

International Patent Cooperation Union (PCT Union)

Assembly

Forty-Seventh (20th Ordinary) Session
Geneva, October 5 to 14, 2015

**APPOINTMENT OF THE VISEGRAD PATENT INSTITUTE AS AN INTERNATIONAL
SEARCHING AND PRELIMINARY EXAMINING AUTHORITY UNDER THE PCT**

Document prepared by the International Bureau

SUMMARY

1. The present document sets out information to the Assembly for it to make a decision on the appointment of the Visegrad Patent Institute as an International Searching and Preliminary Examining Authority under the Patent Cooperation Treaty (PCT). This information includes the request for appointment from the heads of the national intellectual property Offices of the four Visegrad countries (Czech Republic, Hungary, Poland and Slovakia) along with supporting documentation, as well as the advice of the PCT Committee for Technical Cooperation on the appointment. The present document further sets out the text of the draft Agreement in relation to the functioning of the Visegrad Patent Institute as an International Searching and Preliminary Examining Authority to be approved by the Assembly.

BACKGROUND

2. The appointment of International Searching Authorities (ISAs) and International Preliminary Examining Authorities (IPEAs) under the Patent Cooperation Treaty (PCT) is a matter for the Assembly and is governed by Articles 16(3) and 32(3) of the PCT. It follows from Rules 36.1(iv) and 63.1(iv) of the Regulations under the PCT that any appointment will be as both an ISA and an IPEA.

3. In a letter addressed to the Director General dated February 26, 2015, the President of the Industrial Property Office of the Czech Republic, Mr. Josef Kratochvíl, the President of the Hungarian Intellectual Property Office, Mr. Miklós Bendzsel, the President of the Patent Office of the Republic of Poland, Ms. Alicja Adamczak, and the President of the Industrial Property Office of the Slovak Republic, Mr. Luboš Knoth, informed the Director General that the Governments of the Czech Republic, Hungary, Poland and Slovakia would like to seek appointment by the PCT Union Assembly at its session in October 2015 of the Visegrad Patent Institute as an International Searching Authority (ISA) and an International Preliminary Examining Authority (IPEA). This letter and documentation supporting the application of Visegrad Patent Institute as an ISA and IPEA was published, for consideration by the PCT Committee on Technical Cooperation, as document PCT/CTC/28/2, which is reproduced in the present document. For the consideration of the matter by the PCT Committee on Technical Cooperation, the Visegrad Patent Institute had also provided further information on the quality management systems covering the national patent granting processes of its four constituent industrial property Offices (see document PCT/CTC/28/3).

ADVICE OF THE PCT COMMITTEE FOR TECHNICAL COOPERATION

4. Articles 16(3)(e) and 32(3) of the PCT require that, before the Assembly makes a decision on the appointment of an ISA and IPEA, it shall hear the Office or organization concerned and seek the advice of the PCT Committee for Technical Cooperation.

5. The PCT Committee for Technical Cooperation gave its advice on the appointment of the Visegrad Patent Institute as an ISA and IPEA at its twenty-eighth session, held in Geneva from May 26 to 29, 2015 (see the Summary by the Chair of that session, document PCT/CTC/28/4, annexed to this document). Paragraph 16 of document PCT/CTC/28/4 summarizes the advice by the Committee as follows:

“16. The Committee unanimously agreed to recommend to the Assembly of the PCT Union that the Visegrad Patent Institute be appointed as an International Searching and Preliminary Examining Authority under the PCT”.

DRAFT AGREEMENT IN RELATION TO THE FUNCTIONING OF THE VISEGRAD PATENT INSTITUTE AS AN INTERNATIONAL SEARCHING AND PRELIMINARY EXAMINING AUTHORITY

6. Under Articles 16(3)(b) and 32(3) of the PCT, the appointment of an ISA and IPEA is conditional on the conclusion of an Agreement, subject to approval by the Assembly, between the Office or organization concerned and the International Bureau. The text of a draft Agreement between the Visegrad Patent Institute and the International Bureau is set out in the Annex to this document. Its Articles are identical to the corresponding provisions in the Agreements relating to existing Authorities as approved by the Assembly at its fortieth session.

7. If the Assembly agrees to the appointment, it would take effect upon the entry into force of the Agreement between the Visegrad Patent Institute and the International Bureau. This would take place when the Visegrad Patent Institute is ready to begin operation as an International Authority. Paragraph (d) of the Understanding with regard to the procedures for appointment of International Authorities adopted by the Assembly at its forty-sixth (27th extraordinary) session from September 22 to 30, 2014, provides details of this timing, as follows:

“(d) Any such application should be made on the understanding that the Office seeking appointment must meet all substantive criteria for appointment at the time of the appointment by the Assembly and is prepared to start operation as an International Authority as soon as reasonably possible following appointment, at the latest around 18 months following the appointment. With regard to the requirement that the Office seeking appointment must have in place a quality management system and internal review arrangements in accordance with the common rules of international search, where such system is not yet in place at the time of the appointment by the Assembly, it shall be

sufficient that such system is fully planned and, preferably, that similar systems are already operational in respect of national search and examination work to demonstrate the appropriate experience.”

8. Under Article 10 of the draft Agreement, it would remain in force until December 31, 2017, that is, until the same time as the Agreements relating to all existing Authorities.

UPDATE ON RECENT DEVELOPMENTS FOLLOWING THE TWENTY-EIGHTH SESSION OF THE PCT COMMITTEE FOR TECHNICAL COOPERATION

9. It is expected that, closer to the present session of the Assembly, an update will be provided on recent developments related to the request for appointment of the Visegrad Patent Institute as an International Searching and Preliminary Examining Authority.

10. The Assembly of the PCT Union is invited, in accordance with Articles 16(3) and 32(3) of the PCT:

(i) to hear the Representative of the Visegrad Patent Institute and take into account the advice of the PCT Committee for Technical Cooperation set out in paragraph 5 of document PCT/A/47/6;

(ii) to approve the text of the draft Agreement between the Visegrad Patent Institute and the International Bureau as set out in the Annex to document PCT/A/47/6; and

(iii) to appoint the Visegrad Patent Institute as an International Searching Authority and an International Preliminary Examining Authority with effect from the entry into force of the Agreement until December 31, 2017.

[Annex and Documents PCT/CTC/28/2 and PCT/CTC/28/4 follow]

Draft Agreement

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

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

Preamble

The Visegrad 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 Visegrad 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 Visegrad 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).

(4) The Authority shall conduct supplementary international searches in accordance with Rule 45*bis*, covering at least the documentation referred to in Annex E to this Agreement, subject to any limitations and conditions set out in that Annex.

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 a date to be notified to the Director General of the World Intellectual Property Organization by the Authority, that date being at least one month later than the date on which the notification is made.

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; and, notwithstanding paragraph (4), 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;

(iv) amend the indications and information concerning supplementary international searches contained in Annex E to this Agreement.

(4) Any amendment notified under paragraph (3) shall take effect on the date specified in the notification, provided that, for any change in the currency or amount of fees or charges contained in Annex C, for any addition of new fees or charges, and for any change in the conditions for and the extent of refunds or reductions of fees contained in Annex C, that date is at least two months 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 Authority 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 Authority 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 the ... language(s).

For the Visegrad Patent Institute:

For the International Bureau of the World
Intellectual Property Organization 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) the Czech Republic, Hungary, the Republic of Poland, the Slovak Republic;

(b) any other Contracting State in accordance with the obligations of the Czech Republic, Hungary, the Republic of Poland and the Slovak Republic within the framework of the European Patent Organisation;

(ii) the following languages which it will accept:

Czech, English, Hungarian, Polish and Slovak.

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 Czech, Hungarian, Polish and Slovak patent laws.

Annex C
Fees and Charges

Part I. Schedule of Fees and Charges

<i>Kind of fee or charge</i>	<i>Amount (EUR)</i>
Search fee (Rule 16.1(a))	... ¹
Additional fee (Rule 40.2(a))	... ¹
Supplementary search fee, full search (Rule 45bis.3(a))	... ¹
Supplementary search fee for searches only on the documents in Czech, Hungarian, Polish and Slovak held in the search collection of the Authority (Rule 45bis.3(a))	...
Preliminary examination fee (Rule 58.1(b))	...
[Late payment fee for preliminary examination	amount as set out in Rule 58bis.2]
Additional fee (Rule 68.3(a))	...
[Protest fee (Rules 40.2(e) and 68.3(e))	...]
[Late furnishing fee for sequence listings (Rule 13ter.1(c))	...]
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 the results of an earlier search, the Authority shall refund 40% of the search fee paid. There shall be no refund of the whole of the search fee paid, or waiver or reduction of the search fee.

(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 Amount of the search fee (Rule 16.1(a)) payable to the European Patent Office as International Searching Authority, as modified from time to time in accordance with the directives under Rule 16.1(d).

(6) The Authority shall refund the supplementary search fee if, before it has started the supplementary international search in accordance with Rule 45*bis*.5(a), the supplementary search request is considered not to have been submitted under Rule 45*bis*.5(g).

(7) The Authority shall refund the supplementary search fee if, after receipt of the documents specified in Rule 45*bis*.4(e)(i) to (iv), but before it has started the supplementary international search in accordance with Rule 45*bis*.5(a), it is notified of the withdrawal of the international application or the supplementary search request.

Annex D
Languages of Correspondence

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

Czech, English, Hungarian, Polish and Slovak.

Annex E
Supplementary International Search:
Documentation Covered; Limitations and Conditions

(1) The Authority will accept requests for supplementary international search in the languages mentioned in Annex D.

(2) The supplementary international search shall cover at least one of the following levels of search:

(i) in addition to the PCT minimum documentation, at least the documents in Czech, Hungarian, Polish or Slovak held in the search collection of the Authority;

(ii) only the documents in Czech, Hungarian, Polish or Slovak held in the search collection in the Authority.

(3) The Authority will notify the International Bureau if the demand for supplementary international search clearly exceeds the resources available and also when normal conditions have been reestablished.

[Document PCT/CTC/28/2 follows]

Patent Cooperation Treaty (PCT) Committee for Technical Cooperation

**Twenty-Eighth Session
Geneva, May 26 to 29, 2015**

APPOINTMENT OF THE VISEGRAD PATENT INSTITUTE AS AN INTERNATIONAL SEARCHING AND PRELIMINARY EXAMINING AUTHORITY UNDER THE PCT

Document prepared by the International Bureau

INTRODUCTION

1. The Committee is invited to give advice to the PCT Assembly on the proposed appointment of the Visegrad Patent Institute as an International Searching and Preliminary Examining Authority under the PCT.

BACKGROUND

2. In a letter addressed to the Director General dated February 26, 2015, the text of which appears in Annex I, the President of the Industrial Property Office of the Czech Republic, Mr. Josef Kratochvíl, the President of the Hungarian Intellectual Property Office, Mr. Miklós Bendzsel, the President of the Patent Office of the Republic of Poland, Ms. Alicja Adamczak, and the President of the Industrial Property Office of the Slovak Republic, Mr. Luboš Knoth, informed the Director General that the Governments of the Czech Republic, Hungary, the Republic of Poland and the Slovak Republic would like to seek the appointment by the PCT Union Assembly of the Visegrad Patent Institute as an International Searching Authority (ISA) and an International Preliminary Examining Authority (IPEA) under the PCT and requested that the issue be put before the PCT Committee for Technical Cooperation (PCT/CTC) in order to obtain the advice of the Committee as referred to in Article 16(3)(e), and that the matter be added to the agenda of the PCT Union Assembly for decision during the 55th series of Meetings of the Assemblies of the Member States of WIPO, to be held in October 2015.

3. The document in support of the application, received by the International Bureau on March 30, 2015, is set out in Annex II to this document, with further additional information, received by the International Bureau on March 30, 2015, set out in document PCT/CTC/28/3.
4. The appointment of ISAs and IPEAs under the PCT is a matter for the Assembly of the PCT Union and is governed by Articles 16 and 32(3) of the PCT.
5. Articles 16(3)(e) and 32(3) of the PCT require that, before the Assembly makes a decision on such an appointment, it shall seek the advice of the PCT Committee for Technical Cooperation.
6. At its Forty-Sixth (27th Extraordinary) session, held in Geneva from September 22 to 30, 2014, the PCT Union Assembly adopted the following Understanding with regard to the procedures for appointment of International Authorities:

“Procedures for Appointment of International Authorities”:

“(a) A national Office or an intergovernmental organization (“Office”) seeking appointment is strongly recommended to obtain the assistance of one or more existing International Authorities to help in the assessment of the extent to which it meets the criteria, prior to making the application.

“(b) Any application for appointment of an Office as an International Authority is to be made well in advance of its consideration by the PCT Assembly so as to allow time for an adequate review by the Committee for Technical Cooperation (PCT/CTC). The PCT/CTC should meet as a true expert body at least three months in advance of the PCT Assembly, if possible back-to-back with a session of the PCT Working Group (usually convened around May/June of any given year), with a view to giving its expert advice on the application to the PCT Assembly.

“(c) Consequently, a written request to the Director General to convene the PCT/CTC is to be sent by the Office preferably by March 1 of the year in which the application is to be considered by the PCT Assembly and in any case in time to allow the Director General to send out letters of convocation of the PCT/CTC not less than two months prior to the opening of the session.

“(d) Any such application should be made on the understanding that the Office seeking appointment must meet all substantive criteria for appointment at the time of the appointment by the Assembly and is prepared to start operation as an International Authority as soon as reasonably possible following appointment, at the latest around 18 months following the appointment. With regard to the requirement that the Office seeking appointment must have in place a quality management system and internal review arrangements in accordance with the common rules of international search, where such system is not yet in place at the time of the appointment by the Assembly, it shall be sufficient that such system is fully planned and, preferably, that similar systems are already operational in respect of national search and examination work to demonstrate the appropriate experience.

“(e) Any document by the Office in support of its application for consideration by the PCT/CTC should be submitted to the Director General at the latest two months prior to the opening of the session of the PCT/CTC.

“(f) Any such application is then to be submitted to the PCT Assembly (usually convened around September/October of any given year), together with any advice given by the PCT/CTC, with a view to deciding on the application.”

7. The Assembly further decided that the procedures for appointment of International Authorities set out in the above Understanding shall apply to any application for appointment as an International Authority submitted after the closure of the Forty-Sixth (27th Extraordinary) session of the PCT Assembly.

8. The Committee's advice, which is sought by the present document, will be submitted to the Assembly during its forty-sixth session, which is being held from October 5 to 14, 2015.

REQUIREMENTS TO BE SATISFIED

9. The minimum requirements for an Office to act as an International Searching Authority are set in PCT Rule 36.1 as follows:

"The minimum requirements referred to in Article 16(3)(c) shall be the following:

"(i) the national Office or intergovernmental organization must have at least 100 full-time employees with sufficient technical qualifications to carry out searches;

"(ii) that Office or organization must have in its possession, or have access to, at least the minimum documentation referred to in Rule 34, properly arranged for search purposes, on paper, in microform or stored on electronic media;

"(iii) that Office or organization must have a staff which is capable of searching the required technical fields and which has the language facilities to understand at least those languages in which the minimum documentation referred to in Rule 34 is written or is translated;

"(iv) that Office or organization must have in place a quality management system and internal review arrangements in accordance with the common rules of international search;

"(v) that Office or organization must hold an appointment as an International Preliminary Examining Authority."

10. PCT Rule 63.1 sets out equivalent minimum requirements for acting as an International Preliminary Examining Authority, except that item (v) requires the Office to hold an appointment as an International Searching Authority, so that, in order to meet the requirements, it is essential to be appointed as both types of Authority.

11. The Committee is invited to give its advice on this matter.

[Annex I follows]

TEXT OF LETTER FROM THE PRESIDENT OF THE INDUSTRIAL PROPERTY OFFICE OF THE CZECH REPUBLIC, THE PRESIDENT OF THE HUNGARIAN INTELLECTUAL PROPERTY OFFICE, THE PRESIDENT OF THE PATENT OFFICE OF THE REPUBLIC OF POLAND AND THE PRESIDENT OF THE INDUSTRIAL PROPERTY OFFICE OF THE SLOVAK REPUBLIC TO THE DIRECTOR GENERAL OF WIPO

Bratislava, February 26, 2015

Dr. Francis Gurry
Director General
World Intellectual Property Organization
34 Chemin des Colombettes
P.O. Box 18
CH-1211 Geneva 20
Switzerland

Subject: Appointment of the Visegrad Patent Institute as an International Authority under the PCT

Dear Mr. Director General,

Please allow us to inform you that the Governments of the so-called Visegrad countries, namely, the Czech Republic, Hungary, the Republic of Poland and the Slovak Republic (“the V4”), have established the Visegrad Patent Institute (“VPI”) as an intergovernmental organization for cooperation in the field of patents. The Agreement on the Visegrad Patent Institute (“Agreement”) was signed in Bratislava on February 26, 2015. For your information, please find attached the text of the Agreement [*the text of the Agreement has not been reproduced in this document*].

The Governments of the Czech Republic, Hungary, the Republic of Poland and the Slovak Republic would like to seek the appointment by the PCT Union Assembly of the VPI as an International Searching Authority (“ISA”) and International Preliminary Examining Authority (“IPEA”) under the Patent Cooperation Treaty (“PCT”). We kindly request, therefore, that the appointment of the VPI as an ISA and IPEA be put before the Committee of Technical Cooperation (PCT/CTC) in order to obtain the advice of the Committee as referred to in Article 16(3)(e) of the PCT, and that this matter be added to the agenda of the PCT Union Assembly for decision during the 55th Series of Meetings of the Assemblies of the Member States of WIPO, to be held in Geneva from October 5 to 14, 2015. It is our understanding that the meeting of the PCT/CTC would take place back-to-back with the meeting of the PCT Working Group, to be held from May 26 to 29, 2015, in accordance with the Understanding on “Procedures for Appointment of International Authorities” adopted by the PCT Union Assembly at its 46th session, held in Geneva from September 22 to 30, 2014.

In the knowledge-based economy of the 21st century, which is characterized by leading edge technology, heightened competition and the need for improved competitiveness, the importance of patent protection on a global level has become crucial. Consequently, the role of the international patent protection system offering high quality services has also become increasingly important. The PCT system, in our view, is an efficient provider of international patent protection. We highly appreciate the great success of the PCT system and the advantages it offers to users all over the world.

At the same time, our region, the Central and Eastern European region miss a PCT Authority, which by sharing the workload could contribute to sustaining the high quality services of the PCT system. The VPI was established with the desire to foster innovation and creativity in this region by pooling the resources of the industrial property Offices of the V4 countries for the benefit of their users, in particular individual inventors, small and medium-sized enterprises, and publicly funded research organizations. The synergies and accumulated resources of the V4 industrial property Offices will enable the VPI to fulfill the criteria for appointment as ISA and IPEA and to better offer services meeting the international standards. On the other hand, the cooperation is foreseen to increase the quality and efficiency of the work performed by our individual industrial property Offices.

Consequently, the users in the V4 countries fully support the idea of establishing the VPI as a PCT Authority in the region. The headquarters of the VPI will be in Budapest with branch Offices in each Contracting State. The VPI shall be governed by an Administrative Board and administered by a Secretariat managed by a Director. Following the model of the Nordic Patent Institute, activities of the VPI as an ISA and IPEA will be carried out by the national Offices of the V4 countries on behalf of the VPI.

We look forward to your favorable consideration and cooperation.

Mr. Director General, please accept the assurances of our highest consideration,

[signed by]
Josef Kratochvíl
President
Industrial Property
Office of the Czech
Republic

[signed by]
Miklós Bendzsel
President
Hungarian
Intellectual Property
Office

[signed by]
Alicja Adamczak
President
Patent Office of the
Republic of Poland

[signed by]
Luboš Knoth
President
Industrial Property
Office of the Slovak
Republic

[Annex II follows]

APPOINTMENT OF THE VISEGRAD PATENT INSTITUTE
AS AN INTERNATIONAL SEARCHING AND
PRELIMINARY EXAMINING AUTHORITY UNDER THE PCT

I. PRESENTATION OF THE VISEGRAD PATENT INSTITUTE

1.1. THE MAIN GOALS OF THE VISEGRAD PATENT INSTITUTE

1. The Visegrad Patent Institute (hereinafter referred to as “VPI”) is an intergovernmental organization for cooperation in the field of patents established by the four Visegrad countries: the Czech Republic, Hungary, the Republic of Poland and the Slovak Republic (hereinafter also referred to as the “V4 countries”).

2. The VPI and its Contracting States seek the appointment of the VPI as an International Searching Authority (ISA) and International Preliminary Examining Authority (IPEA) under the Patent Cooperation Treaty (PCT) in order to attain a wide range of important objectives at various (global, European, regional and national) levels.

3. The patent system is a fundamental factor in promoting economic development through innovation. While patents are primarily legal instruments, they do have a vital economic purpose to serve, namely, to stimulate innovation and economic growth. There is also a direct correlation between the innovation level of a country (or region) and the quality of the national (or regional) framework conditions for patenting, and national IP Offices and PCT Authorities constitute an important part of these framework conditions.

4. Patent protection on a global scale has become increasingly important in the knowledge-based economy and the information society of the 21st century, characterized by leading-edge technology, heightened competition and the need for enhanced competitiveness. Consequently, there is an ever-growing need for an efficient patent system offering high quality products and services. The PCT offers an excellent platform for creating and maintaining such a global patent system, and it is already a highly efficient provider of international patent protection.

5. The VPI can fill a territorial gap within the global system of the PCT through acting as an International Authority for Central and Eastern Europe. It is noteworthy that in WIPO the Group of Central European and Baltic States is the only regional group within which there exists no functioning International Authority under the PCT. The VPI can make up for the missing link in the network of European PCT Authorities as well. Therefore, the VPI is intended to support the development and usefulness of the PCT system by adding further competent resources to those already available, especially in respect of a region currently not having its own International Authority in place. Through completing the global coverage of International Authorities, the VPI will contribute to a better understanding and wider use of the PCT in the Central and Eastern European region, which will also lead to an improvement in the quality of international applications originating from this region. Based on the long-established traditions and expertise of the national Offices participating in the VPI cooperation as well as on their existing, and the VPI’s expected, good record on quality management, the VPI will seek to become a reliable, efficient and constructive partner in the efforts to further improve the quality and the efficiency of the functioning of the global patent system. The VPI intends to remain open to, and, if possible, actively participate in, other international initiatives and projects aiming at workload-sharing, quality improvements, further harmonization and better, tailor-made services for the benefit of users, such as the Global Patent Prosecution Highway (GPPH) or bilateral cooperation agreements on search and examination activities.

6. In addition, the establishment of the VPI fits in with the concept of the European Patent Network within the European Patent Organisation and will also ensure a smooth interaction with the newly emerging regime of the European Union's unitary patent protection. Thus, another important objective of the VPI is to contribute positively to the development of a coherent and efficient European patent system based on the European Patent Convention (EPC) as well as on the well-established cooperation between the European Patent Office (EPO) and national Offices, and to offer Central and Eastern European users the best platform possible for taking advantage of such European cooperation.

7. The VPI will serve the goals of fostering innovation and creativity as well as promoting economic growth and competitiveness in the Central and Eastern European region. To achieve these goals, the VPI is intended:

- (i) to offer applicants a favorable and efficient option for entering the PCT system (through the possibility of using local languages and with proximity to users, in particular, SMEs, individual inventors and the like); and
- (ii) to maintain, and further develop, the patent-related expertise of the participating national Offices at the service of their inventors and industries.

Users in all the Contracting States fully support the establishment of the VPI and the intention of seeking its appointment as an ISA and IPEA under the PCT.

1.2. THE ROLE OF THE VPI IN THE CONTEXT OF THE VISEGRAD GROUP

8. The Visegrad countries are well-placed to play a greater role in the international patent system. They represent emerging economies with growing economic output, intensifying participation in European and global trade, ever improving competitiveness and a sharpening focus on innovation. In addition, the establishment of the VPI and its request for appointment as an ISA and IPEA do follow the overall and high-level political objectives of the Visegrad cooperation.

9. The Visegrad Group (also known as the "Visegrad Four" or simply "V4") reflects the efforts of the countries of the Central European region to work together in a number of fields of common interest within the all-European integration. The Czech Republic, Hungary, the Republic of Poland and the Slovak Republic have always been part of a single civilization, sharing cultural and intellectual values and common roots, which they wish to preserve and further strengthen.

10. All the V4 countries aspired to become members of the European Union, perceiving their integration in the EU as another step forward in the process of overcoming artificial dividing lines in Europe through mutual support. They reached this aim in 2004 when they all became members of the EU.

11. The Visegrad Group aims at encouraging optimum cooperation with all countries, in particular its neighbors, its ultimate interest being the democratic development in all parts of Europe.

12. Membership of the Visegrad Group:

- Hungary (since 1991);
- the Republic of Poland (since 1991);
- Czechoslovakia (1991-1993) replaced by the following successor states:
 - the Slovak Republic (since 1993);
 - the Czech Republic (since 1993).

13. The V4 cooperation can currently be referred to as the most clearly profiled initiative in Central Europe. The backbone of this cooperation consists of periodical meetings of its representatives held at various levels — from the highest-level political summits to expert consultations and diplomatic meetings, to activities of the non-governmental associations in the region, think-tanks and research bodies, cultural institutions or numerous networks of individuals.
14. The well-established examples of such regular meetings are the official summits of the V4 prime ministers, which take place on an annual basis. Between these summits, one of the V4 countries holds the presidency, part of which is the responsibility for drafting a one-year plan of action. In addition, an important part of the activities within the V4 framework is shaped by the cooperation between the respective V4 ministries, whether at the level of the ministers or in the form of joint expert teams. A number of joint projects are currently being implemented, particularly in the fields of culture, environment, internal security, defense, science and education. At the same time, cooperation in the fields of justice, transportation, tourism, energy or information technologies is also intensifying.
15. This regional cooperation was further strengthened and institutionalized by the V4 countries in June 2000 through the creation of an International Visegrad Fund with its seat in Bratislava. The purpose of this international organization is to facilitate and promote the development of closer cooperation among citizens and institutions in the region as well as between the V4 region and other countries, especially the Western Balkans and countries of the Eastern Partnership. The Fund strives to achieve this goal by granting support to common cultural, scientific and educational projects, youth exchanges, cross-border projects and tourism promotion, and through individual mobility programs (scholarships, residencies).
16. The Visegrad Group has its own IP dimension as well. Heads of the V4 industrial property Offices have been holding annual meetings since 1992. These meetings provide an opportunity to exchange views on current IP issues and to evaluate new regional, European and worldwide developments. Such discussions have frequently resulted in common positions expressed at various global and European fora on issues of strategic importance. The V4 cooperation of national IP Offices has also been extended to Austria, Croatia, Romania and Slovenia in the form of the so-called “V4 + Friends” meetings held back-to-back with the yearly V4 Heads of IP Offices meetings.
17. The cooperation of the Visegrad Group countries in the field of IP has been gradually crossing the regional borders and has taken on an even more international dimension. One example of this trend is a series of events entitled “Visegrad Group (V4) – China forum on IP and business”, jointly organized by the State Intellectual Property Office of the People’s Republic of China (SIPO) and the Patent Office of the Republic of Poland, in partnership with the V4 IP Offices. These fora were held in Warsaw (in 2012 and 2014) and Beijing (in 2013 and 2015), with the participation of entrepreneurs, business support institutions, as well as the representatives of the embassies and the IP Offices of China and the V4. The main goal of this initiative is to significantly contribute to increasing the scale of investment and cooperation between business entities from China and the V4, and to intensify their IPR activities.
18. Another example is provided by the Memorandum of Cooperation between the national industrial property Offices of the V4 and the Japan Patent Office (JPO) on cooperation in the field of intellectual property. This Memorandum, which was signed on September 23, 2014, envisages, among other fields, cooperation in relation to the future ISA/IPEA role of the VPI, and provides that the JPO will share its experience and knowledge of acting as an International Authority with the V4 Offices and, later on, with the VPI itself. One of the goals of this kind of cooperation is to jointly ensure timeliness in the establishment of international search reports and enhance their quality. A *de facto* cooperation, following similar goals, has been taking shape between the Nordic Patent Institute (NPI) and the VPI, and the V4 intend to propose further deepening and formalizing their collaboration with the NPI.

19. The Visegrad countries have a huge potential for boosting innovation, stimulating R&D, improving competitiveness and encouraging growth in patenting within the region they represent.

20. This is clearly evidenced by the relevant data provided by the Innovation Union Scoreboard 2014² (IUS 2014), the Global Innovation Index 2014³ (GII 2014) and by a joint study of the EPO and the European Union's Office for Harmonization in the Internal Market (trademarks and designs) on the economic contribution of intellectual property rights.⁴ The latter study states that patent-intensive industries generate 10,3% of employment and 13,9% of GDP in the EU. These industries represent high shares of employment in the Czech Republic (14,1%), Hungary (11,4%), the Republic of Poland (8,1%) and the Slovak Republic (12,4%). The GDP shares in these countries are the following: the Czech Republic (14,9%), Hungary (20,0%), the Republic of Poland (12,9%), the Slovak Republic (17,1%). In terms of the value added, patent-intensive industries are very important in these countries.

21. Other relevant facts and figures concerning the Visegrad countries are shown in *Table 1*.

Table 1 – Facts and Figures about the Visegrad Countries

	Czech Republic	Hungary	Republic of Poland	Slovak Republic
Population	10 528 477 (September 30, 2014)	9 896 000 (January 1, 2014)	38 495 700 (December 31, 2013)	5 421 034 (September 30, 2014)
Territory	78 866 square kilometers	93 030 square kilometers	311 888 square kilometers	49 036 square kilometers
Innovation activity of companies	43,9 % of all companies are innovative (38,2 % of small, 57,6 % of medium and 78,7 % of big companies) - data for 2010-2012	26 % of small, 46 % of medium and 70 % of big companies are innovative (data for 2010, source Eurostat, CIS, 2012)	23 % of small, 40 % of medium and 68 % of big companies are innovative (as of 2010)	34 % of all companies (624 173) have innovation activities (including non-technological innovations)
Increasing expenditure on R&D (%)	+7,57 % growth in 2013 CZK 77 839 million (2013), CZK 72 360 million (2012) CZK 62 753 million (2011) GERD: 1,88 % GDP in 2012, 1,64 % GDP in 2011	+10,77 % growth in 2013 (1,30 % in 2012 to 1,44 % of the GDP in 2013, HUF 429,78 billion)	-2,2 % decline in 2013 (0,87 % of the GDP [PLN 14 423,8 million] compared to 0,89 % of the GDP in 2012)	+3,6 % growth in 2013 (0,85 % of the GDP = EUR 611 million) compared to 2012 (0,82 % of the GPD = EUR 585 million)
Number of full- time researchers	62 198 (2013) 60 329 (2012)	Approx. 23 000 researchers in 2011	71 472 researchers (December 31, 2013)	27 823 researchers (2013)

² European Commission [prepared by Hugo Hollanders and Nordine Es-Sadki, UNU-MERIT, available online at: http://ec.europa.eu/enterprise/policies/innovation/files/ius/ius-2014_en.pdf]

³ Cornell University, INSEAD, and WIPO (2014): *The Global Innovation Index 2014: The Human Factor In Innovation*, Fontainebleau, Ithaca, and Geneva. Available online at: <https://www.globalinnovationindex.org/userfiles/file/reportpdf/GII-2014-v5.pdf>

⁴ European Patent Office – Office for Harmonization in the Internal Market: Intellectual property rights intensive industries: contribution to economic performance and employment in the European Union. Industry-Level Analysis Report, September 2013, p. 1-143.

22. The goals to be achieved by the VPI and the establishment of the VPI itself are important elements of the Contracting States' national economic, innovation and IP strategies.

23. A further strength and common feature of the V4 are the deeply rooted traditions of IP laws and institutions as well as their intensive and wide-ranging participation in global cooperation under the aegis of WIPO. The history of their patent legislation and national Offices goes back to 1918-19 in the case of the Czech Republic, the Republic of Poland and the Slovak Republic, while in Hungary the first patent law was adopted and the Office was founded in 1895-96. All these national Offices are full-fledged industrial property Offices responsible for a wide range of IP titles and carrying out patent search and examination as part of their public Authority functions (and also in the form of providing patent-related services). They are responsible for, and very active in, raising public awareness of IP, disseminating patent information and stimulating innovation and creativity through various IP tools. All of the Visegrad countries are parties to the major international instruments administered by WIPO, the TRIPS Agreement of WTO and the EPC. Their participation in the PCT and in other forms of international cooperation in the field of patents is dealt with in some more detail in the next Chapter.

1.3. PARTICIPATION OF THE VISEGRAD COUNTRIES IN THE PCT SYSTEM AND IN OTHER PATENT-RELATED INTERNATIONAL INITIATIVES

24. The former Czechoslovakia became a contracting party to the PCT on June 20, 1991. The Czech Republic as a successor has continued to apply the PCT on its territory as from January 1, 1993. The Industrial Property Office (IPO CZ) fulfils the tasks under the PCT as a receiving Office in the Czech Republic. There is a positive trend in PCT applications filed by Czech applicants. The number of international patent applications filed with IPO CZ as receiving Office ranged between 130 and 175 in the years 2008 to 2013.

25. Hungary became party to the PCT on June 27, 1980. In addition to acting as a PCT receiving Office, since 2006 the Hungarian Intellectual Property Office (HIPO) has been carrying out search and preliminary examination for the Austrian Patent Office (APO) as a PCT Authority under a bilateral agreement concluded with the APO. In carrying out search and preliminary examination under that agreement, the HIPO has been following the Guidelines for International Search and for International Preliminary Examination to be carried out under the PCT. The agreement was in effect until the end of December 2014. In the framework of this agreement the HIPO delegated patent experts, in an observer status, to the Permanent Committee on the Harmonisation of Search Activities (PCHSA) and its Working Groups responsible for cooperation and harmonization between PCT Authorities in Europe. HIPO delegates have participated in the work of the PCHSA and its working groups since 2009. The number of PCT applications originating from Hungary ranged between 142 and 173 in the years 2008 to 2013.

26. The Republic of Poland acceded to the PCT on December 25, 1990 and since then the Patent Office of the Republic of Poland (PPO) serves as a receiving Office, and Poland has become a designated country in PCT applications. Between 2008 and 2013, the number of PCT applications originating from the Republic of Poland grew from 117 to 218.

27. The Slovak Republic, as well as the Czech Republic, are the successor states of the former Czechoslovakia that acceded to the PCT in 1991. The Slovak Republic has been a Contracting State of the PCT since January 1, 1993, and since this date the Industrial Property Office of the Slovak Republic (IPO SR) has been fulfilling its tasks within the PCT system as a Receiving Office. Thanks to a major awareness-raising program, the number of PCT applications filed with the IPO SR has shown a 50% growth (from 32 applications in 2013 to 48 applications in 2014).

28. All the V4 national Offices also act as designated and elected Offices under the PCT, although the number of international applications entering the national phase has significantly declined since the accession of the Visegrad countries to the EPC in 2002-04.

29. The national Offices of the Visegrad countries play an increasingly active role in patent-related cooperation aiming at work-sharing and harmonization of search and examination. The HIPO is a member of the GPPH. Once established, the VPI is also expected to seek participation in that global network. Moreover, all V4 Offices take part in PPH programs (*inter alia* with the United States Patent and Trademark Office (USPTO), National Board of Patents and Registration of Finland, JPO and SIPO) or other forms of cooperation on a bilateral basis in the field of patent search and examination. Since 2009, the HIPO has been providing search and patent examination services for the Intellectual Property Office of Singapore (IPOS), preparing 2500-3000 search reports and/or examination reports per annum for the IPOS. Furthermore, the HIPO have bilateral agreements with the Slovenian Intellectual Property Office (SIPO), the Macedonian Patent Office (SOIP) and the Brunei Darussalam on providing patent search and examination services. Last but not least, reference is made in this context to the cooperation the V4 have established with the SIPO, JPO and NPI as described in the previous Chapter.

1.4. STRUCTURE, PRINCIPLES AND TASKS OF THE VPI

30. The Agreement on the Visegrad Patent Institute (VPI Agreement) was signed in Bratislava on February 26, 2015, by the heads of the V4 national IP Offices as the duly authorized representatives of their governments. The VPI Agreement is subject to ratification in accordance with the respective constitutional requirements of the Contracting States (parliamentary approval is needed in all the four countries). The internal procedures to that effect have already been initiated in each country and are expected to be completed until the decision to be taken on the VPI's appointment as an International Authority in the October 2015 session of the PCT Union Assembly.

31. The VPI will be an intergovernmental organization within the meaning of Article 16 of the PCT and PCT Rule 36. It will have legal personality and an extensive legal capacity necessary for the fulfilment of its tasks, including the possibility of acting on its own through the Director as its representative in matters concerning its role as a PCT Authority. The VPI is intended to remain open in two directions. Firstly, it will be open to accession by any European state at the invitation of the VPI's Administrative Board, subject to that state's international obligations, including those under the EPC and its Protocol on Centralisation. Secondly, it is envisaged that the VPI will act as an ISA and IPEA for international applications filed not only with the V4 Offices but also the receiving Offices of EPC Contracting States adjacent to the V4 countries (namely, Croatia, Lithuania, Romania, Serbia and Slovenia), provided that the latter specify the VPI for that purpose.

32. When setting up the VPI, the Visegrad countries intend to act in full compliance with their obligations under the EPC. They make use of the authorization under Section III, paragraph (1) of the Protocol on Centralisation to the EPC, as none of them has an official language in common with those of the EPO. Moreover, they undertake to comply with their obligations under the EPC and the Protocol on Centralisation when concluding and implementing the agreement with the International Bureau of WIPO in relation to the VPI's functioning as an ISA and IPEA.

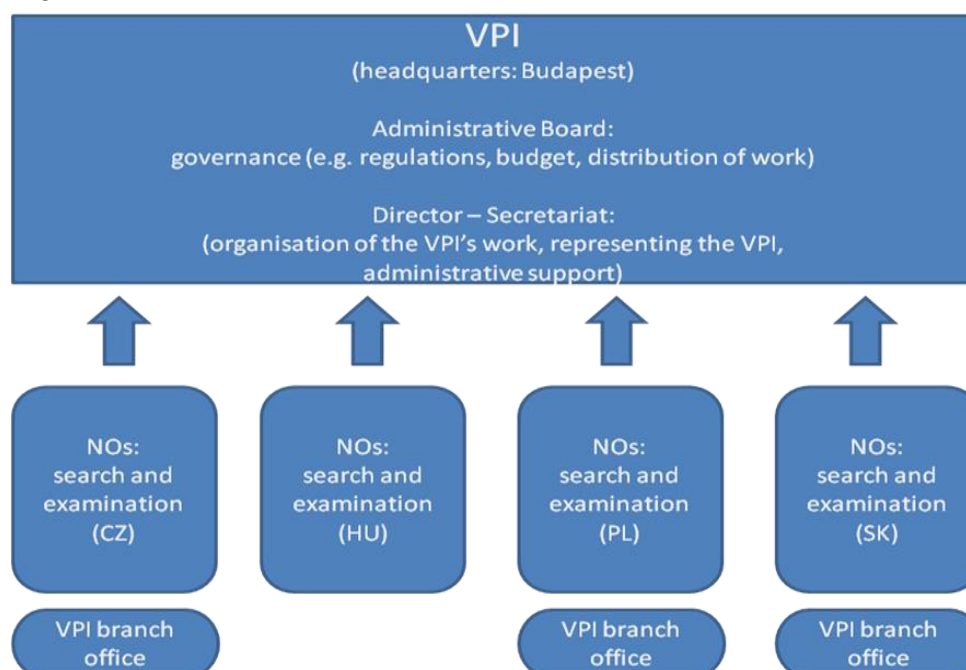
33. The structure of the VPI will follow the already existing and successful model of the NPI. Thus, the governance of the VPI as an intergovernmental organization will be ensured by its Administrative Board composed of the representatives of the Contracting States, while the VPI's Secretariat headed by the Director will be responsible for the organization, day-to-day management and administrative support of the VPI's work. The Secretariat and the Director will act as the VPI's interface to all external parties, including the International Bureau of WIPO, national Offices acting as receiving Offices and, possibly, other international partners and users

of the VPI's patent-related services. Under the umbrella of this intergovernmental layer of the VPI, it is the national Offices of the Contracting States that will perform the tasks of international search and examination on behalf of the VPI. Through harmonization of search and examination tools and practices, and through rigorous quality management at each stage of the procedure, it will be ensured that applicants will always receive a uniform VPI service of consistently high quality. The VPI's organizational chart is reproduced in *Table 2*.

34. The main task of the VPI will be to act as an ISA and IPEA within the meaning of the PCT. It is planned that the VPI will also offer international-type searches and supplementary international searches. Moreover, the Administrative Board may decide to entrust the VPI with other similar tasks in the field of patents and may also authorize the Director to conclude agreements to that effect on behalf of the VPI.

35. The operation of the VPI will be based on cooperation between the national industrial property Offices of the Contracting States, which will ensure the smooth performance of all its inherent tasks. Through pooling their search and examination resources under the aegis of the VPI, the participating Offices expect to achieve significant synergies and deepening of specialization within the fields of technology to be searched and examined. Within this structure, all activities of the VPI as an ISA/IPEA and in relation to any other task entrusted to it will be carried out by the national IP Offices of the Contracting States on behalf of, and under the full control of, the VPI in accordance with the terms and conditions laid down by the Administrative Board of the VPI.

Table 2 – Organizational Chart of the VPI⁵



36. The total workload of the VPI as an ISA/IPEA will consist of PCT applications from the Central European region (CZ, HU, PL, SK, and, subject to their respective decisions, HR, LT, RO, RS, SI).

⁵ Under Article 5 of the VPI Agreement, the VPI shall have its headquarters in Budapest, while the VPI shall have a branch Office in each of the other Contracting States.

37. The Administrative Board of the VPI will lay down the criteria for distributing the work to be carried out by the participating national Offices. The parties agreed that the criteria for distribution should be fair, equitable and relevant, ensuring a balanced distribution. When distributing search and examination requests received by the VPI among the participating Offices — be they PCT or business requests — the following main criteria will be applied: technical expertise, language of the documents submitted and the free capacity available in the given technical field. Assignment of the tasks related to the in-coming requests and documents will be performed taking into account the above-mentioned criteria. To this end, the VPI will make an assessment of the technical fields covered by the patent examiners of each participating Office (i.e. draw up a 'competence map' of its examiners). This assessment will be performed in respect of each examiner, using the IPC symbols of the technical fields pertaining to their technical knowledge. The VPI will have interchangeable capacities in most of the technical fields, due to the number of examiners available and due to the fact that some examiners even have formal qualifications in more than one technical field. This also goes for the linguistic aspect of the VPI's activities, as the examiners' language skills will enable such interchanges as well (e.g. knowledge of the Hungarian language at the IPO SR or that of the Slovak language at the HIPO and the PPO). These inherent flexibilities will significantly facilitate an optimal distribution of the VPI's workload, for which the Director and the Secretariat of the VPI will be responsible.

II. ISA AND IPEA APPOINTMENT REQUIREMENTS

2.1. COMPLIANCE WITH ISA AND IPEA APPOINTMENT REQUIREMENTS

38. Under Article 16(2)(c) of the PCT, in respect of ISAs "[t]he Regulations prescribe the minimum requirements, particularly as to manpower and documentation, which any Office or organization must satisfy before it can be appointed and must continue to satisfy while it remains appointed." Those minimum requirements are set out in PCT Rule 36.1. They are as follows:

- An ISA must have at least 100 full-time employees with sufficient technical qualifications to carry out searches.
- An ISA must have in its possession, or have access to, at least the minimum documentation referred to in PCT Rule 34, properly arranged for search purposes, on paper, in microform or stored on electronic media.
- An ISA must have a staff which is capable of searching the required technical fields and which has the language facilities to understand at least those languages in which the minimum documentation is written or is translated.
- An ISA must have in place a quality management system and internal review arrangements in accordance with the common rules of international search.
- The ISA must hold an appointment as an IPEA.

39. The minimum requirements for an IPEA defined under PCT Rule 63.1 correspond to those applying to ISAs.

40. As already outlined in the previous Chapter, the VPI will exploit the synergy of drawing upon the joined resources of the participating national Offices. This enables the VPI to fully meet all the criteria for becoming an ISA and IPEA, and to perform the role of such an Authority in full compliance with those requirements. The supporting information below sets out the VPI's

- search and examination resources and the qualifications of its examiners;
- access to documentation for search and examination purposes;

- quality management system and internal review arrangements, including those applied at the participating national Offices.

2.2. EXAMINERS AND TOOLS

41. The key input to quality search and examination is highly technically-qualified and trained people. This Chapter provides information on the number of examiners available for the VPI as an ISA and IPEA as well as on their qualifications, experience, language skills and training programs.

42. The VPI as an ISA and IPEA will have altogether 185 full-time and 10 to 12 part-time examiners at its disposal capable of searching and examining all technical fields. They all have the sufficient technical qualifications and the necessary experience to carry out high-quality search and examination in an efficient and timely manner. They are all master's degree or PhD holders who have undergone comprehensive, intensive and well-structured training programs and passed the relevant exams before their appointments as examiners. In addition, most of them have largely benefited from the training programs organized by WIPO, EPO, USPTO, other International Authorities and national Offices, as well as by universities and other training institutions specialized in IP. Training of the VPI's examiners is also envisaged in the framework of the cooperation established with the JPO and the NPI, as described in Chapter 1.2. In order to constantly improve the skills and competencies of the VPI's examiners and keep their technical knowledge up-to-date, the Administrative Board will establish a training framework for them ensuring appropriate planning and an efficient use of the various training opportunities. In addition, the VPI will organize examiner exchanges and regular meetings with a view to further enhancing consistency in search and examination practices.

43. The VPI's examiners have, in addition to their ability to use their own languages (Czech, Hungarian, Polish, Slovak), excellent knowledge of English, and most of them also have a good knowledge of German and/or French. Other languages understood and used by them include Croatian, Italian, Japanese, Russian, Spanish and Swedish.

44. Moreover, examiners at the VPI will be equipped with adequate resources to deliver quality work: guidelines, IT systems, search and examination tools.

45. If necessary, the VPI and its Contracting States are ready to provide further, more detailed information on the number of examiners available for the VPI as an ISA and IPEA, and their qualifications, experience, language skills and training programs as well as on the IT systems and other tools supporting search and examination.

2.3. SEARCH SYSTEMS AND PCT MINIMUM DOCUMENTATION

46. Each participating Office of the VPI has a wide range of accessible patent information and scientific literature, search platforms and links available to the examiners. Since the V4 countries are Contracting States of the EPC, the participating Offices of the VPI have access to EPOQUENET and several commercial search platforms:

- (a) The EPOQUENET search tool grants access to all the patent databases in conformity with the PCT search minimum documentation and to most of the non-patent literature (NPL) databases as well as to the databases of other commercial hosts (e.g. WPI).
- (b) With the help of the STN Express software, the STN International Databases can be searched, and access to further patent databases, non-patent literature and business databases from Thomson Reuters is available via Thomson Innovation. STN is used predominantly for structure searches (e.g., CAP and CAS registry) in the field of chemistry and pharmaceuticals, and for nucleotide or amino acid sequence searches (CAS Registry, USGENE®, PCTGen and DGene) in the field of biotechnology.

(c) Further non-patent literature databases, such as MEDLINE, ELSEVIER, EMBASE, IEEE and PUBCHEM can be searched via EPOQUENET or STN as well as directly via online web searches.

(d) The patent and utility model documentation of more than 80 countries and Authorities starting from 1920 is also accessible and searchable through CD/DVD media in all the participating Offices of the VPI.

(e) The participating Offices of the VPI also have access to national patent and utility model information originating from various other IP Offices via online national databases.

(f) In addition to the electronic sources of databases mentioned above, in the libraries of the participating Offices of the VPI, one can find official bulletins and journals from all over the world and books in various fields of technology, science, law and linguistics. A large number of expert magazines and periodicals are also available.

(g) Each participating Office of the VPI has access to all the classification system databases. The examiners use classification systems for their daily searches. The IPC and the new CPC systems are also well-known to the VPI's examiners.

47. The participating Offices of the VPI continuously review their access to patent and NPL databases, and improve the search procedure by introducing new databases and information sources. This contributes to setting up and maintaining a high standard for the search procedure.

48. The examiners of the participating Offices of the VPI participate in training courses and seminars related to patent search, including those on the efficient use of the patent and NPL databases.

49. The above-mentioned search platforms provide each examiner with access, at least, to the minimum documentation referred to in PCT Rule 34.

2.4. QUALITY MANAGEMENT SYSTEM AND INTERNAL REVIEW ARRANGEMENTS

50. Paragraph (d) of the Understanding on the Procedures for Appointment of International Authorities, adopted by the PCT Union Assembly at its 46th session in September 2014 (hereinafter referred to as the "PCT Understanding of 2014"),⁶ contains clarification with regard to the requirement that the national Office or intergovernmental organization seeking appointment must have in place a quality management system and internal review arrangements in accordance with the common rules of international search. It states that where such system is not yet in place at the time of the appointment by the Assembly, it shall be sufficient that such system is fully planned and, preferably, that similar systems are already operational in respect of national search and examination work to demonstrate the appropriate experience.

51. The VPI will establish its own Quality Management System (QMS) that will cover all of its services offered to users. It will cover the processing of PCT applications in the international phase, international type searches requested in national applications, contract work and business services. The system will be fully planned at the time of appointment by the PCT Union Assembly in October 2015. The VPI's QMS will be certified according to the ISO 9001 standard.

⁶ Document PCT/A/46/6, paragraph 25.

52. The introduction of the VPI's QMS will be based on identifying all the necessary components of the system (participants, suppliers, users) and also customers' demands. Processes and procedures will be established at different levels, such as governance (management), processes of basic activities and supporting (functional) processes. All policies, processes and procedures will be documented within the QMS. The VPI's QMS will be executed in accordance with detailed, understandable and workable instructions in order to achieve the stated quality goals. A review mechanism will be put in place for monitoring compliance with quality standards and a joint internal review team within the VPI will also be established. Beside internal audits, external reviews will take place at regular intervals.

53. The participating Offices of the VPI already have well-established quality management systems covering their national patent granting procedures. The V4 Offices' systems are ISO certified and follow very similar principles and objectives. The VPI's QMS will be based on the systems of the participating national Offices and extended in order to fully cover the PCT procedures of the international phase as well as to comply with the PCT International Search and Examining Guidelines (PCT/GL/ISPE). The quality standards and practices will be harmonized with respect to all sorts of PCT work and will be brought fully in line with the standards and practices established under the PCT and those applied by the EPO. (For further details, see Appendix I.)

54. High and consistent quality is a precondition for the VPI to fulfill its tasks. The VPI's most important goal is to provide high quality products and services to the users and partners, and maintain consistently this high quality of performance. High quality search and examination products and services will have to be provided by the VPI in order to enable customers to make further decisions on a solid basis.

55. The participating Offices of the VPI have in place a robust QMS for their patent search and examination functions and other services. These systems guarantee the quality of all administrative activities performed by these Offices. Review arrangements are also in place. All Offices are certified under the ISO 9001 standards.

56. In the IPO CZ, during 2014, the fulfillment of the ISO standard's requirements was confirmed by an internal integrated system audit, and later on the Office underwent external audits. The task was to examine the functionality of security management according to the ISO/IEC 27001:2005 and the recertification of the standard quality management system according to the ISO standards 9001:2008, BS OHSAS 18001:2007 and ISO 14001:2004. No inconsistencies were found in the audits that would require the adoption of corrective measures. In cooperation with the EPO, the European standard of quality management – EQMS – has been implemented.

57. The HIPO has implemented a QMS for its patent search and examination functions that conforms to the ISO 9001 standards. The first certification according to the ISO 9001:2008 standards was valid from 2011 until 2014 and the re-certification is valid from 2014 until 2017. For national patent granting procedures the EQMS had been implemented before the ISO integrated management system was validated in 2010.

58. The PPO was first granted a PN-EN ISO 9001:2009 standard certificate in July 2011, which was in force for three years until July 2014. Due to extensive work being carried out at that time in the PPO with the aim of improving and changing the internal procedures, the application for extension of ISO certification was then postponed till the beginning of 2015. The internal and external audits were completed by March 20, 2015, and on March 24, 2015, a Technical Committee of Polskie Centrum Badań i Certyfikacji SA made a positive opinion on the grant of the PN-EN ISO 9001 certificate to the PPO.

59. The first certification of the IPO SR according to the EN ISO 9001:2008 standards was valid from 2008 until 2011, the first re-certification was valid from 2011 until 2014 and the second re-recertification is valid until 2017. The IPO SR passed the re-certification audit in June 2014 and obtained the certificate verifying the implementation and maintenance of quality management system in accordance with the requirements of EN ISO 9001:2008.

60. The QMSs of the participating Offices of the VPI currently comply with the provisions on quality assurance of the PCT/GL/ISPE. Individual reports under Chapter 21 of the PCT/GL/ISPE prepared by each participating Offices of the VPI are reproduced in document PCT/CTC/28/3.

2.5. INVOLVEMENT OF EXISTING INTERNATIONAL AUTHORITIES IN THE PREPARATIONS FOR THE APPOINTMENT PROCEDURE

61. Paragraph (a) of the PCT Understanding of 2014 provides that “[...] an international organization [...] seeking appointment is strongly recommended to obtain the assistance of one or more existing International Authorities to help in the assessment of the extent to which it meets the criteria, prior to making the application.” In accordance with this new recommendation, in February 2015, the Heads of the VPI’s participating national Offices requested the assistance of the JPO and the NPI in assessing the extent to which the VPI would meet the requirements of appointment as an ISA and IPEA. The JPO’s involvement was based on the Memorandum of Cooperation between the national industrial property Offices of the V4 and the JPO on cooperation in the field of intellectual property, which was signed on September 23, 2014. That Memorandum envisages, among other fields, cooperation in relation to the future ISA/IPEA role of the VPI, and provides that the JPO will share its experience and knowledge of acting as an International Authority with the V4 Offices and, later on, with the VPI itself. The NPI’s assistance was sought in view of the many similarities between its structure, organization, principles, objectives and those of the VPI, as well as of the well-established cooperation between the Nordic countries and the V4.

62. In order to provide the necessary assistance, the representatives of the JPO and the NPI visited the participating Offices of the VPI. The JPO’s experts visited the HIPO and the IPO SR on March 10 and 11, 2015, while the NPI’s experts paid a visit to the IPO CZ and the PPO on March 11 and 12, 2015. These visits offered an opportunity for the V4 Offices to present the VPI project and their preparations for fulfilling the tasks of an ISA and IPEA. The experts of the JPO and the NPI received a great deal of well-structured information on the way the VPI, through the involvement of its participating Offices, would comply with all the requirements of appointment as an ISA and IPEA. In turn, the representatives of the JPO and the NPI described in detail their operation as International Authorities. In particular, they introduced and explained their IT systems, QMSs and working methods and processes. On the basis of these meetings, the experts of the JPO and the NPI drew up preliminary reports on the VPI’s ability to meet the requirements of appointment. (Those reports are contained in Appendix II.) They revealed no particular issue in respect of which any serious doubt would arise about the VPI’s compliance with the appointment criteria. Nevertheless, the experts of the JPO and the NPI stressed the need to develop appropriate mechanisms at the level of the VPI itself for ensuring consistency in search and examination practices and products between the participating Offices as well as for ensuring a smooth workflow between the VPI’s Secretariat and the participating Offices. It was also noted that the VPI’s QMS should be planned as thoroughly as possible by the time of appointment in addition to the already existing QMSs at the participating Offices.

63. The JPO and the NPI are prepared to share their assessment of the VPI’s preparedness for operating as an ISA and IPEA at the sessions of the PCT/CTC and the PCT Assembly.

III. CONCLUSION

64. In conclusion, the Contracting States of the VPI Agreement wish to express their firm view that the VPI will be able to meet all the applicable requirements of appointment as an ISA and IPEA, and that the VPI's operation as International Authority will make an important contribution to economic growth, competitiveness and innovation in the region and beyond as well as to the proper functioning of the global system established under the PCT.

[Appendix I follows]

APPENDIX I

COMMON QUALITY FRAMEWORK FOR
INTERNATIONAL SEARCH AND PRELIMINARY EXAMINATION

PRELIMINARY REPORT UNDER CHAPTER 21 OF THE
PCT INTERNATIONAL SEARCH AND PRELIMINARY EXAMINATION GUIDELINES

PREPARED BY THE VISEGRAD PATENT INSTITUTE

INTRODUCTION (PARAGRAPHS 21.01 TO 21.03)

1. The Visegrad Patent Institute (VPI) will establish its own Quality Management System (QMS) that will cover all of its services offered to users. It will cover the processing of PCT applications in the international phase, international-type searches requested in national applications, contract work and business services. The VPI's QMS will be fully planned at the time of appointment by the PCT Union Assembly, in October 2015. The VPI's QMS will be certified according to the ISO 9001 standard.

2. The participating Offices of the VPI already have well-established quality management systems covering their national patent granting procedures. The V4 Offices' systems are ISO certified and follow very similar principles and objectives. These systems guarantee the quality of all administrative activities performed by these Offices. Review arrangements are also in place.

3. The VPI's QMS will be based on the systems of the participating national Offices and extended in order to fully cover the PCT procedures of the international phase as well as to comply with the PCT International Search and Examining Guidelines (PCT/GL/ISPE). The quality standards and practices will be harmonized with respect to all sorts of PCT work and will be brought fully in line with the standards and practices established under the PCT and those applied by the EPO.

QUALITY MANAGEMENT SYSTEMS IN THE PARTICIPATING OFFICES OF THE VPI

4. In the IPO CZ, during 2014, the fulfillment of the ISO standard's requirements was confirmed by an internal integrated system audit, and later on the Office underwent external audits. The task was to examine the functionality of security management according to the ISO/IEC 27001:2005 and the recertification of the standard quality management system according to the ISO standards 9001:2008, BS OHSAS 18001:2007 and ISO 14001:2004. No inconsistencies were found in the audits that would require the adoption of corrective measures. In cooperation with the EPO, the European standard of quality management – EQMS – has been implemented.

5. The HIPO has implemented a QMS for its patent search and examination functions that conforms to the ISO 9001 standards. The first certification according to the ISO 9001:2008 standards was valid from 2011 until 2014 and the re-certification is valid from 2014 until 2017. For national patent granting procedures EQMS had been implemented as quality management system before the ISO integrated management system was validated in 2010.

6. The PPO was first granted a PN-EN ISO 9001:2009 standard certificate in July 2011, which was in force for three years until July 2014. Due to extensive work carried out at that time in the PPO with the aim of improving and changing the internal procedures, the application for extension of ISO certification was then postponed till the beginning of 2015. The internal and external audits were completed by March 20, 2015 and on March 24, 2015 a Technical Committee of Polskie Centrum Badań i Certyfikacji SA made a positive opinion on the grant of the PN-EN ISO 9001 certificate to the PPO.

7. The first certification of the IPO SR according to the EN ISO 9001:2008 standards was valid from 2008 until 2011, the first re-certification was valid from 2011 until 2014 and the second re-recertification is valid until 2017. The IPO SR passed the re-certification audit in June 2014 and obtained the certificate verifying the implementation and maintenance of its quality management system in accordance with the requirements of EN ISO 9001:2008.

OBJECTIVES OF THE VPI'S QMS

8. The VPI's QMS will be based on the systems of the participating national Offices and extended in order to fully cover the PCT procedures of the international phase as well as to comply with the PCT/GL/ISPE. The VPI's quality standards and practices shall be consistent and harmonized with respect to all sorts of PCT work and the cooperation of the participating national Offices will be strengthened in order to further harmonize their patenting practices.

9. High and consistent quality is a precondition for the VPI to fulfill its tasks. The VPI's most important goal is to provide high quality products and services to the users and partners, and maintain consistently this high quality of performance. High quality search and examination products and services will have to be provided by the VPI in order to enable customers to make further decisions on a solid basis.

10. Indispensable preconditions of high quality work are the competencies and number of technically-qualified and trained full-time examiners as well as access to the PCT minimum documentation. The PCT minimum requirements with respect to these aspects will be fully met by the VPI at the time of appointment as an ISA/IPEA. Chapter 2.2 in Annex II to document PCT/CTC/28/2 provides information on the number of examiners available for the VPI as well as on their qualifications, experience, language skills and training programs. Chapter 2.3 in Annex II to document PCT/CTC/28/2 shows that each participating Office of the VPI has a wide range of accessible patent information and scientific literature, search platforms and links available to the examiners. Since the V4 countries are Contracting States of the European Patent Convention (EPC), the participating Offices of the VPI have access to EPOQUENET and several commercial search platforms as well.

1. LEADERSHIP AND POLICY (PARAGRAPHS 21.04 TO 21.09)

11. The VPI's policy objective is to provide professional, high quality search and examination products and services as an ISA/IPEA in close cooperation with the participating national Offices. With this, the VPI will contribute to stimulating innovation, creativity, competitiveness and economic growth in the Central and Eastern European region as well as to improving the quality and the efficiency of the PCT system.

12. Another important objective of the VPI is to contribute positively to the development of a coherent and efficient European patent system based on the EPC as well as on the well-established cooperation between the European Patent Office (EPO) and national Offices.

13. The above objectives shall be reflected in the VPI's overall quality policy, which will be adopted by the Administrative Board and the Director of the VPI. The quality policy will constitute the framework for detailed instructions and will provide guidance to employees and suppliers in their daily work. It shall articulate the commitment of the VPI to meet or even exceed the stakeholders' needs and expectations.

14. The Administrative Board and the Director will also be responsible for designating the bodies and individuals responsible for the QMS.

15. By the time of starting its operation, the VPI will have a Quality Management Team (QMT) composed of quality management experts from each of the participating Offices. The QMT will have to ensure that the operation, all the supporting documentation and the VPI's QMS meet the requirements of Chapter 21 of PCT/GL/ISPE. The QMT will also have to check two times per year the quality control of the VPI's products by random sampling. In addition, the QMT will be responsible for preparing the VPI for the ISO certification.

16. The establishment of the VPI's QMS will be based on identifying all the necessary components of the system (participants, suppliers, users, resources, etc.) as well as customers' demands. Processes and procedures will be established at different levels, such as governance (management), processes of basic activities and supporting (functional) processes. All policies, processes and procedures will be documented within the QMS. The VPI's QMS will be executed in accordance with detailed, understandable and workable instructions in order to achieve the stated quality goals. The QMS will be compatible with the requirements of Chapter 21 of the PCT/GL/ISPE and will ensure that the VPI's work is performed in a uniform manner and at a consistently high level of quality.

17. External and internal audits will be conducted regularly to ensure the proper functioning of the QMS.

18. A Quality Management Manual will be prepared until October 2015, so that it will be in place for the VPI's appointment as an ISA/IPEA by the PCT Union Assembly in October 2015.

2. RESOURCES - INFRASTRUCTURE (PARAGRAPHS 21.10 TO 21.14)

19. The VPI will have the infrastructure and resources to continually support the search and examination process while also accommodating the changes in workload and meeting the QMS requirements. The VPI will meet the PCT minimum requirements with respect to human and material resources under Chapter 21 of the PCT/GL/ISPE.

HUMAN RESOURCES

20. The VPI as an ISA/IPEA will have altogether 185 full-time and 10 to 12 part-time examiners at its disposal capable of searching and examining all technical fields. They all have the sufficient technical qualifications and the necessary experience to carry out high-quality search and examination in an efficient and timely manner. They are all master's degree or PhD holders who have undergone comprehensive, intensive and well-structured training programs and passed the relevant exams before their appointments as examiners. In addition, most of them have largely benefited from the training programs organized by WIPO, EPO, USPTO, other International Authorities and national Offices as well as by universities and other training institutions specialized in IP. Training of the VPI's examiners is also envisaged in the framework of the cooperation established with the JPO and the NPI, as described in Chapter 1.2 of Annex II to document PCT/CTC/28/2. In order to constantly improve the skills and competencies of the VPI's examiners and keep their technical knowledge up-to-date, the Administrative Board will establish a training framework for them ensuring appropriate planning and an efficient use of the various training opportunities. In addition, the VPI will organize examiner exchanges and regular meetings with a view to further enhancing consistency in search and examination practices.

21. The VPI's examiners have, in addition to their ability to use their own languages (Czech, Hungarian, Polish, Slovak), excellent knowledge of English, and most of them also have a good knowledge of German and/or French. Other languages understood and used by them include Croatian, Italian, Japanese, Russian, Spanish and Swedish.

22. Moreover, examiners at the VPI will be equipped with adequate resources to deliver quality work: guidelines, IT systems and search and examination tools.

23. The Administrative Board of the VPI will lay down the criteria for distributing the work to be carried out by the participating national Offices. The criteria for distribution shall be fair, equitable and relevant, ensuring a balanced distribution. When distributing search and examination requests received by the VPI among the participating Offices – be they PCT or business requests – the following main criteria will be applied: technical expertise, language of the documents submitted and the free capacity available in the given technical field. Assignment of the tasks related to the in-coming requests and documents will be based on the assessment of the technical fields covered by the patent examiners of each participating Office (i.e. draw up a 'competence map' of its examiners). This assessment will be performed in respect of each examiner, using the IPC symbols of the technical fields pertaining to their technical knowledge. The VPI will have interchangeable capacities in most of the technical fields due to the number of examiners available and due to the fact that some examiners even have formal qualifications in more than one technical field. This also goes for the linguistic aspect of the VPI's activities as the examiners' language skills will enable such interchanges as well (e.g. knowledge of the Hungarian language at the IPO SR or that of the Slovak language at the HIPO and the PPO). These inherent flexibilities will significantly facilitate an optimal distribution of the VPI's workload, for which the Director and the Secretariat of the VPI will be responsible.

24. The participating Offices of the VPI also have an adequate and qualified administrative staff to support the search and examination process.

MATERIAL RESOURCES

25. The VPI will have in place appropriate equipment and facilities based on the current infrastructure of the participating Offices. An IT system (hardware and software) will be available for the VPI by the time of starting its operation, which will support the search and examination process and facilitate the cooperation, the distribution of work and Office management in the most efficient way. This IT system will also have to be in conformity with IT security requirements. Best practices for using IT resources are currently available at the participating Offices of the VPI.

26. Each participating Office of the VPI has a wide range of accessible patent information and scientific literature, search platforms and links available to the examiners. Since the V4 countries are Contracting States of the EPC, the participating Offices of the VPI have access to EPOQUENET and several commercial search platforms:

(a) The EPOQUENET search tool grants access to all the patent databases in conformity with the PCT search minimum documentation and to most of the non-patent literature (NPL) databases as well as to the databases of other commercial hosts (e.g. WPI).

(b) With the help of the STN Express software, the STN International Databases can be searched, and access to further patent databases, non-patent literature and business databases from Thomson Reuters is available via Thomson Innovation. STN is used predominantly for structure searches (e.g. CAP and CAS registry) in the field of chemistry and pharmaceuticals, and for nucleotide or amino acid sequence searches (CAS Registry, USGENE®, PCTGen and DGene) in the field of biotechnology.

(c) Further non-patent literature databases, such as MEDLINE, ELSEVIER, EMBASE, IEEE and PUBCHEM can be searched via EPOQUENET or STN as well as directly via online web searches.

(d) The patent and utility model documentation of more than 80 countries and Authorities starting from 1920 is also accessible and searchable through CD/DVD media in all the participating Offices of the VPI.

(e) The participating Offices of the VPI also have access to national patent and utility model information originating from various other IP Offices via online national databases.

(f) In addition to the electronic sources of databases mentioned above, in the libraries of the participating Offices of the VPI, one can find official bulletins and journals from all over the world and books in various fields of technology, science, law and linguistics. A large number of expert magazines and periodicals are also available.

(g) Each participating Office of the VPI has access to all the classification system databases. The examiners use classification systems for their daily searches. The IPC and the new CPC systems are also well-known to the VPI's examiners.

27. The participating Offices of the VPI continuously review their access to patent and NPL databases, and improve the search procedure by introducing new databases and information sources. This contributes to maintaining a high standard for the search procedure.

28. The examiners of the participating Offices of the VPI participate in training courses and seminars related to patent search, including those on the efficient use of patent and NPL databases.

29. The above-mentioned search platforms provide each examiner with access to, at least, the minimum documentation referred to in PCT Rule 34.

3. MANAGEMENT OF ADMINISTRATIVE WORKLOAD (PARAGRAPH 21.15)

30. The administrative workload will be managed by the Director and the Secretariat of the VPI, and will be distributed among the participating Offices.

31. The VPI will have in place an appropriate, effective and harmonized control mechanism in order to ensure the timely issuance of search and examination reports in accordance with the set quality standards. Under the harmonized standards the participating Offices will be responsible for the monitoring and reporting. Statistical performance reports will be prepared in regular intervals.

4. QUALITY ASSURANCE (PARAGRAPH 21.16)

32. The VPI's quality objective is to issue high-quality search and examination reports in a timely manner. The search and examination processes will be described in detail in a comprehensive documentation specifying performance (P), time (T) and quality (Q) indicators. The VPI will have in place an internal quality assurance system for monitoring the fulfillment of the set indicators and compliance with the PCT/GL/ISPE.

33. Harmonized quality assurance measures will be put in place building upon the current best practices of the participating Offices. Guidelines for search and examination will be available for internal users and for external users via the website of the VPI. Self-assessment will be done by using check list forms. It is the intention to apply harmonized procedures for verifying and accepting the search and examination reports and prepare periodic statistical reports. Based on the results of these reports, deficiencies and nonconformities with the VPI's QMS will be identified and the necessary actions can be taken. Annual internal audits will be performed. The harmonized tools and procedures will enable that search and examination of any application will lead to the same result irrespective of the participating Office performing the task.

5. COMMUNICATION (PARAGRAPHS 21.17 TO 21.19)

34. In each of the participating Offices the VPI will have contact persons responsible for communication. The main line of communication will be defined by the headquarter Office. The customer services of the participating Offices will be given appropriate training and guidance with respect to the services provided by the VPI. The VPI will organize user forums where issues related to services provided by the VPI would be discussed.

35. Customer satisfaction survey forms will be available both electronically (on the website of the VPI) and physically at the participating Offices. The summary of the customer feedback will be discussed by the QMT and the top management of the VPI. All the necessary improvements will be made in order to meet the demands of the customers. All feedback pertaining to the functioning of the PCT system will be continuously communicated to WIPO. The quality objectives and the guidelines of search and examination will be available on the website of the VPI. The guidelines will be prepared in the languages of the participating Offices as well as in English, and will be made available on the websites and at the customer services of the participating Offices.

36. The registration of the VPI's domain name (vpi.int) is currently under process. The participating Offices will provide communication platforms under their resources for PCT processes and international-type processes.

37. A person responsible for dealing with external complaints will be designated in each participating Office.

6. DOCUMENTATION (PARAGRAPHS 21.20 TO 21.23)

38. The VPI's QMS will be clearly described at different levels so that all processes, products and services can be monitored, controlled and checked for conformity. This will be done in the documents that will make up the Quality Manual of the VPI. The VPI will maintain records required by Chapter 21.23 of the PCT/GL/ISPE.

39. International search and examination processes as well as processes of contractual international work to be performed by the VPI have been identified, and draft process flow charts have been developed. P, T and Q indicators have also been identified. These documents and the relevant aspects are currently under negotiation, considering that the ISO systems of the respective participating Offices provide a solid basis for that purpose. For example, in the HIPO the international-type searches are fully covered by the HIPO's QMS, and these processes are fully documented. Checklists will be prepared upon completion of the product.

40. A joint team consisting of the representatives of each participating Office will be designated to control the processes.

7. SEARCH PROCESS DOCUMENTATION (PARAGRAPH 21.24)

41. Examiners will make a record of their search processes and store them for review and documentation. Checklists will be used and search strategies will be recorded. The consulted databases, keywords, the searched classes, etc., and all the relevant information and documents will be documented.

8. INTERNAL REVIEW (PARAGRAPHS 21.25 TO 21.28)

42. A review mechanism will be put in place for monitoring compliance with quality standards under which objective and transparent reviews shall be carried out. A joint internal review team within the VPI will also be established. Audits will be carried out by using checklists and auditors will have to prepare written reports of their observations. Beside internal audits,

external reviews will take place at regular intervals. It is envisaged that internal and external audits are to be undertaken once a year aiming at assessing the conformity of the VPI's QMS with the set standards. It is intended that the first internal audit will be carried out 6 months after the VPI has become operational, at the latest. In parallel with this, an independent external auditor will be selected for future external audits and ISO certification.

[Appendix II follows]

APPENDIX II

REPORTS BY THE JAPAN PATENT OFFICE AND THE NORDIC PATENT INSTITUTE

Paragraph (a) of the Understanding on the Procedures for Appointment of International Authorities, adopted by the PCT Union Assembly at its 46th session in September 2014⁷ provides that “[...] an international organization [...] seeking appointment is strongly recommended to obtain the assistance of one or more existing International Authorities to help in the assessment of the extent to which it meets the criteria, prior to making the application.”

This Appendix contains the reports received from the Japan Patent Office (JPO) and the Nordic Patent Institute (NPI) in that regard.

⁷ Document PCT/A/46/6, paragraph 25.

REPORT BY THE JAPAN PATENT OFFICE (JPO)

1. At the Meeting of the PCT Working Group (PCT/WG) that was held in June 2014, the Hungarian Intellectual Property Office (HIPO), on behalf of the Visegrad Group (V4), introduced the V4's plan of establishment of a new PCT/ISA (PCT/A/46/1 para41). Also, at the PCT Assembly, it was decided that a national Office or an intergovernmental organization seeking appointment is strongly recommended to obtain the assistance of one or more existing International Authorities to help in the assessment of the extent to which it meets the criteria, prior to making the application. (PCT/A/46/6 para25(a)).

2. Based on the plan that the V4 Offices aim to be appointed and to operate as an ISA, the JPO signed a Memorandum of Cooperation (MOC) with the V4 Offices in September 2014. The cooperative activities in the MOC include that the JPO, as an existing ISA, would share the knowledge and experiences with the V4 Offices, and to achieve this, send JPO experts on intellectual property (IP) to them. According to the MOC, the JPO sent three officials to the HIPO and the Industrial Property Office of the Slovak Republic (IPO SR), in order to better understand the current status of the activities to function as an ISA. The following is what the two Offices told to our officials.

1. HUNGARIAN INTELLECTUAL PROPERTY OFFICE (HIPO)

(1) NUMBER OF EXAMINERS (IN TERMS OF RULE 36.1(I) OF THE PCT)

3. It is difficult for the HIPO alone to meet the requirement of Rule 36.1(i) of the PCT, which stipulates the requirement of having more than 100 examiners. However, the total number of examiners at the Visegrad Patent Institute (VPI) is around 200. This is similar to the situation at the Nordic Patent Institute (NPI).

(2) PCT MINIMUM DOCUMENTATION (IN TERMS OF RULE 36.1(II) OF THE PCT)

4. The HIPO is currently using the EPOQUENet database based on the contract with the European Patent Office (EPO). In order to access non-patent literature (NPL) databases through the EPOQUENet, it is necessary to make contracts of separate subscriptions, which the HIPO has already done, enabling it to meet the PCT minimum documentation requirements. The HIPO has access to other NPL resources also through other external services, such as the Science and Technical Information Network (STN).

(3) QUALITY MANAGEMENT (IN TERMS OF RULE 36.1(IV) OF THE PCT)

5. All four Offices of the VPI have already acquired ISO9001 certifications for patent examination procedures. Going forward, the Offices plan to establish a common system for quality management, which will be fully planned at the time of appointment by the PCT Union Assembly in October 2015.

6. As ways to receive feedback from users, the HIPO is conducting user surveys and holding Patent Forums, where the HIPO holds brainstorming sessions with users, such as patent lawyers.

7. As a means of analyzing examination results, the HIPO uses a random cross-checking system, in which managers in similar technical fields check results. For example, one manager in the chemical field (Head of Chemistry and Biotechnology Section) checks applications of the other chemical-related field (Pharmaceuticals and Agriculture), vice versa. Under the system, prescribed check lists are used to check whether examiners read search reports issued by other IP Offices, whether examiners used the required databases and whether appropriate search strategies were followed. In order to assure the quality of examinations, all examiners in every department must conduct examinations by taking the same steps. Accordingly, the HIPO is working to have all its examiners reach the same milestones through using this checklist.

8. Ever since the HIPO introduced its quality management system, including timeliness, in 2009, the number of pending applications has decreased, from around 9,000 in 2009, to 2,150 in 2014.

(4) OTHER (INCLUDING IN TERMS OF RULE 36.1(III) OF THE PCT)

9. Currently, under a cooperative framework with the Intellectual Property Office of Singapore (IPOS), the HIPO issues around 1,500 PCT ISRs per year on an outsourcing basis.

10. On the other hand, the HIPO recognizes that it is essential to have no backlog of domestic applications.

11. The HIPO started a cooperative project with the Austrian Patent Office (APO) in 2006. After that, in 2008, it started a PCT project with the APO, in which the HIPO started to issue ISRs on PCT applications whose receiving Offices (ROs) are certain countries, such as Brazil, India, Korea, Egypt, and Singapore, and ISA is the APO. (This is because, under the framework of European Patent Convention (EPC), the APO was able to be appointed as an ISA on the condition that it handles PCT applications filed from certain countries only.) Based on the cooperative project with APO, the HIPO issues around 800 ISRs per year.

12. The IPOS gave a high evaluation of the HIPO in terms of the level of quality it achieved under the project, leading the IPOS to commission the HIPO to conduct 1,500 searches and examinations per year, as mentioned above.

2. INDUSTRIAL PROPERTY OFFICE OF THE SLOVAK REPUBLIC (IPO SR)

(1) NUMBER OF EXAMINERS (IN TERMS OF RULE 36.1(I) OF THE PCT)

13. The total number of examiners at the IPO SR is 24.

(2) PCT MINIMUM DOCUMENTATION (IN TERMS OF RULE 36.1(II) OF THE PCT)

14. The IPO SR is able to access all documents meeting the PCT minimum documentation requirement by using EPOQUENet, the World Patent Information (WPI), and other NPL databases. Also, it uses other databases when necessary.

(3) QUALITY MANAGEMENT (IN TERMS OF RULE 36.1(IV) OF THE PCT)

15. The IPO SR acquired ISO9001 certification in 2008. With the establishment of the VPI, it is planned to establish a quality management system that is common to all the Offices. In other words, depending on the applications, examiners at the VPI will follow two types of quality policies, one of which is the current policies of its own Office and the other one of which is policy to be established by and for the VPI.

(4) OTHER (INCLUDING IN TERMS OF RULE 36.1(III) OF THE PCT)

16. In establishing the VPI, a common IT system will be also created to manage applications and drafting. However, the specific details still need to be decided.

REPORT BY THE NORDIC PATENT INSTITUTE (NPI)

NORDIC PATENT INSTITUTE
Helgeshoj Allé 81,
2630 Taastrup,
Denmark

Ms Alicja Adamczak, President
Patent Office of the Republic of Poland

Mr Josef Kratochvíl, President
Industrial Property Office of the Czech Republic

Mr Miklós Bendzel, President
Hungarian Intellectual Property Office

Mr Ľuboš Knoth, President
Industrial Property Office of the Slovak Republic

Taastrup, Denmark, 27.3.2015

Report from the visit of Nordic Patent Institute (NPI) representatives to the Industrial Property Office of the Czech Republic and Patent Office of the Republic of Poland 11-12 March 2015

BACKGROUND

In January 2015, the President of the Industrial Property Office of the Czech Republic, Mr Josef Kratochvíl and the President of Patent Office of the Republic of Poland, Ms Alicja Adamczak, sent a letter to Ms Borghildur Erlingsdóttir, Chair of the Board of the NPI, requesting assistance in assessing the extent to which the Visegrad Patent Institute (VPI) would meet the requirements of appointment as an ISA and IPEA.

On 11-12 March 2015, two representatives of NPI, the undersigned, Mr. Grétar Ingi Grétarsson, Vice-Director and Head Legal Counsel of NPI and Ms. Irene Sandøy, Head of Patent Section at the Norwegian Industrial Property Office (NIPO), visited the Industrial Property Office of the Czech Republic and the Patent Office of the Republic of Poland.

During the visit we were presented with detailed information on the VPI, its setup, organization, quality management and legal framework and in particular information relevant in relation to VPIs compliance with all the requirements of appointment as an ISA and IPEA, through the involvement of its participating Offices.

We were also able to present to the VPI representatives the setup of the NPI and our operation as ISA, IPEA and SISA under the PCT, where we introduced our processes, cooperation and coordination models, working methods, IT systems and Quality Management Systems. We also had the opportunity to talk to some of the patent examiners in both Offices and to see their work environment.

What follows is a brief summary of our assessment of the extent to which the Visegrad Patent Institute (VPI) meets criteria as an International Searching Authority (ISA) under the Patent Cooperation Treaty (PCT).

SUMMARY OF OUR FINDINGS

The VPI cooperation is based on a model similar to the NPI, namely an umbrella organization utilizing the existing resources of the participating national patent Offices, thereby strengthening competencies at national level while exploiting the advantage of having access to the consolidated resources of the national Offices.

The success of the NPI, which has been operation as an ISA/IPEA for over 7 years, has shown that this cooperation model can be extremely beneficial for smaller patent Offices, desirous to provide the applicants in their region with a local alternative regarding international search and examination.

Our main findings in assessing the VPI and its readiness to meet the requirements of appointment as an ISA and IPEA, based on the information presented during the visit are:

- The cooperation model of VPI is based on the NPI cooperation model, which has proved to be quite successful.
- The VPI, as a cooperation of 4 participating patent Offices, will meet the minimum requirement of 100 full time technically qualified patent examiners.
- Both Offices showed that there is a high standard set with regards to the level of technical competence of the patent examiners and their training.
- The VPI Offices as Contracting States of the EPC have access to EPOQUENET, providing them access to all the patent databases in conformity with the PCT search minimum documentation and to most of the non-patent literature (NPL) databases. This is supplemented with extensive national databases and numerous commercial patent and non-patent databases
- The participating Offices of the VPI already have well-established quality management systems, covering their national patent granting procedures, based on the ISO 9001 standard. Establishing a new QMS system for VPI and/or harmonizing the national processes and procedures to should therefore not be too complicated.

By the end of our visit we emphasized, based on our experience that the VPI Offices still have a lot of work to do in implementing and harmonizing processes and working methods in the QMS, setting up common IT systems and training staff. This work should not be underestimated. However, it is our firm belief that all the participating VPI Offices are well prepared to take on this challenge.

Based on the aforementioned, our visit to the Industrial Property Office of the Czech Republic and Patent Office of the Republic of Poland therefore revealed no particular issue in respect of which any serious doubt would arise about the VPI's compliance with the appointment criteria as set out in PCT Rule 36.1.

We are prepared to share our assessment at the sessions of the PCT/CTC and the PCT Assembly.

Yours sincerely

Nordic Patent Institute
Grétar Ingi Grétarsson
Vice-Director, Head Legal Counsel

[Document PCT/CTC/28/4 follows]

Patent Cooperation Treaty (PCT) Committee for Technical Cooperation

**Twenty-Eighth Session
Geneva, May 26 to 29, 2015**

SUMMARY BY THE CHAIR

AGENDA ITEM 1: OPENING OF THE SESSION

1. Mr. Claus Matthes, Secretary of the Committee, opened the session on behalf of the Director General and welcomed the participants.

2. The Meeting was held during the same period as the eighth session of the PCT Working Group and the list of participants can be found in the report of that meeting (document PCT/WG/8/26).

AGENDA ITEM 2: ELECTION OF A CHAIR AND TWO VICE-CHAIRS

3. The Committee unanimously elected Mr. Victor Portelli (Australia) as Chair for the session. There were no nominations for Vice-Chairs.

AGENDA ITEM 3: ADOPTION OF THE AGENDA

4. The Committee adopted the draft agenda as proposed in document PCT/CTC/28/1.

AGENDA ITEM 4: ADVICE TO THE ASSEMBLY OF THE PCT UNION ON THE PROPOSED APPOINTMENT OF THE VISEGRAD PATENT INSTITUTE AS AN INTERNATIONAL SEARCHING AND PRELIMINARY EXAMINING AUTHORITY UNDER THE PCT

5. Discussions were based on documents PCT/CTC/28/2 and 3.
6. The Delegation of Hungary, speaking on behalf of the Delegations of the Czech Republic, Hungary, the Republic of Poland and the Slovak Republic (Visegrad Group, or “V4”), introduced the application of the Visegrad Patent Institute (VPI) to be appointed as an International Searching and Preliminary Examining Authority under the PCT, as set out in document PCT/CTC/28/2. The VPI would fill a territorial gap within the PCT by acting as an International Authority for Central and Eastern Europe, it being noted that the Group of Central European and Baltic States was the only regional group of WIPO within which there was no functioning International Authority under the PCT. Appointment would contribute to a better understanding and wider use of the system within the region.
7. The Delegation emphasized that the VPI was part of the cooperation of the Visegrad Group. The well-established cooperation between these four countries at all levels from heads of government to expert meetings meant that the establishment of the VPI was well supported and was an important element of the V4 States’ national economic, innovation and IP strategies. A strength and common feature of the V4 was the deeply rooted traditions of IP laws and institutions. As a consequence, all of the VPI participating Offices were full-fledged industrial property Offices with responsibility for a wide range of IP functions, including patent search and examination. All of the States were members of a wide range of WIPO treaties, as well as the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the European Patent Convention.
8. The Delegation noted that the Agreement on the VPI had been signed in Bratislava on February 26, 2015 and was expected to be ratified before the forty-seventh session of the Assembly of the PCT Union in October 2015. The structure followed the existing, successful model of the Nordic Patent Institute (NPI). This included an Administrative Board and a Secretariat headed by the Director. The Administrative Board would be responsible for laying down criteria for distributing the work to be carried out by the participating Offices. This would be assisted by an assessment of the technical fields covered by the examiners of each Office and their linguistic skills. The Offices would have interchangeable capacities in most fields, which would make optimal distribution of work easier.
9. The Delegation presented its assessment that the VPI was in full compliance with the minimum requirements set out in PCT Rule 36.1(i) to (iii), covering examiner numbers and skills and access to effective systems for searching the PCT minimum documentation. Work was well under way to complete the quality management system (QMS) required under Rule 36.1(iv). Since each of the participating Offices already operated its own QMS in compliance with the ISO 9001 standard, as set out in document PCT/CTC/28/3, this would not be difficult to complete.
10. The Delegation informed the Committee that, in compliance with paragraph (a) of the Understanding of the PCT Assembly set out in paragraph 25 of document PCT/A/46/6⁸, the VPI had requested the assistance of the Japan Patent Office (JPO) and the NPI in assessing the extent to which the VPI met the requirements for appointment as an International Authority. Their reports, contained in Annex II to document PCT/CTC/28/2, revealed no particular issue in respect of which any serious doubt would arise about the VPI’s compliance with the

⁸ “(a) A national Office or an intergovernmental organization (“Office”) seeking appointment is strongly recommended to obtain the assistance of one or more existing International Authorities to help in the assessment of the extent to which it meets the criteria, prior to making the application.”

appointment criteria. Nevertheless, the experts of the JPO and the NPI had stressed the need to develop appropriate mechanisms at the level of the VPI itself for ensuring consistency in search and examination practices and products between the participating Offices as well as for ensuring a smooth workflow between the VPI's Secretariat and the participating Offices. They had further noted that the VPI's QMS should be planned as thoroughly as possible by the time of appointment in addition to the already existing QMSs at the participating Offices. The Delegation confirmed that the VPI would work hard on these issues.

11. The Delegation of Japan confirmed that, following the announcement by the V4 Offices at the PCT Working Group in 2014 that the VPI intended to seek appointment as an International Authority, it had signed a Memorandum of Cooperation to share knowledge and experience. As part of this process, officials of the JPO had visited two participating Offices of the VPI (the Hungarian Intellectual Property Office and the Industrial Property Office of the Slovak Republic). The JPO officials had noted that the total number of examiners at the VPI was around 200, that the Offices were able to access all documents within the PCT minimum documentation, that the participating Offices of the VPI had already acquired ISO 9001 certification for patent examination procedures and that, with the establishment of the VPI, a common VPI QMS would be established. On the basis of this meeting, the JPO saw no particular issue which gave any serious doubt about the VPI's compliance with the appointment criteria. As such, the Delegation supported the application for appointment of the VPI as an International Authority, noting that further work would be required, as indicated in paragraph 10, above.

12. The Delegation of Japan further noted that it had found the cooperation with the VPI beneficial also to Japan and would make use of the experience gained to contribute to future discussion in the PCT Working Group and the Quality Subgroup of the Meeting of International Authorities Under the PCT.

13. The Delegation of the Nordic Patent Institute also confirmed that it had visited participating Offices of the VPI (the Industrial Property Office of the Czech Republic and the Patent Office of the Republic of Poland). The Delegation noted that the cooperation model of VPI was closely based on the NPI model, which had been successful. The report of the visit had concluded that the VPI would meet the requirements of numbers of examiners and access to minimum documentation and that the examiners appeared to have a high level of technical competence and training. It had further concluded that the participating Offices of the VPI had established QMSs for their national patent granting procedures based on ISO 9001 and that thus the QMS for the VPI itself should be achievable, with work on the system and quality manual being in full progress. The work of implementing and harmonizing processes should not be underestimated but, in the view of the NPI, all of the participating Offices were well prepared to take on the challenge. Consequently, the Delegation of the Nordic Patent Institute supported the application for appointment of the VPI as an International Authority.

14. Many other delegations expressed their support for the appointment of the VPI as an International Authority. Several noted that their support was based on visits to the participating Offices or cooperation of various types with one or more of the participating Offices, including entrusting patent processing work to the Hungarian Intellectual Property Office in a successful outsourcing arrangement by an existing International Authority. Several delegations were pleased to note that the VPI had taken the advice to seek assistance from existing International Authorities and stated that the reviews by the JPO and NPI had increased their confidence in the strength of the application. Other delegations indicated that they had discussed issues with the VPI prior to the session and that all their questions had been answered to their full satisfaction.

15. The Chair concluded that there was resounding support for the application for appointment of VPI as an International Searching and Preliminary Examining Authority under the PCT. References had been made to the importance of developing appropriate mechanisms to ensure consistency of approach amongst the four offices, as well as procedures between the

four offices, in order to ensure smooth work flow and smooth production of consistent work products. Hard work was required to plan and implement a VPI QMS, which would be critical to delivering high quality products at the international search and preliminary examination stages, which were crucial to the success of the PCT. However, the Chair expressed his view that, if the VPI continued to work as hard as it had done so far, it would achieve an excellent result.

16. The Committee unanimously agreed to recommend to the Assembly of the PCT Union that the Visegrad Patent Institute be appointed as an International Searching and Preliminary Examining Authority under the PCT.

17. The Delegation of Hungary, speaking on behalf of the Delegations of the V4 States, thanked all the delegations which had given their support and offered special thanks to the Japan Patent Office and Nordic Patent Institute for their assistance. The Delegation considered that the process had shown the merit of the Understanding adopted by the Assembly of the PCT Union which had allowed an effective review and given time to act on the advice and recommendations.

AGENDA ITEM 5: SUMMARY BY THE CHAIR

18. The Committee noted this summary, established under the responsibility of the Chair, and agreed that it should be made available to the PCT Assembly, as a record of the advice given under agenda item 4.

AGENDA ITEM 6: CLOSING OF THE SESSION

19. The Chair closed the session on May 29, 2015.

[End of document]