

WIPO



E/F

PCT/A/V/2

ORIGINAL: English/French

DATE: February 29, 1980

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

INTERNATIONAL PATENT COOPERATION UNION
(PCT UNION)

ASSEMBLY

Fifth Session (3rd Extraordinary)*

Geneva, June 9 to 16, 1980

PROPOSALS FOR POSSIBLE AMENDMENTS TO THE REGULATIONS UNDER THE PATENT COOPERATION TREATY (PCT) AND TO THE REGULATIONS UNDER THE BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSE OF PATENT PROCEDURE

Memorandum by the International Bureau

1. The Assembly of the PCT Union (the "Assembly") and the Interim Advisory Committee (the "Interim 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 (Budapest Treaty), at a joint meeting which took place in the course of their respective third (second extraordinary) and second sessions held in Geneva in April/May 1979, considered proposals, as contained in documents PCT/A/III/3 and BP/IAC/II/2, for amendments to the Regulations under both the Patent Cooperation Treaty (PCT) and the Budapest Treaty (hereinafter referred to as the "PCT Regulations" and the "Budapest Treaty Regulations", respectively). The said proposals were prepared on the basis of the draft texts prepared at the first (February 1979) session of the "PCT and Budapest Treaty" Working Group (the "Working Group"). Following a detailed discussion of the said proposals, the Assembly and the Interim Committee agreed that the time was not ripe to take decisions on them and decided upon a further procedure which involved, *inter alia*,

* *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

- (i) the submission of comments to the International Bureau;
- (ii) the preparation of new proposals by the International Bureau; and
- (iii) the reconvening of the Working Group

(see the report of the joint meeting as contained in paragraphs 33 to 49 of document PCT/A/III/11).

2. The Working Group held its second session in Geneva from December 10 to 12, 1979. At this session, the Working Group considered a new text of possible amendments to the PCT Regulations and to the Budapest Treaty Regulations prepared by the International Bureau taking into account responses to circular letters seeking comments and information which it had sent to the States party to the PCT or members of the Interim Committee and to the International Searching and International Preliminary Examining Authorities under the PCT. The said new text, circulars and responses and a table summarizing the responses were contained in documents BPCT/II/2 and 3 prepared for the said session by the International Bureau.

3. The Working Group adopted the said new text subject to a certain number of changes and with the addition of the text of a consequential amendment to Rule 49.3 of the PCT Regulations. Annex A to this document contains the texts adopted by the Working Group, which are being submitted to the joint meeting of the Assembly and the Interim Committee on June 13, 1980. At the time of adopting the proposed amendments to the PCT Regulations, it is suggested that their entry into force be delayed by, say, six months, since they require for their implementation various notifications to the International Bureau and prior publication of the notifications in the PCT Gazette.

4. Annex B to this document contains brief comments on the new texts, prepared by the International Bureau.

5. Annex C to this document contains the report of the second session of the Working Group including, in particular, the understandings on which certain texts were adopted and, in one case, the reservation expressed by a delegation (see paragraphs 11 to 18 of Annex C).

6. The Assembly is invited to take a decision

(a) on the proposal to insert a new Rule 13bis into the PCT Regulations and to make a consequential amendment to Rule 49.3;

(b) if a decision is made under (a) to amend the PCT Regulations, on the time the amendments will enter into effect.

[Annex A follows]

ANNEX A

PROPOSALS FOR AMENDMENTS TO THE
REGULATIONS UNDER THE PCT

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 receipt of the microorganism by 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 the 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 of any designated State 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 49.3

STATEMENTS UNDER ARTICLE 19; INDICATIONS UNDER RULE 13BIS.4

For the purpose~ 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.

PROPOSALS FOR AMENDMENTS TO THE REGULATIONS
UNDER THE BUDAPEST TREATY

RULE 11

FURNISHING OF SAMPLES

[11.1 to 11.4: Existing Rule 11]

11.5 Changes to Rules 11.1 and 11.3 when Applying to International Applications

Where an application was filed as an international application under the Patent Cooperation Treaty, the reference to the filing of the application with the industrial property office in Rules 11.1(i) and 11.3(a) (i) shall be replaced by a reference to the designation, in the international application, of the Contracting State for which the industrial property office is the “designated Office” within the meaning of that Treaty, and the certification of publication which is required by Rule 11.3(a) (ii) shall, at the option of the industrial property office, be either a certification of international publication under the said Treaty or a certification of publication by the industrial property office.

[Annex B follows]

ANNEX B

COMMENTS ON THE NEW PROPOSALS CONCERNING THE PCT REGULATIONS

1. The earlier proposals were directed to three questions: the indications to be included in an international application when a reference is made to a deposited microorganism; the competent depositary institution for the purposes of the different designated States; and the furnishing of samples. The new proposals are concerned with the same questions but with a different orientation.
2. So far as the first question is concerned, the draft no longer deals with the question whether or not the application shall (or may) contain a reference to the deposit of a microorganism. Instead, it simply deals with what shall be indicated in an international application when a reference is made in it to a deposited microorganism. The new proposals are intended as an exclusive provision in the sense that the applicant need not be concerned with any other (national) requirements. However, since the national requirements are catered for within the framework of the new provision, no conflict with national laws, and thus no question of a change in the national law, arises. In order to achieve a flexible framework, provision is made for the notification of national requirements not otherwise covered in the new provisions so that these, too, may become PCT requirements.
3. Whereas the original proposal dealt only with indications to be included in references to the deposit of a microorganism, the new proposal has been broadened to deal with references to deposited microorganisms since it was evident from the responses referred to in paragraph 2 of this document that many national laws require the applicant to provide certain information concerning the microorganism itself and the applicant will be just as concerned to have assurances as to what the requirement is in this respect (since his rights will be equally affected in the case of non-compliance) as in respect of the deposit.
4. As far as the indications relating to the deposit are concerned, the indications which appeared from most of the responses referred to in paragraph 2 of this document to be required have been specified in the new proposed text for Rule 13*bis*.3(a).
5. The text makes it clear that failure to meet a PCT requirement will have no consequence in a designated State which does not apply that requirement in the case of national applications.
6. The draft does not attempt to establish a rule binding the designated Offices as to the time at which the indications included in a reference to a deposited microorganism shall be provided. The draft merely requires the provision of the necessary information on the basis of which the applicant can determine when the indications must be given having regard to the States which have been designated. In the absence of any notification as to more stringent national requirements, however, compliance with the time limit specified in the rule is sufficient. The designated Office may, of course, always apply more favorable national provisions for the benefit of the applicant. Under the draft, compliance or non-compliance with the time limits is not a question which is considered in the international procedure but the necessary information is conveyed to the designated Offices to be considered in the national (or regional) procedures which follow the international procedure.

7. It is made clear in the text that the same international application may contain different references or different indications for the purposes of different designated States. This follows from the fact that, at least until the Budapest Treaty has gained a wide acceptance, different deposits will often be required for different designated States. A reference made for the purposes of a designated State but to a deposit other than one made with a depositary institution notified to the International Bureau by the Office of that State may be disregarded by that Office.

8. On the question as to the competent depositary institution, the conclusion was reached in the first session of the Working Group that the competent depositary institution would be determined by the national law. The new proposals do not depart from this conclusion but require the national Offices to indicate the institutions with which deposits may be made. Considering that applicants will, on most occasions, have professional representatives not practicing in the State which it is desired to designate, authoritative information on the question is "essential. The information provided will be published in the PCT Gazette for the information of applicants and will be binding on them since failure to make a deposit with a depositary institution so notified will entitle the designated Office to disregard any reference to a deposit.

9. So far as the question of the furnishing of samples is concerned, the new proposals deal with two separate issues. The first concerns the furnishing of samples to the International Searching and International Preliminary Examining Authorities. Having regard to differing opinions as to the need these Authorities will have for samples but recognizing, however, that the Budapest Treaty does provide for the furnishing of samples to patent offices, the proposals make it clear that the PCT does not prevent these Authorities from obtaining samples. Since it is not thought feasible to include a specific PCT system for these Authorities to obtain samples, an express obligation is placed on the applicant to assure the furnishing of samples to them. No "sanction" for failure to assure the furnishing of samples has been thought necessary since the existing provisions dealing with inadequate description (see Article 17(2) (a) (ii) and Rule 66.2(a) (v)) are sufficient in the international procedure. Nevertheless, with a view to avoiding any unnecessary expansion of rights to obtain samples, the obtaining of samples by these Authorities has been made conditional on a formal notification by them (which would be made to the International Bureau in a general form and not for each particular case) which would be published for the information of applicants in the PCT Gazette.

10. The second issue concerns the action a designated Office may take under the Budapest Treaty and national provisions concerning the furnishing of samples before the start of national processing. Under the first alternative put forward by the Working Group, the designated Office would not act under the Budapest Treaty or national provisions relating to the furnishing of samples so long as, under the PCT, national processing of the application could not take place. Under the second alternative, the principle established under the first alternative would be subject to exception, namely, that earlier action would be permitted if the applicant had confirmed his international application in the designated Office by completing the acts necessary to enter the national phase before that Office or if the effects provided under Article 29(1) of the PCT had become applicable in respect of the application. The International Bureau maintains its opinion that, in view of the requirements to delay processing contained in Articles 23 and 40 of the PCT, the first alternative must be adopted.

COMMENTS ON THE NEW PROPOSALS CONCERNING AMENDMENTS TO THE
BUDAPEST TREATY REGULATIONS

11. Whereas the earlier proposals would have applied the provisions of Rules 11.1 and 11.3 *mutatis mutandis* to international applications and equated a designated Office under the PCT to the industrial property Office referred to in the said Rules, the new proposals attempt to deal more specifically with the matters which may be regarded as an obstacle to the application of the said Rules in the case of international applications, for example, the fact that the international application may not have been filed with the industrial property offices wishing to act under those Rules. Thus, the new proposals indicate certain changes in the requirements of Rules 11.1 and 11.3, to enable the industrial property office to make a declaration or to give a certification under those Rules which will be effective to secure the furnishing of samples when made or given in relation to an application which was filed as an international application. For reasons of clarity and simplicity, they have been combined in a new Rule 11.5.

12. In the new proposals, the requirement to refer, in a certification under Rule 11.3, to international publication instead of national publication by the industrial property office has been changed into a possibility of referring either to international publication or to national publication.

[Annex C follows]

WIPO



BPCT/III/5

ORIGINAL: English/French

DATE: December 12, 1979

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

“PCT AND BUDAPEST TREATY” WORKING GROUP

Second Session
Geneva, December 10 to 12, 1979

REPORT

Adopted by the Working Group

I. INTRODUCTION

1. The “PCT and Budapest Treaty” Working Group (hereinafter referred to as “the Working Group”) held its second session in Geneva from December 10 to 12, 1979.

2. The member States of the International Patent Cooperation Union (PCT Union) and the member States of 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 (that is, the States members of the Paris Union for the Protection of Industrial Property that had signed the Budapest Treaty and/or participated in the Budapest Diplomatic Conference) had been invited. The following fourteen States were represented: Bulgaria, Denmark, Finland, France, Germany (Federal Republic of), Hungary, Japan, Norway, Portugal, Soviet Union, Sweden, Switzerland, United Kingdom, United States of America.

3. One intergovernmental organization the European Patent Organization was represented in an observer capacity.

4. The following five international non-governmental organizations were represented as observers: Council of European Industrial Federations (CEIF), European Federation of Agents of Industry in Industrial Property (FEMIP), International Federation of Pharmaceutical Manufacturers Associations (IFPMA), Union of European Practitioners in Industrial Property (UNEPA), Union of Industries of the European Community (UNICE).
5. The list of participants appears in Annex I to this report.
6. Mr. K. Pfanner, Deputy Director General of WIPO, opened the meeting on behalf of the Director General of WIPO and welcomed the participants.
7. The Working Group unanimously elected Mr. J.-L. Comte (Switzerland) as Chairman and Mrs. E. Parragh (Hungary) and Mr. S. Schlosser (United States of America) as Vice-Chairmen. Mr. M. Haddrick (WIPO) acted as Secretary of the Working Group.

II. PROPOSALS FOR POSSIBLE AMENDMENTS

8. The Working Group considered the texts of possible amendments to the Regulations under the Patent Cooperation Treaty (PCT) and to the Regulations under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure prepared by the International Bureau, as contained in document BPCT/II/2. The Working Group also had before it circular letters sent by the International Bureau to the States party to the PCT or members of the Interim Committee and to the International Searching and International Preliminary Examining Authorities under the PCT seeking comments and information as well as the responses of the said States and Authorities as contained in document BPCT/II/3 and summarized in the form of a table in Annex III to document BPCT/II/2.
9. The Working Group adopted the said texts subject to a certain number of amendments and with the addition of the text of a consequential amendment to Rule 49.3 of the Regulations under the PCT. The revised texts, as adopted by the Working Group, are contained in Annex II to this report.
10. In the course of adopting the said revised texts, it was agreed that this report would reflect the understandings on which certain texts were adopted and, in one case, the reservation expressed by a delegation. The said understandings and reservation only are indicated in the succeeding paragraphs.

Proposals for Amendments to the Regulations under the PCT

11. It was understood in the course of the adoption of the text of Rule 13*bis*.3(a) that this provision would contain only the mandatory contents of references and that applicants would not be precluded from adding additional statements which were pertinent thereto such as, for example, a statement for the purposes of the new Rule 28 of the Implementing Regulations under the European Patent Convention to ensure that a sample of a deposited microorganism would not be furnished except through the intermediary of an expert.
12. It was understood that national requirements of a Contracting State that were more favorable than the requirements referred to in Rule 13*bis*.3(a) would not be notified and

published in the Gazette under Rule 13*bis*.7 but could be the subject of information provided for applicants.

13. In adopting the text of Rule 13*bis*.4, the Working Group considered the possible impact of the later submission of indications on the calculation of the amount of the supplement to the basic fee payable where the number of sheets of the international application exceeds 30. It was understood that this fee would continue to be calculated having regard to the number of sheets contained in the international application as filed and that the later submission of one or more additional sheets would not require an additional fee to be paid.

14. In adopting the text of Rule 13*bis*.5(b), the Working Group agreed that it was quite possible to indicate more than one deposit of the same microorganism for the purposes of the same designated State.

15. After examining several alternatives for Rule 13*bis*.6(b), and after assessing the possible support for them through an “indicative vote,” two solutions emerged as warranting presentation for ultimate consideration by the Assembly of the PCT Union. The first solution consists of a single sentence which also constitutes the first sentence of the second solution. The second and third sentences of the second solution are presented in Annex II within square brackets.

16. It was understood that the applicant could be required, under Article 3(1)(b) of the Budapest Treaty, to furnish to a designated Office a copy of the receipt issued by the international depositary authority under Rule 7 of the Regulations under the Budapest Treaty; this receipt would not have to be filed with the international application but could be furnished later.

Proposals for Amendments to the Regulations under the Budapest Treaty

17. The Delegation of France, reserving its position as to the proposed new Rule 11.5, said that it considered that rule to be unnecessary since, in the Delegation’s view, the provision was merely interpretative.

18. It was understood that the certification of publication related to the fact that publication had been effected and not to the contents of what had been published.

III. REVISED TABLE

19. The Working Group considered that the information in the table contained in Annex III to document BPCT/II/2 provided a useful summary of the requirements that needed to be taken into account in applications relating to microbiological inventions in the various countries listed therein. A revised table taking into account changes and corrections proposed by members of the Working Group is contained in Annex III to this report.

20. *The Working Group unanimously adopted this report on December 12, 1979.*

[Annex I follows]

ANNEXE I/ANNEX I

I. ÉTATS/STATES

ALLEMAGNE (REPUBLIQUE FEDERALE D')/GERMANY (FEDERAL REPUBLIC OF)

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

BULGARIE/BULGARIA

I. KOTZEV, Premier Secrétaire, Mission permanente, Genève

DANEMARK/DENMARK

D. SIMONSEN (Mrs.), Head of Division, Danish Patent and Trademark Office, Copenhagen

G. LÜTKEN (Mrs.), Head of Department, Danish Patent and Trademark Office, Copenhagen

ETATS-UNIS D'AMERIQUE/UNITED STATES OF AMERICA

S.D. SCHLOSSER, Attorney, Patent and Trademark Office, Washington, D.C.

FINLANDE/FINLAND

H. LOMMI (Mrs.), Acting Head of Section, National Board of Patents and Registration, Helsinki

FRANCE

P. GUERIN, Attaché de direction, Institut national de la propriété industrielle, Paris

D. DARMON (Mlle), Conseiller, Institut national de la propriété industrielle, Paris

HONGRIE/HUNGARY

E. PARRAGH (Mrs.), Counsellor, National Office of Inventions, Budapest

JAPON/JAPAN

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

NORVEGE/NORWAY

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

A.K. SCHJØDT, Legal Advisor, Ministry of Industry, Oslo

PORTUGAL

J. MOTA MAIA, Directeur général, Institut national de la propriété industrielle, Lisbonne

ROYAUME-UNI/UNITED KINGDOM

D.F. CARTER, Superintending Examiner, Patent Office, London

SUEDE/SWEDEN

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

R. WALLE (Mrs.), Senior Examiner, Royal Patent and Registration Office, Stockholm

SUISSE/SWITZERLAND

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

R. KÄMPF, Chef de section, Office fédéral de la propriété intellectuelle, Berne

UNION SOVIETIQUE/SOVIET UNION

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

II. ORGANISATION INTERGOUVERNEMENTALE/
INTERGOVERNMENTAL ORGANIZATION

ORGANISATION EUROPEENNE DES BREVETS (OEB)/EUROPEAN PATENT
ORGANIZATION (EPO)

U.J. SCHATZ, Directeur principal, Relations internationales, Munich

L. GRUSZOW, Administrateur, Munich

III. ORGANISATIONS INTERNATIONALES NON GOUVERNEMENTALES/
INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS

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

M. van DAM, Patent Agent, Eindhoven

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

F.A. JENNY, Patentabteilung, Ciba-Geigy AG, Basel

G. TASSET, Manager, Patents Department, Smith Kline – RIT, Rixensart

FEDERATION INTERNATIONALE DE L'INDUSTRIE DU MEDICAMENT
(FIIM)/INTERNATIONAL FEDERATION OF PHARMACEUTICAL MANUFACTURERS
ASSOCIATIONS (IFPMA)

G. TASSET, Manager, Patents Department, Smith Kline – RIT, Rixensart

F.A. JENNY, Patentabteilung, Ciba-Geigy AG, Basel

UNION DES INDUSTRIES DE LA COMMUNAUTE EUROPEENNE (UNICE)/UNION
OF INDUSTRIES OF THE EUROPEAN COMMUNITY

H. BECKER, Patent Counsel, Hoechst Aktiengesellschaft, Frankfurt/Main

P. MARS, Manager, Patents and Trademarks Department, Gist-Brocades N.V., Delft

UNION DES PRATICIENS EUROPEENS EN PROPRIETE INDUSTRIELLE/UNION OF
EUROPEAN PRACTITIONERS IN INDUSTRIAL PROPERTY (UNEP)

G.E. KIRKER, Ingénieur-conseil, Genève

IV. BUREAU/OFFICES

Président/Chairman: J.-L. COMTE (Suisse/Switzerland)

Vice-présidents/Vice-Chairmen: E. PARRAGH (Mrs.) (Hongrie/Hungary)
S. SCHLOSSER (États-Unis d'Amérique/
United States of America)

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

V. BUREAU INTERNATIONAL DE L'OMPI/
INTERNATIONAL BUREAU OF WIPO

K. PFANNER, Deputy Director General

M. HADDRICK, Director, PCT Division

F. CURCHOD, Chef de la Section des projets spéciaux, Division de la propriété industrielle

V. TROUSSOV, Senior Counsellor, PCT Division

[L'annexe II suit]

BPCT/II/5

ANNEX II

This Annex is not reproduced here since its contents are the same as those of Annex A to documents PCT/A/V/2 and BP/IAC/III/2.

[Annex III follows]

Revised summary of responses received

Country (Code)	Deposit Required Yes/No	Not Later than Filing Yes/No	Contents of reference to deposit			Other
			Name of Depository Institution Yes/No	Date of Deposit Yes/No	Accession Number Yes/No	
			(F at time of filing L later)			
AT	(-)	(-)	(-)	(-)	(-)	(-)
AU	No	(-)	(-)	(-)	(-)	(-)
BR	(-)	(-)	(-)	(-)	(-)	(-)
CH	Yes	Yes ⁽¹⁾	Yes/F ⁽⁷⁾	Yes/L ⁽²⁾	Yes/L ⁽²⁾	(-)
DE	Yes	Yes	Yes/F	Yes/L ⁽⁴⁾	Yes/F	Yes ⁽¹¹⁾
DK	Yes	*	*	*	*	*
FI	(-)	(-)	(-)	(-)	(-)	(-)
FR	**	**	**	**	**	**
GB	Yes	Yes	Yes/L ⁽²⁾	Yes/L ⁽²⁾	Yes/L ⁽²⁾	Yes ⁽¹⁰⁾
HU	Yes	Yes ⁽¹⁾	Yes/L ⁽⁴⁾	Yes/L ⁽⁴⁾	Yes/L ⁽⁴⁾	Yes ⁽³⁾
JP	Yes	Yes ⁽⁵⁾	Yes/F ⁽⁶⁾	No	Yes/F ⁽⁶⁾	Yes ⁽¹⁰⁾
LU	(-)	(-)	(-)	(-)	(-)	(-)
NO	Yes ⁽¹²⁾	Yes ⁽¹²⁾	*	*	*	*
RO	Yes	Yes	Yes/F ⁽⁷⁾	Yes/L ⁽⁴⁾	Yes/L ⁽⁴⁾	Yes ⁽³⁾
SE	Yes	Yes	Yes/L ⁽⁸⁾	Yes/L ⁽⁸⁾	Yes/L ⁽⁸⁾	(-)
SU	Yes	Yes	Yes/L ^{(2) (7)}	Yes/L ⁽²⁾	Yes/L ⁽²⁾	Yes ^{(3) (8) (9)}
US	Yes	Yes ^{(5) (11)}	Yes/F	Yes/L ⁽⁴⁾	Yes/L ⁽⁴⁾	Yes ⁽¹⁰⁾
EP	Yes	Yes	Yes/L ⁽¹³⁾	No	Yes/L ⁽¹³⁾	Yes ^{(10) (14)}

- (1) Later deposit has consequence as regards filing date of application
(2) Up to two months after the date of filing
(3) Short description of the microorganism
(4) During the pendency of the application
(5) In the case of priority claim, before date of filing of priority application
(6) In the description
(7) Indication must be included of address (headquarters) of the institution
(8) Until time limit under Article 22 for international applications
(9) Name of the depositor
(10) Such relevant information as is available to the applicant on the characteristics of the microorganism
(11) Declaration concerning release of samples
(12) According to Patents Act, but relevant parts not yet in force
(13) By 16 months after the priority date or by the date of submission of a request for early publication or by the end of one month after the communication to the applicant that a right to early inspection of the files exists; whichever occurs first
(14) Where access to the deposited microorganism only through the intermediary of an expert is desired, a declaration to that effect before the technical preparations for publication have been completed
(-) National law does not deal with this point
* Relevant rules still to be promulgated
** See EP when France is designated in an international application

[End of document]