

WIPO



PCT/A/37/2

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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

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

ASSEMBLY

**Thirty-Seventh (21st Extraordinary) Session
Geneva, March 31, 2008**

REPORT

adopted by the Assembly

1. The Assembly was concerned with the following items of the Agenda (document A/44/1): 1, 2, 3, 4 and 5.
2. The report on the said items, with the exception of the discussions on the proposed amendments of the Schedule of Fees annexed to the PCT Regulations, is contained in the General Report (document A/44/3).
3. The report on the discussions on the proposed amendments of the Schedule of Fees annexed to the PCT Regulations is contained in the present document.
4. In the absence of the Chair of the Assembly (Mrs. Ásta Valdimarsdóttir (Iceland)) and both Vice-Chairs (Mr. Matti Pääts (Estonia) and Mr. Yin Xintian (China)), Ambassador Martin Ihoeghian Uhomobhi (Nigeria), Chair of the General Assembly, was elected acting Chair and presided over the meeting.

AMENDMENTS OF THE SCHEDULE OF FEES

5. Discussions were based on document PCT/A/37/1.

6. The Secretariat, in introducing the proposals contained in document PCT/A/37/1, explained that the proposal to set a time limit (until December 31, 2009) to the availability of the reduction in the international filing fee and the handling fee to applicants from nine countries which at present did not benefit from such reduction (Antigua and Barbuda, Bahrain, Barbados, the Libyan Arab Jamahiriya, Oman, the Seychelles, Singapore, Trinidad and Tobago and the United Arab Emirates) had been included so as to give Member States the opportunity to agree, prior to that date, on a revised set of eligibility criteria for determining the group of developing and least developed countries whose applicants should benefit from a reduction of PCT fees, noting that, at its thirty-sixth (16th ordinary) session, the Assembly had requested the International Bureau to carry out a study on those eligibility criteria and to present that study to the session of the PCT Assembly in September-October 2008 (see paragraph 62 of document PCT/A/36/13).

7. The Secretariat, in response to an intervention by the Delegation of Algeria as to the financial implications for WIPO's budget if the proposed amendments to the Schedule of Fees set out in document PCT/A/37/1 were to enter into force either immediately, on July 1, 2008, or on January 1, 2009, stated that if the amendments were to enter into force immediately, that is, on May 1, 2008, income would be reduced by 21 million Swiss francs, whereas income would be reduced by 18 million Swiss francs and 12 million Swiss francs were the amendments to enter into force on July 1, 2008, or January 1, 2009, respectively.

8. Following informal consultations, the acting Chair summarized the results of those consultations as follows. There had been agreement among delegations to adopt the amendments to the Schedule of Fees as set out in the Annex to document PCT/A/37/1, subject to replacing, in paragraph 4(a) of the Schedule of Fees as proposed to be amended, the words "until December 31, 2009" with the words "pending a decision by the PCT Assembly on the eligibility criteria specified in this sub-paragraph". Furthermore, there had been agreement among delegations, during the informal consultations, that the amendments should enter into force on July 1, 2008.

9. The Assembly:

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

(ii) decided that those amendments shall enter into force on July 1, 2008, and shall apply to any international application the international filing date of which is on or after July 1, 2008, provided that the Schedule of Fees as worded before its amendment shall continue to apply to any international application which is received by the receiving Office before July 1, 2008, and which is accorded an international filing date that is on or after July 1, 2008.

10. The Delegation of the Republic of Korea stated that it welcomed the 5% reduction of the PCT international filing fee as adopted by the Assembly. It considered that this would encourage applicants to make use of the PCT more frequently. The Delegation further stated that it considered that the current level of fees was still too high for citizens of developing countries and that it was thus pleased to see the increase in reduction for them from 75% to 90% of the normal level. However, with respect to the nine countries which had been added to the list of beneficiaries, it was not clear to the Delegation on what basis they had been selected. The Delegation stated that it fully understood the situation of countries with small and vulnerable economies and that it was willing to support their inclusion. However, it did

not see how countries whose per capita GDP greatly exceeded US\$ 30,000 could be categorized in the same group. The Delegation stated that, while it did not wish to make an issue of a particular case, it wished to raise the issue as a matter of principle because it was concerned that this apparent lack of coherence and rationale could lead to undue discrimination amongst PCT Contracting States and have a negative impact on the long-term stability of the PCT system itself. The Delegation further stated that it recognized that there had been serious efforts, particularly amongst the group coordinators, to agree on a compromise budget package and that the Republic of Korea was willing to respect the majority will of the Contracting States. However, at the same time, it wished to note that the decision to add the nine countries concerned was a temporary one and that it hoped that a thorough review could be made and an appropriate formula could be agreed upon at the earliest opportunity.

[Annex follows]

ANNEX

AMENDMENTS OF
THE REGULATIONS UNDER THE PCTSCHEDULE OF FEES
(with effect from July 1, 2008)

| Fees | Amounts |
|---|---|
| 1. International filing fee: (Rule 15.2) | 1,330 Swiss francs plus 15 Swiss francs for each sheet of the international application in excess of 30 sheets |
| 2. Handling fee: (Rule 57.2) | 200 Swiss francs |

Reductions

3. The international filing fee is reduced by 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 |

4. The international filing fee (where applicable, as reduced under item 3) and the handling fee are reduced by 90% 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, pending a decision by the PCT Assembly on the eligibility criteria specified in this sub-paragraph, one of the following States: Antigua and Barbuda, Bahrain, Barbados, the Libyan Arab Jamahiriya, Oman, the Seychelles, Singapore, Trinidad and Tobago and the United Arab Emirates; 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).

[End of Annex and of document]