

WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

INTERNATIONAL PATENT COOPERATION UNION
(PCT UNION)

ASSEMBLY

Fifth Session (3rd Extraordinary)*
Geneva, June 9 to 16, 1980

DRAFT REPORT

Prepared by the International Bureau

INTRODUCTION

1. The Assembly of the International Patent Cooperation. (PCT) Union (hereinafter referred to as “the Assembly”) held its fifth session (3rd extraordinary) in Geneva from June 9 to 16, 1980.
2. The following 19 Contracting States were represented at the session: Australia, Austria, Brazil, Denmark, France, Germany (Federal Republic of), Hungary, Japan, Liechtenstein, Luxembourg, Madagascar, Netherlands, Norway, Romania, Soviet Union, Sweden, Switzerland, United Kingdom, United States of America.
3. The following five States participated in the session as observers: Finland, Italy, Niger, Spain and Turkey.
4. One intergovernmental organization, the European Patent Organization (EPO), and the following ten international non-governmental organizations, were represented by observers: Council of European Industrial Federations (CEIF), Committee of National Institutes of Patent Agents (CNIPA), European Federation of Agents of Industry in Industrial Property (FEMIP), International Association for the Protection of Industrial Property (IAPIP),

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International Chamber of Commerce (ICC), International Federation of Inventors' Associations (IFIA), International Federation of Patent Agent (FICPI), International Federation of Pharmaceutical Manufacturers Associations (IFPMA), Union of European Practitioners in Industrial Property (UNION) and Union of Industries of the European Community (UNICE).

5. The number of participants was about 60. The list of participants is contained in Annex I to this Report.

OFFICERS OF THE SESSION

6. The Assembly appointed Mr. Jean-Louis Comte (Switzerland) as acting Chairman in the absence of Mr. Harvey J. Winter (United States of America), Chairman and Mr. Ivan Nayashkov (Soviet Union), Vice-Chairman.

7. Mr. E. M. Haddrick, Director, PCT Division, WIPO, acted as Secretary of the Assembly.

OPENING OF THE SESSION; ADOPTION OF THE AGENDA

8. The Acting Chairman expressed, on behalf of the Assembly, satisfaction at the fact that, in the period since its preceding session in September/October 1979, Norway, Liechtenstein and Australia had become parties to the PCT and that, in a short time, the PCT would also enter into force for Hungary and the Democratic People's Republic of Korea, both of which had deposited the necessary instruments of ratification or accession.

9. The Assembly adopted its agenda as contained in document PCT/A/V/1.Rev., subject to the inclusion, at the request of the Delegation of Japan, of an additional item *6bis* covering any other business arising during the session.

AMENDMENTS TO THE PCT REGULATIONS

10. Discussions of amendments other than those referred to in paragraphs 33 to 36 below were based on documents PCT/A/V/3, 4, 4 Corr./Add., 5 and 5 Add.

11. The Assembly noted the papers submitted by organizations representing users of the PCT system indicating their views on necessary changes in the system and its implementation contained in document PCT/A/V/3.

12. Following the discussion of the proposals contained in documents PCT/A/V/4, 4 Corr./Add., 5 and 5 Add., the Assembly adopted, with effect on and from October 1, 1980, the amendments to (including, where applicable, deletions affecting) Rules 4.1(b) (ii), 4.8(b), 4.10(b), 4.11, 10.1(b), 10.1(c), 11.2(d), 11.12, 11.13(j), 13.2, 15.5, 17.1, 18.5, 19.2, 22.5, 30.1, 41, 46.2, 47.1(c), 49.3, 54.4, 55.1, 57.4(b), 57.5(b), 60.1(b), 60.2(b), 76.3, 80.6, 90.3(a) and 92.1(b) and to the Schedule of Fees and new Rules 11.10(d), *16bis*, *20.3bis*, 90.3(d), 91.2, 92.1(c), 92.4 and 92bis, as set out in Annex 11.

13. With regard to proposals to amend Rule 22.3, as contained in document PCT/A/V/4, page 43 and PCT/A/V/5, page 7, the Assembly decided, following an exhaustive discussion of all issues involved leading to substantive approval of the proposals, that, since the time limit under Rule 88.4 of the PCT Regulations was not respected, it should defer taking a decision to adopt the proposed amendments until its next session. The Assembly also agree unanimously that, considering the exhaustive discussion which had taken place, the formal adoption of the proposed amendments at the next session of the Assembly should take place without reopening of the discussion on the proposals and that no new communication of the proposals to that next session was necessary in order to comply with Rule 88.4, to the extent the proposals were not amended.

14. The Assembly approved the decisions of the International Bureau, reflected in document PCT/A/V/4, not to propose amendments to certain Rules of the PCT Regulations in implementation of some suggestions made by certain organizations representing users of the PCT system.

15. The Assembly decided not to adopt certain other proposals made by the International Bureau for amendments to the PCT Regulations either based on suggestions made by interested organizations or put forward upon the initiative of the International Bureau having regard to its own experience in operations under the PCT. These proposals were contained in documents PCT/A/V/4, 5 and 5 Add. and relate to those Rules of the PCT Regulations not listed in paragraph 12 above in respect of which proposals were made in those documents.

16. The amendment to Rule 4.1(b) (ii) was adopted by the Assembly as a consequential amendment in view of amendments adopted to Rules 4.11 and 41.1.

17. In adopting the amendment to Rule 4.10(b), the Assembly noted an objection by the Delegation of Japan.

18. In the course of a discussion of Rule 4.15 in respect of which the International Bureau had decided not to propose an amendment, the Delegation of the United States of America confirmed that the request of an international application designating the United States of America could be signed on behalf of the inventor as applicant for purposes of that country by his agent or other representative within the meaning of Rule 2.1. In the case of signature by an agent, a power of attorney was required. The power of attorney could be either a general power of attorney or a separate power of attorney relating to the particular case. Where the power of attorney was missing, it could be supplied later. No problem would arise under the national law from the fact that the power of attorney was executed after the filing of the application.

19. New Rule 11.10(d) was adopted rather than the proposal of the International Bureau to adopt a new Rule 11.2(e), as proposed in document PCT/A/V/4, page 29. The amendment to Rule 11.13(j) was adopted in order to align that provision with new Rule 11.10(d), both of which Rules constitute exceptions of a similar nature to Rule 11.2 (d).

20. In adopting the amendments to Rule 13.2, the Assembly noted that the amendments to Rule 13.2(i) and (ii) were of a mere drafting nature and intended to achieve harmonization between Rule 13.2 and the corresponding provisions of the Implementing Regulations under the European Patent Convention.

21. When adopting new Rule 16*bis*, the Assembly noted the declaration of the International Bureau that once a year it would report on its experience of the operation of the new Rule and the costs and receipts in connection therewith.
22. In the course of the adoption of the amendments to Rule 17.1, it was agreed that the International Bureau would study the possibility of the inclusion in the request form of a check box which would enable the applicant to request the receiving Office to prepare and transmit the priority document to the International Bureau.
23. In the course of the discussion of the proposed amendment to Rule 19.1(a), not adopted by the Assembly, the Assembly noted a suggestion by the Representative of CEIF to allow, where the applicant had erroneously filed with a receiving Office not competent for his international application, a transfer of his application to the competent receiving Office without loss of filing date and asked the International Bureau to study that question further.
24. In the course of the discussion of the proposed amendment to Rule 22.3(a), contained in document PCT/A/V/4, page 43, it was noted that a consequential amendment would be required to Rule 22.2(e), changing the reference “14 months” to “15 months” since the period of “14 months” in Rule 22.2(e) was aligned to the period of “14 months” under Rule 22.3(a).
25. In the course of the discussion of the proposed amendment to Rule 22.3(b), on which decision was deferred (see paragraph 13 above), the Assembly noted a suggestion by the Representative of CNIPA that appropriate amendments to Rules 22.3(b) and 82 should be proposed by the International Bureau for the next session of the Assembly, ensuring that Rule 82 would in future apply also to mailings by a national Office or intergovernmental organization and in particular to the transmittal of the record copy by the receiving Office, and taking into account any consequential amendments in Rule 82 resulting from the amendment of Rule 22.3 (b).
26. In the course of its consideration of the amendment to Rule 46.2, the Assembly was informed by the Delegations of the United States of America and Japan that the applicant did not need to know the date of filing of amendments under Article 19(1) with the International Bureau for the purposes of completing, in the case of the Japanese Patent Office, the form for presentation of a translation (copy) of an amendment, and, in the case of the United States Patent and Trademark Office, the oath or declaration of the inventor. It was sufficient for the applicant to indicate, in each case, the date of sending the amendments. The Assembly decided, nevertheless, that it was desirable that the applicant be informed of the date of receipt of amendments under Article 19(1) since it was important to the applicant to know whether they were received within the prescribed time limit, and thus would form part of the international application which might have to be translated for the purposes of the designated Offices.
27. In the course of its consideration of the amendments to Rule 47.1(c), the Assembly noted a statement made by the International Bureau in response to a question from the Representative of the European Patent Office that the communication provided for in Article 20 takes place, in the sense referred to in Article 22(1), at the date of sending the communication by the International Bureau to each designated Office and was not in any sense conditional upon actual receipt by such Office.

28. Following a discussion of a proposed amendment to Rule 51.1 for the purpose of aligning the time limits referred to in Articles 25(1) (c) and 25(2) (a) with the applicable time limit under Article 22(1) and (3), the Assembly, while in principle agreeing to the substance of the proposed amendment, decided to defer the decision until a later session in 1981 or 1982. This conclusion was reached, as the national laws of certain of the Contracting States now provided time limits in accordance with the present text of Rule 51.1, and appropriate amendment of these provisions would have to be awaited before a decision could be taken. The International Bureau was asked to keep the matter under review and to propose the amendment again for consideration by a subsequent session of the Assembly.

29. Following a discussion of a proposed amendment to Rule 69.1(a) to permit the time limit for the establishment of the international preliminary examination report to be extended to expire one year after the start of international preliminary examination where a request for such extension is made by the applicant, the Assembly, basically agreeing with the principle of allowing an extension on request of the applicant, invited the International Bureau to study further the question of finding an appropriate solution to the problem. In doing so, it should consult with the International Preliminary Examining Authorities. One of the questions to be studied was whether it was desirable to provide for the possibility of extending the period for a reply by the applicant to a written opinion from such Authority under Rule 66.2(d). Furthermore, the International Bureau should study whether the form of the international preliminary examination report could be improved so that the usefulness of the report would be increased and whether, in particular the requirement of saying “yes” or “no” in all cases could not be modified to accommodate cases where completion of the examination of a particular question would prolong the international procedure unduly beyond the 25th month, thus reducing the chances for the report to be taken into account in the national phase.

30. During consideration of the amendment adding paragraph (d) to Rule 90.3, the Delegation of the United States of America said that, in future, the United States Patent and Trademark Office would accept general powers of attorney for the filing of international applications. The statement indicating the contrary in the PCT Applicant’s Guide (Annex M2) could, therefore, now be removed. The Assembly agreed that use of a standard form such as that provided in the said Annex M2 was advantageous. The International Bureau said that it was willing to send, upon request, copies of the power of attorney form to all interested Offices. In adopting the amendment, the Assembly noted an objection of the Delegation of Japan.

31. During the discussion of new Rule 91.2, the Assembly agreed that, the ex officio correction, without formal request by the applicant, of obvious errors of transcription by the receiving Office, the International Searching Authority, the International Preliminary Examining Authority or the International Bureau was already permitted under Rule 91.1, thus obviating the need for a specific provision enabling such correction. The International Bureau was asked to study the possibility of including any provisions in the Administrative Instructions dealing with the procedure for such corrections which might be considered useful to achieve a uniform practice.

32. During the discussion of new Rule 92.4, the Assembly agreed that, until the entry into force of this Rule, the present practice of all Offices and Authorities concerning the acceptance of documents by telegraph and teleprinter, etc., would be maintained.

JOINT SESSION WITH THE BUDAPEST TREATY INTERIM ADVISORY COMMITTEE

33. Discussions concerning certain amendments to the PCT Regulations were also held in a joint session with the Interim Advisory Committee for the preparation of the entry into force of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, presided over by the acting Chairman of the PCT Assembly, acting also in his capacity as Chairman of the session of the said Interim Advisory Committee.

34. Discussions were based on documents PCT/A/V/2 and 7, the International Bureau having withdrawn, in view of an earlier decision of the Assembly with respect to Rule 49.3, document PCT/A/V/2 Add.

35. Following the said discussion, the Assembly adopted, with effect from January 1, 1981, new Rule 13bis and the amendments to Rules 49.3 and 70.6 (the latter being consequential upon the amendment of Rule 49.3), set out in Annex II.

36. The report of the discussions of the joint session relating to the amendment of the Regulations under the Budapest Treaty on the International Deposit of Microorganisms for the Purpose of Patent Procedure is contained in document BP/IAC/III.

QUESTIONS CONCERNING THE USE OF THE PCT SYSTEM

37. Discussions were based on documents PCT/A/V/6, 6 Add. 1 and 6 Add. 2.

38. The only matters discussed were those questions raised in document PCT/A/V/6 concerning the international and national phases, the other questions, dealt with in documents PCT/A/V/6 Add. 1 and Add. 2, being deferred to a later session (see paragraph 55 below).

39. The Assembly noted that, as far as the international phase was concerned, solutions had been provided during the present session by way of new Rule 16bis and new Rule 47.1(c) which should help to alleviate some of the difficulties foreseen in Part I of the said document, that is, as regards oversights in the payment of fees and in the communication of the international application to the designated Offices. Furthermore, the approval as to substance, while deferring the formal decision in view of Rule 88.4 to the next session, of the proposal to amend Rule 22.3 to extend the time limit for the transmittal by the receiving Office to the International Bureau would, once finally adopted, go a long way to alleviate concerns with regard to the transmittal of the record copy.

40. Another proposal of the International Bureau also referred to in the document under consideration, namely to exclude the obligation to translate claims included in the application as filed which had been deleted or amended by the applicant still in the international phase under Article 19(1), however, had not been accepted by the Assembly. In this connection, the International Bureau stated that the observer delegations present at the session, representing the interested circles, had not expressed themselves in favor of the proposal, although the proposal was based on representations made by those circles and was intended to remove an important uncertainty for the applicant when entering the national phase.

41. The Assembly noted statements, tending to contribute to the solutions of the problems under consideration, of the following Delegations made during the discussions of document PCT/A/V/6:

(a) The Delegation of Luxembourg said that a modification of the national law was under preparation and that its country's waiver of the communication under Article 20 would be withdrawn when the relevant decree was amended.

(b) The Delegation of the United States of America said that its acceptance of Rule 47.1(c) entailed the application of the provisions of that Rule with regard to communication in its national procedures.

(c) The Delegation of Austria explained that the requirement of the Austrian patent law to receive a copy of the international application even where communication has taken place was considered to be fulfilled by the receipt of the pamphlet from the International Bureau. Consequently, the applicant was no longer required to furnish a copy of the international application to the Austrian Patent Office as designated Office.

(d) The Delegation of the Soviet Union said that amendments to the claims of international applications requesting protection by patent in the Soviet Union would be accepted within the time limit referred to in Rule 52.1 even where they were not of a restrictive nature only.

42. The Assembly noted furthermore the response of several delegations to the other questions raised in the document under discussion concerning the provisions of their laws affecting the entry into the national phase or the processing of the international application in that phase. These interventions, to the extent that they do not contribute to a solution of the problems raised, are not referred to in this Report, as they did not lead to any discussion or conclusion by the Assembly.

43. On a question raised during the discussion, the Assembly noted a statement by the Delegation of Japan that, under its national law, a request for the 'purpose of alleging privileged disclosure would have to be made at the time of filing the international application and in the Japanese language (irrespective of the receiving Office where filing might take place) in order for the applicant to benefit from the relevant provision of the national law for the examination of his application during the national phase.

COMPUTERIZATION OF THE ADMINISTRATIVE MANAGEMENT BY WIPO OF INTERNATIONAL APPLICATIONS UNDER THE PCT

44. Discussions were based on document PCT/A/V/8.

45. The Assembly noted the recommendation of the PCT Management and Budget Consultants Group which the Assembly had established at its fourth (second ordinary) session in September/October 1979 that a computerized system be introduced in respect of certain aspects of the management of international applications under the PCT and that the Assembly should authorize the commitment of funds necessary for the introduction of a computerized system.

46. The Assembly decided to authorize the International Bureau to commit funds in 1980, as requested in document peT/A/V/8, for the purpose of computerizing certain aspects of the management of international applications under the PCT.

DEVELOPMENT OF THE PCT UNION

47. Discussions were based on document PCT/A/V/9.

Promotion of Acceptance of the PCT

48. The Assembly noted a declaration made by the Delegation of Finland, according to which its Government intended to deposit its instrument of ratification of the PCT on July 1, 1980, without making a reservation for Chapter II. In that case, Finland would become bound by the Treaty on October 1, 1980, and would possibly be the 10th Contracting State of the PCT.

49. The Assembly noted a declaration by the Delegation of Spain, stating that the industrial property administration of Spain was engaged in preparatory work concerning accession to the PCT, that a major problem to be considered was the question of acceptance of PCT applications in the Spanish language and that, once the necessary draft legislation was completed, it would be submitted to Parliament for approval.

50. The Assembly noted a declaration by the Delegation of Italy expressing the hope that the preparations for the ratification of the PCT would soon be terminated so that Italy could become a Contracting state of the PCT.

51. The Assembly, noting a report of the International Bureau on the present state of membership of the Treaty, adopted unanimously the Resolution contained in Annex III.

REGIONAL TREATIES

52. The Assembly noted a report by the International Bureau referring to the three regional patent treaties of which certain States, members of the PCT Union, were parties, namely the European Patent Convention, the Libreville Agreement and the Switzerland/Liechtenstein Patent Treaty, and pointing to certain disadvantages flowing from the fact that, with respect to two such treaties, the European Patent Convention and the Libreville Agreement, certain States members of the regional treaty are not also party to the PCT. This presented particular problems to the users of the PCT system in the case of Belgium and Italy, who are party to the European Patent Convention but not to the PCT, since an applicant using the PCT to obtain a European patent could not do so for Belgium and Italy. The need to file separately for Belgium and Italy had been frequently described as one of the major obstacles against wider cumulative use of the PCT and the European Patent Convention and as a drawback for the attractiveness of the PCT system. In view of the character of the OAPI patent as a unitary patent effective in all Contracting States, these problems were less felt with respect to the Libreville Agreement but existed there as well. The International Bureau stressed the particular desirability of all States, which were now party to the European Patent Convention or would become party in the future, to become also party to the PCT, underlining especially the importance of early ratification of the Treaty by Belgium and Italy as an important contribution to facilitating patent protection at the international level and making the PCT system more viable.

53. The Assembly, on the basis of the report of the International Bureau and the ensuing discussion, took note of the situation which resulted from the fact that not all member States of certain regional patent treaties were also members of the PCT Union. The Assembly noted, furthermore, the disadvantages resulting there from for the applicants since the latter could not fully benefit from the advantages to be obtained by using the PCT system and the regional system by filing a single application, disadvantages which make it desirable for the users of the system that the said States adhered as soon as possible to the Treaty.

CHAPTER II OF THE PCT

54. The Assembly considered the question of acceptance of Chapter II of PCT on the basis of a report of the International Bureau on the present state of the said acceptance which underlined the particular importance for developing countries of full implementation of the Treaty, including its Chapter II, by all countries. In conclusion of the ensuing discussion, the Assembly noted the present state of acceptance of Chapter II of the Treaty and expressed its interest in the acceptance of Chapter II by all Contracting States.

DEFERRAL OF CONSIDERATION OF CERTAIN ITEMS

55. Due to lack of time, the Assembly decided to defer until a later session its consideration of documents PCT/A/V/6 Add. 1 and Add. 2, prepared by the International Bureau and also, with the concurrence of the Delegation of Sweden, of document PCT/A/V/10, and, with the concurrence of the Delegation of Japan, of documents PCT/A/V/11 and 12.

56. The Assembly noted a statement by the Representative of CEIF supported by the Representative of CNIPA expressing the satisfaction of the interested circles over the fact that considerable progress had been made during the present session in achieving changes in the PCT Regulations which would increase the confidence of applicants in the PCT system, referring in particular to the provisions included in new Rule 16*bis*, in amended Rule 47.1(c) and in Rule 80.6. He added that it was important that the momentum achieved should be continued in the period ahead. In this regard, it was desirable that the International Bureau study the possibility of the introduction into the PCT of provisions for the general correction of errors and for the restitution of the rights of applicants where those rights have been lost.

CONSULTATIONS WITH THE RECEIVING OFFICES AND THE INTERNATIONAL SEARCHING AND PRELIMINARY EXAMINING AUTHORITIES RELATING TO THE ADMINISTRATIVE INSTRUCTIONS

57. On the occasion of the present Assembly, consultations were held with the receiving Offices and the International Searching and Preliminary Examining Authorities relating to the Administrative Instructions, as provided in PCT Rule 89.2(a).

58. The consultations were based on the proposed amendments to the Administrative Instructions as contained in documents PCT/A/V/4, 4 Corr./Add. and 5. The Assembly was informed about the said consultations which resulted in approval of the text and the modified forms as contained in Annex IV of this report and the deletion of Section 306 consequential to the new Rule 92*bis* which required an amendment of Part 1 of the Administrative Instructions by adding the new Section 111. The Assembly noted that the modified Administrative Instructions would now be promulgated by the Director General fixing October 1, 1978, as their date of entry into force.

59. Due to lack of time, a discussion was not possible of the desirability of revision of the Request Form (form PCT/RO/101), referred to in document PCT/A/V/4 Corr./Add., page 2. It was agreed, however, that this question, as well as the question raised by the United States Patent and Trademark Office (concerning the date indicated on any replacement sheet under Section 308(b) of the Administrative Instructions), in respect of which the International Bureau had undertaken to find a solution meeting the desires expressed by that Office with regard to printing the indication in the pamphlet would be studied by the International Bureau. In the latter case, it was noted during the consultations and by the Assembly that the International Bureau would implement the solution without a need for further consultation

[Annexes follow]

ANNEX I/ANNEXE I

LIST OF PARTICIPANTS/
LISTE DES PARTICIPANTS

(in the English alphabetical order of the names of the States)
(dans l'ordre alphabétique anglais des noms des Etats)

I. MEMBER STATES/ETATS MEMBRES

AUSTRALIA/AUSTRALIE

Mr. F.J. SMITH, Commissioner of Patents, Australian Patent Office, Canberra

Mr. D. B. FITZPATRICK, President, The Institute of Patent Attorneys of Australia, Melbourne

Mr. D. A. FRECKLETON, Australian Manufacturers' Patent, Industrial Designs, Copyright and Trade Marks Association, Melbourne

Ms. Helen FREEMAN, First Secretary, Australian Permanent Mission, Geneva

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Mr. H. MARCHART, Senior Counsellor, Austrian Patent Office, Vienna

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Mr. U. C. HALLMANN, Leitender Regierungsdirektor, German Patent Office, Munich

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Mr. I. SHAMOTO, Director General, Fourth Examination Department, Japanese Patent Office, Tokyo

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Mr. J. DEKKER, President, Netherlands Patent Office, Rijswijk

Dr. S. de VRIES, Deputy Member of the Patents Council, Netherlands Patent Office, Rijswijk

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Mr. P. T. LOSSIUS, Deputy Director General, Norwegian Patent Office, Oslo

Mr. I. LILLEVIK, Head of Section, Patent Department, Norwegian Patent Office, Oslo

ROMANIA/ROUMANIE

M. I. MARINESCU, Directeur adjoint, Office d'Etat pour les inventions et les marques, Bucarest

M. T. MELESCANU, Premier secrétaire, Mission permanente, Genève

SOVIET UNION/UNION SOVIETIQUE

Mr. L. KOMAROV, First Deputy Chairman, USSR State Committee for Inventions and Discoveries, Moscow

Mr. E. BURYAK, Head, Department of the All-Union Research Institute of State Patent Examination, Moscow

M. K. SAENKO, Conseiller, Mission permanente, Genève

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Mr. E. TERSMEDEN, Legal Adviser, Ministry of Justice, Stockholm

Mr. L. G. BJÖRKLUND, Head, Patent Department, Royal Patent and Registration Office, Stockholm

Mrs. B. SANDBERG, Head of International Section, Royal Patent and Registration Office, Stockholm

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M. J.-L. COMTE, Directeur suppléant, Office fédéral de la propriété intellectuelle, Berne

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Mr. L. MAASSEL, Patent Procedure Specialist, United States Patent and Trademark Office, Washington, D.C.

II. OBSERVERS/OBSERVATEURS

FINLAND/FINLANDE

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NIGER

Mr. H. ALOU, Fonctionnaire au Ministère des affaires étrangères et de la coopération, Niamey

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Sr. A. CASADO CERVINO, Jefe, Servicio de Relaciones Internacionales, Departamento de Estudios y Relaciones Internacionales, Madrid

TURKEY/TURQUIE

M. E. TÜMER, Conseiller, Mission permanente, Genève

III. INTERGOVERNMENTAL ORGANIZATIONS
ORGANISATIONS INTERGOUVERNEMENTALES

EUROPEAN PATENT ORGANIZATION/ORGANISATION EUROPEENNE DES BREVETS

Dr. J. STAEHELIN, Vice-président, Office européenne des brevets, Munich

Mr. G. D. KOLLE, Principal Administrator, European Patent Office, Munich

Mr. E. SIMON, Director, European Patent Office, Munich

IV. NON-GOVERNMENTAL ORGANIZATIONS
ORGANIZATIONS NON-GOUVERNEMENTALES

COUNCIL OF EUROPEAN INDUSTRIAL FEDERATIONS (CEIF)/CONSEIL DES FEDERATIONS INDUSTRIELLES D'EUROPE (CIFE)

Mr. J. L. BETON, Chairman, Patents Committee, Trade Marks, Patents and Designs Federation, London, United Kingdom

COMMITTEE OF NATIONAL INSTITUTE OF PATENT AGENTS/COMITE DES INSTITUTES NATIONAUX D'AGENTS DE BREVETS (CNIPA)

Mr. R. P. LLOYD, Member of Council, Chartered Institute of Patent Agents, London, United Kingdom

EUROPEAN FEDERATION OF AGENTS OF INDUSTRY IN INDUSTRIAL PROPERTY/FEDERATION EUROPEENNE DES MANDATAIRES DE L'INDUSTRIE EN PROPRIETE INDUSTRIELLE (FEMIP)

Dr. F. A. JENNY, Board member and Chairman of Working Group on European and PCT Patent Practice, Basel, Switzerland

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INTERNATIONAL ASSOCIATION FOR THE PROTECTION OF INDUSTRIAL
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INTERNATIONAL CHAMBER OF COMMERCE (ICC)/CHAMBER DE COMMERCE
INTERNATIONALE (CCI)

Mr. R. HERVE, Directeur general, Bureau Gevers S.A., Bruxelles, Belgium

INTERNATIONAL FEDERATION OF INVENTORS' ASSOCIATIONS/FEDERATION
INTERNATIONALE DES ASSOCIATIONS DES INVENTEURS (IFIA)

Mr. S.-E. ANGERT, Vice President, IFIA, Djursholm, Sweden

INTERNATIONAL FEDERATION OF PATENT AGENTS/FEDERATION
INTERNATIONALE DES CONSEILS EN PROPRIETE INDUSTRIELLE (FICPI)

Mr. H. BARDEHLE, Patent Attorney, Munich, Federal Republic of Germany

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ASSOCIATIONS (IFPMA)/FEDERATION INTERNATIONALE DE L'INDUSTRIE DU
MEDICAMENT (FIIM)

Dr. G. TASSET, Manager, Patents Department, Smith Kline-RIT, Rixensart, Belgium

Union of European practitioners in industrial property/union des praticiens europeens en
propriete industrielle (union)

M. G. E. KIRKER, Ingénieur-conseil en propriété industrielle, Genève, Suisse

Union of industries of the european community/union des industries de la communaute
europeenne (unice)

Dr. R. KOCKLÄUNER, Zentrale Patentabteilung, Hoechst AG, Frankfurt am Main, Federal
Republic of Germany

Mr. C. G. WICKHAM, Chairman, Industrial Property Panel, Confederation of British
Industry, London, United Kingdom

V. OFFICERS/BUREAU

Acting Chairman/Président par interim: Mr. J.-L. COMTE (Switzerland/Suisse)

Secretary/Secrétaire: Mr. E. M. HADDRICK (WIPO/OMPI)

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BUREAU INTERNATIONAL DE L'OMPI

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Mr. K. PFANNER, Deputy Director General

Mr. E. M. HADDRICK, Director, PCT Division

Mr. J. FRANKLIN, Deputy Head, PCT Division

Mr. B. BARTELS, Head, PCT Legal and General Section

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Mr. V. TROUSSOV, Senior Counsellor, PCT Legal and General Section

Mr. A. OKAWA, Counsellor, PCT Examination Section

Miss. F. SIMON, Consultant, PCT Legal and General Section

[Annex II follows/
L'annex II suit]

PCT/A/V/16

ANNEX II

AMENDMENTS TO THE REGULATIONS
UNDER THE PCT

RULE 4

THE REQUEST (CONTENTS)

4.1 *Mandatory and Optional Contents, Signature*

- (a) [No change]
- (b) The request shall, where applicable, contain;
 - (i) a priority claim,
 - (ii) a reference to any earlier international, international-type or other search,
 - (iii) choices of certain kinds of protection,
 - (iv) an indication that the applicant wishes to obtain a regional patent and the names of the designated States for which he wishes to obtain such a patent,
 - (v) a reference to a parent application or parent patent.
- (c) [No change]
- (d) [No change]

4.2 [No change]

4.3 [No change]

4.4 [No change]

4.5 [No change]

4.6 [No change]

4.7 [No change]

4.8 *Representation of Several Applicants Not Having a Common Agent*

- (a) [No change]
- (b) If there is more than one applicant and the request does not refer to an agent representing all the applicants and it does not comply with the requirement of designating one of the applicants as provided in paragraph (a), the common representative shall be the applicant first named in the request who is entitled to file an international application with the receiving Office with which the international application was filed (Rule 19.1(a)).

4.9 [No change]

4.10 *Priority claim*

(a) [No change]

(b) If the request does not indicate both

(i) when the earlier application is not a regional or an international application, the country in which it was filed; when the earlier application is a regional or an international application, at least one country for which it was filed and,

(ii) the date on which it was filed,

the priority claim shall, for the purposes of the procedure under the Treaty, be considered not to have been made except where, resulting from an obvious error of transcription, the indication of the said country or the said date is missing or is erroneous; whenever the identity or correct identity of the said country, or the said date or the correct date, may be established on the basis of the copy of the earlier application which the receiving Office receives before it transmits the record copy to the International Bureau, the error shall be considered as an obvious error.

(c) [No change]

(d) [No change]

(e) [No change]

4.11 *Reference to Earlier Search*

If an international or international-type search has been requested on an application under Article 15(5) or if the applicant wishes the International Searching Authority to base the international search report wholly or in part on the results of a search, other than an international or international-type search, made by the national Office or intergovernmental organization which is the International Searching Authority competent for the international application, the request shall contain a reference to that fact. Such reference shall either identify the application (or its translation, as the case may be) in respect of which the earlier search was made by indicating country, date and number, or the said search by indicating, where applicable, date and number of the request for such search.

4.12 [No change]

4.13 [No change]

4.14 [No change]

4.15 [No change]

4.16 [No change]

4.17 [No change]

RULE 10

TERMINOLOGY AND SIGNS

10.1 Terminology and Signs

- (a) [No change]
- (b) Temperatures shall be expressed in degrees Celsius, or also expressed in degrees Celsius, if first expressed in a different manner.
- (c) [Deleted]
- (d) [No change]
- (e) [No change]
- (f) [No change]

10.2 [No change]

RULE 11

PHYSICAL REQUIREMENTS OF THE INTERNATIONAL APPLICATION

11.1 [No change]

11.2 Fitness and Reproduction

- (a) [No change]
- (b) [No change]
- (c) [No change]
- (d) Subject to Rule 11.10(d) and Rule 11.13(j), each sheet shall be used in an upright position (i.e., the short sides at the top and bottom).

11.3 [No change]

11.4 [No change]

11.5 [No change]

11.6 [No change]

11.7 [No change]

11.8 [No change]

11.9 [No change]

11.10 Drawings, Formulae, and Tables in Text Matter

(a) [No change]

(b) [No change]

(c) [No change]

(d) Tables and chemical or mathematical formulae may be placed sideways on the sheet if they cannot be presented satisfactorily in an upright position thereon; sheets on which tables or chemical or mathematical formulae are presented sideways shall be so presented that the tops of the tables or formulae are at the left side of the sheet.

11.11 [No change]

11.12 Alterations, Etc.

Each sheet shall be reasonably free from erasures and shall be free from alterations, overwritings, and interlineations. Non-compliance with this Rule may be authorized if the authenticity of the content is not in question and the requirements for good reproduction are not in jeopardy.

11.13 Special Requirements for Drawings

(a) [No change]

(b) [No change]

(c) [No change]

(d) [No change]

(e) [No change]

(f) [No change]

(g) [No change]

(h) [No change]

(i) [No change]

- (j) The different figures shall be arranged on a sheet or sheets without wasting space, preferably in an upright position, clearly separated from one another. Where the figures are not arranged in an upright position, they shall be presented sideways with the top of the figures at the left side of the sheet.
- (k) [No change]
- (l) [No change]
- (m) [No change]
- (n) [No change]

11.14 [No change]

11.15 [No change]

RULE 13

UNITY OF INVENTION

13.1 [No change]

13.2 Claims of Different Categories

Rule 13.1 shall be construed as permitting, in particular, one of the following three possibilities;

(i) in addition to an independent claim for a given product, the inclusion in the same international application of an independent claim for a process specially adapted for the manufacture of the said product, and the inclusion in the same international application of an independent claim for a use of the said product, or

(ii) in addition to an independent claim for a given process, the inclusion in the same international application of an independent claim for an apparatus or means specifically designed for carrying out the said process, or

(iii) in addition to an independent claim for a given product, the inclusion in the same international application of an independent claim for a process specially adapted for the manufacture of the product, and the inclusion in the same international application of an independent claim for an apparatus or means specifically designed for carrying out the process.

13.3 [No change]

13.4 [No change]

13.5 [No change]

RULE 13BIS

MICROBIOLOGICAL INVENTIONS

13bis.1 Definition

For the purposes of this Rule, “reference to a deposited microorganism” means particulars given in an international application with respect to the deposit of a microorganism with a depositary institution or to the microorganism so deposited.

13bis.2 References (General)

Any reference to a deposited microorganism shall be made in accordance with this Rule and, if so made, shall be considered as satisfying the requirements of the national law of each designated State.

13bis.3 References: Contents; Failure to Include Reference or Indication

- (a) A reference to a deposited microorganism shall indicate,
- (i) the name and address of the depositary institution with which the deposit was made;
 - (ii) the date of deposit of the microorganism with that institution;
 - (iii) the accession number given to the deposit by that institution; and
 - (iv) any additional matter of which the International Bureau has been notified pursuant to Rule 13bis.7(a) (i), provided that the requirement to indicate that matter was published in the Gazette in accordance with Rule 13bis.7(c) at least two months before the filing of the international application.

(b) Failure to include a reference to a deposited microorganism or failure to include, in a reference to a ‘deposited microorganism, an indication in accordance with paragraph (a), shall have no consequence in any designated State whose national law does not require such reference or such indication in a national application.

13bis.4 References: Time of Furnishing Indications

If any of the indications referred to in Rule 13bis.3 (a) is not included in a reference to a deposited microorganism in the international application as filed but is furnished by the applicant to the International Bureau within 16 months after the priority date, the indication shall be considered by any designated Office to have been furnished in time unless its national law requires the indication to be furnished at an earlier time in the case of a national application and the International Bureau has been notified of such requirement pursuant to Rule 13bis.7(a) (ii), provided that the International Bureau has published such requirement in the Gazette in accordance with Rule 13bis.7(c) at least two months before the filing of the international application. In the event that the applicant makes a request for early publication

under Article 21(2) (b), however, any designated Office may consider any indication not furnished by the time such request is made as not having been furnished in time. Irrespective of whether the applicable time limit under the preceding sentences has been observed, the International Bureau shall notify the applicant and the designated Offices of the date on which it has received any indication not included in the international application as filed. The International Bureau shall indicate that date in the international publication of the international application if the indication has been furnished to it before the completion of technical preparations for international publication.

13bis.5 References and Indications for the Purposes of One or More Designated States; Different Deposits for Different Designated States; Deposits with Depositary Institutions other than Those Notified

- (a) A reference to a deposited microorganism shall be considered to be made for the purposes of all designated States, unless it is expressly made for the purposes of certain of the designated States only; the same applies to the indications included in the reference.
- (b) References to different deposits of the microorganism may be made for different designated States.
- (c) Any designated Office shall be entitled to disregard a deposit made with a depositary institution other than one notified by it under Rule 13bis.7(b).

13bis.6 Furnishing of Samples

- (a) Where the international application contains a reference to a deposited microorganism, the applicant shall, upon the request of the International Searching Authority or the International Preliminary Examining Authority, authorize and assure the furnishing of a sample of that microorganism by the depositary institution to the said Authority, provided that the said Authority has notified the International Bureau that it may require the furnishing of samples and that such samples will be used solely for the purposes of international search or international preliminary examination, as the case may be, and such notification has been published in the Gazette.
- (b) Pursuant to Articles 23 and 40, no furnishing of samples of the deposited microorganism to which a reference is made in an international application shall, except with the authorization of the applicant, take place before the expiration of the applicable time limits after which national processing may start under the said Articles. However, where the applicant performs the acts referred to in Articles 22 or 39 after international publication but before the expiration of the said time limits, the furnishing of samples of the deposited microorganism may take place, once the said acts have been performed. Notwithstanding the previous provision, the furnishing of samples from the deposited microorganism may take place under the national law applicable for any designated Office as soon as, under that law, the international publication has the effects of the compulsory national publication of an unexamined national application.

13bis.7 National Requirements: Notification and Publication

(a) Any national Office may notify the International Bureau of any requirement of the national law,

- (i) that any matter specified in the notification, in addition to those referred to in Rule 13bis.3(a) (i), (ii) and (iii), is required to be included in a reference to a deposited microorganism in a national application;
- (ii) that one or more of the indications referred to in Rule 13bis.3(a) are required to be included in a national application as filed or are required to be furnished at a time specified in the notification which is earlier than 16 months after the priority date.

(b) Each national Office shall notify the International Bureau a first time before entry into force of this Rule and then each time a change occurs of the depositary institutions with which the national law permits deposits of microorganisms to be made for the purposes of patent procedure before that Office or, if the national law does not provide for or permit such deposits, of that fact.

(c) The International Bureau shall promptly publish in the Gazette requirements notified to it under paragraph (a) and information notified to it under paragraph (b).

RULE 15

THE INTERNATIONAL FEE

15.1 [No change]

15.2 [No change]

15.3 [No change]

15.4 [No change]

15.5 [Deleted]

15.6 [No change]

RULE 16BIS

ADVANCING FEES BY THE INTERNATIONAL BUREAU

16bis.1 Guarantee by the International Bureau

(a) Where, by the time they are due under Rule 14.1(b), Rule 15.4(a) or (c) and Rule 16.1(f), the receiving Office finds that in respect of an international application no fees were paid to it by the applicant, or that the amount paid to it by the applicant is less than what is necessary to cover the transmittal fee, the basic fee and the search fee, the receiving Office shall charge the amount required to cover those fees, or the missing part thereof, to the International Bureau and shall consider the said amount as if it had been paid by the applicant at the due time.

(b) Where, by the time it or they are due under Rule 15.4(b) or (c), the receiving Office finds that in respect of an international application the payment made by the applicant is insufficient to cover the designation fees necessary to cover all the designations, the receiving Office shall charge the amount required to cover those fees to the International Bureau and shall consider that amount as if it had been paid by the applicant at the due time.

(c) The International Bureau shall transfer from time to time to each receiving Office an amount which is expected to be necessary for covering any charges that the receiving Office has to make under paragraphs (a) and (b). The amount and the time of such transfers shall be determined by each receiving Office according to its own wish. The charging of any amount under paragraphs (a) and (b) shall not require any advance notice to, or any agreement by the International Bureau.

(d) Each month, the receiving Office shall inform the International Bureau of the charges made under paragraphs (a) and (b).

16bis.2 Obligations of the Applicant, etc.

(a) The International Bureau shall promptly notify the applicant of any amount by which it was charged under Rule 16bis.1 (a) and (b) and shall invite him to pay to it, within one month from the date of the notification, the said amount augmented by a surcharge of 50%, provided that the surcharge will not be less, and will not be more, than the amounts indicated in the Schedule of Fees. The notification may refer to the charges made both under Rule 16bis.1(a) and (b) or, at the discretion of the International Bureau, there may be two separate notifications, one referring to charges made under Rule 16bis.1(a), the other referring to charges made under Rule 16bis.1(b).

(b) If the applicant fails to pay, within the said time limit, to the International Bureau the amount claimed, or pays less than what is needed to cover the transmittal fee, the basic fee, the search fee, one designation fee and the surcharge, the International Bureau shall notify the receiving Office accordingly and the receiving Office shall declare the international application withdrawn under Article 14(3) (a) and the receiving Office and the International Bureau shall proceed as provided in Rule 29.

(c) If the applicant pays, within the said time limit, to the International Bureau an amount which is more than what is needed to cover the fees and surcharge referred to in paragraph (b) but less than what is needed to cover all the designations maintained, the International Bureau shall notify the receiving Office accordingly and the receiving Office shall apply the amount paid in excess of what is needed to cover the fees and surcharge referred to in paragraph (b) in an order which 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 but, if the amount received is insufficient to cover the designations indicated, it shall be applied to as many designations as are covered by it in the order chosen by the applicant in indicating the designations;
- (ii) to the extent that the applicant has not given the indications under item (i), the amount or the balance thereof 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.

The receiving Office shall declare any designation not covered by the amount paid withdrawn under Article 14(3) (b) and the receiving Office and the International Bureau shall proceed as provided in Rule 29.

(d) The receiving Office shall not return to the International Bureau any amount that it has charged to that Bureau for covering the transmittal fee.

(e) Where the international application is considered withdrawn, any amount charged to the International Bureau, other than the amount needed to cover the transmittal fee and the search fee transferred by the receiving Office to the International Searching Authority, shall be returned by the receiving Office to the International Bureau.

(f) Where the international application is considered withdrawn, any search fee charged by the receiving Office and transferred to the International Searching Authority shall be transferred by that Authority to the International Bureau unless the said Authority has already started the international search.

(g) Where paragraph (c) applies, the amount charged by the receiving Office to the International Bureau for designations which, as a consequence of the application of the order under that paragraph, are not maintained, shall be returned to the International Bureau by the receiving Office.

16bis.3 Notifications

(a) Any receiving Office may exclude the application of this Rule by a written notification to that effect given to the International Bureau by September 1, 1980. Such notification may be withdrawn at any time. The International Bureau shall publish all such notifications and withdrawals in the Gazette.

(b) Former Rule 15.5* remains applicable in respect of any receiving Office giving a notification under paragraph (a).

* *Former Rule 15.5 Partial Payment*

- (a) Where the amount of the international fee 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 but, if the amount received is insufficient to cover the designations indicated, it shall be applied to as many designations as are covered by it in the order chosen by the applicant in indicating the designations;
 - (ii) to the extent that the applicant has not given the indications under item (i), the amount or the balance thereof 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 or any further States for which the same regional patent is sought shall be considered as covered by that fee.

RULE 17

THE PRIORITY DOCUMENT

17.1 Obligation to Submit Copy of Earlier National Application

(a) Where the priority of an earlier national application is claimed under Article 8 in the international application, a copy of the said national application, certified by the authority with which it was filed (“the priority document”), shall, unless already filed with the receiving Office together with the international application, be submitted by the applicant to the International Bureau or to the receiving Office not later than 16 months after the priority date or, in the case referred to in Article 23(2), not later than at the time the processing or examination is requested. Where submitted to the receiving Office, the priority document shall be transmitted by that Office to the International Bureau together with the record copy or promptly after having been received by that Office. In the latter case, the receiving Office shall indicate to the International Bureau the date on which it received the priority document.

(b) Where the priority document is issued by the receiving Office, the applicant may, instead of submitting the priority document, request the receiving Office to transmit the priority document to the International Bureau. Such request shall be made not later than the expiration of the applicable time limit referred to under paragraph (a) and may be subjected by the receiving Office to the payment of a fee. The receiving Office shall, promptly after receipt of such request, and, where applicable, the payment of such fee, transmit the priority document to the International Bureau with an indication of the date of receipt of such request.

(c) If the requirements of neither of the two preceding paragraphs are complied with, any designated State may disregard the priority claim.

(d) The International Bureau shall record the date on which the priority document has been received by it or by the receiving Office. Where applicable, the date of receipt by the receiving Office of a request referred to under paragraph (b) shall be recorded as the date of receipt of the priority document. The International Bureau shall notify the applicant and the designated Offices accordingly.

17.2 [No change]

RULE 18

THE APPLICANT

18.1 [No change]

18.2 [No change]

18.3 [No change]

18.4 [No change]

18.5 [No change]

RULE 19

THE COMPETENT RECEIVING OFFICE

19.1 [No change]

19.2 Several Applicants

If there are several applicants, the requirements of Rule 19.1 shall be considered to be met if the national Office with which the international application is filed is the national Office of or acting for a Contracting State of which at least one of the applicants is a resident or national.

19.3 [No change]

RULE 20

RECEIPT OF THE INTERNATIONAL APPLICATION

20.1 [No change]

20.2 [No change]

20.3 [No change]

20.3bis Manner of Carrying Out Corrections

The Administrative Instructions prescribe the manner in which corrections required under Article 11(2) (a) shall be presented by the applicant and the manner in which they shall be entered in the file of the international application.

20.4 [No change]

20.5 [No change]

20.6 [No change]

20.7 [No change]

20.8 [No change]

20.9 [No change]

RULE 22

TRANSMITTAL OF THE RECORD COPY

22.1 [No change]

22.2 [No change]

22.3 [No change]

22.4 [No change]

22.5 Documents Filed with the International Application

Any power of attorney and any priority document filed with the international application referred to in Rule 3.3(a) (ii) shall accompany the record copy; any other document referred to in that Rule shall be sent only at the specific request of the International Bureau. If any document referred to in Rule 3.3(a) (ii) which is indicated in the check list as accompanying the international application is not, in fact, filed at the latest by the time the record copy leaves the receiving Office, that Office shall so note on the check list and the said indication shall be considered as if it had not been made.

RULE 30

TIME LIMIT UNDER ARTICLE 14(4)

30.1 Time Limit

The time limit referred to in Article 14(4) shall be 4 months from the international filing date.

RULE 41

EARLIER SEARCH OTHER THAN INTERNATIONAL BUREAU

41.1 Obligation to Use Results; Refund of Fee

If reference has been made in the request, in the form provided for in Rule 4.11, to an international-type search carried out under the conditions set out in Article 15(5) or to a search other than an international or international-type search, the International Searching Authority shall, to the extent possible, use the results of the said search in establishing the international search report on the international application. The International Searching Authority shall refund the search fee, to the extent and under the conditions provided for in the agreement under Article 16(3) (b) or in a communication addressed to and published in the Gazette by the International Bureau, if the international search report could wholly or partly be based on the results of the said search.

RULE 46

AMENDMENT OF CLAIMS BEFORE THE INTERNATIONAL BUREAU

46.1 [No change]

46.2 Dating of Amendments

The date of filing of any amendment shall be recorded by the International Bureau, which shall also notify the applicant of the date and indicate the date in any publication or copy issued by it.

46.3 [No change]

46.4 [No change]

46.5 [No change]

RULE 47

COMMUNICATION TO DESIGNATED OFFICES

47.1 Procedure

(a) [No change]

(b) [No change]

(c) The International Bureau shall send a notice to the applicant indicating the designated Offices to which the communication has been effected and the date of such communication. Such notice shall be sent on the same day as the communication. Each designated Office shall be informed, separately from the communication, about the sending and the date of mailing of the notice. The notice shall be accepted by all designated Offices as conclusive evidence that the communication has duly taken place on the date specified in the notice.

(d) [No change]

(e) [No change]

47.2 [No change]

47.3 [No change]

RULE 49

LANGUAGES OF TRANSLATIONS AND AMOUNTS OF FEES
UNDER ARTICLE 22(1) AND (2)

49.1 [No change]

49.2 [no change]

49.3 Statements under Article 19; Indications under Rule 13bis.4

For the purposes of Article 22 and the present Rule, any statement made under Article 19(1) and any indication furnished under Rule 13bis.4 shall be considered part of the international application.”

RULE 54

THE APPLICANT ENTITLED TO MAKE A DEMAND

54.1 [No change]

54.2 [No change]

54.3 [No change]

54.4 [Deleted]

RULE 55

LANGUAGES (INTERNATIONAL PRELIMINARY EXAMINATION)

55.1 The Demand

The demand shall be in the language of the international application or, when a translation is required under Rule 55.2, in the language of that translation, provided that the International Preliminary Examining Authority may permit the demand to be in any language specified in the agreement concluded between the International Bureau and that Authority.

55.2 [No change]

RULE 57

THE HANDLING FEE

57.1 [No change]

57.2 [No change]

57.3 [No change]

57.4 *Failure to Pay (Handling Fee)*

(a) [No change]

(b) If the applicant complies with the invitation within the one-month time limit, the handling fee shall be considered as if it had been paid on the due date.

(c) [No change]

57.5 *Failure to Pay (Supplement to the Handling Fee)*

(a) [No change]

(b) If the applicant complies with the invitation within the one-month time limit, the supplement to the handling fee shall be considered as if it had been paid on the due date.

(c) [No change]

57.6 [No change]

RULE 60

CERTAIN DEFECTS IN THE DEMAND OR ELECTIONS

60.1 Defects in the Demand

(a) [No change]

(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 actual filing date, provided that the demand as submitted contained at least one election and permitted the international application to be identified; otherwise, the demand shall be considered as if it had been received on the date on which the International Preliminary Examining Authority receives the correction.

(c) [No change]

(d) [No change]

60.2 Defects in Later Elections

(a) [No change]

(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 actual filing date, provided that the later election as submitted contained at least one election and permitted the international application to be identified; otherwise, the later election shall be considered as if it had been received on the date on which the International Bureau receives the correction.

(c) [No change]

60.3 [No change]

RULE 76

LANGUAGES OF TRANSLATIONS AND AMOUNTS OF FEES
UNDER ARTICLE 39(1); TRANSLATION OF PRIORITY DOCUMENT

76.1 [No change]

76.2 [No change]

76.3 *Statements under Article 19; Indications under Rule 13bis.4*

For the purposes of Article 39 and the present Rule, any statement made under Article 19(1) and any indication furnished under Rule 13bis.4 shall be considered part of the international application.

76.4 [No change]

RULE 80

COMPUTATION OF TIME LIMITS

80.1 [No change]

80.2 [No change]

80.3 [No change]

80.4 [No change]

80.5 [No change]

80.6 *Date of Documents*

(a) Where a period starts on the day of the date of a document or letter emanating from a national Office or intergovernmental organization, any interested party may prove that the said document or letter was mailed on a day later than the date it bears, in which case the date of actual mailing shall, for the purposes of computing the period, be considered to be the date on which the period starts. Irrespective of the date on which such a document or letter was mailed, if the applicant offers to the national Office or intergovernmental organization evidence which satisfies the national Office or intergovernmental organization that the document or letter was received more than 7 days after the date it bears, the national Office or intergovernmental organization shall treat the period starting from the date of the document or letter as expiring later by an additional number of days which is equal to the number of days which the document or letter was received later than 7 days after the date it bears.

(b) Any receiving Office may exclude the application of paragraph (a) by a written notification to that effect given to the International Bureau by September 1, 1980. Such notification may be withdrawn at any time. The International Bureau shall publish all such notifications and withdrawals in the Gazette.

80.7 [No change]

RULE 90

REPRESENTATION

90.1 [No change]

90.2 [No change]

90.3 Appointment

(a) Appointment of any agent, or of any common representative within the meaning of Rule 4.8(a), shall be effected by each applicant, at his choice, either by signing the request in which the agent or common representative is designated or by a separate power of attorney (i.e., a document appointing an agent or common representative) .

(b) [No change]

(c) [No change]

(d) A general power of attorney may be deposited with the receiving Office for purposes of the processing of the international application as defined in Rule 90.2(d). Reference may be made in the request to such general power of attorney, provided that a copy thereof is attached to the request by the applicant.

90.4 [No change]

RULE 91

OBVIOUS ERRORS OF TRANSCRIPTION

91.1 [No change]

91.2 Manner of Carrying Out Rectifications

The Administrative Instructions prescribe the manner in which rectifications of obvious errors of transcription shall be made and the manner in which they shall be entered in the file of the international application.

RULE 92

CORRESPONDENCE

92.1 Need for Letter and for Signature

(a) [No change]

(b) If the requirements provided for in paragraph (a) are not complied with, the applicant shall be informed as to the non-compliance and invited to remedy the omission within a time limit fixed in the invitation. The time limit so fixed shall be reasonable in the circumstances; even where the time limit so fixed expires later than the time limit applying to the furnishing of the paper (or even if the latter time limit has already expired), it shall not be less than 10 days and not more than one month from the mailing of the invitation. If the omission is remedied within the time limit fixed in the invitation, the omission shall be disregarded; otherwise, the applicant shall be informed that the paper has been disregarded.

(c) Where non-compliance with the requirements provided for in paragraph (a) has been overlooked and the paper taken into account in the international procedure, the non-compliance shall be disregarded.

92.2 [No change]

92.3 [No change]

92.4 Use of Telegraph, Teleprinter, etc.

(a) Notwithstanding the provisions of Rules 11.14 and 92.1(a), but subject to paragraph (b), below, any document (including any drawing) subsequent to the international application may be sent by telegraph or teleprinter or other like means of communication producing a printed or written document. Any such document so sent shall be considered to have been submitted in a form complying with the requirements of the said Rules on the day on which it was communicated by the means mentioned above, provided that, within 14 days after being so communicated, its contents are furnished on that form; otherwise, the telegraphic, teleprinter or other communication shall be considered not to have been made.

(b) Each national Office or intergovernmental organization shall promptly notify the International Bureau of any means referred to in paragraph (a) by which it is prepared to receive documents referred to in that paragraph. The International Bureau shall publish the information so received in the Gazette as well as information concerning the means referred to in paragraph (a) by which the International Bureau is prepared to receive any such document. Paragraph (a) shall apply with respect to any national Office or intergovernmental organization only to the extent the said information has been so published with respect to it. The International Bureau shall publish, from time to time, in the Gazette, changes in the information previously published.

RULE 92BIS

CHANGES IN CERTAIN INDICATIONS IN THE REQUEST OR THE DEMAND

92bis.1 Recording of Changes by the International Bureau

The International Bureau shall, on the request of the applicant or the receiving Office, record changes in the following indications appearing in the request or demand:

- (i) person, name, residence, nationality or address of the applicant;
- (ii) person, name or address of the agent, the common representative or the inventor.

92bis.2 Notifications

(a) The International Bureau shall give notifications concerning changes recorded by it:

- (i) to the receiving Office where the change has been recorded on the request of the applicant;
- (ii) as long as the international search report or the declaration referred to in Article 17(2) has not yet issued, to the International Searching Authority;
- (iii) until the expiration of the time limit referred to in Article 22(1), to the designated Offices;
- (iv) as long as the preliminary examination report has not yet issued, to the International Preliminary Examining Authority;
- (v) until the expiration of the time limit referred to in Article 39(1) (a), to the elected Offices.

(b) A copy of each notification sent under paragraph (a) shall be sent to the applicant by the International Bureau.

SCHEDULE OF FEES

<u>Fees</u>	<u>Amounts</u>
1. Basic fee: (Rule 15.2(a)) if the international application contains not more than 30 sheets if the international application contains more than 30 sheets	325 Swiss francs 325 Swiss francs plus 6 Swiss francs fore each sheet in excess of 30 sheets
2. Designation Fee: (Rule 15.2(a))	78 Swiss francs
3. Handling Fee: (Rule 57.2(a))	100 Swiss francs
4. Supplement to the Handling Fee: (Rule 57.2(b))	100 Swiss francs
<u>Surcharges</u>	
5. Surcharge for late payment: (Rule 16bis.2(a))	Minimum: 200 Swiss francs Maximum: 500 Swiss francs

[Annex III follows]

RESOLUTION

THE ASSEMBLY OF THE INTERNATIONAL PATENT COOPERATION UNION
(PCT UNION)

Noting that the membership in the PCT Union is open to the States which are members of the Paris Union for the Protection of Industrial Property,

Being Convinced that the participation in the PCT Union of as many States as possible of the Paris Union is in the interests of those States and their industries.

Resolves to:

- (1) Invite those States members of the Paris Union which are not members of the PCT Union to take, at an early date, the steps necessary to become members of the PCT Union;
- (2) Request the International Bureau, on occasions when it appears appropriate to do so, to bring this resolution to the notice of States members of the Paris Union which are not members of the PCT Union.

[Annex IV follows]

PCT/A/V/16

ANNEX IV

AMENDMENTS TO THE ADMINISTRATIVE INSTRUCTIONS
UNDER THE PCT

SECTION 106

COMMON AGENT FOR SEVERAL APPLICATIONS

(a) [Existing text of Section 106]

(b) Where the international application is filed with reference to a general power of attorney not signed by all the applicants, it shall be sufficient for the purpose of appointment of a common agent under Rule 90.3, if the request or a separate power of attorney is signed by the applicant, who did not sign the general power of attorney.

SECTION III

CHANGES IN CERTAIN INDICATIONS IN THE REQUEST AND THE DEMAND

Any request for the recording of any changes referred to under Rule 92*bis* shall be signed by the applicant or, if the receiving Office requested such change, by the receiving Office. The request shall clearly identify the indications the change of which is requested.

SECTION 204

HEADINGS OF THE PARTS OF THE DESCRIPTION

The headings referred to in rule 5.1(c) should be as follows:

- (i) for matter referred to in Rule 5.1(a) (i), “Technical Field”;
- (ii) for matter referred to in Rule 5.1(a) (ii), “Background Art”;
- (iii) for matter referred to in Rule 5.1(a) (iii), “Disclosure of Invention”;
- (iv) for matter referred to in Rule 5.1(a) (iv), “Brief Description of Drawings”;
- (v) for matter referred to in Rule 5.1(a) (v), “Best Mode for Carrying Out the Invention”, or, where appropriate, “Mode(s) for Carrying Out the Invention”;
- (vi) for matter referred to in Rule 5.1(a) (vi), “Industrial Applicability”.

SECTION 205

NUMBERING OF CLAIMS UPON AMENDMENT

(a) Any claim submitted after the filing date of the international application and which is not identical with the claims previously appearing in the international application shall, at the choice of the applicant, be submitted either:

- (i) as an amended claim, in which case, it shall bear the same number as the previous claim it amends; that number shall be followed by the word “(amended)” or its equivalent in the language of the international application; or
- (ii) as a new claim, in which case it shall bear the next number after the highest previously numbered claim; that number shall be followed by the word “(new)” or its equivalent in the language of the international application; where the consecutive order of claims requires that a new claim be given a number lower than the highest previously numbered claim, the claims following the new claim shall be renumbered; any new number shall be followed by the words “(Original claim No.)” or an equivalent of these words in the language of the international application and an indication of the original number of the renumbered claim.

(b) [No change]

SECTION 306

[Deleted]

ANNEX F TO THE ADMINISTRATIVE INSTRUCTIONS FORMS

Form PCT/RO/101 (Request and Fee Calculation Sheet): page 3 of this form, as modified, appears on page 9 of this Annex.

Form PCT/ISA/210 (International Search Report): an additional (optional) sheet for this form called “(Extra Sheet)” appears on page 10 of this Annex.

SUPPLEMENTAL BOX... USE THIS BOX IF ANY OF THE BOXES IS NOT LARGE ENOUGH TO CONTAIN INFORMATION TO BE FURNISHED. INDICATE THE BOXES CONTINUED IN THIS BOX BY THEIR (ROMAN) NUMERALS AND TITLE (e.g.: "II. APPLICANT (CONTINUED)")

XI. SIGNATURE OF APPLICANT ²⁰

XII. CHECK LIST (To be filled in by the Applicant) ²¹

A. This international application contains the following number of sheets:

- | | |
|----------------------|--------|
| 1. request | sheets |
| 2. description | sheets |
| 3. claims | sheets |
| 4. abstract | sheets |
| 5. drawings | sheets |
| Total | sheets |

C. Figure number of the drawings (if any) is suggested to accompany the abstract for publication.

D. Drawings (To be filled in by the receiving Office)
 No Drawings ²²

B. This international application as filed is accompanied by the items checked below:

1. separate signed power of attorney
2. priority document
3. receipt (e.g. revenue stamps) for the fees paid
4. cheque for the payment of fees
5. international search report
6. international-type search report
7. document in evidence of fact that applicant is successor in title of inventor
8. other document (specify)

(The following is to be filled in by the receiving Office)

1. Date of actual receipt of the purported international application:

2. Corrected date of actual receipt due to later but timely received papers or drawings completing the purported international application:

3. Date of timely receipt of the required corrections under Article 11 of the PCT:

(The following is to be filled in by the International Bureau)

Date of receipt of the record copy:

International Application No.

III. DOCUMENTS CONSIDERED TO BE RELEVANT (CONTINUED FROM THE SECOND SHEET)		
Category *	Citation of Document, ¹⁶ with indication, where appropriate, of the relevant passages ¹⁷	Relevant to Claim No. ¹⁸