

WIPO General Assembly

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

Document 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 the following:

“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 (LDCs) and countries in transition, which facilitates the 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 2011 and the end of May 2013, 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, five more receiving Offices (ROs) started electronic filing under the PCT, namely the Israel Patent Office (ILPO) and the Norwegian Industrial Property Office (NIPO) in 2011, the State Intellectual Property Office of Croatia (SIPO) in 2012, and the State Patent Bureau of the Republic of Lithuania and the National Institute of Industrial Property of Portugal (INPI) in 2013. This brings the total number of ROs that are accepting fully electronic filings under the PCT to twenty-eight. 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, Israel, the Republic of Korea and the United States of America). The Offices of the following developing and countries in transition

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)

(by order of entry into effect of e-filing) accept fully electronic PCT filings using PCT-SAFE: China, Malaysia, the Philippines, Poland, Romania, Slovakia, Croatia and Lithuania.

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.

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. From June 2011 to May 2013, 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 simple, convenient software that can be used to support PCT RO functions including permitting electronic filing on physical media. The enhancements made in the past twenty-four months include architectural improvements enabling better support for medium sized PCT ROs (i.e. more than two hundred PCT filings per year), and three software updates to maintain compatibility with PCT rule changes and PCT SAFE changes.

10. The PCT-ROAD WIPO demo² system was deployed on April 13, 2012. It is a web-based service operated by WIPO. Staff in PCT ROs can use the demo environment to perform training, test new builds and evaluate the software without having to install PCT-ROAD locally. Currently, fourteen users from eleven ROs are using the demo system.

11. WIPO has introduced or deployed the PCT-ROAD system to 30 intellectual property 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 ROs for download from WIPO's website.³

12. ePCT: The IB has continued to develop and deploy the ePCT system. Whilst still in pilot phase, there are now over 6000 registered users from over 100 different countries using secure file inspection to access pre-publication international applications. The system has also been opened to International Authorities who can now access the service for limited functionality in their roles as RO, International Searching Authority (ISA) and International Preliminary Examining Authority (IPEA). To date, the following Offices have started to pilot these additional services: Algeria, Australia, Austria, Belgium, Bulgaria, Canada, Chile, China, Czech Republic, Denmark, Egypt, Finland, Germany, Hungary, India, Israel, Italy, Japan, Latvia, Mexico, Morocco, Netherlands, Poland, Republic of Korea, South Africa, Switzerland, Ukraine, United Kingdom, United States of America. In addition, a web-based filing solution pilot, which is intended to supersede PCT-SAFE and enables all Offices the ability to offer an electronic filing solution to applicants, has started.

² The demo system is available at https://pctroad-demo.wipo.int/PCT_ROAD/indexA.do

³ PCT-ROAD is available at: <http://www.wipo.int/pct-safe/en/pctroad/>

13. Preparations are also underway for the IB to offer fully hosted ePCT RO services compatible with the new web filing solution. These services would be available for the benefit of Offices, including those from developing countries, which do not have the capacity or desire to develop and maintain local IT infrastructure for RO operations, allowing them the ability to offer their national applicants the same level of service as that enjoyed at large, highly automated Offices. Participating offices would only require a standard web browser and Internet connection (plus scanner for handling documents filed on paper).

14. PCT-EASY: It should be noted that the IB is in consultations with Member States on a proposal to discontinue the PCT-EASY filing method which has now been superseded by full electronic filing. The proposed end of life date for PCT-EASY mode filings is July 2015, before which ePCT web filing is expected to ensure that ROs of developing countries are able to offer a full electronic filing service to their applicants.

15. PCT Automated Document Ordering System (PADOS): Having completed testing with a number of pilot offices, the system is now in production. It is used by Offices to order and then receive automatically *via* PCT Electronic Data Interchange (PCT-EDI) extracts of the PATENTSCOPE database. Offices which use this system are JP, KR and DE.

16. With respect to the general technical assistance activities of WIPO, the program for the IP Office Business Solutions provides assistance focusing on enhancing the efficiency of IP registration activities and improving services provided by IP institutions to their stakeholders.

17. Customized automation solutions are provided to a total of 66 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 2012, the Industrial Property Administration System (IPAS) was in use in 46 IPOs in developing countries from all regions (out of which 14 are LDCs). Of these, 28 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 13 IPOs in the Arab region. This software system is similar to the IPAS system in terms of functionality, but also supports the Arabic language. Migration of all offices currently using AIPMS to IPAS is progressively taking place.

(c) The IP Office Business Solutions Program also provides assistance to many IPOs to make their patent and trademark data available for international databases.

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

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