

WIPO



PCT/A/III/9

ORIGINAL: English

DATE: April 30, 1979

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

INTERNATIONAL PATENT COOPERATION UNION
(PCT UNION)

ASSEMBLY

Third Session (2nd Extraordinary)*
Geneva, April 25 to May 1, 1979

DRAFT TEXTS PREPARED ON THE BASIS OF DECISIONS TAKEN BY THE
ASSEMBLY

Submitted by the International Bureau

1. As requested by the Assembly, the International Bureau submits in Annex I the draft of the Directives agreed by the Assembly for the purposes of Rules 15.2(d), 16.1(d), 57.2(e) and in Annex II the final drafts of the Rules amended by the Assembly in its present session.
2. The attention of the Assembly is drawn specially to Annex I, to Rules 15.1(ii), 15.2, 15.5, 16.1, 47.1, 57.1(b) and 57.2 and to the Schedule of Fees, contained in Annex II, for which the Assembly had requested the International Bureau to submit texts reflecting the decisions of the Assembly prior to the inclusion of those texts in the draft report.

[Annexes follow]

* *Editor's Note:* This electronic document has been created from the paper original and may contain errors. Please bring any such errors to the attention of the PCT Legal Division by e-mail at pct.legal@wipo.int

ANNEX I

TEXT TO BE INCLUDED IN DRAFT REPORT

The Assembly established in the following terms the directives referred to in Rules 15.2(d), 16.1(d) and 57.2(e), it being understood that, in the light of experience, the Assembly may at any time modify these directives:

(1) At the time of each ordinary session of the Assembly, the Director General shall proceed to the consultations referred to in Rules 15.2(b) and 57.2(c) and shall establish the amounts of the fees in currencies other than Swiss francs according to the exchange rates applicable on the first day of that session, so that their amounts correspond to the amounts of the fees expressed in Swiss currency. Where such adjustment would only slightly affect the income of the International Bureau, the Director General may decide not to proceed with it. Unless otherwise decided by the Assembly, any adjustment under this paragraph shall enter into force on the first day of the calendar year subsequent to the ordinary session referred to above.

(2) Where for more than 30 consecutive days, the exchange rate between Swiss currency and any other currency was by at least 5% higher, or by at least 5% lower, than the last exchange rate applied, any interested Office or Authority, as the case may be, may ask the Director General to newly establish the amount of the fees in that currency according to the exchange rate prevailing on the day preceding the day on which the request is made. The Director General shall proceed accordingly, as provided in Rules 15.2(d) and 57.2(e).

(3) Where for more than 30 consecutive days, the exchange rate between Swiss currency and any other currency was by at least 10% higher, or by at least 10% lower, than the last exchange rate applied, the Director General shall, after consultation with the interested Office or Authority and as provided in Rules 15.2(c) and 57.2(e), as the case may be, newly establish the amount of fees in that currency according to the exchange rate prevailing on the day preceding the day on which the consultation is initiated by the Director General. [Where such adjustment would only slightly affect the income of the International Bureau, the Director General may decide not to proceed with it.]

(4) As far as the establishment of the search fee of any International Searching Authority in any currency other than the currency or currencies fixed by that Authority is concerned, the provisions of paragraphs (1) to (3) shall, to the extent applicable, be applied *mutatis mutandis*.

[Annex II follows]

RULE 15

THE INTERNATIONAL FEE

15.1 BASIC FEE AND DESIGNATION FEE

Each international application shall be subject to the payment of a fee for the benefit of the International Bureau (“international fee”) to be collected by the receiving Office and consisting of,

(i) a “basic fee,” and

(ii) as many “designation fees” as there are national patents and regional patents sought by the applicant in the international application, provided that where in respect of any designation Article 44 applies, only one designation fee shall be due.

15.2 AMOUNTS

(a) The amounts of the basic fee and of the designation fee are as set out in the Schedule of Fees.

(b) The amounts of the basic fee and of the designation fee shall be established, for each receiving Office which, under Rule 15.3, prescribes the payment of those fees in a currency or currencies other than Swiss currency, by the Director General after consultation with that Office and in the currency or currencies prescribed by that Office (“prescribed currency”). The amounts in each prescribed currency shall be the equivalent, in round figures, of the amounts in Swiss currency set out in the Schedule of Fees. They shall be published in the Gazette.

(c) Where the amounts of the fees set out in the Schedule of Fees are changed, the corresponding amounts in the prescribed currencies shall be applied from the same date as the amounts set out in the amended Schedule of Fees.

(d) Where the exchange rate between Swiss currency and any prescribed currency becomes different from the exchange rate last applied, the Director General shall establish new amounts in the prescribed currency according to directives given by the Assembly. The newly established amounts shall become applicable two months after the date of their publication in the Gazette, provided that the interested Office and the Director General may agree on a date falling during the said two-month period in which case the said amounts shall become applicable for that Office from that date.

15.3 MODE OF PAYMENT

The international fee shall be payable in the currency or currencies prescribed by the receiving Office, it being understood that, when transferred by the receiving Office to the International Bureau, the amount transferred shall be freely convertible into Swiss currency.

15.4. TIME OF PAYMENT

(a) Subject to paragraph (c), the basic fee shall be due on the date of receipt of the international application.

(b) Subject to paragraph (c), the designation fee shall be paid on the date of receipt of the international application or on any later date prior to the expiration of one year from the priority date.

(c) The receiving Office may permit applicants to pay either the basic fee or the designation fee or both of the fees later than on the dates provided for in paragraphs (a) and (b), provided that:

(i) permission shall not be given to pay the basic fee or the designation fee later than one month after the date of receipt of the international application;

(ii) permission may not be subject to any extra charge.

Such later payment of the said fees shall be without loss, in the case of the basic fee, of the international filing date, or, in the case of the designation fee, of the designations to which the payment relates.

15.5 PARTIAL PAYMENT

[Alternative A]

(a) If the applicant specifies the designations of States to which he wishes any amount paid to be applied as designation fee, the amount shall be applied accordingly to the designations of States made in the international application which are covered by the amount in the order specified by the applicant.

(b) If the applicant does not specify any such wish and if the amount or amounts received by the receiving Office are not less than the basic fee and one designation fee but are less than the basic fee and all designation fees, the amount in excess of the basic fee shall be applied as designation fees in respect of as many designations of States as there are full designation fees covered by the excess amount and in the order in which the said designations appear in the international application.

(c) Where under paragraph (a) or paragraph (b) an amount is applied as designation fee in respect of the designation of a State for the purposes of a regional patent made in the international application, that amount shall be considered as covering all other designations of States for the purposes of the same regional patent made in the international application irrespective of the specifications made by the applicant and of the order in which the said other designations appear in the international application.

[Alternative B]

(a) Where the amount received by the receiving Office is not less than that of the basic fee and at least one designation fee but less than the amount required to cover the basic fee and all the designations made in the international application, the amount received shall be applied as follows:

(i) to cover the basic fee and

(ii) to cover as many designation fees as, after deduction of the basic fee, may be covered in full by the amount received in the order indicated in paragraph (b).

(b) The order in which the said amount shall be applied to the designations shall be established as follows:

(i) where the applicant indicates to which designation or designations the amount is to be applied, it shall be applied accordingly;

(ii) where the amount received is insufficient to cover all the designations indicated under item (i) or if the applicant gives no indications under item (i), the amount shall be applied to the designations in the order in which they appear in the international application;

(iii) where the designation of a State is for the purposes of a regional patent and provided that the required designation fee is, under the preceding provisions, available for that designation, the designation of any further States for which the same regional patent is sought shall be considered as covered by that fee.

15.6 [No change]

RULE 16

THE SEARCH FEE

16.1 RIGHT TO ASK FOR A FEE

(a) [No change]

(b) The search fee shall be collected by the receiving Office. The said fee shall be payable in the currency or currencies prescribed by that Office (“the receiving Office currency”), it being understood that if any receiving Office currency is not that, or one of those, in which the International Searching Authority has fixed the said fee (“the fixed currency or currencies”), it shall, when transferred by the receiving Office to the International Searching Authority, be freely convertible into the currency of the State in which the International Searching Authority has its headquarters (“the headquarters currency”). The amount of the search fee in any receiving Office currency, other than the fixed currency or currencies shall be established by the Director General after consultation with that Office. The amounts so established shall be the equivalents in round figures, of the amount established by the International Searching Authority in the headquarters currency. They shall be published in the Gazette.

(c) Where the amount of the search fee in the headquarters currency is changed, the corresponding amounts in the receiving Office currencies, other than the fixed currency or currencies, shall be applied from the same date as the changed amount in the headquarters currency.

(d) Where the exchange rate between the headquarters currency and any receiving Office currency, other than the fixed currency or currencies, becomes different from the exchange rate last applied the Director General shall establish the new amount in the said receiving Office currency according to directives given by the Assembly. The newly established amount shall become applicable two months after its publication in the Gazette, provided that any interested receiving Office and the Director General may agree on a date falling during the said two-month period in which case the said amount shall become applicable for that Office from that date.

(e) Where, in respect of the payment of the search fee in a receiving Office currency, other than the fixed currency or currencies, the amount actually received by the International Searching Authority in the headquarters currency is less than that fixed by it, the difference will be paid to the International Searching Authority by the International Bureau, whereas, if the amount actually received is more, the difference will belong to the International Bureau.

(f) As to the time of payment of the search fee, the provisions of Rule 15.4 relating to the basic fee shall apply.

16.2 [No change]

16.3 [No change]

RULE 47

COMMUNICATION TO DESIGNATED OFFICES

47.1 PROCEDURE

(a) [No change]

(b) Such communication shall be effected promptly after the international publication of the international application and, in any event, by the end of the 19th month after the priority date. Where the time limit under Rule 46.1 has not expired when the communication is effected and the International Bureau has neither received amendments from the applicant nor a declaration that the applicant does not wish to make amendments before the International Bureau, the International Bureau shall, at the time of the communication, notify the applicant and the designated Offices accordingly, it shall, immediately after receipt, communicate any amendment received subsequently to the designated Offices and notify the applicant accordingly. Where, under Article 17(2) (a), the International Searching Authority has made a declaration that no international search report will be established, the communication shall be effected, unless the international application is withdrawn, within 1 month from the date on which the International Bureau has been notified of the said declaration by the International Searching Authority; such communication shall be accompanied by an indication of the date of the notification sent to the applicant under Article 17(2) (a) .

(c) [No change]

(d) [No change]

(e) [No change]

47.2 COPIES

(a) [No change]

(b) [No change]

(c) Except to the extent that any designated Office notifies the International Bureau otherwise, copies of the pamphlet under Rule 48 may be used for the purposes of the communication of the international application under Article 20.

RULE 57

THE HANDLING FEE

57.1 REQUIREMENT TO PAY

(a) Each demand for international preliminary examination shall be subject to the payment of a fee for the benefit of the International Bureau (“handling fee”) to be collected by the International Preliminary Examining Authority to which the demand is submitted.

(b) Where, because of a later election or elections, the international preliminary examination report must, in application of Article 36(2) be translated by the International Bureau into one or more additional languages, a “supplement to the handling fee” shall be collected by the International Bureau.

57.2 AMOUNTS OF THE HANDLING FEE AND THE SUPPLEMENT TO THE HANDLING FEE

(a) The amount of the handling fee is as set out in the Schedule of Fees. The amount payable in any particular case shall be the amount as so set out, increased by as many times the same amount as the number of languages into which the international preliminary examination report must, in application of Article 36(2), be translated by the International Bureau.

(b) The amount of the supplement to the handling fee is as set out in the Schedule of Fees. The amount payable in any particular case shall be the amount as so set out, multiplied by the number of additional languages referred to in Rule 57.1(b).

(c) The amount of the handling fee shall be established for each International Preliminary Examining Authority which, under Rule 57.3(c), prescribes the payment of the handling fee in a currency or currencies other than Swiss currency by the Director General after consultation with that Authority and in the currency or currencies prescribed by that Authority (“prescribed currency”). The amount in each prescribed currency shall be the equivalent, in round figures, of the amount of the handling fee in Swiss currency set out in the Schedule of Fees. The amounts in the prescribed currencies shall be published in the Gazette.

(d) Where the amount of the handling fee set out in the Schedule of Fees is changed, the corresponding amounts in the prescribed currencies shall be applied from the same date as the amount set out in the amended Schedule of Fees.

(e) Where the exchange rate between Swiss currency and any prescribed currency becomes different from the exchange rate last applied, the Director General shall establish the new amount in the prescribed currency according to directives given by the Assembly. The newly established amount shall become applicable two months after its publication in the Gazette, provided that the interested International Preliminary Examining Authority and the Director General may agree on a date falling during the said two-month period in which case the said amount shall become applicable for that Authority from that date.

57.3 TIME AND MODE OF PAYMENT

- (a) The handling fee shall be due at the time the demand is submitted.
- (b) Any supplement to the handling fee shall be due at the time the later election is submitted.
- (c) The handling fee shall be payable in the currency or currencies prescribed by the International Preliminary Examining Authority to which the demand is submitted, it being understood that, when transferred by that Authority to the International Bureau, it shall be freely convertible into Swiss currency.
- (d) Any supplement to the handling fee shall be payable in Swiss currency.

57.4 FAILURE TO PAY (HANDLING FEE)

- (a) Where the handling fee is not paid as required, the International Preliminary Examining Authority shall invite the applicant to pay the fee within one month from the date of the invitation.
- (b) If the applicant complies with the invitation within the prescribed time limit, the demand shall be considered as if it had been received on the date on which the International Preliminary Examining Authority receives the fee, unless, under Rule 60.1(b), a later date is applicable.
- (c) If the applicant does not comply with the invitation within the prescribed time limit, the demand shall be considered as if it had not been submitted.

57.5 FAILURE TO PAY (SUPPLEMENT TO THE HANDLING FEE)

- (a) Where the supplement to the handling fee is not paid as required, the International Bureau shall invite the applicant to pay the supplement within one month from the date of the invitation.
- (b) If the applicant complies with the invitation within the prescribed time limit, the later election shall be considered as if it had been received on the date on which the International Bureau receives the supplement, unless under Rule 60.2(b), a later date is applicable.
- (c) If the applicant does not comply with the invitation within the prescribed time limit, the later election shall be considered as if it had not been submitted.

57.6 REFUND

In no case shall the handling fee, or the supplement to the handling fee, be refunded.

THE SCHEDULE OF FEES

96.1 SCHEDULE OF FEES ANNEXED TO REGULATIONS

The amounts of the fees referred to in Rules 15 and 57 shall be expressed in Swiss currency. They shall be specified in the Schedule of Fees which is annexed to these Regulations and forms an integral part thereof.

SCHEDULE OF FEES

	<u>Kind of Fee</u>	<u>Amount</u>
1.	<u>Basic Fee</u> (Rule 15.2(a)) if the international application contains not more than 30 sheets	325 Swiss francs
	if the international application contains more than 30 sheets	325 Swiss francs plus 6 Swiss francs for each sheet in excess of 30 sheets
2.	<u>Designation Fee</u> (Rule 15.2(a))	78 Swiss francs
3.	<u>Handling Fee</u> (Rule 57.2(a))	100 Swiss francs
4.	<u>Supplement to the Handling Fee</u> (Rule 57.2(b))	100 Swiss francs

[End of Annex and of document]