

## **Patent Cooperation Treaty (PCT) Committee for Technical Cooperation**

**Twenty-Fifth Session  
Geneva, October 1 to 9, 2012**

### **REPORT**

*adopted by the Assembly*

### **INTRODUCTION**

1. The PCT Committee for Technical Cooperation (“the Committee”) held its twenty-fifth session in Geneva from October 1 to 9, 2012, during the same period as the forty-third (25<sup>th</sup> extraordinary) session of the Assembly of the PCT Union (“the Assembly”), held in the context of the 50th series of meetings of the Assemblies of the Member States of WIPO. The list of participants in those meetings is contained in document A/50/INF/3, noting that all States members of the Assembly of the PCT Union and all International Searching and Preliminary Examining Authorities (“International Authorities”) are members of the Committee.

### **ELECTION OF A CHAIR AND TWO VICE-CHAIRS**

2. Ms. Susanne Ås Sivborg (Sweden) was elected Chair of the Committee and Mr. Adel El-saaed Oweida (Egypt) was elected as Vice-Chair; there was no nomination for a second Vice-Chair.

### **ADOPTION OF THE AGENDA**

3. The Committee unanimously adopted the draft agenda set out in document PCT/CTC/25/1.

**ADVICE TO THE ASSEMBLY OF THE PCT UNION ON THE APPOINTMENT OF THE NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY OF CHILE AS AN INTERNATIONAL SEARCHING AND PRELIMINARY EXAMINING AUTHORITY UNDER THE PCT**

4. Discussions were based on document PCT/CTC/25/2 Rev.

5. The Delegation of Chile, in introducing its request for the National Institute of Industrial Property of Chile (INAPI) to be appointed as an International Searching and Preliminary Examining Authority, stated that Chile was a developing country seeking more active integration into the international intellectual property system through an active contribution to strengthening the system. The Delegation recalled that in June 2012, the Government of Chile, in a letter signed by the Minister of Foreign Relations, the Minister of Economy, Development and Tourism and the Director of the National Institute of Intellectual Property of Chile, made its application to become an International Searching Authority and International Preliminary Examining Authority as an alternative for the users for the international patent system. The Delegation wished to thank the whole of the Latin America and the Caribbean region and governments and Offices of countries in other regions for their tremendous support in this process.

6. The Delegation continued by stating that, as a developing country, the preparation had involved hard and ongoing work over the past few years to enable the Chilean intellectual property system to bring its services to the international patent system and to other countries in the Latin American region. The Delegation added that the Intellectual Property Institute of Chile was a governmental agency but a decentralized one, responsible for the services of intellectual property in Chile. It had become operational in 2009, replacing the former Registry of Intellectual Property Rights administered by the Ministry of the Economy, taking on new functions regarding the promotion of intellectual property and knowledge dissemination and becoming an advisory body for the President of the Republic of Chile on industrial property matters. INAPI had also taken on functions in the international environment, recommending the adoption of international treaties and the advisability of signing cooperation agreements with other industrial property offices and international organizations. In order to carry out these functions, the Delegation stated that INAPI had a highly specialized team of technicians and officials, with ongoing training programs that enabled them to continue updating their knowledge in order to carry out their functions effectively. With regard to patents, INAPI had 102 examiners carrying out formality and substantive examination on patentability for all applications filed in Chile. In order to promote and encourage the use of intellectual property and knowledge and technology transfer, at the beginning of 2012, INAPI had launched a project entitled "INAPI Proyecta", a knowledge and technology transfer platform based on a project developed in conjunction with the European Union to facilitate access to intellectual property and provide tools for improving the use of rights and also for using, learning and transferring intellectual property, such as through online courses. More recently, in April 2012, INAPI had launched a new platform for online services, increasing the number of procedures that can be performed online, moving closer to the possibility of carrying out all procedures electronically. All of the certificates and awards could now be published in digital format with electronic signatures and INAPI had begun putting patent and trademark requests online. The Delegation added that these reforms had been made possible thanks to the total replacement of the technological platform carried out last year with support from WIPO. The Delegation added that INAPI would be submitting a Bill to the national Congress of Chile to completely replace its intellectual property law, establishing cheaper, simpler and shorter procedures in all the different areas of intellectual property and incorporating enforcement areas. The Delegation further wished to inform the Committee that the *Colección Chilena de Recursos Genéticos Microbianos*, (the agricultural research institute of Chile) had been accredited as the first international microorganism depository authority under the Budapest Treaty in Latin America this year. In summary, the Government of Chile had undertaken a comprehensive reform of its industrial property system, moving forward in a number of different areas.

7. The Delegation continued by stating that the Government of Chile had declared 2013 as the Year of Innovation, and it hoped to improve on the sound intellectual property framework it had built and strengthen it even further. In order to do this, the Government of Chile had designed a number of projects aimed at making services more user-friendly and ensuring that there was greater access to information and technology and making Chile an attractive gateway to the international intellectual property system. INAPI had become a cutting-edge Office able to provide quality services and was now in a position to collaborate effectively with the rest of the system. The PCT played a key role in encouraging patents and fostering innovation, and since its entry into force in Chile, it had been a strategic priority for INAPI. For the Government of Chile, the PCT presented a tangible possibility for the Member States to interact at the international level, building a stronger system and making it more user-friendly. In particular, taking into account the fact that the average time for publishing search reports in 2011 was still longer than the timeframes established in the PCT Regulations, appointing the National Institute for Industrial Property of Chile as an International Searching and Preliminary Examining Authority could help the development of the system in Latin American and encourage filing of PCT requests in the region, which until now had not been growing as fast as in other regions. However, in view of the economic growth witnessed and the increase in expenditure on research and development over the past five years, the Delegation believed that, as a natural consequence, the appointment of INAPI as an International Authority would result in increases in patent filings and more applications from Latin America in the context of the PCT.

8. The Delegation further stated that, in order to encourage the use of the system, the Government of Chile believed that appointing a new International Searching Authority could become a very important factor to avoid further backlogs in processing PCT filings due to the overloading of work in some Offices. The Delegation believed that search resources should be distributed around the world to make their use more effective and efficient. With Spanish as the main working language, the appointment of INAPI would encourage the use of the system in the Latin American region. INAPI had the necessary capacity in order to offer its examination services to applicants from Chile and to the whole region. The Delegation therefore believed the appointment could contribute to the development of the region, reduce costs, and provide a high-quality service in Spanish close to companies in the region. Furthermore, this would help to overcome the backlogs in the system and the overburdening of other offices. In the context of the PCT, INAPI was a mature institute, well-recognized by its peers, which over the previous year had surpassed all expectations in terms of improving the use of the system and increasing the number of filings handled.

9. The Delegation continued by addressing three points that it had discussed with other Member States during the preparation of the application. First, with regard to the concern about proliferation of International Searching and Preliminary Examining Authorities under the PCT, the Delegation pointed out that the average periods for processing international applications remained longer than the timeframes set out in the Regulations. Incorporating a new International Searching Authority into the system would enable the process to be speeded up. Second, in relation to the technical capacity of the National Institute of Industrial Property of Chile, the Delegation stressed that it was determined to continue to improve its procedures and gave a clear commitment from the Government of Chile to continue to ensure that INAPI remained a center of excellence. Third, the Delegation pointed out that the Institute would begin working as an International Searching Authority in two years time and that this would not limit the possibility of nationals choosing other International Authorities. The Delegation was therefore convinced that incorporating an intellectual property Office from a developing country would be an important step in strengthening the international patent system, demonstrating that the system was open to countries of medium and small size that were determined to contribute actively and in a positive fashion.

10. The Delegation concluded by thanking all those who had given support during the application process, citing the countries in the Latin American and Caribbean region and various Offices from other continents, and also thanked the World Intellectual Property Organization for its ongoing and technical support, particularly in the preparation and review of the requirements for becoming an International Authority. Finally, the Delegation added that the National Institute of Industrial Property of Chile would not be what it was today without the support of colleagues from Offices in Latin America and the Caribbean, the World Intellectual Property Organization, the European Patent Office, the Spanish Patent and Trademark Office, the National Institute of Industrial Property in Brazil and many other countries.

11. The Delegation of Spain thanked INAPI for having submitted its application, congratulated the Institute on its tremendous efforts to prepare to become an International Authority under the PCT, and expressed its support for its application to become an International Searching and Preliminary Examining Authority. The Delegation considered that meeting standards was a key objective and believed that the Committee should ensure that the criteria and the requirements established in the PCT Regulations were met. In particular, with regard to the number of examiners and access to documents, the standards should be met not only when the application was submitted but Offices which were already Authorities should continue to meet those criteria. Criteria and minimum requirements, among other things, were designed to ensure minimum quality standards, and standards of effectiveness, reliability and transparency. They had been established by the PCT itself and ensured continuing improvement of the system. The Delegation drew attention to the need to guarantee a system which ensured that, through technical analysis, it was known before an office was fully operational that it could meet the requirements set out in the Regulations and guaranteed that it continued to meet those conditions with a common objective of both helping the standards to be met and keeping very strict quality levels which were the key to the effectiveness of the system.

12. The Delegation of Panama reiterated what it had stated in its general statement to the WIPO Assemblies that it fully supported the appointment of INAPI as an International Searching and Preliminary Examining Authority under the Patent Cooperation Treaty.

13. The Delegation of Cuba stated its support for the application for INAPI to become an International Searching and Preliminary Examining Authority under the Patent Cooperation Treaty.

14. The Delegation of El Salvador expressed its firm support for INAPI to become an International Searching and Preliminary Examining Authority under the PCT. There would be a great benefit for developing countries, such as El Salvador, in having a further Spanish speaking Office acting in that capacity, and in having an Office of that technical standard. The Institute would be the only International Authority in Latin America using Spanish as a working language. This would also be of great importance. Its technical capacity meant that it would be complementary to the existing system, offering experts in all the areas that were relevant for users.

15. The Delegation of Ecuador recalled that it had been a member of the PCT since 2000 and had been working actively with WIPO to make sure that it could make the best use of the Treaty to support Ecuador. Workshops and seminars had been undertaken to make sure that the PCT could be used as a development tool for the country. The Delegation saw the application of INAPI not only as a mechanism for receiving international search reports, but as a means to encourage use of the system, which would stimulate international applications from Latin American countries. That region had up to now seen slower levels of growth than other regions. The Delegation believed that having an International Searching and Preliminary Examining Authority in the region could also be very helpful in overcoming the backlogs in international processing, which resulted from overburdening of other Offices. Such backlogs restricted a lot of inventors, who did not understand why it should take so long to go through the procedure. The application presented a tremendous opportunity to ensure that search resources could be

better distributed around the world, making the use of the PCT system more effective. Thanks to PROSUR, Ecuador knew very well about INAPI and that it did a very good job. The Delegation had no doubt that the Institute would be in a position to be a very good International Searching and Preliminary Examining Authority. Chile's application should be welcomed and particularly so by Latin American countries who knew how beneficial it would be to the PCT system.

16. The Delegation of Australia supported in principle the appointment of INAPI as an International Searching and Preliminary Examining Authority. An increase in the number of International Authorities should assist with the backlogs and pendency times in the international phase of the PCT. The Delegation encouraged INAPI to have its quality management system in place before notifying the Director General that it was prepared to start functioning as an International Searching and Preliminary Examining Authority. As an existing Authority, Australia stood ready to provide support to Chile in that regard.

17. The Delegation of Japan fully supported INAPI in its application for appointment as an International Searching and Preliminary Examining Authority. The Delegation believed that the IP system represented the essential legal infrastructure for economic development and that the PCT formed a key element of the global IP system. It was expected that INAPI would play an important role as hub for the PCT system in the GRULAC region for the protection of innovation. Based on the information presented by the Institute, the Delegation believed that the requirements provided in the PCT Regulations were fulfilled. The Institute was understood to make every possible effort to reduce backlogs and grant patents towards the proper protection of intellectual property. The Delegation considered that the appointment had an important geographical meaning and expected that the Institute would assist PCT Contracting States, particularly in the Latin American region, to more effectively and efficiently utilize the system towards the global protection of intellectual property.

18. The Delegation of the Russian Federation stated that it wished to offer thoughts on a broader issue without prejudice to the specific item on the agenda. The Delegation considered that it was necessary to take a new look at the International Searching and Preliminary Examining Authorities. The requirements contained in the PCT in this respect were becoming out of date and the Delegation expressed concerns about the quality of the work being done. The Delegation believed that an International Authority should have the proper number of experts and the proper documentation, experience and tools to carry out its work functions. There needed to be a clear set of criteria and rules. For instance, the International Bureau could issue possible accreditation requirements. The Delegation believed that it was time to give close attention to these issues, and was prepared to play an active part in this work in the appropriate bodies of the PCT. The Delegation stressed that these comments and proposals were without prejudice to the issue before the Committee under this agenda item.

19. The Delegation of Costa Rica stated that it wished to express once more its full support for the appointment of INAPI as an International Searching and Preliminary Examining Authority under the Patent Cooperation Treaty.

20. The Delegation of Portugal congratulated INAPI for its application to be appointed as an International Searching and Preliminary Examining Authority. It understood and shared some of the views expressed by the Delegation of Spain in respect of Offices wishing to be appointed as International Authorities. Rules already established had to be respected and the credibility of the system guaranteed.

21. The Delegation of Norway supported INAPI's candidacy to be appointed as an International Searching and Preliminary Examining Authority under the PCT. Based on the explanation given to the Committee, it stated that it would like to congratulate INAPI on all of its efforts and that it wished the Institute all the best and good luck with all the new tasks. The cooperation in the Meeting of International Authorities under the PCT would also be of high importance to the Institute.
22. The Delegation of Austria stated that, as an existing International Searching and Preliminary Examining Authority under the PCT, it welcomed the geographic extension of involvement in the international patent system and therefore noted its appreciation of the efforts of the Government of Chile and INAPI in this regard, aimed at increasing the PCT system in Latin America and the Caribbean region. Having studied the documents carefully and having listened to the additional explanations given in the meeting of the Committee, the Delegation wished to join other delegations in congratulating INAPI on the progress achieved so far and express its support in principle. It looked forward to the future development of the Institute in the years to come on its way to become fully operational and offered its support during that time, as well as to soon welcoming the Institute into the family of PCT Authorities.
23. The Delegation of Singapore supported the application of INAPI to be appointed as an International Searching and Preliminary Examining Authority under the PCT, for several reasons. First, having examined the documents in support of Chile's application, it was of the view that the Institute met the requirements for appointment under the PCT. Second, coming from a multilingual society, it felt it to be useful to the international patent system to have an International Authority that was able to deal with the Spanish language. And third, as innovation shifted and spread to all parts of the world, it felt that it was important for the global system to have a diversification of International Searching and Preliminary Examining Authorities. For these reasons, it strongly supported Chile's application.
24. The Delegation of Poland welcomed the application of INAPI to be appointed as an International Searching and Preliminary Examining Authority under the PCT. It believed the appointment would contribute substantially to the international patent system and would help to promote and increase the use of the PCT system in Latin America, to the benefit of all Spanish speaking countries in the region. If the members of the Committee considered that the Institute met all the requirements under the PCT to be appointed as an International Authority, it was also ready to support the appointment.
25. The Delegation of Guatemala stated that it wished to reiterate its support for the appointment of INAPI as an International Searching and Preliminary Examining Authority under the PCT, noting that it would make the PCT system more efficient, was to the benefit of the entire PCT system and would lead to better international patent search reports.
26. The Delegation of Canada stated that it was pleased to support the appointment of INAPI as an International Searching and Preliminary Examining Authority under the PCT. Having a second International Authority from South America and another Authority working in the Spanish language would help to further the goals of the PCT in offering high quality, timely services to all of its users. The Delegation recognized all of the hard work that INAPI had carried out in preparing the Institute for the role of an International Authority and looked forward to working with the Institute to further the continuous improvement of the PCT.
27. The Delegation of the Philippines supported the appointment of INAPI as an International Searching and Preliminary Examining Authority under the PCT. Despite being a non-Spanish speaking nation, the Philippines was interested in the appointment of the Chilean Institute because, like Chile, it was a medium sized developing country and it felt to be most useful for it to learn from the Chilean experience. It trusted in the full competence of the WIPO Secretariat to process the application and that the appointment would be most useful for developing countries. It was thus encouraged by this application and truly supported it.

28. The Delegation of Peru, speaking on behalf of GRULAC, stated that it wished to repeat its support for the appointment of INAPI as an International Searching and Preliminary Examining Authority under the PCT. The appointment of the Institute would facilitate the use of patents in the region still further and would increase the capacity of the PCT system, to the benefit of all users.

29. The Delegation of the United States of America thanked the Delegation of Chile for the comprehensive presentation on INAPI as well as for Chile's request to appoint the Institute as an International Searching and Preliminary Examining Authority under the PCT. It supported the appointment of the Institute as an International Authority as well as the text of the draft agreement with the International Bureau concerning its functioning in this capacity.

30. The Delegation of Finland stated that, as an existing International Searching and Preliminary Examining Authority, it would also like to note the hard work carried out by Chile and thus supported the appointment of INAPI as an International Searching and Preliminary Examining Authority under the PCT.

31. The Delegation of Turkey supported INAPI for volunteering to carry out the tasks of an International Authority, to the benefit of the PCT system and the industrial property system in the entire region.

32. The Delegation of Colombia stated that in accordance with Article 1 of the PCT, the Treaty was a union of various countries for the cooperation, not only with regard to the filing of patent applications but also for carrying out international searches in respect of such filings. The Treaty, therefore, allowed the country to recognize the competence of other Authorities so as to achieve the desired aims of the system, especially at times when the success of the system was reaching Colombia's region. In response to that situation national inventors should therefore be provided with the tools offered by the Treaty so that they could have their applications processed in an efficient and high-quality manner. The Delegation further stated that it had recognized and borne witness to the capacity and competence of the National Institute of Industrial Property of Chile. It had observed, throughout the years, how the Institute had become an example as an institution in the efficient administration of the Chilean industrial property system. In a similar vein, it noted in that administration, the fulfillment of optimum operating and quality standards which allowed Colombia to recognize, in accordance with the Treaty, the results of the searches and examinations carried by the Institute. The Delegation thus supported the appointment of INAPI as an International Searching and Preliminary Examining Authority under the PCT.

33. The Delegation of the Republic of Korea supported the appointment of INAPI as an International Searching and Preliminary Examining Authority under the PCT. It expressed the view that, by becoming an International Authority, the Institute would be able to assist applicants in Latin America to obtain timely patent protection.

34. The Delegation of China stated that it appreciated the application by INAPI to be appointed as an International Searching and Preliminary Examining Authority under the PCT. It felt that, with the constant increase in the number of PCT applications worldwide and the need to provide a quicker and more efficient service to the users of PCT system, WIPO should appoint more qualified national Offices to carry out international searches and preliminary examinations. According to the presentation by INAPI and the relevant documents, it believed that the Institute was fully qualified. The Delegation therefore supported the request by INAPI to be appointed as an International Searching and Preliminary Examining Authority under the PCT.

35. The Delegation of Venezuela (Bolivarian Republic of) stated that, while it was not a member of the PCT, it was part of the American region and thus welcomed anything that could contribute to the development of that region and to the development of the Spanish language. It

believed that the concerns expressed by two delegations could be overcome by Chile, which was a neighboring country.

36. The Chair thanked all delegations which had taken the floor on the matter and had expressed their views. Having listened to all interventions that had been made, she wished to propose that the Committee should give a positive recommendation to the PCT Union Assembly on the appointment of the National Institute of Industrial Property of Chile as an International Searching Authority and an International Preliminary Examining Authority under the PCT.

37. The Committee unanimously recommended to the PCT Assembly that the National Institute of Industrial Property of Chile be appointed as an International Searching Authority and an International Preliminary Examining Authority under the PCT.

38. The Director General congratulated Chile on achieving this positive advance towards becoming an International Searching and Preliminary Examining Authority under the PCT. It was a great moment to see the expansion of the PCT system and to welcome Chile's appointment. He also wished to congratulate Chile on all of the work it had done throughout the past 12 months, working with colleagues in the International Bureau to prepare the technical dossier. It really was a fine achievement.

39. The Chair stated that she also would like to take the opportunity to congratulate Chile and the National Institute of Industrial Property of Chile for this major achievement.

[End of document]