authority shall carry out international-type searches to the extent decided by it.

Article 9
Entry into Force

This Agreement shall enter into force on January 1, 2008.

Article 10
Duration and Renewability

This Agreement shall remain in force until December 31, 2017. The parties to this Agreement shall, no later than July 2016, start negotiations for its renewal.

Article 11
Amendment

(1) Without prejudice to paragraphs (2) and (3), amendments may, subject to approval by the Assembly of the International Patent Cooperation Union, be made to this Agreement by agreement between the parties hereto; they shall take effect on the date agreed upon by them.

(2) Without prejudice to paragraph (3), amendments may be made to the Annexes to this Agreement by agreement between the Director General of the World Intellectual Property Organization and the Authority; they shall take effect on the date agreed upon by them.

(3) The Authority may, by a notification to the Director General of the World Intellectual Property Organization:

- (i) add to the indications of States and languages contained in Annex A to this Agreement;
- (ii) amend the schedule of fees and charges contained in Annex C to this Agreement;
- (iii) amend the indications of languages of correspondence contained in Annex D to this Agreement.

(4) Any amendment notified under paragraph (3) shall take effect on the date specified in the notification, provided that, for any increase of fees or charges contained in Annex C, that date is at least one month later than the date on which the notification is received by the International Bureau.

Article 12
Termination

(1) This Agreement shall terminate before December 31, 2017:

- (i) if the Federal Minister of Transport, Innovation and Technology of the Republic of Austria gives the Director General of the World Intellectual Property Organization written notice to terminate this Agreement; or

- (ii) if the Director General of the World Intellectual Property Organization gives the Federal Minister of Transport, Innovation and Technology of the Republic of Austria written notice to terminate this Agreement.

(2) The termination of this Agreement under paragraph (1) shall take effect one year after receipt of the notice by the other party, unless a longer period is specified in such notice or unless both parties agree on a shorter period.

In witness whereof the parties hereto have executed this Agreement.

Done at [city], this [date], in two originals in the English and German languages, each text being equally authentic.

For the Federal Minister of Transport,
Innovation and Technology of the Republic
of Austria by:

For the International Bureau by:

[...]

[...]

*Annex A
States and Languages*

Under Article 3 of the Agreement, the Authority specifies:

- (i) the following States for which it will act:

the States regarded as developing countries in conformity with the established practice of the General Assembly of the United Nations, provided that the Republic of Austria, in accordance with its obligations undertaken within the framework of the European Patent Organisation, has concluded with those States an agreement for that purpose;

- (ii) the following languages which it will accept:

English, French, German.

*Annex B
Subject Matter Not Excluded from Search or Examination*

The subject matter set forth in Rule 39.1 or 67.1 which, under Article 4 of the Agreement, is not excluded from search or examination, is the following:

all subject matter searched or examined under the national patent grant procedure under the provisions of the Austrian Patent Law.

Annex C
Fees and Charges

Part I. Schedule of Fees and Charges

<u>Kind of fee or charge</u>	<u>Amount (Euro)</u>
Search fee (Rule 16.1(a))	200
Additional fee (Rule 40.2(a))	200
Preliminary examination fee (Rule 58.1(b))	200
Additional fee (Rule 68.3(a))	200
Protest fee (Rules 40.2(e) and 68.3(e))	220
Cost of copies (Rules 44.3(b), 71.2(b) and 94.2), per page	0.95

Part II. Conditions for and Extent of Refunds or Reductions of Fees

(1) Any amount paid by mistake, without cause, or in excess of the amount due, for fees indicated in Part I shall be refunded.

(2) Where the international application is withdrawn or considered withdrawn, under Article 14(1), (3) or (4), before the start of the international search, the amount of the search fee paid shall be fully refunded.

(3) Where the Authority benefits from an earlier search to the full extent or to a substantially prevailing portion, 75% of the search fee shall be refunded.

(4) In the cases provided for under Rule 58.3, the amount of the preliminary examination fee paid shall be fully refunded.

(5) Where the international application or the demand is withdrawn before the start of the international preliminary examination, the amount of the preliminary examination fee paid shall be fully refunded.

Annex D
Languages of Correspondence

Under Article 7 of the Agreement, the Authority specifies the following languages:

English, French and German, noting that the language of correspondence shall be the language in which the international application is filed or translated, as the case may be.

AU: Draft Agreement extending the current agreement with the Government of Australia

Extension of the Agreement

between the Government of Australia
and the International Bureau of the World Intellectual Property Organization

in relation to the functioning of the Australian Patent Office
as an International Searching Authority
and International Preliminary Examining Authority
under the Patent Cooperation Treaty

Preamble

The Government of Australia and the International Bureau of the World Intellectual Property Organization,

Considering that the Agreement of December 7, 1997, under Articles 16(3)(b) and 32(3) of the Patent Cooperation Treaty in relation to the functioning of the Australian Patent Office as an International Searching Authority and International Preliminary Examining Authority under the Patent Cooperation Treaty was concluded for a period of 10 years from January 1, 1998 to December 31, 2007,

Considering that the said Agreement has been amended several times in 2001, 2002, 2003 and 2007, all these amendments having been published in PCT Gazette Nos. 04/2001, 33/2002, 49/2003 and 1 February 2007, respectively,

Considering that the Government of Australia and the International Bureau of WIPO have already started negotiations for the renewal of a new Agreement as provided under Article 10 therein,

Aware that the Government of Australia will not be able to complete the necessary domestic procedures to ratify a new Agreement in relation to the functioning of the Australian Patent Office as an International Searching Authority and International Preliminary Examining Authority under the Patent Cooperation Treaty, as from January 1, 2008,

Hereby agree as follows:

Article 1
Extension of the Agreement

(1) The Agreement between the Government of Australia and the International Bureau of the World Intellectual Property Organization signed on December 4, 1997, including its amendments and Annexes, in relation to the functioning of the Australian Patent Office as an International Searching Authority and International Preliminary Examining Authority under the Patent Cooperation Treaty, is hereby extended until December 31, 2008 or until the day before the entry into force of a new Agreement on the same subject matter in accordance with PCT Articles 16(3)(b) and 32(3) and with the domestic legal and constitutional procedures of Australia, whichever is sooner.

(2) Consequently, the reference made to “December 31, 2007” under Articles 10 and 12 of the Agreement referred to above is amended, accordingly.

Article 2
Approval and entry into force

(1) According to Article 11 of the Agreement referred to above, this amendment shall be subject to the approval of the Assembly of the International Patent Cooperation Union.

(2) Without prejudice to the above, this amendment shall take effect on December 31, 2007.

In witness whereof the parties hereto have executed this Agreement.

Done at *[city]*, this *[date]*, in two originals in the English language.

For the Government of Australia by:

For the International Bureau by:

[...]

[...]

AU: Draft Agreement with the Government of Australia

Agreement

between the Government of Australia
and the International Bureau of the World Intellectual Property Organization

in relation to the functioning of the Australian Patent Office
as an International Searching Authority
and International Preliminary Examining Authority
under the Patent Cooperation Treaty

Preamble

The Government of Australia and the International Bureau of the World Intellectual Property Organization,

Considering that the PCT Assembly, having heard the advice of the PCT Committee for Technical Cooperation, has appointed the Australian Patent Office as an International Searching and Preliminary Examining Authority under the Patent Cooperation Treaty and approved this Agreement in accordance with Articles 16(3) and 32(3),

Hereby agree as follows:

Article 1
Terms and Expressions

- (1) For the purposes of this Agreement:
 - (a) “Treaty” means the Patent Cooperation Treaty;
 - (b) “Regulations” means the Regulations under the Treaty;
 - (c) “Administrative Instructions” means the Administrative Instructions under the Treaty;
 - (d) “Article” (except where a specific reference is made to an Article of this Agreement) means an Article of the Treaty;
 - (e) “Rule” means a Rule of the Regulations;
 - (f) “Contracting State” means a State party to the Treaty;
 - (g) “the Authority” means the Australian Patent Office;
 - (h) “the International Bureau” means the International Bureau of the World Intellectual Property Organization.

(2) All other terms and expressions used in this Agreement which are also used in the Treaty, the Regulations or the Administrative Instructions have, for the purposes of this Agreement, the same meaning as in the Treaty, the Regulations and the Administrative Instructions.

Article 2
Basic Obligations

(1) The Authority shall carry out international search and international preliminary examination in accordance with, and perform such other functions of an International Searching Authority and International Preliminary Examining Authority as are provided under, the Treaty, the Regulations, the Administrative Instructions and this Agreement.

(2) In carrying out international search and international preliminary examination, the Authority shall apply and observe all the common rules of international search and of international preliminary examination and, in particular, shall be guided by the PCT International Search and Preliminary Examination Guidelines.

(3) The Authority shall maintain a quality management system in compliance with the requirements set out in the PCT International Search and Preliminary Examination Guidelines.

(4) The Authority and the International Bureau shall, having regard to their respective functions under the Treaty, the Regulations, the Administrative Instructions and this Agreement, render, to the extent considered to be appropriate by both the Authority and the International Bureau, mutual assistance in the performance of their functions thereunder.

Article 3
Competence of Authority

(1) The Authority shall act as International Searching Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international search, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(2) The Authority shall act as International Preliminary Examining Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international preliminary examination, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(3) Where an international application is filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), paragraphs (1) and (2) apply as if that application had been filed with a receiving Office which would have been competent under Rule 19.1(a)(i) or (ii), (b) or (c) or Rule 19.2(i).

Article 4
Subject Matter Not Required to Be Searched or Examined

The Authority shall not be obliged to search, by virtue of Article 17(2)(a)(i), or examine, by virtue of Article 34(4)(a)(i), any international application to the extent that it considers that such application relates to subject matter set forth in Rule 39.1 or 67.1, as the case may be, with the exception of the subject matter specified in Annex B to this Agreement.

Article 5
Fees and Charges

(1) A schedule of all fees of the Authority, and all other charges which the Authority is entitled to make, in relation to its functions as an International Searching Authority and International Preliminary Examining Authority, is set out in Annex C to this Agreement.

(2) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement:

- (i) refund the whole or part of the search fee paid, or waive or reduce the search fee, where the international search report can be wholly or partly based on the results of an earlier search (Rules 16.3 and 41.1);
- (ii) refund the search fee where the international application is withdrawn or considered withdrawn before the start of the international search.

(3) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement, refund the whole or part of the preliminary examination fee paid where the demand is considered as if it had not been submitted (Rule 58.3) or where the demand or the international application is withdrawn by the applicant before the start of the international preliminary examination.

Article 6
Classification

For the purposes of Rules 43.3(a) and 70.5(b), the Authority shall indicate solely the International Patent Classification.

Article 7
Languages of Correspondence Used by the Authority

For the purposes of correspondence, including forms, other than with the International Bureau, the Authority shall use the language or one of the languages indicated, having regard to the language or languages indicated in Annex A and to the language or languages whose use is authorized by the Authority under Rule 92.2(b), in Annex D.

Article 8
International-Type Search

The Authority shall carry out international-type searches to the extent decided by it.

Article 9
Entry into Force

This Agreement shall enter into force on *[date]*.

Article 10
Duration and Renewability

This Agreement shall remain in force until December 31, 2017. The parties to this Agreement shall, no later than July 2016, start negotiations for its renewal.

Article 11
Amendment

(1) Without prejudice to paragraphs (2) and (3), amendments may, subject to approval by the Assembly of the International Patent Cooperation Union, be made to this Agreement by agreement between the parties hereto; they shall take effect on the date agreed upon by them.

(2) Without prejudice to paragraph (3), amendments may be made to the Annexes to this Agreement by agreement between the Director General of the World Intellectual Property Organization and the Authority; they shall take effect on the date agreed upon by them.

(3) The Authority may, by a notification to the Director General of the World Intellectual Property Organization:

- (i) add to the indications of States and languages contained in Annex A to this Agreement;
- (ii) amend the schedule of fees and charges contained in Annex C to this Agreement;
- (iii) amend the indications of languages of correspondence contained in Annex D to this Agreement.

(4) Any amendment notified under paragraph (3) shall take effect on the date specified in the notification, provided that, for any increase of fees or charges contained in Annex C, that date is at least one month later than the date on which the notification is received by the International Bureau.

Article 12
Termination

(1) This Agreement shall terminate before December 31, 2017:

- (i) if the Government of Australia gives the Director General of the World Intellectual Property Organization written notice to terminate this Agreement;
or

- (ii) if the Director General of the World Intellectual Property Organization gives the Government of Australia written notice to terminate this Agreement.

(2) The termination of this Agreement under paragraph (1) shall take effect one year after receipt of the notice by the other party, unless a longer period is specified in such notice or unless both parties agree on a shorter period.

In witness whereof the parties hereto have executed this Agreement.

Done at *[city]*, this *[date]*, in two originals in the English language.

For the Government of Australia by:

For the International Bureau by:

[...]

[...]

Annex A
States and Languages

Under Article 3 of the Agreement, the Authority specifies:

- (i) the following States for which it will act:

Australia, New Zealand and

by arrangement, the States regarded as developing countries in conformity with the established practice of the General Assembly of the United Nations;

- (ii) the following language which it will accept:

English.

Annex B
Subject Matter Not Excluded from Search or Examination

The subject matter set forth in Rule 39.1 or 67.1 which, under Article 4 of the Agreement, is not excluded from search or examination, is the following:

subject matter which is searched or examined under Australian national grant procedure.

Annex C
Fees and Charges

Part I. Schedule of Fees and Charges

<u>Kind of fee or charge</u>	<u>Amount</u> <u>(Australian dollars)</u>
Search fee (Rule 16.1(a))	1,600
Additional fee (Rule 40.2(a))	1,600
Preliminary examination fee (Rule 58.1(b)):	
– where the international search report was issued by the Authority	550
– in other cases	780
Additional fee (Rule 68.3(a))	550
Cost of copies (Rules 44.3(b) and 71.2(b)), per document	50
Cost of copies (Rule 94), per document	50

Part II. Conditions for and Extent of Refunds or Reductions of Fees

(1) Any amount paid by mistake, without cause, or in excess of the amount due, for fees indicated in Part I shall be refunded.

(2) Where the international application is withdrawn or considered withdrawn, under Article 14(1), (3) or (4), before the start of the international search, the amount of the search fee paid shall be fully refunded.

(3) Where the Authority benefits from an earlier search, 25% or 50% of the search fee shall be refunded, depending on the extent to which the Authority benefits from that earlier search.

(4) In the cases provided for under Rule 58.3, the amount of the preliminary examination fee paid shall be fully refunded.

(5) Where the international application or the demand is withdrawn before the start of the international preliminary examination, the amount of the preliminary examination fee paid shall be fully refunded.

Annex D
Languages of Correspondence

Under Article 7 of the Agreement, the Authority specifies the following language:

English.

CA: Draft Agreement with the Canadian Commissioner of Patents

Agreement

between the Canadian Commissioner of Patents
and the International Bureau of the World Intellectual Property Organization

in relation to the functioning of the Canadian Commissioner of Patents
as an International Searching Authority
and International Preliminary Examining Authority
under the Patent Cooperation Treaty

Preamble

The Canadian Commissioner of Patents and the International Bureau of the World Intellectual Property Organization,

Considering that the PCT Assembly, having heard the advice of the PCT Committee for Technical Cooperation, has appointed the Canadian Commissioner of Patents as an International Searching and Preliminary Examining Authority under the Patent Cooperation Treaty and approved this Agreement in accordance with Articles 16(3) and 32(3),

Hereby agree as follows:

Article 1
Terms and Expressions

- (1) For the purposes of this Agreement:
 - (a) “Treaty” means the Patent Cooperation Treaty;
 - (b) “Regulations” means the Regulations under the Treaty;
 - (c) “Administrative Instructions” means the Administrative Instructions under the Treaty;
 - (d) “Article” (except where a specific reference is made to an Article of this Agreement) means an Article of the Treaty;
 - (e) “Rule” means a Rule of the Regulations;
 - (f) “Contracting State” means a State party to the Treaty;
 - (g) “the Authority” means the Canadian Commissioner of Patents;
 - (h) “the International Bureau” means the International Bureau of the World Intellectual Property Organization.

(2) All other terms and expressions used in this Agreement which are also used in the Treaty, the Regulations or the Administrative Instructions have, for the purposes of this Agreement, the same meaning as in the Treaty, the Regulations and the Administrative Instructions.

Article 2
Basic Obligations

(1) The Authority shall carry out international search and international preliminary examination in accordance with, and perform such other functions of an International Searching Authority and International Preliminary Examining Authority as are provided under, the Treaty, the Regulations, the Administrative Instructions and this Agreement.

(2) In carrying out international search and international preliminary examination, the Authority shall apply and observe all the common rules of international search and of international preliminary examination and, in particular, shall be guided by the PCT International Search and Preliminary Examination Guidelines.

(3) The Authority shall maintain a quality management system in compliance with the requirements set out in the PCT International Search and Preliminary Examination Guidelines.

(4) The Authority and the International Bureau shall, having regard to their respective functions under the Treaty, the Regulations, the Administrative Instructions and this Agreement, render, to the extent considered to be appropriate by both the Authority and the International Bureau, mutual assistance in the performance of their functions thereunder.

Article 3
Competence of Authority

(1) The Authority shall act as International Searching Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international search, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(2) The Authority shall act as International Preliminary Examining Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international preliminary examination, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant and that any other requirements regarding such application as specified in Annex A to this Agreement have been met.

(3) Where an international application is filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), paragraphs (1) and (2) apply as if that application had been filed with a receiving Office which would have been competent under Rule 19.1(a)(i) or (ii), (b) or (c) or Rule 19.2(i).

Article 4
Subject Matter Not Required to Be Searched or Examined

The Authority shall not be obliged to search, by virtue of Article 17(2)(a)(i), or examine, by virtue of Article 34(4)(a)(i), any international application to the extent that it considers that such application relates to subject matter set forth in Rule 39.1 or 67.1, as the case may be, with the exception of the subject matter specified in Annex B to this Agreement.

Article 5
Fees and Charges

(1) A schedule of all fees of the Authority, and all other charges which the Authority is entitled to make, in relation to its functions as an International Searching Authority and International Preliminary Examining Authority, is set out in Annex C to this Agreement.

(2) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement:

- (i) refund the whole or part of the search fee paid, or waive or reduce the search fee, where the international search report can be wholly or partly based on the results of an earlier search (Rules 16.3 and 41.1);
- (ii) refund the search fee where the international application is withdrawn or considered withdrawn before the start of the international search.

(3) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement, refund the whole or part of the preliminary examination fee paid where the demand is considered as if it had not been submitted (Rule 58.3) or where the demand or the international application is withdrawn by the applicant before the start of the international preliminary examination.

Article 6
Classification

For the purposes of Rules 43.3(a) and 70.5(b), the Authority shall indicate solely the International Patent Classification.

Article 7
Languages of Correspondence Used by the Authority

For the purposes of correspondence, including forms, other than with the International Bureau, the Authority shall use the language or one of the languages indicated, having regard to the language or languages indicated in Annex A and to the language or languages whose use is authorized by the Authority under Rule 92.2(b), in Annex D.

Article 8
International-Type Search

The Authority shall carry out international-type searches to the extent decided by it.

Article 9
Entry into Force

This Agreement shall enter into force on January 1, 2008.

Article 10
Duration and Renewability

This Agreement shall remain in force until December 31, 2017. The parties to this Agreement shall, no later than July 2016, start negotiations for its renewal.

Article 11
Amendment

(1) Without prejudice to paragraphs (2) and (3), amendments may, subject to approval by the Assembly of the International Patent Cooperation Union, be made to this Agreement by agreement between the parties hereto; they shall take effect on the date agreed upon by them.

(2) Without prejudice to paragraph (3), amendments may be made to the Annexes to this Agreement by agreement between the Director General of the World Intellectual Property Organization and the Authority; they shall take effect on the date agreed upon by them.

(3) The Authority may, by a notification to the Director General of the World Intellectual Property Organization:

- (i) add to the indications of States and languages contained in Annex A to this Agreement;
- (ii) amend the schedule of fees and charges contained in Annex C to this Agreement;
- (iii) amend the indications of languages of correspondence contained in Annex D to this Agreement.

(4) Any amendment notified under paragraph (3) shall take effect on the date specified in the notification, provided that, for any increase of fees or charges contained in Annex C, that date is at least one month later than the date on which the notification is received by the International Bureau.

Article 12
Termination

(1) This Agreement shall terminate before December 31, 2017:

- (i) if the Canadian Commissioner of Patents gives the Director General of the World Intellectual Property Organization written notice to terminate this Agreement; or

- (ii) if the Director General of the World Intellectual Property Organization gives the Canadian Commissioner of Patents written notice to terminate this Agreement.

(2) The termination of this Agreement under paragraph (1) shall take effect one year after receipt of the notice by the other party, unless a longer period is specified in such notice or unless both parties agree on a shorter period.

In witness whereof the parties hereto have executed this Agreement.

Done at [city], this [date], in two originals in the English and French languages, each text being equally authentic.

For the Canadian Commissioner of Patents
by:

For the International Bureau by:

[...]

[...]

*Annex A
States and Languages*

Under Article 3 of the Agreement, the Authority specifies:

- (i) the following States for which it will act:

so far as Article 3(1) is concerned: Canada, and the States regarded as developing countries in conformity with the established practice of the General Assembly of the United Nations;

so far as Article 3(2) is concerned: where the Authority has prepared the international search report, Canada, and the States regarded as developing countries in conformity with the established practice of the General Assembly of the United Nations;

- (ii) the following languages which it will accept:

English, French.

*Annex B
Subject Matter Not Excluded from Search or Examination*

The subject matter set forth in Rule 39.1 or 67.1 which, under Article 4 of the Agreement, is not excluded from search or examination, is the following:

all subject matter which is searched or examined under the Canadian patent grant procedure.

Annex C
Fees and Charges

Part I. Schedule of Fees and Charges

<u>Kind of fee or charge</u>	<u>Amount</u> <u>(Canadian dollars)</u>
Search fee (Rule 16.1(a))	1,600
Additional fee (Rule 40.2(a))	1,600
Preliminary examination fee (Rule 58.1(b))	800
Additional fee (Rule 68.3(a))	800
Cost of copies (Rules 44.3(b), 71.2(b) and 94.2), per page	1

Part II. Conditions for and Extent of Refunds or Reductions of Fees

(1) Any amount paid by mistake, without cause, or in excess of the amount due, for fees indicated in Part I shall be refunded.

(2) Where the international application is withdrawn or considered withdrawn, under Article 14(1), (3) or (4), before the start of the international search, the amount of the search fee paid shall be fully refunded.

(3) Where the Authority benefits from an earlier search, 25% of the search fee paid shall be refunded, depending upon the extent to which the Authority benefits from that earlier search.

(4) In the cases provided for under Rule 58.3, the amount of the preliminary examination fee paid shall be fully refunded.

(5) When the international application or the demand is withdrawn before the start of the international preliminary examination, the amount of the preliminary examination fee paid shall be fully refunded.

Annex D
Languages of Correspondence

Under Article 7 of the Agreement, the Authority specifies the following languages:

English, French.

CN: Draft Agreement with the State Intellectual Property Office of the People's Republic of China

Agreement

between the State Intellectual Property Office of the People's Republic of China
and the International Bureau of the World Intellectual Property Organization

in relation to the functioning of the State Intellectual Property Office
of the People's Republic of China
as an International Searching Authority
and International Preliminary Examining Authority
under the Patent Cooperation Treaty

Preamble

The State Intellectual Property Office of the People's Republic of China and the
International Bureau of the World Intellectual Property Organization,

Considering that the PCT Assembly, having heard the advice of the PCT Committee for
Technical Cooperation, has appointed the State Intellectual Property Office of the People's
Republic of China as an International Searching and Preliminary Examining Authority under
the Patent Cooperation Treaty and approved this Agreement in accordance with Articles 16(3)
and 32(3),

Hereby agree as follows:

Article 1
Terms and Expressions

- (1) For the purposes of this Agreement:
 - (a) "Treaty" means the Patent Cooperation Treaty;
 - (b) "Regulations" means the Regulations under the Treaty;
 - (c) "Administrative Instructions" means the Administrative Instructions under the Treaty;
 - (d) "Article" (except where a specific reference is made to an Article of this Agreement) means an Article of the Treaty;
 - (e) "Rule" means a Rule of the Regulations;
 - (f) "Contracting State" means a State party to the Treaty;
 - (g) "the Authority" means the State Intellectual Property Office of the People's Republic of China;

- (h) “the International Bureau” means the International Bureau of the World Intellectual Property Organization.

(2) All other terms and expressions used in this Agreement which are also used in the Treaty, the Regulations or the Administrative Instructions have, for the purposes of this Agreement, the same meaning as in the Treaty, the Regulations and the Administrative Instructions.

Article 2
Basic Obligations

(1) The Authority shall carry out international search and international preliminary examination in accordance with, and perform such other functions of an International Searching Authority and International Preliminary Examining Authority as are provided under, the Treaty, the Regulations, the Administrative Instructions and this Agreement.

(2) In carrying out international search and international preliminary examination, the Authority shall apply and observe all the common rules of international search and of international preliminary examination and, in particular, shall be guided by the PCT International Search and Preliminary Examination Guidelines.

(3) The Authority shall maintain a quality management system in compliance with the requirements set out in the PCT International Search and Preliminary Examination Guidelines.

(4) The Authority and the International Bureau shall, having regard to their respective functions under the Treaty, the Regulations, the Administrative Instructions and this Agreement, render, to the extent considered to be appropriate by both the Authority and the International Bureau, mutual assistance in the performance of their functions thereunder.

Article 3
Competence of Authority

(1) The Authority shall act as International Searching Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international search, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(2) The Authority shall act as International Preliminary Examining Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international preliminary examination, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(3) Where an international application is filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), paragraphs (1) and (2) apply as if that application had been filed with a receiving Office which would have been competent under Rule 19.1(a)(i) or (ii), (b) or (c) or Rule 19.2(i).

Article 4
Subject Matter Not Required to Be Searched or Examined

The Authority shall not be obliged to search, by virtue of Article 17(2)(a)(i), or examine, by virtue of Article 34(4)(a)(i), any international application to the extent that it considers that such application relates to subject matter set forth in Rule 39.1 or 67.1, as the case may be, with the exception of the subject matter specified in Annex B to this Agreement.

Article 5
Fees and Charges

(1) A schedule of all fees of the Authority, and all other charges which the Authority is entitled to make, in relation to its functions as an International Searching Authority and International Preliminary Examining Authority, is set out in Annex C to this Agreement.

(2) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement:

- (i) refund the whole or part of the search fee paid, or waive or reduce the search fee, where the international search report can be wholly or partly based on the results of an earlier search (Rules 16.3 and 41.1);
- (ii) refund the search fee where the international application is withdrawn or considered withdrawn before the start of the international search.

(3) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement, refund the whole or part of the preliminary examination fee paid where the demand is considered as if it had not been submitted (Rule 58.3) or where the demand or the international application is withdrawn by the applicant before the start of the international preliminary examination.

Article 6
Classification

For the purposes of Rules 43.3(a) and 70.5(b), the Authority shall indicate solely the International Patent Classification.

Article 7
Languages of Correspondence Used by the Authority

For the purposes of correspondence, including forms, other than with the International Bureau, the Authority shall use the language or one of the languages indicated, having regard to the language or languages indicated in Annex A and to the language or languages whose use is authorized by the Authority under Rule 92.2(b), in Annex D.

Article 8
International-Type Search

The Authority shall carry out international-type searches to the extent decided by it.

Article 9
Entry into Force

This Agreement shall enter into force on January 1, 2008.

Article 10
Duration and Renewability

This Agreement shall remain in force until December 31, 2017. The parties to this Agreement shall, no later than July 2016, start negotiations for its renewal.

Article 11
Amendment

(1) Without prejudice to paragraphs (2) and (3), amendments may, subject to approval by the Assembly of the International Patent Cooperation Union, be made to this Agreement by agreement between the parties hereto; they shall take effect on the date agreed upon by them.

(2) Without prejudice to paragraph (3), amendments may be made to the Annexes to this Agreement by agreement between the Director General of the World Intellectual Property Organization and the Authority; they shall take effect on the date agreed upon by them.

(3) The Authority may, by a notification to the Director General of the World Intellectual Property Organization:

- (i) add to the indications of States and languages contained in Annex A to this Agreement;
- (ii) amend the schedule of fees and charges contained in Annex C to this Agreement;
- (iii) amend the indications of languages of correspondence contained in Annex D to this Agreement.

(4) Any amendment notified under paragraph (3) shall take effect on the date specified in the notification, provided that, for any increase of fees or charges contained in Annex C, that date is at least one month later than the date on which the notification is received by the International Bureau.

Article 12
Termination

(1) This Agreement shall terminate before December 31, 2017:

- (i) if the State Intellectual Property Office of the People's Republic of China gives the Director General of the World Intellectual Property Organization written notice to terminate this Agreement; or
- (ii) if the Director General of the World Intellectual Property Organization gives the State Intellectual Property Office of the People's Republic of China written notice to terminate this Agreement.

(2) The termination of this Agreement under paragraph (1) shall take effect one year after receipt of the notice by the other party, unless a longer period is specified in such notice or unless both parties agree on a shorter period.

In witness whereof the parties hereto have executed this Agreement.

Done at [city], this [date], in two originals in the Chinese and English languages, each text being equally authentic.

For the State Intellectual Property Office of
the People's Republic of China by:

For the International Bureau by:

[...]

[...]

Annex A
States and Languages

Under Article 3 of the Agreement, the Authority specifies:

- (i) the following States for which it will act:
China, Ghana, India, Kenya, Liberia, Turkey, Zimbabwe
and any State that the Authority will specify;
- (ii) the following languages which it will accept:
Chinese, English.

Annex B
Subject Matter Not Excluded from Search or Examination

The subject matter set forth in Rule 39.1 or 67.1 which, under Article 4 of the Agreement, is not excluded from search or examination, is the following:

subject matter which is searched or examined in Chinese national applications.

Annex C
Fees and Charges

Part I. Schedule of Fees and Charges

<u>Kind of fee or charge</u>	<u>Amount</u> <u>(Yuan renminbi)</u>
Search fee (Rule 16.1(a))	2,100
Additional fee (Rule 40.2(a))	2,100
Preliminary examination fee (Rule 58.1(b))	1,500
Additional fee (Rule 68.3(a))	1,500
Protest fee (Rules 40.2(e) and 68.3(e))	200
Late furnishing fee (Rule 13 ter .1(c) and 13 ter .2)	200
Cost of copies (Rules 44.3(b), 71.2(b) and 94.2), per page	2

Part II. Conditions for and Extent of Refunds or Reductions of Fees

(1) Any amount paid by mistake, without cause, or in excess of the amount due, for fees indicated in Part I shall be refunded.

(2) Where the international application is withdrawn or considered withdrawn, under Article 14(1), (3) or (4), before the start of the international search, the amount of the search fee paid shall be fully refunded.

(3) Where the Authority benefits from an earlier search to the full extent or to a substantially prevailing portion, 75% of the search fee paid shall be refunded.

(4) In the cases provided for under Rule 58.3, the amount of the preliminary examination fee paid shall be fully refunded.

(5) Where the international application or the demand is withdrawn before the start of the international preliminary examination, the amount of the preliminary examination fee paid shall be fully refunded.

Annex D
Languages of Correspondence

Under Article 7 of the Agreement, the Authority specifies the following languages:

Chinese and English, noting that the language of correspondence shall be the language in which the international application is filed or translated, as the case may be.

EP: Draft Agreement with the European Patent Organisation

Agreement

between the European Patent Organisation
and the International Bureau of the World Intellectual Property Organization

in relation to the functioning of the European Patent Office
as an International Searching Authority
and International Preliminary Examining Authority
under the Patent Cooperation Treaty

Preamble

The European Patent Organisation and the International Bureau of the World Intellectual Property Organization,

Considering that the PCT Assembly, having heard the advice of the PCT Committee for Technical Cooperation, has appointed the European Patent Office as an International Searching and Preliminary Examining Authority under the Patent Cooperation Treaty and approved this Agreement in accordance with Articles 16(3) and 32(3),

Hereby agree as follows:

Article 1
Terms and Expressions

- (1) For the purposes of this Agreement:
 - (a) “Treaty” means the Patent Cooperation Treaty;
 - (b) “Regulations” means the Regulations under the Treaty;
 - (c) “Administrative Instructions” means the Administrative Instructions under the Treaty;
 - (d) “Article” (except where a specific reference is made to an Article of this Agreement) means an Article of the Treaty;
 - (e) “Rule” means a Rule of the Regulations;
 - (f) “Contracting State” means a State party to the Treaty;
 - (g) “the Authority” means the European Patent Office;
 - (h) “the International Bureau” means the International Bureau of the World Intellectual Property Organization.

(2) All other terms and expressions used in this Agreement which are also used in the Treaty, the Regulations or the Administrative Instructions have, for the purposes of this Agreement, the same meaning as in the Treaty, the Regulations and the Administrative Instructions.

Article 2
Basic Obligations

(1) The Authority shall carry out international search and international preliminary examination in accordance with, and perform such other functions of an International Searching Authority and International Preliminary Examining Authority as are provided under, the Treaty, the Regulations, the Administrative Instructions and this Agreement.

(2) In carrying out international search and international preliminary examination, the Authority shall apply and observe all the common rules of international search and of international preliminary examination and, in particular, shall be guided by the PCT International Search and Preliminary Examination Guidelines.

(3) The Authority shall maintain a quality management system in compliance with the requirements set out in the PCT International Search and Preliminary Examination Guidelines.

(4) The Authority and the International Bureau shall, having regard to their respective functions under the Treaty, the Regulations, the Administrative Instructions and this Agreement, render, to the extent considered to be appropriate by both the Authority and the International Bureau, mutual assistance in the performance of their functions thereunder.

Article 3
Competence of Authority

(1) The Authority shall act as International Searching Authority for any international application filed with the receiving Office of, or acting for, any Contracting State, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international search, is in the language or one of the languages specified in Annex A to this Agreement, that such application is not an application of a kind specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(2) The Authority shall act as International Preliminary Examining Authority for any international application filed with the receiving Office of, or acting for, any Contracting State, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international preliminary examination, is in the language or one of the languages specified in Annex A to this Agreement, that such application is not an application of a kind specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(3) Where an international application is filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), paragraphs (1) and (2) apply as if that application had been filed with a receiving Office which would have been competent under Rule 19.1(a)(i) or (ii), (b) or (c) or Rule 19.2(i).

Article 4
Subject Matter Not Required to Be Searched or Examined

The Authority shall not be obliged to search, by virtue of Article 17(2)(a)(i), or examine, by virtue of Article 34(4)(a)(i), any international application to the extent that it considers that such application relates to subject matter set forth in Rule 39.1 or 67.1, as the case may be, with the exception of the subject matter specified in Annex B to this Agreement.

Article 5
Fees and Charges

(1) A schedule of all fees of the Authority, and all other charges which the Authority is entitled to make, in relation to its functions as an International Searching Authority and International Preliminary Examining Authority, is set out in Annex C to this Agreement.

(2) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement:

- (i) refund the whole or part of the search fee paid, or waive or reduce the search fee, where the international search report can be wholly or partly based on the results of an earlier search (Rules 16.3 and 41.1);
- (ii) refund the search fee where the international application is withdrawn or considered withdrawn before the start of the international search.

(3) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement, refund the whole or part of the preliminary examination fee paid where the demand is considered as if it had not been submitted (Rule 58.3) or where the demand or the international application is withdrawn by the applicant before the start of the international preliminary examination.

Article 6
Classification

For the purposes of Rules 43.3(a) and 70.5(b), the Authority shall indicate solely the International Patent Classification.

Article 7
Languages of Correspondence Used by the Authority

For the purposes of correspondence, including forms, other than with the International Bureau, the Authority shall use the language or one of the languages indicated, having regard to the language or languages indicated in Annex A and to the language or languages whose use is authorized by the Authority under Rule 92.2(b), in Annex D.

Article 8
International-Type Search

The Authority shall carry out international-type searches to the extent decided by it.

Article 9
Entry into Force

This Agreement shall enter into force on December 13, 2007.

Article 10
Duration and Renewability

This Agreement shall remain in force until December 31, 2017. The parties to this Agreement shall, no later than July 2016, start negotiations for its renewal.

Article 11
Amendment

(1) Without prejudice to paragraphs (2) and (3), amendments may, subject to approval by the Assembly of the International Patent Cooperation Union, be made to this Agreement by agreement between the parties hereto; they shall take effect on the date agreed upon by them.

(2) Without prejudice to paragraph (3), amendments may be made to the Annexes to this Agreement by agreement between the Director General of the World Intellectual Property Organization and the Authority; they shall take effect on the date agreed upon by them.

(3) The Authority may, by a notification to the Director General of the World Intellectual Property Organization:

- (i) add to the indications of languages contained in Annex A to this Agreement;
- (ii) amend the schedule of fees and charges contained in Annex C to this Agreement;
- (iii) amend the indications of languages of correspondence contained in Annex D to this Agreement.

(4) Any amendment notified under paragraph (3) shall take effect on the date specified in the notification, provided that, for any increase of fees or charges contained in Annex C, that date is at least one month later than the date on which the notification is received by the International Bureau.

Article 12
Termination

(1) This Agreement shall terminate before December 31, 2017:

- (i) if the European Patent Organisation gives the Director General of the World Intellectual Property Organization written notice to terminate this Agreement;
or
- (ii) if the Director General of the World Intellectual Property Organization gives the European Patent Organisation written notice to terminate this Agreement.

(2) The termination of this Agreement under paragraph (1) shall take effect one year after receipt of the notice by the other party, unless a longer period is specified in such notice or unless both parties agree on a shorter period.

In witness whereof the parties hereto have executed this Agreement.

Done at [city], this [date], in two originals in the English, French and German languages, each text being equally authentic.

For the European Patent Organisation by: For the International Bureau by:

[...]

[...]

Annex A
Languages and Kinds of Application

Under Article 3 of the Agreement, the Authority specifies:

(i) the following languages which it will accept:

English, French, German, and, where the receiving Office is the industrial property Office of Belgium or the Netherlands, Dutch;

(ii) the following kinds of application for which it will not act:¹

as an International Preliminary Examining Authority, international applications where the international search is to be, or has been, performed by an International Searching Authority other than the European Patent Office or the industrial property Office of a State party to the European Patent Convention.

¹ Under an existing notification under Article 3(4)(a)(ii) of the present agreement between the European Patent Organization and the International Bureau, the European Patent Office is excluded, until March 1, 2009, from competence as an International Searching Authority and International Preliminary Examining Authority with respect to international applications filed, by a national or a resident of the United States of America, with the United States Patent and Trademark Office or the International Bureau as receiving Office where such applications contain one or more claims relating to business methods. The EPO has informed the International Bureau that this limitation will remain in force until March 2009 as foreseen in its notice dated 27 July 2006 (OJ EPO 10/2006, 555 and *PCT Gazette* No. 38/2006, page 19070); however, it will not be included in Annex A of the new Agreement unless the EPO seeks to issue a fresh limitation in 2009, which will then be introduced in accordance with the procedure under the new Agreement. Details will be included in the *PCT Applicant's Guide* and as a footnote to the new agreement when published in the *PCT Gazette*.

Annex B
Subject Matter Not Excluded from Search or Examination

The subject matter set forth in Rule 39.1 or 67.1 which, under Article 4 of the Agreement, is not excluded from search or examination, is the following:

all subject matter searched or examined under the European patent grant procedure in application of the equivalent provisions of the European Patent Convention.

Annex C
Fees and Charges

Part I. Schedule of Fees and Charges

<u>Kind of fee or charge</u>	<u>Amount</u> <u>(Euro)</u>
Search fee (Rule 16.1(a))	1,615 ²
Additional fee (Rule 40.2(a))	1,615 ²
Preliminary examination fee (Rule 58.1(b))	1,595 ²
Additional fee (Rule 68.3(a))	1,595 ²
Protest fee (Rules 40.2(e) and 68.3(e))	1,065
Late furnishing fee (Rule 13 ^{ter} .1(c) and 13 ^{ter} .2)	200
Cost of copies (Rules 44.3(b), 71.2(b) and 94.2), per page	0.65

Part II. Conditions for and Extent of Refunds or Reductions of Fees

(1) Any amount paid by mistake, without cause, or in excess of the amount due, for fees indicated in Part I shall be refunded.

(2) Where the international application is withdrawn or considered withdrawn, under Article 14(1), (3) or (4), before the start of the international search, the amount of the search fee paid shall, upon request, be fully refunded.

(3) Where the Authority benefits from an earlier search (including a privately commissioned “standard” search) already made by the Authority on an application whose priority is claimed for the international application and depending upon the extent to which the Authority benefits from the earlier search in carrying out the international search and any other task entrusted to it, the search fee paid shall be refunded, to the extent provided for in a communication from the Authority to the International Bureau and published in the Gazette.

² This fee is reduced by 75% where the applicant or, if there are two or more applicants, each applicant is a natural person and is a national of and resides in a State not party to the European Patent Convention, which fulfils the requirements for the corresponding reduction of certain PCT fees as specified in the Schedule of Fees annexed to the PCT Regulations (see also corresponding footnote to the Annex C(IB) and *PCT Gazette* No. 50/1995, pages 19233 and 19234), and in accordance with the decision of the EPO’s Administrative Council of October 11, 2000 (OJ EPO 2000, 446).

(4) In the cases provided for under Rule 58.3, the amount of the preliminary examination fee paid shall be fully refunded.

(5) Where the international application or the demand is withdrawn before the start of the international preliminary examination, 75% of the preliminary examination fee paid shall be refunded.

(6) The Authority may provide further refunds of the international preliminary examination fee under the conditions and to the extent laid down by it.

Annex D
Languages of Correspondence

Under Article 7 of the Agreement, the Authority specifies the following languages:

English, French or German, depending on the language in which the international application is filed or translated.

ES: Draft Agreement with the Spanish Patent and Trademark Office

Agreement

between the Spanish Patent and Trademark Office
and the International Bureau of the World Intellectual Property Organization

in relation to the functioning of the Spanish Patent and Trademark Office
as an International Searching Authority
and International Preliminary Examining Authority
under the Patent Cooperation Treaty

Preamble

The Spanish Patent and Trademark Office and the International Bureau of the World Intellectual Property Organization,

Considering that the PCT Assembly, having heard the advice of the PCT Committee for Technical Cooperation, has appointed the Spanish Patent and Trademark Office as an International Searching and Preliminary Examining Authority under the Patent Cooperation Treaty and approved this Agreement in accordance with Articles 16(3) and 32(3),

Hereby agree as follows:

Article 1
Terms and Expressions

- (1) For the purposes of this Agreement:
 - (a) “Treaty” means the Patent Cooperation Treaty;
 - (b) “Regulations” means the Regulations under the Treaty;
 - (c) “Administrative Instructions” means the Administrative Instructions under the Treaty;
 - (d) “Article” (except where a specific reference is made to an Article of this Agreement) means an Article of the Treaty;
 - (e) “Rule” means a Rule of the Regulations;
 - (f) “Contracting State” means a State party to the Treaty;
 - (g) “the Authority” means the Spanish Patent and Trademark Office;
 - (h) “the International Bureau” means the International Bureau of the World Intellectual Property Organization.

(2) All other terms and expressions used in this Agreement which are also used in the Treaty, the Regulations or the Administrative Instructions have, for the purposes of this Agreement, the same meaning as in the Treaty, the Regulations and the Administrative Instructions.

Article 2
Basic Obligations

(1) The Authority shall carry out international search and international preliminary examination in accordance with, and perform such other functions of an International Searching Authority and International Preliminary Examining Authority as are provided under, the Treaty, the Regulations, the Administrative Instructions and this Agreement.

(2) In carrying out international search and international preliminary examination, the Authority shall apply and observe all the common rules of international search and of international preliminary examination and, in particular, shall be guided by the PCT International Search and Preliminary Examination Guidelines.

(3) The Authority shall maintain a quality management system in compliance with the requirements set out in the PCT International Search and Preliminary Examination Guidelines.

(4) The Authority and the International Bureau shall, having regard to their respective functions under the Treaty, the Regulations, the Administrative Instructions and this Agreement, render, to the extent considered to be appropriate by both the Authority and the International Bureau, mutual assistance in the performance of their functions thereunder.

Article 3
Competence of Authority

(1) The Authority shall act as International Searching Authority for any international application filed with the receiving Office of, or acting for, any Contracting State, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international search, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(2) The Authority shall act as International Preliminary Examining Authority for any international application filed with the receiving Office of, or acting for, any Contracting State, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international preliminary examination, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant and that any other requirements regarding such application as specified in Annex A to this Agreement have been met.

(3) Where an international application is filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), paragraphs (1) and (2) apply as if that application had been filed with a receiving Office which would have been competent under Rule 19.1(a)(i) or (ii), (b) or (c) or Rule 19.2(i).

Article 4
Subject Matter Not Required to Be Searched or Examined

The Authority shall not be obliged to search, by virtue of Article 17(2)(a)(i), or examine, by virtue of Article 34(4)(a)(i), any international application to the extent that it considers that such application relates to subject matter set forth in Rule 39.1 or 67.1, as the case may be, with the exception of the subject matter specified in Annex B to this Agreement.

Article 5
Fees and Charges

(1) A schedule of all fees of the Authority, and all other charges which the Authority is entitled to make, in relation to its functions as an International Searching Authority and International Preliminary Examining Authority, is set out in Annex C to this Agreement.

(2) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement:

- (i) refund the whole or part of the search fee paid, or waive or reduce the search fee, where the international search report can be wholly or partly based on the results of an earlier search (Rules 16.3 and 41.1);
- (ii) refund the search fee where the international application is withdrawn or considered withdrawn before the start of the international search.

(3) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement, refund the whole or part of the preliminary examination fee paid where the demand is considered as if it had not been submitted (Rule 58.3) or where the demand or the international application is withdrawn by the applicant before the start of the international preliminary examination.

Article 6
Classification

For the purposes of Rules 43.3(a) and 70.5(b), the Authority shall indicate solely the International Patent Classification.

Article 7
Languages of Correspondence Used by the Authority

For the purposes of correspondence, including forms, other than with the International Bureau, the Authority shall use the language or one of the languages indicated, having regard to the language or languages indicated in Annex A and to the language or languages whose use is authorized by the Authority under Rule 92.2(b), in Annex D.

Article 8
International-Type Search

The Authority shall carry out international-type searches to the extent decided by it.

Article 9
Entry into Force

This Agreement shall enter into force on January 1, 2008.

Article 10
Duration and Renewability

This Agreement shall remain in force until December 31, 2017. The parties to this Agreement shall, no later than July 2016, start negotiations for its renewal.

Article 11
Amendment

(1) Without prejudice to paragraphs (2) and (3), amendments may, subject to approval by the Assembly of the International Patent Cooperation Union, be made to this Agreement by agreement between the parties hereto; they shall take effect on the date agreed upon by them.

(2) Without prejudice to paragraph (3), amendments may be made to the Annexes to this Agreement by agreement between the Director General of the World Intellectual Property Organization and the Authority; they shall take effect on the date agreed upon by them.

(3) The Authority may, by a notification to the Director General of the World Intellectual Property Organization:

- (i) add to the indications of languages contained in Annex A to this Agreement;
- (ii) amend the schedule of fees and charges contained in Annex C to this Agreement;
- (iii) amend the indications of languages of correspondence contained in Annex D to this Agreement.

(4) Any amendment notified under paragraph (3) shall take effect on the date specified in the notification, provided that, for any increase of fees or charges contained in Annex C, that date is at least one month later than the date on which the notification is received by the International Bureau.

Article 12
Termination

(1) This Agreement shall terminate before December 31, 2017:

- (i) if the Spanish Patent and Trademark Office gives the Director General of the World Intellectual Property Organization written notice to terminate this Agreement; or

- (ii) if the Director General of the World Intellectual Property Organization gives the Spanish Patent and Trademark Office written notice to terminate this Agreement.

(2) The termination of this Agreement under paragraph (1) shall take effect one year after receipt of the notice by the other party, unless a longer period is specified in such notice or unless both parties agree on a shorter period.

In witness whereof the parties hereto have executed this Agreement.

Done at [city], this [date], in two originals in the English and Spanish languages, each text being equally authentic.

For the Spanish Patent and Trademark Office For the International Bureau by:
by:

[...]

[...]

*Annex A
Languages*

Under Article 3 of the Agreement, the Authority specifies the following language for which it will act:

Spanish.

*Annex B
Subject Matter Not Excluded from Search or Examination*

The subject matter set forth in Rule 39.1 or 67.1 which, under Article 4 of the Agreement, is not excluded from search or examination is the following:

all subject matter searched or examined in Spanish national applications.

Annex C
Fees and Charges

Part I. Schedule of Fees and Charges

<u>Kind of fee or charge</u>	<u>Amount</u> <u>(Euro)</u>
Search fee (Rule 16.1(a))	1,615 ¹
Additional fee (Rule 40.2(a))	1,615 ¹
Preliminary examination fee (Rule 58.1(b))	533.76
Additional fee (Rule 68.3(a))	533.76
Cost of copies (Rules 44.3(b) and 71.2(b)):	
– national documents, per document	4.69
– foreign documents, per document	4.69
Cost of copies (Rule 94.2), per page	0.23

Part II. Conditions for and Extent of Refunds or Reductions of Fees

(1) Any amount paid by mistake, without cause, or in excess of the amount due, for fees indicated in Part I shall be refunded.

(2) Where the international application is withdrawn or considered withdrawn, under Article 14(1), (3) or (4), before the start of the international search, the amount of the search fee paid shall be fully refunded.

(3) Where the Authority benefits from an earlier search already made by the Authority on an application whose priority is claimed for the international application, 100% or 50% of the search fee paid shall be refunded, depending upon the extent to which the Authority benefits from that earlier search.

(4) In the cases provided for under Rule 58.3, the amount of the preliminary examination fee paid shall be fully refunded.

(5) When the international application or the demand is withdrawn before the start of the international preliminary examination, the amount of the preliminary examination fee paid shall be fully refunded.

¹ This fee is reduced by 75% where the applicant or, if there are two or more applicants, each applicant is a natural person or a legal entity and is a national of and resides in a State not party to the European Patent Convention, which fulfils the requirements for the corresponding reduction of certain PCT fees as specified in the Schedule of Fees annexed to the PCT Regulations (see also corresponding footnote to Annex C(IB) and *PCT Gazette* No. 50/1995, pages 19233 and 19234), and in accordance with the decision of the EPO's Administrative Council of October 11, 2000 (OJ EPO 2000, 446).

Annex D
Languages of Correspondence

Under Article 7 of the Agreement, the Authority specifies the following language:

Spanish.

FI: Draft Agreement with the National Board of Patents and Registration of Finland

Agreement

between the National Board of Patents and Registration of Finland
and the International Bureau of the World Intellectual Property Organization

in relation to the functioning of the National Board of Patents and Registration of Finland
as an International Searching Authority
and International Preliminary Examining Authority
under the Patent Cooperation Treaty

Preamble

The National Board of Patents and Registration of Finland and the International Bureau of the World Intellectual Property Organization,

Considering that the PCT Assembly, having heard the advice of the PCT Committee for Technical Cooperation, has appointed the National Board of Patents and Registration of Finland as an International Searching and Preliminary Examining Authority under the Patent Cooperation Treaty and approved this Agreement in accordance with Articles 16(3) and 32(3),

Hereby agree as follows:

Article 1
Terms and Expressions

- (1) For the purposes of this Agreement:
 - (a) “Treaty” means the Patent Cooperation Treaty;
 - (b) “Regulations” means the Regulations under the Treaty;
 - (c) “Administrative Instructions” means the Administrative Instructions under the Treaty;
 - (d) “Article” (except where a specific reference is made to an Article of this Agreement) means an Article of the Treaty;
 - (e) “Rule” means a Rule of the Regulations;
 - (f) “Contracting State” means a State party to the Treaty;
 - (g) “the Authority” means the National Board of Patents and Registration of Finland;
 - (h) “the International Bureau” means the International Bureau of the World Intellectual Property Organization.

(2) All other terms and expressions used in this Agreement which are also used in the Treaty, the Regulations or the Administrative Instructions have, for the purposes of this Agreement, the same meaning as in the Treaty, the Regulations and the Administrative Instructions.

Article 2
Basic Obligations

(1) The Authority shall carry out international search and international preliminary examination in accordance with, and perform such other functions of an International Searching Authority and International Preliminary Examining Authority as are provided under, the Treaty, the Regulations, the Administrative Instructions and this Agreement.

(2) In carrying out international search and international preliminary examination, the Authority shall apply and observe all the common rules of international search and of international preliminary examination and, in particular, shall be guided by the PCT International Search and Preliminary Examination Guidelines.

(3) The Authority shall maintain a quality management system in compliance with the requirements set out in the PCT International Search and Preliminary Examination Guidelines.

(4) The Authority and the International Bureau shall, having regard to their respective functions under the Treaty, the Regulations, the Administrative Instructions and this Agreement, render, to the extent considered to be appropriate by both the Authority and the International Bureau, mutual assistance in the performance of their functions thereunder.

Article 3
Competence of Authority

(1) The Authority shall act as International Searching Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international search, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(2) The Authority shall act as International Preliminary Examining Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international preliminary examination, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant and that any other requirements regarding such application as specified in Annex A to this Agreement have been met.

(3) Where an international application is filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), paragraphs (1) and (2) apply as if that application had been filed with a receiving Office which would have been competent under Rule 19.1(a)(i) or (ii), (b) or (c) or Rule 19.2(i).

Article 4
Subject Matter Not Required to Be Searched or Examined

The Authority shall not be obliged to search, by virtue of Article 17(2)(a)(i), or examine, by virtue of Article 34(4)(a)(i), any international application to the extent that it considers that such application relates to subject matter set forth in Rule 39.1 or 67.1, as the case may be, with the exception of the subject matter specified in Annex B to this Agreement.

Article 5
Fees and Charges

(1) A schedule of all fees of the Authority, and all other charges which the Authority is entitled to make, in relation to its functions as an International Searching Authority and International Preliminary Examining Authority, is set out in Annex C to this Agreement.

(2) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement:

- (i) refund the whole or part of the search fee paid, or waive or reduce the search fee, where the international search report can be wholly or partly based on the results of an earlier search (Rules 16.3 and 41.1);
- (ii) refund the search fee where the international application is withdrawn or considered withdrawn before the start of the international search.

(3) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement, refund the whole or part of the preliminary examination fee paid where the demand is considered as if it had not been submitted (Rule 58.3) or where the demand or the international application is withdrawn by the applicant before the start of the international preliminary examination.

Article 6
Classification

For the purposes of Rules 43.3(a) and 70.5(b), the Authority shall indicate solely the International Patent Classification.

Article 7
Languages of Correspondence Used by the Authority

For the purposes of correspondence, including forms, other than with the International Bureau, the Authority shall use the language or one of the languages indicated, having regard to the language or languages indicated in Annex A and to the language or languages whose use is authorized by the Authority under Rule 92.2(b), in Annex D.

Article 8
International-Type Search

The Authority shall carry out international-type searches to the extent decided by it.

Article 9
Entry into Force

This Agreement shall enter into force on January 1, 2008.

Article 10
Duration and Renewability

This Agreement shall remain in force until December 31, 2017. The parties to this Agreement shall, no later than July 2016, start negotiations for its renewal.

Article 11
Amendment

(1) Without prejudice to paragraphs (2) and (3), amendments may, subject to approval by the Assembly of the International Patent Cooperation Union, be made to this Agreement by agreement between the parties hereto; they shall take effect on the date agreed upon by them.

(2) Without prejudice to paragraph (3), amendments may be made to the Annexes to this Agreement by agreement between the Director General of the World Intellectual Property Organization and the Authority; they shall take effect on the date agreed upon by them.

(3) The Authority may, by a notification to the Director General of the World Intellectual Property Organization:

- (i) add to the indications of States and languages contained in Annex A to this Agreement;
- (ii) amend the schedule of fees and charges contained in Annex C to this Agreement;
- (iii) amend the indications of languages of correspondence contained in Annex D to this Agreement.

(4) Any amendment notified under paragraph (3) shall take effect on the date specified in the notification, provided that, for any increase of fees or charges contained in Annex C, that date is at least one month later than the date on which the notification is received by the International Bureau.

Article 12
Termination

(1) This Agreement shall terminate before December 31, 2017:

- (i) if the National Board of Patents and Registration of Finland gives the Director General of the World Intellectual Property Organization written notice to terminate this Agreement; or

- (ii) if the Director General of the World Intellectual Property Organization gives the National Board of Patents and Registration of Finland written notice to terminate this Agreement.

(2) The termination of this Agreement under paragraph (1) shall take effect one year after receipt of the notice by the other party, unless a longer period is specified in such notice or unless both parties agree on a shorter period.

In witness whereof the parties hereto have executed this Agreement.

Done at [city], this [date], in two originals in the English language.

For the National Board of Patents and
Registration of Finland by:

For the International Bureau by:

[...]

[...]

Annex A
States and Languages

Under Article 3 of the Agreement, the Authority specifies:

- (i) the following States for which it will act:
- (a) Finland;
 - (b) any other Contracting State in accordance with the obligations of the Authority within the framework of the European Patent Organisation;
- (ii) the following languages which it will accept:
- Finnish, Swedish, English.

Annex B
Subject Matter Not Excluded from Search or Examination

The subject matter set forth in Rule 39.1 or 67.1 which, under Article 4 of the Agreement, is not excluded from search or examination, is the following:

all subject matter searched or examined under the national patent grant procedure under the provisions of the Finnish Patent Law.

Annex C
Fees and Charges

Part I. Schedule of Fees and Charges

<u>Kind of fee or charge</u>	<u>Amount (Euro)</u>
Search fee (Rule 16.1(a))	1,615
Additional fee (Rule 40.2(a))	1,615
Preliminary examination fee (Rule 58.1(b))	550
Additional fee (Rule 68.3(a))	550
Cost of copies (Rules 44.3(b), 71.2(b) and 94.2), per page	0.60

Part II. Conditions for and Extent of Refunds or Reductions of Fees

(1) Any amount paid by mistake, without cause, or in excess of the amount due, for fees indicated in Part I shall be refunded.

(2) Where the international application is withdrawn or considered withdrawn, under Article 14(1), (3) or (4), before the start of the international search, the amount of the search fee paid shall be fully refunded.

(3) Where the Authority benefits from:

- (i) an earlier national search already made by the Authority on an application whose priority is claimed for the international application: 100% of the national filing fee paid shall be refunded;
- (ii) an earlier international-type search already made by the Authority on an application whose priority is claimed for the international application: 50% or 100% of the international-type search fee paid shall be refunded, depending upon the extent to which the Authority benefits from that earlier search;
- (iii) an earlier international search already made by the Authority on an application whose priority is claimed for the international application: 50% or 100% of the earlier international search fee paid shall be refunded, depending upon the extent to which the Authority benefits from that earlier search.

(4) In the cases provided for under Rule 58.3, the amount of the preliminary examination fee paid shall be fully refunded.

(5) When the international application or the demand is withdrawn before the start of the international preliminary examination, the amount of the preliminary examination fee paid shall be fully refunded.

Annex D
Languages of Correspondence

Under Article 7 of the Agreement, the Authority specifies the following languages:

Finnish, Swedish or English, depending on the language in which the international application is filed or translated.

JP: Draft Agreement with the Japan Patent Office

Agreement

between the Japan Patent Office
and the International Bureau of the World Intellectual Property Organization

in relation to the functioning of the Japan Patent Office
as an International Searching Authority
and International Preliminary Examining Authority
under the Patent Cooperation Treaty

Preamble

The Japan Patent Office and the International Bureau of the World Intellectual Property Organization,

Considering that the PCT Assembly, having heard the advice of the PCT Committee for Technical Cooperation, has appointed the Japan Patent Office as an International Searching and Preliminary Examining Authority under the Patent Cooperation Treaty and approved this Agreement in accordance with Articles 16(3) and 32(3),

Hereby agree as follows:

Article 1
Terms and Expressions

- (1) For the purposes of this Agreement:
 - (a) “Treaty” means the Patent Cooperation Treaty;
 - (b) “Regulations” means the Regulations under the Treaty;
 - (c) “Administrative Instructions” means the Administrative Instructions under the Treaty;
 - (d) “Article” (except where a specific reference is made to an Article of this Agreement) means an Article of the Treaty;
 - (e) “Rule” means a Rule of the Regulations;
 - (f) “Contracting State” means a State party to the Treaty;
 - (g) “the Authority” means the Japan Patent Office;
 - (h) “the International Bureau” means the International Bureau of the World Intellectual Property Organization.

(2) All other terms and expressions used in this Agreement which are also used in the Treaty, the Regulations or the Administrative Instructions have, for the purposes of this Agreement, the same meaning as in the Treaty, the Regulations and the Administrative Instructions.

Article 2
Basic Obligations

(1) The Authority shall carry out international search and international preliminary examination in accordance with, and perform such other functions of an International Searching Authority and International Preliminary Examining Authority as are provided under, the Treaty, the Regulations, the Administrative Instructions and this Agreement.

(2) In carrying out international search and international preliminary examination, the Authority shall apply and observe all the common rules of international search and of international preliminary examination and, in particular, shall be guided by the PCT International Search and Preliminary Examination Guidelines.

(3) The Authority shall maintain a quality management system in compliance with the requirements set out in the PCT International Search and Preliminary Examination Guidelines.

(4) The Authority and the International Bureau shall, having regard to their respective functions under the Treaty, the Regulations, the Administrative Instructions and this Agreement, render, to the extent considered to be appropriate by both the Authority and the International Bureau, mutual assistance in the performance of their functions thereunder.

Article 3
Competence of Authority

(1) The Authority shall act as International Searching Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international search, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(2) The Authority shall act as International Preliminary Examining Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international preliminary examination, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant and that any other requirements regarding such application as specified in Annex A to this Agreement have been met.

(3) Where an international application is filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), paragraphs (1) and (2) apply as if that application had been filed with a receiving Office which would have been competent under Rule 19.1(a)(i) or (ii), (b) or (c) or Rule 19.2(i).

Article 4
Subject Matter Not Required to Be Searched or Examined

The Authority shall not be obliged to search, by virtue of Article 17(2)(a)(i), or examine, by virtue of Article 34(4)(a)(i), any international application to the extent that it considers that such application relates to subject matter set forth in Rule 39.1 or 67.1, as the case may be, with the exception of the subject matter specified in Annex B to this Agreement.

Article 5
Fees and Charges

(1) A schedule of all fees of the Authority, and all other charges which the Authority is entitled to make, in relation to its functions as an International Searching Authority and International Preliminary Examining Authority, is set out in Annex C to this Agreement.

(2) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement:

- (i) refund the whole or part of the search fee paid, or waive or reduce the search fee, where the international search report can be wholly or partly based on the results of an earlier search (Rules 16.3 and 41.1);
- (ii) refund the search fee where the international application is withdrawn or considered withdrawn before the start of the international search.

(3) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement, refund the whole or part of the preliminary examination fee paid where the demand is considered as if it had not been submitted (Rule 58.3) or where the demand or the international application is withdrawn by the applicant before the start of the international preliminary examination.

Article 6
Classification

For the purposes of Rules 43.3(a) and 70.5(b), the Authority shall indicate solely the International Patent Classification.

Article 7
Languages of Correspondence Used by the Authority

For the purposes of correspondence, including forms, other than with the International Bureau, the Authority shall use the language or one of the languages indicated, having regard to the language or languages indicated in Annex A and to the language or languages whose use is authorized by the Authority under Rule 92.2(b), in Annex D.

Article 8
International-Type Search

The Authority shall carry out international-type searches to the extent decided by it.

Article 9
Entry into Force

This Agreement shall enter into force on January 1, 2008.

Article 10
Duration and Renewability

This Agreement shall remain in force until December 31, 2017. The parties to this Agreement shall, no later than July 2016, start negotiations for its renewal.

Article 11
Amendment

(1) Without prejudice to paragraphs (2) and (3), amendments may, subject to approval by the Assembly of the International Patent Cooperation Union, be made to this Agreement by agreement between the parties hereto; they shall take effect on the date agreed upon by them.

(2) Without prejudice to paragraph (3), amendments may be made to the Annexes to this Agreement by agreement between the Director General of the World Intellectual Property Organization and the Authority; they shall take effect on the date agreed upon by them.

(3) The Authority may, by a notification to the Director General of the World Intellectual Property Organization:

- (i) add to the indications of States and languages contained in Annex A to this Agreement;
- (ii) amend the schedule of fees and charges contained in Annex C to this Agreement;
- (iii) amend the indications of languages of correspondence contained in Annex D to this Agreement.

(4) Any amendment notified under paragraph (3) shall take effect on the date specified in the notification, provided that, for any increase of fees or charges contained in Annex C, that date is at least one month later than the date on which the notification is received by the International Bureau.

Article 12
Termination

(1) This Agreement shall terminate before December 31, 2017:

- (i) if the Japan Patent Office gives the Director General of the World Intellectual Property Organization written notice to terminate this Agreement; or
- (ii) if the Director General of the World Intellectual Property Organization gives the Japan Patent Office written notice to terminate this Agreement.

(2) The termination of this Agreement under paragraph (1) shall take effect one year after receipt of the notice by the other party, unless a longer period is specified in such notice or unless both parties agree on a shorter period.

In witness whereof the parties hereto have executed this Agreement.

Done at [city], this [date], in two originals in the English and Japanese languages, each text being equally authentic.

For the Japan Patent Office by:

For the International Bureau by:

[...]

[...]

Annex A
States and Languages

Under Article 3 of the Agreement, the Authority specifies:

- (i) the following States for which it will act, so far as Article 3(1) is concerned:
Japan, Philippines, Republic of Korea;
- (ii) the following States for which it will act, so far as Article 3(2) is concerned:
where the Authority has prepared the international search report, Japan,
Philippines, Republic of Korea;
- (iii) the following languages which it will accept:
 - (a) for international applications filed with the receiving Office of, or acting for, Japan:
Japanese, English;
 - (b) for international applications filed with the receiving Office of, or acting for, Philippines:
English;
 - (c) for international applications filed with the receiving Office of, or acting for, Republic of Korea:
Japanese.

Annex B
Subject Matter Not Excluded from Search or Examination

The subject matter set forth in Rule 39.1 or 67.1 which, under Article 4 of the Agreement, is not excluded from search or examination, is the following:

subject matter which is searched or examined in Japanese national applications.

Annex C
Fees and Charges

Part I. Schedule of Fees and Charges

<u>Kind of fee or charge</u>	<u>Amount</u> <u>(Japanese yen)</u>
Search fee (Rule 16.1(a))	97,000
Additional fee (Rule 40.2(a))	78,000
Preliminary examination fee (Rule 58.1(b))	36,000
Additional fee (Rule 68.3(a))	21,000
Cost of copies (Rules 44.3(b), 71.2(b) and 94.2), per document	1,400

Part II. Conditions for and Extent of Refunds or Reductions of Fees

(1) Any amount paid by mistake, without cause, or in excess of the amount due, for fees indicated in Part I shall be refunded.

(2) Where the Authority benefits from an earlier search to a considerable extent, the amount of 41,000 Japanese yen shall be refunded, upon request.

(3) In the cases provided for under Rule 58.3, the amount of the preliminary examination fee paid shall be fully refunded.

(4) As long as the refund of the search fee (in the case where the international application is withdrawn or considered withdrawn, under Article 14(1), (3) or (4), before the start of the international search) and the refund of the preliminary examination fee (in the case where the international application or the demand is withdrawn before the start of the international preliminary examination) continue not to be compatible with the national law applicable to the Authority, the Authority may abstain from refunding those fees.

Annex D
Languages of Correspondence

Under Article 7 of the Agreement, the Authority specifies the following languages:

Japanese, English.

KR: Draft Agreement with the Korean Intellectual Property Office

Agreement

between the Korean Intellectual Property Office
and the International Bureau of the World Intellectual Property Organization

in relation to the functioning of the Korean Intellectual Property Office
as an International Searching Authority
and International Preliminary Examining Authority
under the Patent Cooperation Treaty

Preamble

The Korean Intellectual Property Office and the International Bureau of the World Intellectual Property Organization,

Considering that the PCT Assembly, having heard the advice of the PCT Committee for Technical Cooperation, has appointed the Korean Intellectual Property Office as an International Searching and Preliminary Examining Authority under the Patent Cooperation Treaty and approved this Agreement in accordance with Articles 16(3) and 32(3),

Hereby agree as follows:

Article 1
Terms and Expressions

- (1) For the purposes of this Agreement:
 - (a) “Treaty” means the Patent Cooperation Treaty;
 - (b) “Regulations” means the Regulations under the Treaty;
 - (c) “Administrative Instructions” means the Administrative Instructions under the Treaty;
 - (d) “Article” (except where a specific reference is made to an Article of this Agreement) means an Article of the Treaty;
 - (e) “Rule” means a Rule of the Regulations;
 - (f) “Contracting State” means a State party to the Treaty;
 - (g) “the Authority” means the Korean Intellectual Property Office;
 - (h) “the International Bureau” means the International Bureau of the World Intellectual Property Organization.

(2) All other terms and expressions used in this Agreement which are also used in the Treaty, the Regulations or the Administrative Instructions have, for the purposes of this Agreement, the same meaning as in the Treaty, the Regulations and the Administrative Instructions.

Article 2
Basic Obligations

(1) The Authority shall carry out international search and international preliminary examination in accordance with, and perform such other functions of an International Searching Authority and International Preliminary Examining Authority as are provided under, the Treaty, the Regulations, the Administrative Instructions and this Agreement.

(2) In carrying out international search and international preliminary examination, the Authority shall apply and observe all the common rules of international search and of international preliminary examination and, in particular, shall be guided by the PCT International Search and Preliminary Examination Guidelines.

(3) The Authority shall maintain a quality management system in compliance with the requirements set out in the PCT International Search and Preliminary Examination Guidelines.

(4) The Authority and the International Bureau shall, having regard to their respective functions under the Treaty, the Regulations, the Administrative Instructions and this Agreement, render, to the extent considered to be appropriate by both the Authority and the International Bureau, mutual assistance in the performance of their functions thereunder.

Article 3
Competence of Authority

(1) The Authority shall act as International Searching Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international search, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(2) The Authority shall act as International Preliminary Examining Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international preliminary examination, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(3) Where an international application is filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), paragraphs (1) and (2) apply as if that application had been filed with a receiving Office which would have been competent under Rule 19.1(a)(i) or (ii), (b) or (c) or Rule 19.2(i).

Article 4
Subject Matter Not Required to Be Searched or Examined

The Authority shall not be obliged to search, by virtue of Article 17(2)(a)(i), or examine, by virtue of Article 34(4)(a)(i), any international application to the extent that it considers that such application relates to subject matter set forth in Rule 39.1 or 67.1, as the case may be, with the exception of the subject matter specified in Annex B to this Agreement.

Article 5
Fees and Charges

(1) A schedule of all fees of the Authority, and all other charges which the Authority is entitled to make, in relation to its functions as an International Searching Authority and International Preliminary Examining Authority, is set out in Annex C to this Agreement.

(2) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement:

- (i) refund the whole or part of the search fee paid, or waive or reduce the search fee, where the international search report can be wholly or partly based on the results of an earlier search (Rules 16.3 and 41.1);
- (ii) refund the search fee where the international application is withdrawn or considered withdrawn before the start of the international search.

(3) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement, refund the whole or part of the preliminary examination fee paid where the demand is considered as if it had not been submitted (Rule 58.3) or where the demand or the international application is withdrawn by the applicant before the start of the international preliminary examination.

Article 6
Classification

For the purposes of Rules 43.3(a) and 70.5(b), the Authority shall indicate solely the International Patent Classification.

Article 7
Languages of Correspondence Used by the Authority

For the purposes of correspondence, including forms, other than with the International Bureau, the Authority shall use the language or one of the languages indicated, having regard to the language or languages indicated in Annex A and to the language or languages whose use is authorized by the Authority under Rule 92.2(b), in Annex D.

Article 8
International-Type Search

The Authority shall carry out international-type searches to the extent decided by it.

Article 9
Entry into Force

This Agreement shall enter into force on January 1, 2008.

Article 10
Duration and Renewability

This Agreement shall remain in force until December 31, 2017. The parties to this Agreement shall, no later than July 2016, start negotiations for its renewal.

Article 11
Amendment

(1) Without prejudice to paragraphs (2) and (3), amendments may, subject to approval by the Assembly of the International Patent Cooperation Union, be made to this Agreement by agreement between the parties hereto; they shall take effect on the date agreed upon by them.

(2) Without prejudice to paragraph (3), amendments may be made to the Annexes to this Agreement by agreement between the Director General of the World Intellectual Property Organization and the Authority; they shall take effect on the date agreed upon by them.

(3) The Authority may, by a notification to the Director General of the World Intellectual Property Organization:

- (i) add to the indications of States and languages contained in Annex A to this Agreement;
- (ii) amend the schedule of fees and charges contained in Annex C to this Agreement;
- (iii) amend the indications of languages of correspondence contained in Annex D to this Agreement.

(4) Any amendment notified under paragraph (3) shall take effect on the date specified in the notification, provided that, for any increase of fees or charges contained in Annex C, that date is at least one month later than the date on which the notification is received by the International Bureau.

Article 12
Termination

(1) This Agreement shall terminate before December 31, 2017:

- (i) if the Korean Intellectual Property Office gives the Director General of the World Intellectual Property Organization written notice to terminate this Agreement; or

- (ii) if the Director General of the World Intellectual Property Organization gives the Korean Intellectual Property Office written notice to terminate this Agreement.

(2) The termination of this Agreement under paragraph (1) shall take effect one year after receipt of the notice by the other party, unless a longer period is specified in such notice or unless both parties agree on a shorter period.

In witness whereof the parties hereto have executed this Agreement.

Done at [city], this [date], in two originals in the English and Korean languages, each text being equally authentic.

For the Korean Intellectual Property Office
by:

[...]

For the International Bureau by:

[...]

Annex A
States and Languages

Under Article 3 of the Agreement, the Authority specifies:

- (i) the following States for which it will act:

Republic of Korea;

Indonesia, Malaysia, Mongolia, New Zealand, Philippines, Singapore, United States of America, Viet Nam;

- (ii) the following languages which it will accept:

Korean, English.

Annex B
Subject Matter Not Excluded from Search or Examination

The subject matter set forth in Rule 39.1 or 67.1 which, under Article 4 of the Agreement, is not excluded from search or examination, is the following:

subject matter which is searched or examined in Korean national applications.

Annex C
Fees and Charges

Part I. Schedule of Fees and Charges

<u>Kind of fee or charge</u>	<u>Amount</u> <u>(Korean won)</u>
Search fee (Rule 16.1(a))	225,000
Additional fee (Rule 40.2(a))	225,000
Preliminary examination fee (Rule 58.1(b))	225,000
Late payment fee for preliminary examination	[amount as set in Rule 58 <i>bis</i>]
Additional fee (Rule 68.3(a))	225,000
Protest fee (Rules 40.2(e) and 68.3(e))	11,000
Late furnishing fee (Rule 13 <i>ter</i> .1(c) and 13 <i>ter</i> .2)	112,500
Cost of copies (Rules 44.3(b), 71.2(b) and 94.2), per page	100

Part II. Conditions for and Extent of Refunds or Reductions of Fees

(1) Any amount paid by mistake, without cause, or in excess of the amount due, for fees indicated in Part I shall be refunded.

(2) Where the international application is withdrawn or considered withdrawn, under Article 14(1), (3) or (4), before the start of the international search, the amount of the search fee paid shall be fully refunded.

(3) Where the Authority benefits from an earlier search, 75% of the search fee paid shall be refunded.

(4) In the cases provided for under Rule 58.3, the amount of the preliminary examination fee paid shall be fully refunded.

(5) Where the international application or the demand is withdrawn before the start of the international preliminary examination, the amount of the preliminary examination fee paid shall be fully refunded.

Annex D
Languages of Correspondence

Under Article 7 of the Agreement, the Authority specifies the following languages:

Korean, English.

RU: Draft Agreement with the Russian Federal Service for Intellectual Property, Patents and Trademarks

Agreement

between the Russian Federal Service for Intellectual Property, Patents and Trademarks
and the International Bureau of the World Intellectual Property Organization

in relation to the functioning of the Russian Federal Service for
Intellectual Property, Patents and Trademarks
as an International Searching Authority
and International Preliminary Examining Authority
under the Patent Cooperation Treaty

Preamble

The Russian Federal Service for Intellectual Property, Patents and Trademarks and the
International Bureau of the World Intellectual Property Organization,

Considering that the PCT Assembly, having heard the advice of the PCT Committee for
Technical Cooperation, has appointed the Russian Federal Service for Intellectual Property,
Patents and Trademarks as an International Searching and Preliminary Examining Authority
under the Patent Cooperation Treaty and approved this Agreement in accordance with
Articles 16(3) and 32(3),

Hereby agree as follows:

Article 1
Terms and Expressions

- (1) For the purposes of this Agreement:
 - (a) “Treaty” means the Patent Cooperation Treaty;
 - (b) “Regulations” means the Regulations under the Treaty;
 - (c) “Administrative Instructions” means the Administrative Instructions under the Treaty;
 - (d) “Article” (except where a specific reference is made to an Article of this Agreement) means an Article of the Treaty;
 - (e) “Rule” means a Rule of the Regulations;
 - (f) “Contracting State” means a State party to the Treaty;
 - (g) “the Authority” means the Russian Federal Service for Intellectual Property, Patents and Trademarks;

(h) “the International Bureau” means the International Bureau of the World Intellectual Property Organization.

(2) All other terms and expressions used in this Agreement which are also used in the Treaty, the Regulations or the Administrative Instructions have, for the purposes of this Agreement, the same meaning as in the Treaty, the Regulations and the Administrative Instructions.

Article 2
Basic Obligations

(1) The Authority shall carry out international search and international preliminary examination in accordance with, and perform such other functions of an International Searching Authority and International Preliminary Examining Authority as are provided under, the Treaty, the Regulations, the Administrative Instructions and this Agreement.

(2) In carrying out international search and international preliminary examination, the Authority shall apply and observe all the common rules of international search and of international preliminary examination and, in particular, shall be guided by the PCT International Search and Preliminary Examination Guidelines.

(3) The Authority shall maintain a quality management system in compliance with the requirements set out in the PCT International Search and Preliminary Examination Guidelines.

(4) The Authority and the International Bureau shall, having regard to their respective functions under the Treaty, the Regulations, the Administrative Instructions and this Agreement, render, to the extent considered to be appropriate by both the Authority and the International Bureau, mutual assistance in the performance of their functions thereunder.

Article 3
Competence of Authority

(1) The Authority shall act as International Searching Authority for any international application filed with the receiving Office of, or acting for, any Contracting State, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international search, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(2) The Authority shall act as International Preliminary Examining Authority for any international application filed with the receiving Office of, or acting for, any Contracting State, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international preliminary examination, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(3) Where an international application is filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), paragraphs (1) and (2) apply as if that application had been filed with a receiving Office which would have been competent under Rule 19.1(a)(i) or (ii), (b) or (c) or Rule 19.2(i).

Article 4
Subject Matter Not Required to Be Searched or Examined

The Authority shall not be obliged to search, by virtue of Article 17(2)(a)(i), or examine, by virtue of Article 34(4)(a)(i), any international application to the extent that it considers that such application relates to subject matter set forth in Rule 39.1 or 67.1, as the case may be, with the exception of the subject matter specified in Annex B to this Agreement.

Article 5
Fees and Charges

(1) A schedule of all fees of the Authority, and all other charges which the Authority is entitled to make, in relation to its functions as an International Searching Authority and International Preliminary Examining Authority, is set out in Annex C to this Agreement.

(2) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement:

- (i) refund the whole or part of the search fee paid, or waive or reduce the search fee, where the international search report can be wholly or partly based on the results of an earlier search (Rules 16.3 and 41.1);
- (ii) refund the search fee where the international application is withdrawn or considered withdrawn before the start of the international search.

(3) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement, refund the whole or part of the preliminary examination fee paid where the demand is considered as if it had not been submitted (Rule 58.3) or where the demand or the international application is withdrawn by the applicant before the start of the international preliminary examination.

Article 6
Classification

For the purposes of Rules 43.3(a) and 70.5(b), the Authority shall indicate solely the International Patent Classification.

Article 7
Languages of Correspondence Used by the Authority

For the purposes of correspondence, including forms, other than with the International Bureau, the Authority shall use the language or one of the languages indicated, having regard to the language or languages indicated in Annex A and to the language or languages whose use is authorized by the Authority under Rule 92.2(b), in Annex D.

Article 8
International-Type Search

The Authority shall carry out international-type searches to the extent decided by it.

Article 9
Entry into Force

This Agreement shall enter into force on January 1, 2008.

Article 10
Duration and Renewability

This Agreement shall remain in force until December 31, 2017. The parties to this Agreement shall, no later than July 2016, start negotiations for its renewal.

Article 11
Amendment

(1) Without prejudice to paragraphs (2) and (3), amendments may, subject to approval by the Assembly of the International Patent Cooperation Union, be made to this Agreement by agreement between the parties hereto; they shall take effect on the date agreed upon by them.

(2) Without prejudice to paragraph (3), amendments may be made to the Annexes to this Agreement by agreement between the Director General of the World Intellectual Property Organization and the Authority; they shall take effect on the date agreed upon by them.

(3) The Authority may, by a notification to the Director General of the World Intellectual Property Organization:

- (i) add to the indications of languages contained in Annex A to this Agreement;
- (ii) amend the schedule of fees and charges contained in Annex C to this Agreement;
- (iii) amend the indications of languages of correspondence contained in Annex D to this Agreement.

(4) Any amendment notified under paragraph (3) shall take effect on the date specified in the notification, provided that, for any increase of fees or charges contained in Annex C, that date is at least one month later than the date on which the notification is received by the International Bureau.

Article 12
Termination

- (1) This Agreement shall terminate before December 31, 2017:
- (i) if the Russian Federal Service for Intellectual Property, Patents and Trademarks gives the Director General of the World Intellectual Property Organization written notice to terminate this Agreement; or
 - (ii) if the Director General of the World Intellectual Property Organization gives the Russian Federal Service for Intellectual Property, Patents and Trademarks written notice to terminate this Agreement.

(2) The termination of this Agreement under paragraph (1) shall take effect one year after receipt of the notice by the other party, unless a longer period is specified in such notice or unless both parties agree on a shorter period.

In witness whereof the parties hereto have executed this Agreement.

Done at *[city]*, this *[date]*, in two originals in the English and Russian languages, each text being equally authentic.

For the Russian Federal Service for
Intellectual Property, Patents and Trademarks
by:

[...]

For the International Bureau by:

[...]

Annex A
Languages

Under Article 3 of the Agreement, the Authority specifies the following languages:

Russian, English.

Annex B
Subject Matter Not Excluded from Search or Examination

The subject matter set forth in Rule 39.1 or 67.1 which, under Article 4 of the Agreement, is not excluded from search or examination, is the following:

all subject matter searched or examined under national patent law administered by the Russian Federal Service for Intellectual Property, Patents and Trademarks.

Annex C
Fees and Charges

Part I. Schedule of Fees and Charges

<u>Kind of fee or charge</u>	<u>Amount</u> <u>(US dollars)</u>
Search fee (Rule 16.1(a)) ¹	500
Additional fee (Rule 40.2(a)) ²	500
Preliminary examination fee (Rule 58.1(b)): ²	
– if the international search report has been prepared by the Authority	200
– if the international search report has been prepared by another International Searching Authority	300
Additional fee (Rule 68.3(a)): ²	
– if the international search report has been prepared by the Authority	200
– if the international search report has been prepared by another International Searching Authority	300
Late furnishing fee (Rule 13 ^{ter} .1(c)) ²	150
Cost of copies of cited documents (except for documents transmitted to the applicant along with the international search report or preliminary examination report) (Rules 44.3(b) and 71.2(b)): ²	
– patent document, per page	0.30
– non-patent document, per page	1.20
Cost of copies of document contained in the file of the international application (Rule 94.2), per page ²	3.00

¹ If payment is made to a receiving Office which accepts payments in Russian roubles, the applicant may, instead of paying the US dollar amount, pay the equivalent amount in Russian roubles at the exchange rate applicable, on the date of payment, at the Central Bank of the Russian Federation.

² The applicant may, instead of paying the US dollar amount, pay the equivalent amount in Russian roubles at the exchange rate applicable, on the date of payment, at the Central Bank of the Russian Federation.

Part II. Conditions for and Extent of Refunds or Reductions of Fees

- (1) Any amount paid by mistake, without cause, or in excess of the amount due, for fees indicated in Part I shall be refunded.
- (2) Where the international application is withdrawn or considered withdrawn, under Article 14(1), (3) or (4), or Rules 90*bis*.1(a) or 90*bis*.2(c) before the start of the international search, the amount of the search fee paid shall be fully refunded.
- (3) Where the Authority benefits from an earlier international, international-type or other search report prepared by it, the following amount of the search fee shall be refunded:
 - (i) 75%, if no additional search is required;
 - (ii) 50%, if the additional search is confirmed by documents relating to one or two additional IPC subgroups;
 - (iii) 25%, if the additional search is confirmed by documents relating to new aspects of the claimed invention.
- (4) In the cases provided for under Rule 58.3, the amount of the preliminary examination fee paid shall be fully refunded.
- (5) Where the international application or the demand is withdrawn before the start of the international preliminary examination, the amount of the preliminary examination fee paid shall be fully refunded.

Annex D
Languages of Correspondence

Under Article 7 of the Agreement, the Authority specifies the following languages:

Russian or English, depending on the language in which the international application is filed or translated, or at the applicant's choice.

SE: Draft Agreement with the Swedish Patent and Registration Office

Agreement

between the Swedish Patent and Registration Office
and the International Bureau of the World Intellectual Property Organization

in relation to the functioning of the Swedish Patent and Registration Office
as an International Searching Authority
and International Preliminary Examining Authority
under the Patent Cooperation Treaty

Preamble

The Swedish Patent and Registration Office and the International Bureau of the World Intellectual Property Organization,

Considering that the PCT Assembly, having heard the advice of the PCT Committee for Technical Cooperation, has appointed the Swedish Patent and Registration Office as an International Searching and Preliminary Examining Authority under the Patent Cooperation Treaty and approved this Agreement in accordance with Articles 16(3) and 32(3),

Hereby agree as follows:

Article 1

Terms and Expressions

- (1) For the purposes of this Agreement:
 - (a) “Treaty” means the Patent Cooperation Treaty;
 - (b) “Regulations” means the Regulations under the Treaty;
 - (c) “Administrative Instructions” means the Administrative Instructions under the Treaty;
 - (d) “Article” (except where a specific reference is made to an Article of this Agreement) means an Article of the Treaty;
 - (e) “Rule” means a Rule of the Regulations;
 - (f) “Contracting State” means a State party to the Treaty;
 - (g) “the Authority” means the Swedish Patent and Registration Office;
 - (h) “the International Bureau” means the International Bureau of the World Intellectual Property Organization.

(2) All other terms and expressions used in this Agreement which are also used in the Treaty, the Regulations or the Administrative Instructions have, for the purposes of this Agreement, the same meaning as in the Treaty, the Regulations and the Administrative Instructions.

Article 2
Basic Obligations

(1) The Authority shall carry out international search and international preliminary examination in accordance with, and perform such other functions of an International Searching Authority and International Preliminary Examining Authority as are provided under, the Treaty, the Regulations, the Administrative Instructions and this Agreement.

(2) In carrying out international search and international preliminary examination, the Authority shall apply and observe all the common rules of international search and of international preliminary examination and, in particular, shall be guided by the PCT International Search and Preliminary Examination Guidelines.

(3) The Authority shall maintain a quality management system in compliance with the requirements set out in the PCT International Search and Preliminary Examination Guidelines.

(4) The Authority and the International Bureau shall, having regard to their respective functions under the Treaty, the Regulations, the Administrative Instructions and this Agreement, render, to the extent considered to be appropriate by both the Authority and the International Bureau, mutual assistance in the performance of their functions thereunder.

Article 3
Competence of Authority

(1) The Authority shall act as International Searching Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international search, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(2) The Authority shall act as International Preliminary Examining Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international preliminary examination, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(3) Where an international application is filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), paragraphs (1) and (2) apply as if that application had been filed with a receiving Office which would have been competent under Rule 19.1(a)(i) or (ii), (b) or (c) or Rule 19.2(i).

Article 4
Subject Matter Not Required to Be Searched or Examined

The Authority shall not be obliged to search, by virtue of Article 17(2)(a)(i), or examine, by virtue of Article 34(4)(a)(i), any international application to the extent that it considers that such application relates to subject matter set forth in Rule 39.1 or 67.1, as the case may be, with the exception of the subject matter specified in Annex B to this Agreement.

Article 5
Fees and Charges

(1) A schedule of all fees of the Authority, and all other charges which the Authority is entitled to make, in relation to its functions as an International Searching Authority and International Preliminary Examining Authority, is set out in Annex C to this Agreement.

(2) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement:

- (i) refund the whole or part of the search fee paid, or waive or reduce the search fee, where the international search report can be wholly or partly based on the results of an earlier search (Rules 16.3 and 41.1);
- (ii) refund the search fee where the international application is withdrawn or considered withdrawn before the start of the international search.

(3) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement, refund the whole or part of the preliminary examination fee paid where the demand is considered as if it had not been submitted (Rule 58.3) or where the demand or the international application is withdrawn by the applicant before the start of the international preliminary examination.

Article 6
Classification

For the purposes of Rules 43.3(a) and 70.5(b), the Authority shall indicate solely the International Patent Classification.

Article 7
Languages of Correspondence Used by the Authority

For the purposes of correspondence, including forms, other than with the International Bureau, the Authority shall use the language or one of the languages indicated, having regard to the language or languages indicated in Annex A and to the language or languages whose use is authorized by the Authority under Rule 92.2(b), in Annex D.

Article 8
International-Type Search

The Authority shall carry out international-type searches to the extent decided by it.

Article 9
Entry into Force

This Agreement shall enter into force on January 1, 2008.

Article 10
Duration and Renewability

This Agreement shall remain in force until December 31, 2017. The parties to this Agreement shall, no later than July 2016, start negotiations for its renewal.

Article 11
Amendment

(1) Without prejudice to paragraphs (2) and (3), amendments may, subject to approval by the Assembly of the International Patent Cooperation Union, be made to this Agreement by agreement between the parties hereto; they shall take effect on the date agreed upon by them.

(2) Without prejudice to paragraph (3), amendments may be made to the Annexes to this Agreement by agreement between the Director General of the World Intellectual Property Organization and the Authority; they shall take effect on the date agreed upon by them.

(3) The Authority may, by a notification to the Director General of the World Intellectual Property Organization:

- (i) add to the indications of States and languages contained in Annex A to this Agreement;
- (ii) amend the schedule of fees and charges contained in Annex C to this Agreement;
- (iii) amend the indications of languages of correspondence contained in Annex D to this Agreement.

(4) Any amendment notified under paragraph (3) shall take effect on the date specified in the notification, provided that, for any increase of fees or charges contained in Annex C, that date is at least one month later than the date on which the notification is received by the International Bureau.

Article 12
Termination

(1) This Agreement shall terminate before December 31, 2017:

- (i) if the Swedish Patent and Registration Office gives the Director General of the World Intellectual Property Organization written notice to terminate this Agreement; or

- (ii) if the Director General of the World Intellectual Property Organization gives the Swedish Patent and Registration Office written notice to terminate this Agreement.

(2) The termination of this Agreement under paragraph (1) shall take effect one year after receipt of the notice by the other party, unless a longer period is specified in such notice or unless both parties agree on a shorter period.

In witness whereof the parties hereto have executed this Agreement.

Done at [city], this [date], in two originals in the English language.

For the Swedish Patent and Registration
Office by:

For the International Bureau by:

[...]

[...]

Annex A
States and Languages

Under Article 3 of the Agreement, the Authority specifies:

- (i) the following States for which it will act:
 - (a) Denmark, Finland, Iceland, Norway, Sweden;
 - (b) the States regarded as developing countries in conformity with the established practice of the General Assembly of the United Nations, provided that Sweden, in accordance with its obligations undertaken within the framework of the European Patent Organisation, has concluded with those States an agreement for that purpose;
- (ii) the following languages which it will accept:
 - (a) for international applications filed with the receiving Office of, or acting for, any State referred to in subparagraph (i)(a), above:
Danish, English, Finnish, Norwegian, Swedish;
 - (b) for international applications filed with the receiving Office of, or acting for, any State referred to in subparagraph (i)(b), above:
Danish, English, Finnish, French, Norwegian, Swedish.

Annex B
Subject Matter Not Excluded from Search or Examination

The subject matter set forth in Rule 39.1 or 67.1 which, under Article 4 of the Agreement, is not excluded from search or examination, is the following:

none.

Annex C
Fees and Charges

Part I. Schedule of Fees and Charges

<u>Kind of fee or charge</u>	<u>Amount</u> <u>(Swedish kronor)</u>
Search fee (Rule 16.1(a))	15,230
Additional fee (Rule 40.2(a))	15,230
Preliminary examination fee (Rule 58.1(b))	5,000
Additional fee (Rule 68.3(a))	5,000
Cost of copies (Rule 94.2), per page	4
Cost of copies in paper form (Rules 44.3(b) and 71.2(b)), ¹ per document	50

Part II. Conditions for and Extent of Refunds or Reductions of Fees

(1) Any amount paid by mistake, without cause, or in excess of the amount due, for fees indicated in Part I shall be refunded.

(2) Where the international application is withdrawn or considered withdrawn, under Article 14(1), (3) or (4), before the start of the international search, the amount of the search fee paid shall be fully refunded.

(3) Where the Authority benefits from an earlier international or international-type search, 50% or 100% of the search fee paid according to Part I shall be refunded, depending upon the extent to which the Authority benefits from that earlier search.

(4) Where on an earlier application, the priority of which is claimed, a search report has been issued by the Danish Patent Office, the Icelandic Patent Office, the National Board of Patents and Registration of Finland or the Norwegian Patent Office, and where the Authority benefits from that search report, the amount of SEK 1,400 shall be refunded in respect of the search fee paid according to Part I. Where on an earlier application, the priority of which is claimed, a search report has been issued by the Swedish Patent and Registration Office, and where the Authority benefits from that search report, the amount of SEK 2,800 shall be refunded in respect of the search fee paid according to Part I.

(5) In the cases provided for under Rule 58.3, the following amount of the preliminary examination fee shall be refunded:

- (a) refund of the full amount paid where Rule 54.4(a), 57.4(c) or 58.2(c) applies;
- (b) refund of the amount paid less the current amount of transmittal fee, where Rule 60.1(c) applies.

¹ The applicant will receive free of charge a copy of each document containing non-patent literature. Other documents are available electronically, free of charge, on the website www.prv.se.

(6) Where the international application or the demand is withdrawn before the start of the international preliminary examination, the amount of the preliminary examination fee paid shall be fully refunded.

Annex D
Languages of Correspondence

Under Article 7 of the Agreement, the Authority specifies the following languages:

Danish, English, Finnish, French, Norwegian or Swedish, depending on the language in which the international application is filed or translated; however, English or Swedish may be used in all cases.

US: Draft Agreement with the United States Patent and Trademark Office

Agreement

between the United States Patent and Trademark Office
and the International Bureau of the World Intellectual Property Organization

in relation to the functioning of the United States Patent and Trademark Office
as an International Searching Authority
and International Preliminary Examining Authority
under the Patent Cooperation Treaty

Preamble

The United States Patent and Trademark Office and the International Bureau of the
World Intellectual Property Organization,

Considering that the PCT Assembly, having heard the advice of the PCT Committee for
Technical Cooperation, has appointed the United States Patent and Trademark Office as an
International Searching and Preliminary Examining Authority under the Patent Cooperation
Treaty and approved this Agreement in accordance with Articles 16(3) and 32(3),

Hereby agree as follows:

Article 1
Terms and Expressions

- (1) For the purposes of this Agreement:
 - (a) “Treaty” means the Patent Cooperation Treaty;
 - (b) “Regulations” means the Regulations under the Treaty;
 - (c) “Administrative Instructions” means the Administrative Instructions under the Treaty;
 - (d) “Article” (except where a specific reference is made to an Article of this Agreement) means an Article of the Treaty;
 - (e) “Rule” means a Rule of the Regulations;
 - (f) “Contracting State” means a State party to the Treaty;
 - (g) “the Authority” means the United States Patent and Trademark Office;
 - (h) “the International Bureau” means the International Bureau of the World Intellectual Property Organization.

(2) All other terms and expressions used in this Agreement which are also used in the Treaty, the Regulations or the Administrative Instructions have, for the purposes of this Agreement, the same meaning as in the Treaty, the Regulations and the Administrative Instructions.

Article 2
Basic Obligations

(1) The Authority shall carry out international search and international preliminary examination in accordance with, and perform such other functions of an International Searching Authority and International Preliminary Examining Authority as are provided under, the Treaty, the Regulations, the Administrative Instructions and this Agreement.

(2) In carrying out international search and international preliminary examination, the Authority shall apply and observe all the common rules of international search and of international preliminary examination and, in particular, shall be guided by the PCT International Search and Preliminary Examination Guidelines.

(3) The Authority shall maintain a quality management system in compliance with the requirements set out in the PCT International Search and Preliminary Examination Guidelines.

(4) The Authority and the International Bureau shall, having regard to their respective functions under the Treaty, the Regulations, the Administrative Instructions and this Agreement, render, to the extent considered to be appropriate by both the Authority and the International Bureau, mutual assistance in the performance of their functions thereunder.

Article 3
Competence of Authority

(1) The Authority shall act as International Searching Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international search, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(2) The Authority shall act as International Preliminary Examining Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international preliminary examination, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant and that any other requirements regarding such application as specified in Annex A to this Agreement have been met.

(3) Where an international application is filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), paragraphs (1) and (2) apply as if that application had been filed with a receiving Office which would have been competent under Rule 19.1(a)(i) or (ii), (b) or (c) or Rule 19.2(i).

Article 4
Subject Matter Not Required to Be Searched or Examined

The Authority shall not be obliged to search, by virtue of Article 17(2)(a)(i), or examine, by virtue of Article 34(4)(a)(i), any international application to the extent that it considers that such application relates to subject matter set forth in Rule 39.1 or 67.1, as the case may be, with the exception of the subject matter specified in Annex B to this Agreement.

Article 5
Fees and Charges

(1) A schedule of all fees of the Authority, and all other charges which the Authority is entitled to make, in relation to its functions as an International Searching Authority and International Preliminary Examining Authority, is set out in Annex C to this Agreement.

(2) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement:

- (i) refund the whole or part of the search fee paid, or waive or reduce the search fee, where the international search report can be wholly or partly based on the results of an earlier search (Rules 16.3 and 41.1);
- (ii) refund the search fee where the international application is withdrawn or considered withdrawn before the start of the international search.

(3) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement, refund the whole or part of the preliminary examination fee paid where the demand is considered as if it had not been submitted (Rule 58.3) or where the demand or the international application is withdrawn by the applicant before the start of the international preliminary examination.

Article 6
Classification

The Authority shall indicate the International Patent Classification for the purposes of Rules 43.3(a) and 70.5(b) and may also apply the United States Patent Classification.

Article 7
Languages of Correspondence Used by the Authority

For the purposes of correspondence, including forms, other than with the International Bureau, the Authority shall use the language or one of the languages indicated, having regard to the language or languages indicated in Annex A and to the language or languages whose use is authorized by the Authority under Rule 92.2(b), in Annex D.

Article 8
International-Type Search

The Authority shall carry out international-type searches to the extent decided by it.

Article 9
Entry into Force

This Agreement shall enter into force on January 1, 2008.

Article 10
Duration and Renewability

This Agreement shall remain in force until December 31, 2017. The parties to this Agreement shall, no later than July 2016, start negotiations for its renewal.

Article 11
Amendment

(1) Without prejudice to paragraphs (2) and (3), amendments may, subject to approval by the Assembly of the International Patent Cooperation Union, be made to this Agreement by agreement between the parties hereto; they shall take effect on the date agreed upon by them.

(2) Without prejudice to paragraph (3), amendments may be made to the Annexes to this Agreement by agreement between the Director General of the World Intellectual Property Organization and the Authority; they shall take effect on the date agreed upon by them.

(3) The Authority may, by a notification to the Director General of the World Intellectual Property Organization:

- (i) add to the indications of States and languages contained in Annex A to this Agreement;
- (ii) amend the schedule of fees and charges contained in Annex C to this Agreement;
- (iii) amend the indications of languages of correspondence contained in Annex D to this Agreement.

(4) Any amendment notified under paragraph (3) shall take effect on the date specified in the notification, provided that, for any increase of fees or charges contained in Annex C, that date is at least one month later than the date on which the notification is received by the International Bureau.

Article 12
Termination

(1) This Agreement shall terminate before December 31, 2017:

- (i) if the United States Patent and Trademark Office gives the Director General of the World Intellectual Property Organization written notice to terminate this Agreement; or

- (ii) if the Director General of the World Intellectual Property Organization gives the United States Patent and Trademark Office written notice to terminate this Agreement.

(2) The termination of this Agreement under paragraph (1) shall take effect one year after receipt of the notice by the other party, unless a longer period is specified in such notice or unless both parties agree on a shorter period.

In witness whereof the parties hereto have executed this Agreement.

Done at [city], this [date], in two originals in the English language.

For the United States Patent and Trademark Office by: For the International Bureau by:

[...]

[...]

Annex A
States and Languages

Under Article 3 of the Agreement, the Authority specifies:

- (i) the following States for which it will act, so far as Article 3(1) is concerned:

United States of America, Barbados, Brazil, Dominican Republic, Egypt, India, Israel, Mexico, New Zealand, Philippines, Saint Lucia, South Africa, Trinidad and Tobago;

- (ii) the following States for which it will act, so far as Article 3(2) is concerned:

United States of America and,
where the Authority has prepared the international search report, Barbados, Brazil, Dominican Republic, Egypt, India, Israel, Mexico, New Zealand, Philippines, Saint Lucia, South Africa, Trinidad and Tobago;

- (iii) the following language which it will accept:

English.

Annex B
Subject Matter Not Excluded from Search or Examination

The subject matter set forth in Rule 39.1 or 67.1 which, under Article 4 of the Agreement, is not excluded from search or examination, is the following:

subject matter which is searched or examined in United States national applications.

Annex C
Fees and Charges

Part I. Schedule of Fees and Charges

<u>Kind of fee or charge</u>	<u>Amount</u> <u>(US dollars)</u>
Search fee (Rule 16.1(a)):	
– when a corresponding prior United States national application has been filed under 35 USC 111(a), the basic filing fee under 37 CFR 1.16(a) has been paid and the prior US national application is identified by the application number if known, or if the application number is not known, by the filing date, title and name of applicant (and preferably by the application docket number), in the international application or accompanying the papers at the time of filing the international application	300
– in all other cases	1,000
Additional search fee (Rule 40.2(a))	1,000
Preparation of an international-type search report on a United States national application	40
Preliminary examination fee (Rule 58.1(b)):	
– where the international search fee has been paid on the international application to the Authority	600
– where the international search was carried out by another Authority	750
Additional examination fee (Rule 68.3(a))	600
Cost of copies (Rule 94.2):	
– US patent, per copy	3
– non-US patent document, per copy	25

Part II. Conditions for and Extent of Refunds or Reductions of Fees

(1) Any amount paid by mistake, without cause, or in excess of the amount due, for fees indicated in Part I shall be refunded.

(2) Where the international application is withdrawn or considered withdrawn, under Article 14(1), (3) or (4), before the start of the international search, the amount of the search fee paid shall be fully refunded.

(3) Where the demand is considered, under Rule 54.4(a), 57.4(c), 58.2(c) or 60.1(c), as if it had not been submitted, the amount of the preliminary examination fee paid shall be fully refunded.

(4) Where the international application or the demand is withdrawn before the start of the international preliminary examination, the amount of the preliminary examination fee paid, less a processing fee equivalent to the transmittal fee under Rule 14.1(b), shall be refunded.

Annex D
Languages of Correspondence

Under Article 7 of the Agreement, the Authority specifies the following language:

English.

XN: Draft Agreement with the Nordic Patent Institute

Agreement

between the Nordic Patent Institute
and the International Bureau of the World Intellectual Property Organization

in relation to the functioning of the Nordic Patent Institute
as an International Searching Authority
and International Preliminary Examining Authority
under the Patent Cooperation Treaty

Preamble

The Nordic Patent Institute and the International Bureau of the World Intellectual Property Organization,

Considering that the PCT Assembly, having heard the advice of the PCT Committee for Technical Cooperation, has appointed the Nordic Patent Institute as an International Searching and Preliminary Examining Authority under the Patent Cooperation Treaty and approved this Agreement in accordance with Articles 16(3) and 32(3),

Hereby agree as follows:

Article 1
Terms and Expressions

- (1) For the purposes of this Agreement:
 - (a) “Treaty” means the Patent Cooperation Treaty;
 - (b) “Regulations” means the Regulations under the Treaty;
 - (c) “Administrative Instructions” means the Administrative Instructions under the Treaty;
 - (d) “Article” (except where a specific reference is made to an Article of this Agreement) means an Article of the Treaty;
 - (e) “Rule” means a Rule of the Regulations;
 - (f) “Contracting State” means a State party to the Treaty;
 - (g) “the Authority” means the Nordic Patent Institute;
 - (h) “the International Bureau” means the International Bureau of the World Intellectual Property Organization.

(2) All other terms and expressions used in this Agreement which are also used in the Treaty, the Regulations or the Administrative Instructions have, for the purposes of this Agreement, the same meaning as in the Treaty, the Regulations and the Administrative Instructions.

Article 2
Basic Obligations

(1) The Authority shall carry out international search and international preliminary examination in accordance with, and perform such other functions of an International Searching Authority and International Preliminary Examining Authority as are provided under, the Treaty, the Regulations, the Administrative Instructions and this Agreement.

(2) In carrying out international search and international preliminary examination, the Authority shall apply and observe all the common rules of international search and of international preliminary examination and, in particular, shall be guided by the PCT International Search and Preliminary Examination Guidelines.

(3) The Authority shall maintain a quality management system in compliance with the requirements set out in the PCT International Search and Preliminary Examination Guidelines.

(4) The Authority and the International Bureau shall, having regard to their respective functions under the Treaty, the Regulations, the Administrative Instructions and this Agreement, render, to the extent considered to be appropriate by both the Authority and the International Bureau, mutual assistance in the performance of their functions thereunder.

Article 3
Competence of Authority

(1) The Authority shall act as International Searching Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international search, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(2) The Authority shall act as International Preliminary Examining Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international preliminary examination, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant and that any other requirements regarding such application as specified in Annex A to this Agreement have been met.

(3) Where an international application is filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), paragraphs (1) and (2) apply as if that application had been filed with a receiving Office which would have been competent under Rule 19.1(a)(i) or (ii), (b) or (c) or Rule 19.2(i).

Article 4
Subject Matter Not Required to Be Searched or Examined

The Authority shall not be obliged to search, by virtue of Article 17(2)(a)(i), or examine, by virtue of Article 34(4)(a)(i), any international application to the extent that it considers that such application relates to subject matter set forth in Rule 39.1 or 67.1, as the case may be, with the exception of the subject matter specified in Annex B to this Agreement.

Article 5
Fees and Charges

(1) A schedule of all fees of the Authority, and all other charges which the Authority is entitled to make, in relation to its functions as an International Searching Authority and International Preliminary Examining Authority, is set out in Annex C to this Agreement.

(2) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement:

- (i) refund the whole or part of the search fee paid, or waive or reduce the search fee, where the international search report can be wholly or partly based on the results of an earlier search (Rules 16.3 and 41.1);
- (ii) refund the search fee where the international application is withdrawn or considered withdrawn before the start of the international search.

(3) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement, refund the whole or part of the preliminary examination fee paid where the demand is considered as if it had not been submitted (Rule 58.3) or where the demand or the international application is withdrawn by the applicant before the start of the international preliminary examination.

Article 6
Classification

For the purposes of Rules 43.3(a) and 70.5(b), the Authority shall indicate solely the International Patent Classification.

Article 7
Languages of Correspondence Used by the Authority

For the purposes of correspondence, including forms, other than with the International Bureau, the Authority shall use the language or one of the languages indicated, having regard to the language or languages indicated in Annex A and to the language or languages whose use is authorized by the Authority under Rule 92.2(b), in Annex D.

Article 8
International-Type Search

The Authority shall carry out international-type searches to the extent decided by it.

Article 9
Entry into Force

This Agreement shall enter into force one month after the date on which the Authority notifies the Director General of the World Intellectual Property Organization that it is prepared to start functioning as an International Searching Authority and as an International Preliminary Examining Authority.

Article 10
Duration and Renewability

This Agreement shall remain in force until December 31, 2017. The parties to this Agreement shall, no later than July 2016, start negotiations for its renewal.

Article 11
Amendment

(1) Without prejudice to paragraphs (2) and (3), amendments may, subject to approval by the Assembly of the International Patent Cooperation Union, be made to this Agreement by agreement between the parties hereto; they shall take effect on the date agreed upon by them.

(2) Without prejudice to paragraph (3), amendments may be made to the Annexes to this Agreement by agreement between the Director General of the World Intellectual Property Organization and the Authority; they shall take effect on the date agreed upon by them.

(3) The Authority may, by a notification to the Director General of the World Intellectual Property Organization:

- (i) add to the indications of States and languages contained in Annex A to this Agreement;
- (ii) amend the schedule of fees and charges contained in Annex C to this Agreement;
- (iii) amend the indications of languages of correspondence contained in Annex D to this Agreement.

(4) Any amendment notified under paragraph (3) shall take effect on the date specified in the notification, provided that, for any increase of fees or charges contained in Annex C, that date is at least one month later than the date on which the notification is received by the International Bureau.

Article 12
Termination

- (1) This Agreement shall terminate before December 31, 2017:

- (i) if the Nordic Patent Institute gives the Director General of the World Intellectual Property Organization written notice to terminate this Agreement;
or
- (ii) if the Director General of the World Intellectual Property Organization gives the Nordic Patent Institute written notice to terminate this Agreement.

(2) The termination of this Agreement under paragraph (1) shall take effect one year after receipt of the notice by the other party, unless a longer period is specified in such notice or unless both parties agree on a shorter period.

In witness whereof the parties hereto have executed this Agreement.

Done at [city], this [date], in two originals in the Danish, English, Icelandic and Norwegian languages, each text being equally authentic.

For the Nordic Patent Institute by:

For the International Bureau by:

[...]

[...]

Annex A
States and Languages

Under Article 3 of the Agreement, the Authority specifies:

- (i) the following States for which it will act:
 - (a) Denmark, Iceland, Norway;
 - (b) any other Contracting State in accordance with the obligations of Denmark, Iceland and Norway within the framework of the European Patent Organisation;
- (ii) the following languages which it will accept:

Danish, English, Icelandic, Norwegian and Swedish.

Annex B
Subject Matter Not Excluded from Search or Examination

The subject matter set forth in Rule 39.1 or 67.1 which, under Article 4 of the Agreement, is not excluded from search or examination, is the following:

all subject matter searched or examined under the national patent grant procedure under the provisions of the Danish, Icelandic and Norwegian Patent Laws.

Annex C
Fees and Charges

Part I. Schedule of Fees and Charges

<u>Kind of fee or charge</u>	<u>Amount</u> <u>(...)</u>
Search fee (Rule 16.1(a))	[...]
Additional search fee (Rule 40.2(a))	[...]
Preparation of international-type search report	[...]
Preliminary examination fee (Rule 58.1(b))	[...]
Additional fee (Rule 68.3(a))	[...]
Cost of copies (Rules 44.3(b), 71.2(b) and 94.2)	[...]
Cost of copies in paper form (Rules 44.3(b) and 71.2(b)), per document	[...]

Part II. Conditions for and Extent of Refunds or Reductions of Fees

(1) Any amount paid by mistake, without cause, or in excess of the amount due, for fees indicated in Part I shall be refunded.

(2) Where the international application is withdrawn or considered withdrawn, under Article 14(1), (3) or (4), before the start of the international search, the amount of the search fee paid shall be fully refunded.

(3) Where the Authority benefits from an earlier international or international-type search, 50% or 100% of the search fee paid according to Part I shall be refunded, depending upon the extent to which the Authority benefits from that earlier search.

(4) Where on an earlier application, the priority of which is claimed, a search report has been issued by the Danish Patent Office, the Icelandic Patent Office or the Norwegian Patent Office, and where the Authority benefits from that search report, the amount of [...] shall be refunded in respect of the search fee paid according to Part I.

(5) In the cases provided for under Rule 58.3, the following amount of the preliminary examination fee shall be refunded:

- (a) refund of the full amount paid where Rule 54.4, 54*bis*.1(b) or 58*bis*.1(b) applies;
- (b) refund of the amount paid less the current amount of transmittal fee, where Rule 60.1(c) applies.

(6) Where the international application or the demand is withdrawn before the start of the international preliminary examination, the amount of the preliminary examination fee shall be fully refunded.

Annex D
Languages of Correspondence

Under Article 7 of the Agreement, the Authority specifies the following languages:

Danish, English, Icelandic, Norwegian and Swedish, depending on the language in which the international application is filed or translated; however, English may be used in all cases.

[Annex II follows]

ANNEX II

APPOINTMENT OF THE BRAZILIAN NATIONAL INSTITUTE OF INDUSTRIAL
PROPERTY AS AN INTERNATIONAL SEARCHING AND PRELIMINARY
EXAMINING AUTHORITY UNDER THE PCT

Agreement

between the Brazilian National Institute of Industrial Property
and the International Bureau of the World Intellectual Property Organization

in relation to the functioning of the Brazilian National Institute of Industrial Property
as an International Searching Authority
and International Preliminary Examining Authority
under the Patent Cooperation Treaty

Preamble

The Brazilian National Institute of Industrial Property and the International Bureau of
the World Intellectual Property Organization,

Considering that the PCT Assembly, having heard the advice of the PCT Committee for
Technical Cooperation, has appointed the Brazilian National Institute of Industrial Property as
an International Searching and Preliminary Examining Authority under the Patent
Cooperation Treaty and approved this Agreement in accordance with Articles 16(3)
and 32(3),

Hereby agree as follows:

Article 1
Terms and Expressions

- (1) For the purposes of this Agreement:
 - (a) “Treaty” means the Patent Cooperation Treaty;
 - (b) “Regulations” means the Regulations under the Treaty;
 - (c) “Administrative Instructions” means the Administrative Instructions under the Treaty;
 - (d) “Article” (except where a specific reference is made to an Article of this Agreement) means an Article of the Treaty;
 - (e) “Rule” means a Rule of the Regulations;
 - (f) “Contracting State” means a State party to the Treaty;
 - (g) “the Authority” means the Brazilian National Institute of Industrial Property;

- (h) “the International Bureau” means the International Bureau of the World Intellectual Property Organization.

(2) All other terms and expressions used in this Agreement which are also used in the Treaty, the Regulations or the Administrative Instructions have, for the purposes of this Agreement, the same meaning as in the Treaty, the Regulations and the Administrative Instructions.

Article 2
Basic Obligations

(1) The Authority shall carry out international search and international preliminary examination in accordance with, and perform such other functions of an International Searching Authority and International Preliminary Examining Authority as are provided under, the Treaty, the Regulations, the Administrative Instructions and this Agreement.

(2) In carrying out international search and international preliminary examination, the Authority shall apply and observe all the common rules of international search and of international preliminary examination and, in particular, shall be guided by the PCT International Search and Preliminary Examination Guidelines.

(3) The Authority shall maintain a quality management system in compliance with the requirements set out in the PCT International Search and Preliminary Examination Guidelines.

(4) The Authority and the International Bureau shall, having regard to their respective functions under the Treaty, the Regulations, the Administrative Instructions and this Agreement, render, to the extent considered to be appropriate by both the Authority and the International Bureau, mutual assistance in the performance of their functions thereunder.

Article 3
Competence of Authority

(1) The Authority shall act as International Searching Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international search, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(2) The Authority shall act as International Preliminary Examining Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international preliminary examination, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant and that any other requirements regarding such application as specified in Annex A to this Agreement have been met.

(3) Where an international application is filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), paragraphs (1) and (2) apply as if that application had been filed with a receiving Office which would have been competent under Rule 19.1(a)(i) or (ii), (b) or (c) or Rule 19.2(i).

Article 4
Subject Matter Not Required to Be Searched or Examined

The Authority shall not be obliged to search, by virtue of Article 17(2)(a)(i), or examine, by virtue of Article 34(4)(a)(i), any international application to the extent that it considers that such application relates to subject matter set forth in Rule 39.1 or 67.1, as the case may be, with the exception of the subject matter specified in Annex B to this Agreement.

Article 5
Fees and Charges

(1) A schedule of all fees of the Authority, and all other charges which the Authority is entitled to make, in relation to its functions as an International Searching Authority and International Preliminary Examining Authority, is set out in Annex C to this Agreement.

(2) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement:

- (i) refund the whole or part of the search fee paid, or waive or reduce the search fee, where the international search report can be wholly or partly based on the results of an earlier search (Rules 16.3 and 41.1);
- (ii) refund the search fee where the international application is withdrawn or considered withdrawn before the start of the international search.

(3) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement, refund the whole or part of the preliminary examination fee paid where the demand is considered as if it had not been submitted (Rule 58.3) or where the demand or the international application is withdrawn by the applicant before the start of the international preliminary examination.

Article 6
Classification

For the purposes of Rules 43.3(a) and 70.5(b), the Authority shall indicate solely the International Patent Classification.

Article 7
Languages of Correspondence Used by the Authority

For the purposes of correspondence, including forms, other than with the International Bureau, the Authority shall use the language or one of the languages indicated, having regard to the language or languages indicated in Annex A and to the language or languages whose use is authorized by the Authority under Rule 92.2(b), in Annex D.

Article 8
International-Type Search

The Authority shall carry out international-type searches to the extent decided by it.

Article 9
Entry into Force

This Agreement shall enter into force one month after the date on which the Authority notifies the Director General of the World Intellectual Property Organization that it is prepared to start functioning as an International Searching Authority and as an International Preliminary Examining Authority.

Article 10
Duration and Renewability

This Agreement shall remain in force until December 31, 2017. The parties to this Agreement shall, no later than July 2016, start negotiations for its renewal.

Article 11
Amendment

(1) Without prejudice to paragraphs (2) and (3), amendments may, subject to approval by the Assembly of the International Patent Cooperation Union, be made to this Agreement by agreement between the parties hereto; they shall take effect on the date agreed upon by them.

(2) Without prejudice to paragraph (3), amendments may be made to the Annexes to this Agreement by agreement between the Director General of the World Intellectual Property Organization and the Authority; they shall take effect on the date agreed upon by them.

(3) The Authority may, by a notification to the Director General of the World Intellectual Property Organization:

- (i) add to the indications of States and languages contained in Annex A to this Agreement;
- (ii) amend the schedule of fees and charges contained in Annex C to this Agreement;
- (iii) amend the indications of languages of correspondence contained in Annex D to this Agreement.

(4) Any amendment notified under paragraph (3) shall take effect on the date specified in the notification, provided that, for any increase of fees or charges contained in Annex C, that date is at least one month later than the date on which the notification is received by the International Bureau.

Article 12
Termination

- (1) This Agreement shall terminate before December 31, 2017:
- (i) if the Brazilian National Institute of Industrial Property gives the Director General of the World Intellectual Property Organization written notice to terminate this Agreement; or
 - (ii) if the Director General of the World Intellectual Property Organization gives the Brazilian National Institute of Industrial Property written notice to terminate this Agreement.

(2) The termination of this Agreement under paragraph (1) shall take effect one year after receipt of the notice by the other party, unless a longer period is specified in such notice or unless both parties agree on a shorter period.

In witness whereof the parties hereto have executed this Agreement.

Done at [city], this [date], in two originals in the English and Portuguese languages, each text being equally authentic.

For the Brazilian National Institute of
Industrial Property by:

[...]

For the International Bureau by:

[...]

Annex A
States and Languages

Under Article 3 of the Agreement, the Authority specifies:

- (i) the following States for which it will act:
 - any Contracting State;
- (ii) the following languages which it will accept:
 - (a) for international applications filed with the Brazilian National Institute of Industrial Property as receiving Office: English, Portuguese, Spanish;
 - (b) for international applications filed with any other receiving Office: Portuguese.

Annex B
Subject Matter Not Excluded from Search or Examination

The subject matter set forth in Rule 39.1 or 67.1 which, under Article 4 of the Agreement, is not excluded from search or examination, is the following:

all subject matter which is searched or examined under the Brazilian patent grant procedure.

Annex C
Fees and Charges

Part I. Schedule of Fees and Charges

<u>Kind of fee or charge</u>	<u>Amount</u> <u>(Brazilian reais)</u>
Search fee (Rule 16.1(a))	[...]
Additional fee (Rule 40.2(a))	[...]
Preliminary examination fee (Rule 58.1(b))	[...]
Additional fee (Rule 68.3(a))	[...]
Cost of copies (Rules 44.3(b), 71.2(b) and 94.2)	[...]

Part II. Conditions for and Extent of Refunds or Reductions of Fees

(1) Any amount paid by mistake, without cause, or in excess of the amount due, for fees indicated in Part I shall be refunded.

(2) Where the international application is withdrawn or considered withdrawn, under Article 14(1), (3) or (4), before the start of the international search, the amount of the search fee paid shall be fully refunded.

(3) Where the Authority benefits from an earlier search, [*percentages to be determined*] of the search fee paid shall be refunded, depending upon the extent to which the Authority benefits from that earlier search.

(4) In the cases provided for under Rule 58.3, the amount of the preliminary examination fee paid shall be fully refunded.

(5) When the international application or the demand is withdrawn before the start of the international preliminary examination, the amount of the preliminary examination fee paid shall be fully refunded.

Annex D
Languages of Correspondence

Under Article 7 of the Agreement, the Authority specifies the following language:

English, Portuguese or Spanish, depending on the language in which the international application is filed or translated.

[Annex III follows]

ANNEX III

APPOINTMENT OF THE INDIAN PATENT OFFICE
AS AN INTERNATIONAL SEARCHING AND
PRELIMINARY EXAMINING AUTHORITY UNDER THE PCT

Agreement

between the Government of India
and the International Bureau of the World Intellectual Property Organization

in relation to the functioning of the Indian Patent Office
as an International Searching Authority
and International Preliminary Examining Authority
under the Patent Cooperation Treaty

Preamble

The Government of India and the International Bureau of the World Intellectual Property Organization,

Considering that the PCT Assembly, having heard the advice of the PCT Committee for Technical Cooperation, has appointed the Indian Patent Office as an International Searching and Preliminary Examining Authority under the Patent Cooperation Treaty and approved this Agreement in accordance with Articles 16(3) and 32(3),

Hereby agree as follows:

Article I

Terms and Expressions

- (1) For the purposes of this Agreement:
 - (a) “Treaty” means the Patent Cooperation Treaty;
 - (b) “Regulations” means the Regulations under the Treaty;
 - (c) “Administrative Instructions” means the Administrative Instructions under the Treaty;
 - (d) “Article” (except where a specific reference is made to an Article of this Agreement) means an Article of the Treaty;
 - (e) “Rule” means a Rule of the Regulations;
 - (f) “Contracting State” means a State party to the Treaty;
 - (g) “the Authority” means the Indian Patent Office;
 - (h) “the International Bureau” means the International Bureau of the World Intellectual Property Organization.

(2) All other terms and expressions used in this Agreement which are also used in the Treaty, the Regulations or the Administrative Instructions have, for the purposes of this Agreement, the same meaning as in the Treaty, the Regulations and the Administrative Instructions.

Article 2
Basic Obligations

(1) The Authority shall carry out international search and international preliminary examination in accordance with, and perform such other functions of an International Searching Authority and International Preliminary Examining Authority as are provided under, the Treaty, the Regulations, the Administrative Instructions and this Agreement.

(2) In carrying out international search and international preliminary examination, the Authority shall apply and observe all the common rules of international search and of international preliminary examination and, in particular, shall be guided by the PCT International Search and Preliminary Examination Guidelines.

(3) The Authority shall maintain a quality management system in compliance with the requirements set out in the PCT International Search and Preliminary Examination Guidelines.

(4) The Authority and the International Bureau shall, having regard to their respective functions under the Treaty, the Regulations, the Administrative Instructions and this Agreement, render, to the extent considered to be appropriate by both the Authority and the International Bureau, mutual assistance in the performance of their functions thereunder.

Article 3
Competence of Authority

(1) The Authority shall act as International Searching Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international search, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant.

(2) The Authority shall act as International Preliminary Examining Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international preliminary examination, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant and that any other requirements regarding such application as specified in Annex A to this Agreement have been met.

(3) Where an international application is filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), paragraphs (1) and (2) apply as if that application had been filed with a receiving Office which would have been competent under Rule 19.1(a)(i) or (ii), (b) or (c) or Rule 19.2(i).

Article 4
Subject Matter Not Required to Be Searched or Examined

The Authority shall not be obliged to search, by virtue of Article 17(2)(a)(i), or examine, by virtue of Article 34(4)(a)(i), any international application to the extent that it considers that such application relates to subject matter set forth in Rule 39.1 or 67.1, as the case may be, with the exception of the subject matter specified in Annex B to this Agreement.

Article 5
Fees and Charges

(1) A schedule of all fees of the Authority, and all other charges which the Authority is entitled to make, in relation to its functions as an International Searching Authority and International Preliminary Examining Authority, is set out in Annex C to this Agreement.

(2) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement:

- (i) refund the whole or part of the search fee paid, or waive or reduce the search fee, where the international search report can be wholly or partly based on the results of an earlier search (Rules 16.3 and 41.1);
- (ii) refund the search fee where the international application is withdrawn or considered withdrawn before the start of the international search.

(3) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement, refund the whole or part of the preliminary examination fee paid where the demand is considered as if it had not been submitted (Rule 58.3) or where the demand or the international application is withdrawn by the applicant before the start of the international preliminary examination.

Article 6
Classification

For the purposes of Rules 43.3(a) and 70.5(b), the Authority shall indicate solely the International Patent Classification.

Article 7
Languages of Correspondence Used by the Authority

For the purposes of correspondence, including forms, other than with the International Bureau, the Authority shall use the language or one of the languages indicated, having regard to the language or languages indicated in Annex A and to the language or languages whose use is authorized by the Authority under Rule 92.2(b), in Annex D.

Article 8
International-Type Search

The Authority shall carry out international-type searches to the extent decided by it.

Article 9
Entry into Force

This Agreement shall enter into force one month after the date on which the Authority notifies the Director General of the World Intellectual Property Organization that it is prepared to start functioning as an International Searching Authority and as an International Preliminary Examining Authority.

Article 10
Duration and Renewability

This Agreement shall remain in force until December 31, 2017. The parties to this Agreement shall, no later than July 2016, start negotiations for its renewal.

Article 11
Amendment

(1) Without prejudice to paragraphs (2) and (3), amendments may, subject to approval by the Assembly of the International Patent Cooperation Union, be made to this Agreement by agreement between the parties hereto; they shall take effect on the date agreed upon by them.

(2) Without prejudice to paragraph (3), amendments may be made to the Annexes to this Agreement by agreement between the Director General of the World Intellectual Property Organization and the Authority; they shall take effect on the date agreed upon by them.

(3) The Authority may, by a notification to the Director General of the World Intellectual Property Organization:

- (i) add to the indications of States and languages contained in Annex A to this Agreement;
- (ii) amend the schedule of fees and charges contained in Annex C to this Agreement;
- (iii) amend the indications of languages of correspondence contained in Annex D to this Agreement.

(4) Any amendment notified under paragraph (3) shall take effect on the date specified in the notification, provided that, for any increase of fees or charges contained in Annex C, that date is at least one month later than the date on which the notification is received by the International Bureau.

Article 12
Termination

- (1) This Agreement shall terminate before December 31, 2017:
 - (i) if the Government of India gives the Director General of the World Intellectual Property Organization written notice to terminate this Agreement; or

- (ii) if the Director General of the World Intellectual Property Organization gives the Government of India written notice to terminate this Agreement.

(2) The termination of this Agreement under paragraph (1) shall take effect one year after receipt of the notice by the other party, unless a longer period is specified in such notice or unless both parties agree on a shorter period.

In witness whereof the parties hereto have executed this Agreement.

Done at [city], this [date], in two originals in the English language.

For the Government of India by:

For the International Bureau by:

[...]

[...]

Annex A
States and Languages

Under Article 3 of the Agreement, the Authority specifies:

- (i) the following State for which it will act:

India;

- (ii) the following language which it will accept:

English.

Annex B
Subject Matter Not Excluded from Search or Examination

The subject matter set forth in Rule 39.1 or 67.1 which, under Article 4 of the Agreement, is not excluded from search or examination, is the following:

all subject matter which is searched or examined under the Indian Patent Law administered by the Indian Patent Office.

Annex C
Fees and Charges

Part I. Schedule of Fees and Charges

<u>Kind of fee or charge</u>	<u>Amount</u> <u>(Indian rupees)</u>
Search fee (Rule 16.1(a))	[...]
Additional fee (Rule 40.2(a)):	
– where the international search report was issued by the Authority	[...]
– in other cases	[...]
Preliminary examination fee (Rule 58.1(b))	[...]
Additional fee (Rule 68.3(a))	[...]
Cost of copies (Rules 44.3(b), 71.2(b) and 94.2)	[...]

Part II. Conditions for and Extent of Refunds or Reductions of Fees

(1) Any amount paid by mistake, without cause, or in excess of the amount due, for fees indicated in Part I shall be refunded.

(2) Where the international application is withdrawn or considered withdrawn, under Article 14(1), (3) or (4), before the start of the international search, the amount of the search fee paid shall be fully refunded.

(3) Where the Authority benefits from an earlier search made by the Authority, 25% or 50% of the search fee paid shall be refunded, depending upon the extent to which the Authority benefits from that earlier search.

(4) In the cases provided for under Rule 58.3, the amount of the preliminary examination fee paid shall be fully refunded.

(5) Where the international application or the demand is withdrawn before the start of the international preliminary examination, the amount of the preliminary examination fee paid shall be fully refunded.

Annex D
Languages of Correspondence

Under Article 7 of the Agreement, the Authority specifies the following language:

English.

[Annex IV follows]

ANNEX IV

AMENDMENTS OF THE REGULATIONS UNDER THE PCT:
(to enter into force on July 1, 2008)¹

USE OF RESULTS OF EARLIER SEARCHES;
RESTORATION OF RIGHT OF PRIORITY BY THE RECEIVING OFFICE;
INTERNATIONAL APPLICATIONS CONSIDERED WITHDRAWN

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¹ See paragraph 137(ii) in the main body of this report for details concerning entry into force and transitional arrangements. See also paragraphs 137(iii) and 137(iv) in the main body of this report for details concerning understandings relating to Rules 4.12 and 12bis.1(e).

² The Table of Contents is included for convenience; it does not form part of the amendments.

Rule 4
The Request (Contents)

4.1 *Mandatory and Optional Contents; Signature*

(a) [No change]

(b) The request shall, where applicable, contain:

(i) [no change]

(ii) indications relating to an earlier search as provided in Rules 4.12(i) and 12bis.1(c) and (f),

(iii) and (iv) [no change]

(c) The request may contain:

(i) to (iv) [no change]

(v) a request for restoration of the right of priority,

(vi) a statement as provided in Rule 4.12(ii).

(d) [No change]

4.2 to 4.10 [No change]

4.11 *Reference to Continuation or Continuation-in-Part, or Parent Application or Grant*

(a) If:

(i) the applicant intends to make an indication under Rule 49bis.1(a) or (b) of the wish that the international application be treated, in any designated State, as an application for a patent of addition, certificate of addition, inventor's certificate of addition or utility certificate of addition; or

(ii) the applicant intends to make an indication under Rule 49bis.1(d) of the wish that the international application be treated, in any designated State, as an application for a continuation or a continuation-in-part of an earlier application;

the request shall so indicate and shall indicate the relevant parent application or parent patent or other parent grant.

(b) The inclusion in the request of an indication under paragraph (a) shall have no effect on the operation of Rule 4.9.

4.12 *Taking into Account Results of Earlier Search*

If the applicant wishes the International Searching Authority to take into account, in carrying out the international search, the results of an earlier international, international-type or national search carried out by the same or another International Searching Authority or by a national Office (“earlier search”):

(i) the request shall so indicate and shall specify the Authority or Office concerned and the application in respect of which the earlier search was carried out;

(ii) the request may, where applicable, contain a statement to the effect that the international application is the same, or substantially the same, as the application in respect of which the earlier search was carried out, or that the international application is the same, or substantially the same, as that earlier application except that it is filed in a different language.

4.13 and 4.14 *[Remain deleted]*

4.14*bis* to 4.19 [No change]

Rule 12bis
Copy of Results of Earlier Search
and of Earlier Application; Translation

12bis.1 Copy of Results of Earlier Search and of Earlier Application; Translation

(a) Where the applicant has, under Rule 4.12, requested the International Searching Authority to take into account the results of an earlier search carried out by the same or another International Searching Authority or by a national Office, the applicant shall, subject to paragraphs (c) to (f), submit to the receiving Office, together with the international application, a copy of the results of the earlier search, in whatever form (for example, in the form of a search report, a listing of cited prior art or an examination report) they are presented by the Authority or Office concerned.

(b) The International Searching Authority may, subject to paragraphs (c) to (f), invite the applicant to furnish to it, within a time limit which shall be reasonable under the circumstances:

(i) a copy of the earlier application concerned;

(ii) where the earlier application is in a language which is not accepted by the International Searching Authority, a translation of the earlier application into a language which is accepted by that Authority;

(iii) where the results of the earlier search are in a language which is not accepted by the International Searching Authority, a translation of those results into a language which is accepted by that Authority;

(iv) a copy of any document cited in the results of the earlier search.

(c) Where the earlier search was carried out by the same Office as that which is acting as the receiving Office, the applicant may, instead of submitting the copies referred to in paragraphs (a) and (b)(i) and (iv), indicate the wish that the receiving Office prepare and transmit them to the International Searching Authority. Such request shall be made in the request and may be subjected by the receiving Office to the payment to it, for its own benefit, of a fee.

(d) Where the earlier search was carried out by the same International Searching Authority, or by the same Office as that which is acting as the International Searching Authority, no copy or translation referred to in paragraphs (a) and (b) shall be required to be submitted under those paragraphs.

[Rule 12bis.1, continued]

(e) Where the request contains a statement under Rule 4.12(ii) to the effect that the international application is the same, or substantially the same, as the application in respect of which the earlier search was carried out, or that the international application is the same, or substantially the same, as that earlier application except that it is filed in a different language, no copy or translation referred to in paragraphs (b)(i) and (ii) shall be required to be submitted under those paragraphs.

(f) Where a copy or translation referred to in paragraphs (a) and (b) is available to the International Searching Authority in a form and manner acceptable to it, for example, from a digital library or in the form of the priority document, and the applicant so indicates in the request, no copy or translation shall be required to be submitted under those paragraphs.

Rule 16
The Search Fee

16.1 and 16.2 [No change]

16.3 *Partial Refund*

Where the International Searching Authority takes into account, under Rule 41.1, the results of an earlier search in carrying out the international search, that Authority shall refund the search fee paid in connection with the international application to the extent and under the conditions provided for in the agreement under Article 16(3)(b).

Rule 26bis
Correction or Addition of Priority Claim

26bis.1 and 26bis.2 [No change]

26bis.3 *Restoration of Right of Priority by Receiving Office*

(a) to (c) [No change]

(d) The submission of a request under paragraph (a) may be subjected by the receiving Office to the payment to it, for its own benefit, of a fee for requesting restoration, payable within the time limit applicable under paragraph (e). The amount of that fee, if any, shall be fixed by the receiving Office. The time limit for payment of the fee may be extended, at the option of the receiving Office, for a period of up to two months from the expiration of the time limit applicable under paragraph (e).

(e) to (j) [No change]

Rule 29
International Applications Considered Withdrawn

29.1 *Finding by Receiving Office*

If the receiving Office declares, under Article 14(1)(b) and Rule 26.5 (failure to correct certain defects), or under Article 14(3)(a) (failure to pay the prescribed fees under Rule 27.1(a)), or under Article 14(4) (later finding of non-compliance with the requirements listed in items (i) to (iii) of Article 11(1)), or under Rule 12.3(d) or 12.4(d) (failure to furnish a required translation or, where applicable, to pay a late furnishing fee), or under Rule 92.4(g)(i) (failure to furnish the original of a document), that the international application is considered withdrawn:

(i) to (iii) [no change]

(iv) the International Bureau shall not be required to notify the applicant of the receipt of the record copy;

(v) no international publication of the international application shall be effected if the notification of the said declaration transmitted by the receiving Office reaches the International Bureau before the technical preparations for international publication have been completed.

29.2 *[Remains deleted]*

29.3 and 29.4 [No change]

Rule 41
Taking into Account Results of Earlier Search

41.1 Taking into Account Results of Earlier Search

Where the applicant has, under Rule 4.12, requested the International Searching Authority to take into account the results of an earlier search and has complied with Rule 12*bis*.1 and:

(i) the earlier search was carried out by the same International Searching Authority, or by the same Office as that which is acting as the International Searching Authority, the International Searching Authority shall, to the extent possible, take those results into account in carrying out the international search;

(ii) the earlier search was carried out by another International Searching Authority, or by an Office other than that which is acting as the International Searching Authority, the International Searching Authority may take those results into account in carrying out the international search.

[Annex V follows]

ANNEX V

AMENDMENTS OF THE REGULATIONS UNDER THE PCT:
(to enter into force on January 1, 2009)¹

SUPPLEMENTARY INTERNATIONAL SEARCH

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¹ See paragraph 153(ii) in the main body of this report for details concerning entry into force and transitional arrangements.

² The Table of Contents is included for convenience; it does not form part of the amendments.

Rule 45bis
Supplementary International Searches

45bis.1 Supplementary Search Request

(a) The applicant may, at any time prior to the expiration of 19 months from the priority date, request that a supplementary international search be carried out in respect of the international application by an International Searching Authority that is competent to do so under Rule 45bis.9. Such requests may be made in respect of more than one such Authority.

(b) A request under paragraph (a) (“supplementary search request”) shall be submitted to the International Bureau and shall indicate:

(i) the name and address of the applicant and of the agent (if any), the title of the invention, the international filing date and the international application number;

(ii) the International Searching Authority that is requested to carry out the supplementary international search (“Authority specified for supplementary search”); and

(iii) where the international application was filed in a language which is not accepted by that Authority, whether any translation furnished to the receiving Office under Rule 12.3 or 12.4 is to form the basis of the supplementary international search.

(c) The supplementary search request shall, where applicable, be accompanied by:

(i) where neither the language in which the international application was filed nor that in which a translation (if any) has been furnished under Rule 12.3 or 12.4 is accepted by the Authority specified for supplementary search, a translation of the international application into a language which is accepted by that Authority;

(ii) preferably, a copy of a sequence listing in electronic form complying with the standard provided for in the Administrative Instructions, if required by the Authority specified for supplementary search.

(d) Where the International Searching Authority has found that the international application does not comply with the requirement of unity of invention, the supplementary search request may contain an indication of the wish of the applicant to limit the supplementary international search to one of the inventions as identified by the International Searching Authority other than the main invention referred to in Article 17(3)(a).

(e) The supplementary search request shall be considered not to have been submitted, and the International Bureau shall so declare:

(i) if it is received after the expiration of the time limit referred to in paragraph (a); or

(ii) if the Authority specified for supplementary search has not stated, in the applicable agreement under Article 16(3)(b), its preparedness to carry out such searches or is not competent to do so under Rule 45bis.9(b).

45bis.2 Supplementary Search Handling Fee

(a) The supplementary search request shall be subject to the payment of a fee for the benefit of the International Bureau (“supplementary search handling fee”) as set out in the Schedule of Fees.

(b) The supplementary search handling fee shall be paid in the currency in which the fee is set out in the Schedule of Fees or in any other currency prescribed by the International Bureau. The amount in such other currency shall be the equivalent, in round figures, as established by the International Bureau, of the amount as set out in the Schedule of Fees, and shall be published in the Gazette.

(c) The supplementary search handling fee shall be paid to the International Bureau within one month from the date of receipt of the supplementary search request. The amount payable shall be the amount applicable on the date of payment.

(d) The International Bureau shall refund the supplementary search handling fee to the applicant if, before the documents referred to in Rule 45bis.4(e)(i) to (iv) are transmitted to the Authority specified for supplementary search, the supplementary search request is withdrawn or considered not to have been submitted.

45bis.3 Supplementary Search Fee

(a) Each International Searching Authority carrying out supplementary international searches may require that the applicant pay a fee (“supplementary search fee”) for its own benefit for carrying out such a search.

(b) The supplementary search fee shall be collected by the International Bureau. Rules 16.1(b) to (e) shall apply *mutatis mutandis*.

(c) As to the time limit for payment of the supplementary search fee and the amount payable, the provisions of Rule 45bis.2(c) shall apply *mutatis mutandis*.

(d) The International Bureau shall refund the supplementary search fee to the applicant if, before the documents referred to in Rule 45bis.4(e)(i) to (iv) are transmitted to the Authority specified for supplementary search, the supplementary search request is withdrawn or considered not to have been submitted.

(e) The Authority specified for supplementary search shall, to the extent and under the conditions provided for in the applicable agreement under Article 16(3)(b), refund the supplementary search fee if, before it has started the supplementary international search in accordance with Rule 45bis.5(a), the supplementary search request is considered not to have been submitted.

45bis.4 Checking of Supplementary Search Request; Correction of Defects; Late Payment of Fees; Transmittal to International Searching Authority

(a) Promptly after receipt of a supplementary search request, the International Bureau shall check whether it complies with the requirements of Rule 45bis.1(b) and (c)(i) and shall invite the applicant to correct any defects within a time limit of one month from the date of the invitation.

(b) Where, by the time they are due under Rules 45bis.2(c) and 45bis.3(c), the International Bureau finds that the supplementary search handling fee and the supplementary search fee have not been paid in full, it shall invite the applicant to pay to it the amount required to cover those fees, together with the late payment fee under paragraph (c), within a time limit of one month from the date of the invitation.

(c) The payment of fees in response to an invitation under paragraph (b) shall be subject to the payment to the International Bureau, for its own benefit, of a late payment fee whose amount shall be 50% of the supplementary search handling fee.

(d) If the applicant does not furnish the required correction or does not pay the amount in full of the fees due, including the late payment fee, before the expiration of the time limit applicable under paragraph (a) or (b), respectively, the supplementary search request shall be considered not to have been submitted and the International Bureau shall so declare and shall inform the applicant accordingly.

(e) On finding that the requirements of Rule 45bis.1(b) and (c)(i), 45bis.2(c) and 45bis.3(c) have been complied with, the International Bureau shall promptly, but not before the date of receipt by it of the international search report or the expiration of 17 months from the priority date, whichever occurs first, transmit to the Authority specified for supplementary search a copy of each of the following:

- (i) the supplementary search request;
- (ii) the international application;
- (iii) any sequence listing furnished under Rule 45bis.1(c)(ii); and
- (iv) any translation furnished under Rule 12.3, 12.4 or 45bis.1(c)(i) which is to be used as the basis of the supplementary international search;

and, at the same time, or promptly after their later receipt by the International Bureau:

- (v) the international search report and the written opinion established under Rule 43bis.1;
- (vi) any invitation by the International Searching Authority to pay additional fees referred to in Article 17(3)(a); and
- (vii) any protest by the applicant under Rule 40.2(c) and the decision thereon by the review body constituted in the framework of the International Searching Authority.

[Rule 45bis.4, continued]

(f) Upon request of the Authority specified for supplementary search, the written opinion referred to in paragraph (e)(v) shall, when not in English or in a language accepted by that Authority, be translated into English by or under the responsibility of the International Bureau. The International Bureau shall transmit a copy of the translation to that Authority within two months from the date of receipt of the request for translation, and shall at the same time transmit a copy to the applicant.

45bis.5 Start, Basis and Scope of Supplementary International Search

(a) The Authority specified for supplementary search shall start the supplementary international search promptly after receipt of the documents specified in Rule 45bis.4(e)(i) to (iv), provided that the Authority may, at its option, delay the start of the search until it has also received the documents specified in Rule 45bis.4(e)(v) or until the expiration of 22 months from the priority date, whichever occurs first.

(b) The supplementary international search shall be carried out on the basis of the international application as filed or of a translation referred to in Rule 45bis.1(b)(iii) or 45bis.1(c)(i), taking due account of the international search report and the written opinion established under Rule 43bis.1 where they are available to the Authority specified for supplementary search before it starts the search. Where the supplementary search request contains an indication under Rule 45bis.1(d), the supplementary international search may be limited to the invention specified by the applicant under Rule 45bis.1(d) and those parts of the international application which relate to that invention.

(c) For the purposes of the supplementary international search, Article 17(2) and Rules 13ter.1, 33 and 39 shall apply *mutatis mutandis*.

(d) Where the international search report is available to the Authority specified for supplementary search before it starts the search under paragraph (a), that Authority may exclude from the supplementary search any claims which were not the subject of the international search.

(e) Where the International Searching Authority has made the declaration referred to in Article 17(2)(a) and that declaration is available to the Authority specified for supplementary search before it starts the search under paragraph (a), that Authority may decide not to establish a supplementary international search report, in which case it shall so declare and promptly notify the applicant and the International Bureau accordingly.

(f) The supplementary international search shall cover at least the documentation indicated for that purpose in the applicable agreement under Article 16(3)(b).

(g) If the Authority specified for supplementary search finds that carrying out the search is excluded by a limitation or condition referred to in Rule 45bis.9(a), the supplementary search request shall be considered not to have been submitted, and the Authority shall so declare and shall promptly notify the applicant and the International Bureau accordingly.

45bis.6 Unity of Invention

(a) If the Authority specified for supplementary search finds that the international application does not comply with the requirement of unity of invention, it shall:

(i) establish the supplementary international search report on those parts of the international application which relate to the invention first mentioned in the claims (“main invention”);

(ii) notify the applicant of its opinion that the international application does not comply with the requirement of unity of invention and specify the reasons for that opinion; and

(iii) inform the applicant of the possibility of requesting, within the time limit referred to in paragraph (c), a review of the opinion.

(b) In considering whether the international application complies with the requirement of unity of invention, the Authority shall take due account of any documents received by it under Rule 45bis.4(e)(vi) and (vii) before it starts the supplementary international search.

(c) The applicant may, within one month from the date of the notification under paragraph (a)(ii), request the Authority to review the opinion referred to in paragraph (a). The request for review may be subjected by the Authority to the payment to it, for its own benefit, of a review fee whose amount shall be fixed by it.

(d) If the applicant, within the time limit under paragraph (c), requests a review of the opinion by the Authority and pays any required review fee, the opinion shall be reviewed by the Authority. The review shall not be carried out only by the person who made the decision which is the subject of the review. Where the Authority:

(i) finds that the opinion was entirely justified, it shall notify the applicant accordingly;

(ii) finds that the opinion was partially unjustified but still considers that the international application does not comply with the requirement of unity of invention, it shall notify the applicant accordingly and, where necessary, proceed as provided for in paragraph (a)(i);

(iii) finds that the opinion was entirely unjustified, it shall notify the applicant accordingly, establish the supplementary international search report on all parts of the international application and refund the review fee to the applicant.

(e) On the request of the applicant, the text of both the request for review and the decision thereon shall be communicated to the designated Offices together with the supplementary international search report. The applicant shall submit any translation thereof with the furnishing of the translation of the international application required under Article 22.

[Rule 45bis.6, continued]

(f) Paragraphs (a) to (e) shall apply *mutatis mutandis* where the Authority specified for supplementary search decides to limit the supplementary international search in accordance with the second sentence of Rule 45bis.5(b), provided that any reference in the said paragraphs to the “international application” shall be construed as a reference to those parts of the international application which relate to the invention specified by the applicant under Rule 45bis.1(d).

45bis.7 Supplementary International Search Report

(a) The Authority specified for supplementary search shall, within 28 months from the priority date, establish the supplementary international search report, or make the declaration referred to in Article 17(2)(a) as applicable by virtue of Rule 45bis.5(c) that no supplementary international search report will be established.

(b) Every supplementary international search report, any declaration referred to in Article 17(2)(a) as applicable by virtue of Rule 45bis.5(c) and any declaration under Rule 45bis.5(e) shall be in a language of publication.

(c) For the purposes of establishing the supplementary international search report, Rules 43.1, 43.2, 43.5, 43.6, 43.6bis, 43.8 and 43.10 shall, subject to paragraphs (d) and (e), apply *mutatis mutandis*. Rule 43.9 shall apply *mutatis mutandis*, except that the references therein to Rules 43.3, 43.7 and 44.2 shall be considered non-existent. Article 20(3) and Rule 44.3 shall apply *mutatis mutandis*.

(d) The supplementary international search report need not contain the citation of any document cited in the international search report, except where the document needs to be cited in conjunction with other documents that were not cited in the international search report.

(e) The supplementary international search report may contain explanations:

- (i) with regard to the citations of the documents considered to be relevant;
- (ii) with regard to the scope of the supplementary international search.

45bis.8 Transmittal and Effect of the Supplementary International Search Report

(a) The Authority specified for supplementary search shall, on the same day, transmit one copy of the supplementary international search report or the declaration that no supplementary international search report shall be established, as applicable, to the International Bureau and one copy to the applicant.

(b) Subject to paragraph (c), Article 20(1) and Rules 45.1, 47.1(d) and 70.7(a) shall apply as if the supplementary international search report were part of the international search report.

(c) A supplementary international search report need not be taken into account by the International Preliminary Examining Authority for the purposes of a written opinion or the international preliminary examination report if it is received by that Authority after it has begun to draw up that opinion or report.

45bis.9 International Searching Authorities Competent to Carry Out Supplementary International Search

(a) An International Searching Authority shall be competent to carry out supplementary international searches if its preparedness to do so is stated in the applicable agreement under Article 16(3)(b), subject to any limitations and conditions set out in that agreement.

(b) The International Searching Authority carrying out the international search under Article 16(1) in respect of an international application shall not be competent to carry out a supplementary international search in respect of that application.

(c) The limitations referred to in paragraph (a) may, for example, include limitations as to the subject matter for which supplementary international searches will be carried out, beyond those which would apply under Article 17(2) to the international search, and limitations as to the total number of supplementary international searches which will be carried out in a given period.

SCHEDULE OF FEES

Fees	Amounts
1. International filing fee: (Rule 15.2)	1,400 Swiss francs plus 15 Swiss francs for each sheet of the international application in excess of 30 sheets
2. Supplementary search handling fee: (Rule 45 <i>bis</i> .2)	200 Swiss francs
3. Handling fee: (Rule 57.2)	200 Swiss francs

Reductions

4. The international filing fee is reduced by the following amount if the international application is, as provided for in the Administrative Instructions, filed:

- | | |
|---|------------------|
| (a) on paper together with a copy in electronic form, in character coded format, of the request and the abstract: | 100 Swiss francs |
| (b) in electronic form, the request not being in character coded format: | 100 Swiss francs |
| (c) in electronic form, the request being in character coded format: | 200 Swiss francs |
| (d) in electronic form, the request, description, claims and abstract being in character coded format: | 300 Swiss francs |

5. The international filing fee under item 1 (where applicable, as reduced under item 4), the supplementary search handling fee under item 2 and the handling fee under item 3 are reduced by 75% if the international application is filed by:

- (a) an 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); or
- (b) an applicant, whether a natural person or not, who is a national of and resides in a State that is classed as a least developed country by the United Nations;

provided that, if there are several applicants, each must satisfy the criteria set out in either sub-item (a) or (b).

[Annex VI follows]

ANNEX VI

AMENDMENTS OF THE PCT REGULATIONS:
(to enter into force on January 1, 2009)¹

ADDITION OF KOREAN AND PORTUGUESE AS LANGUAGES OF PUBLICATION

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¹ See paragraph 174(ii) in the main body of this report for details concerning entry into force and transitional arrangements.

² The Table of Contents is included for convenience; it does not form part of the amendments.

Rule 48
International Publication

48.1 and 48.2 [No change]

48.3 *Languages of Publication*

(a) If the international application is filed in Arabic, Chinese, English, French, German, Japanese, Korean, Portuguese, Russian or Spanish (“languages of publication”), that application shall be published in the language in which it was filed.

(b) and (c) [No change]

48.4 to 48.6 [No change]

[End of Annex VI and of document]