

WIPO General Assembly

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COOPERATION UNDER THE AGREED STATEMENTS BY THE
DIPLOMATIC CONFERENCE REGARDING THE PATENT LAW TREATY (PLT)

prepared by the Secretariat

I. INTRODUCTION

1. Item 4 of the Agreed Statements by the Diplomatic Conference for the Adoption of the Patent Law Treaty (PLT) (hereinafter referred to as the Agreed Statements), adopted on June 1, 2000, states as follows:

“4. With a view to facilitating the implementation of Rule 8(1)(a) of this Treaty, the Diplomatic Conference requests the General Assembly of the World Intellectual Property Organization (WIPO) and the Contracting Parties to provide the developing and least developed countries and countries in transition with additional technical assistance to meet their obligations under this Treaty, even before the entry into force of the Treaty.

“The Diplomatic Conference further urges industrialized market economy countries to provide, on request and on mutually agreed terms and conditions, technical and financial cooperation in favor of developing and least developed countries and countries in transition.

“The Diplomatic Conference requests the WIPO General Assembly, once the Treaty has entered into force, to monitor and evaluate the progress of that cooperation every ordinary session.”

2. In accordance with the third paragraph of item 4 of the Agreed Statements, the General Assembly of WIPO is requested to monitor and evaluate the progress of technical and financial cooperation in favor of developing and least developed countries and countries in transition, which facilitates filing of communications in electronic form in those countries. Against this backdrop, industrialized market economy countries referred to in item 4 of the Agreed Statements above are invited to provide information to the General Assembly as set forth in that Agreed Statement.

II. ACTIVITIES OF WIPO

3. With respect to the relevant activities of WIPO, when adopting Rule 8 of the Regulations under the PLT at the Diplomatic Conference for the Adoption of the PLT, the Director General of WIPO stated that WIPO would remain committed to its technical cooperation program, and that it would further translate the content of Rule 8 into a meaningful capacity building for developing countries and countries in transition.¹

4. In addition, the recommendations of the WIPO Development Agenda refer to development and improvement of infrastructure and other facilities, including those relating to information and communication technologies (ICT). In particular, the following recommendations appear to be relevant in this context:

“10. To assist Member States to develop and improve national intellectual property institutional capacity through further development of infrastructure and other facilities with a view to making national intellectual property institutions more efficient and promote fair balance between intellectual property protection and the public interest. This technical assistance should also be extended to sub-regional and regional organizations dealing with intellectual property.

“24. To request WIPO, within its mandate, to expand the scope of its activities aimed at bridging the digital divide, in accordance with the outcomes of the World Summit on the Information Society (WSIS) also taking into account the significance of the Digital Solidarity Fund (DSF).”

5. Specifically, between the previous ordinary session of the General Assembly of WIPO in 2009 and the end of May 2011, the following developments in the context of the Patent Cooperation Treaty (PCT) should be noted given the strong relationship between the PCT and the PLT. Since these activities have already been adopted in the framework of the PCT, they may have medium and long-term potential for application in the PLT context.

6. PCT-SAFE. In the past two years, two more PCT receiving Offices (ROs) started electronic filing under the PCT, namely the Icelandic Patent Office in 2010 and the Austrian Patent Office in 2011. This brings the total number of ROs that are accepting fully electronic filing under the PCT to twenty-three. With the exception of France, all of these ROs accept filings using the PCT-SAFE system. In the case of on-line filing, this is done either directly from filer to Office using PCT-SAFE or in combination with the national on-line patent filing system (in Australia, Canada, the Republic of Korea and the United States of America). The Offices of the following developing and countries in transition (by order of entry into effect of

¹ See paragraphs 2556 and 2563 of the Summary Minutes of the Main Committee I contained in the Records of the Diplomatic Conference for the Adoption of the Patent Law Treaty (WIPO publication No. 327).

e-filing) accept fully electronic PCT filings using PCT-SAFE: China, Malaysia, the Philippines, Poland, Romania and Slovakia.

7. Further, updated versions of the PCT-SAFE software and patches have been released in a timely manner in order to support the ongoing evolution of the legal and procedural framework of the PCT, such as various PCT Rule changes, Priority Document Access Service (DAS) and online e-payment service.

8. In addition to providing updated PCT-SAFE client software to PCT filers, WIPO offers assistance to ROs during the preparations for e-filing and also after e-filing has entered into effect. This includes technical assistance, e.g., providing test builds of the PCT-SAFE client software to the RO in order to test the end-to-end filing process, issuance of the digital certificate required by the RO to sign the record copy package before transmittal to the International Bureau (IB), as well as legal and procedural assistance. In addition, WIPO Certification Authorities (CA) that distribute and manage digital certificates have continued to operate. One CA is used by applicants and another by Offices to make security matches with the patent data they process.

9. PCT-ROAD. From June 2009 to May 2011, a number of enhancements have been made to the PCT-ROAD (Receiving Office Administrator) system, in cooperation with the Korean Intellectual Property Office (KIPO). PCT-ROAD is a simple, convenient software that can be used to support PCT receiving Office functions including permitting electronic filing on physical media. The enhancements made in the past twenty-four months include redesigned system architecture, database structure and business logic-resulting in improved stability, performance, and output quality. A Spanish language version of PCT-ROAD is also now available in addition to the English language version.

10. WIPO has introduced or deployed the PCT-ROAD system to twenty eight IP offices (IPOs) (most of which are based in developing countries) since September 2005. The PCT-ROAD software and user manuals are freely available to PCT receiving Offices for download from WIPO's website.²

11. ePCT. The International Bureau (IB) has developed a new system, known currently as ePCT, that offers pre-publication online facilities for secure file inspection for international applications. On May 2, 2011, a closed pilot of the system was made available. The pilot, using live production data, is an introductory exercise in cooperation with a restricted group of users who file international applications electronically at the IB as receiving Office (RO/IB). The timing of wider participation in the system will be strongly dependent on the feedback from the pilot users in the coming months, and there will be opportunities for other PCT users to participate in later pilot phases as the project progresses. This pilot phase offers pre-publication online facilities for secure file inspection for international applications filed electronically with the RO/IB as of January 1, 2009, using the PCT-SAFE software and a WIPO digital certificate. As the pilot progresses, participation will gradually be extended to applications filed with other PCT receiving Offices using other types of electronic filing software. Ultimately, when sufficient experience has been gained with electronic filings, the system will be extended to include international applications filed on paper or filed electronically on physical media without the use of digital certificates.

12. PCT Online Document Upload Service. Following the PCT Online Document Upload Service pilot phase in 2009, this service became fully operational for all PCT users in January 2010, allowing PCT applicants and/or their agents to submit to the IB post-filing documents relating to PCT applications by uploading them *via* a web interface. In July 2010,

² PCT-ROAD (version 3.0.0) was released on May 9, 2011 and is available at:
<http://www.wipo.int/pct-safe/en/pctroad/>

the service was expanded to enable applicants to upload post-filing documents destined for the IB in its capacity as receiving Office.

13. PCT Automated Document Ordering System (PADOS). In 2010, the IB completed the development and internal testing of an upgraded system to replace PCT Communication on Request (COR), one of the systems used by offices to order PCT documents. PADOS will be subjected to external user testing by a number of pilot offices starting in early 2011.

14. Secure Online PCT E-Payment System. In July 2010, the IB launched a new PCT e-Payment service, which allows applicants to pay certain fees by credit card *via* a secure online e-payment facility. The facility is available for the payment of fees to the IB as RO in respect of new PCT applications filed therewith, and also, irrespective of the RO with which the PCT application was filed, for the payment of fees to the IB for filing a request for supplementary international search. Applicants are therefore no longer required to supply credit card details to the IB on separate forms but can instead carry out online credit card transactions in a secure and confidential environment. Other PCT fees due to the IB will gradually become payable *via* this service.

15. With respect to the general technical assistance activities of WIPO, the program for the Infrastructure Modernization of IPOs provides assistance focusing on enhancing the efficiency of IP registration activities and improving services provided by IP institutions to their stakeholders. Customized automation solutions are provided to a total of 52 IPOs, principally in developing countries, resulting in improved management of IP titles and related records, enhanced efficiency in business processing through increased use of IT and establishment of national IP databases. Emphasis is placed on capacity building through intensive training and knowledge transfer of the software to the IPO's systems administrators for better management and first level technical support, more focused user training to the staff for effective system usage and to ensure successful project delivery and sustainability. The following specific services are provided:

(a) As at the end of 2010, the Industrial Property Automation System (IPAS) was in use in 38 IPOs in developing countries from all regions. Of these, 25 offices were using the system for the receipt, examination, granting and publication of patent applications.

(b) The Arab Industrial Property Management System (AIPMS) was in use in 14 IPOs in the Arab region. This software system is similar to the IPAS system in terms of functionality, but also supports the Arabic language. It is planned to migrate all offices currently using AIPMS to IPAS in the future.

(c) The Infrastructure Modernization Program also provides assistance to many IPOs to make their patent data available for international databases and provided direct technical assistance with digitization of patent records to seven offices in developing countries in 2010.

16. The General Assembly of WIPO is invited to note the information contained in the present document.

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