

WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION

GENEVA

INTERNATIONAL PATENT COOPERATION UNION
(PCT UNION)

PCT COMMITTEE
FOR ADMINISTRATIVE AND LEGAL MATTERS

Fifth Session
Geneva, May 24 to 28, 1993

REPORT

adopted by the Committee

INTRODUCTION

1. The fifth session of the PCT Committee for Administrative and Legal Matters (hereinafter referred, to as, "the Committee") was held in Geneva from May 24 to 27, 1993.
2. The following members, of; the Committee were represented at the session: (i) the following 25 States, members of the International Patent Cooperation Union (PCT Union): Australia, Austria, Bulgaria, Canada, Czech Republic, Denmark, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Spain, Sweden, Switzerland, United Kingdom, United States of America and Viet Nam; (ii) the European Patent Office (EPO), in its capacity as International Searching and Preliminary Examining Authority.
3. Four States, members of the International Union for the Protection of Industrial Property (Paris Union), participated in the session as observers Chile, China, Indonesia and Libya.
4. The following intergovernmental organization was represented by an observer: United Nations Conference on Trade and Development.

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5. The following six non-governmental organizations were represented by observers: Committee of National Institutes of Patent Agents (CNIPA), European Federation of Agents of Industry in Industrial Property (FEMIP), Federal Chamber of Patent Attorneys (FCPA), Institute of Professional Representatives Before the European Patent Office (EPI), International Association for the Protection of Industrial Property (AIPPI) and International Federation of Industrial Property Attorneys (FICPI).

6. The list of participants is contained in Annex I to this report.

OPENING OF THE SESSION

7. Mr. F. Curchod (Deputy Director General, WIPO) opened the session and welcomed the participants.

ELECTION OF CHAIRMAN AND VICE-CHAIRMEN

8. The session unanimously elected Mr. P. Messerli (Switzerland) as Chairman and Mr. C. Van Horn (United States of America) and Mr. B. Rokibi (Poland) as Vice-Chairmen.

ADOPTION OF THE AGENDA

9. The Committee adopted for its session the agenda appearing in Annex II to this report.

10. In addition to the documents referred to in the agenda, document PCTICALIV/5, containing a proposal by a delegation in connection with agenda Item 5, was submitted to the Committee.

THE INTERNATIONAL BUREAU AS ALTERNATIVE RECEIVING OFFICE: CONSIDERATION OF PROPOSED AMENDMENTS TO THE REGULATIONS UNDER THE PCT

11. Discussion was based on the proposals by the International Bureau for amendment of a number of Rules* as set out in document PCT/CAL/W2.

12. The Delegation of France expressed its concern that the proposals, which would enable applicants from all PCT Contracting States to file international applications with the International Bureau as receiving Office as an alternative to filing with their usual receiving Office, might lead to confusion as to the role and legal status of the authorities involved in the processing of international applications. It believed that the role of receiving Office should be reserved to national Offices. It was also noted that France had expressed its reluctance

* References in this report to “Articles,” “Rules” and “Sections” are, respectively, to those of the Patent Cooperation Treaty (PCT), of the Regulations under the PCT (“the Regulations”) and of the Administrative Instructions under the PCT (“the Administrative Instructions”), or to such provisions as proposed to be amended or added, as the case requires.

concerning the matter already at the last meeting of the WIPO Budget Committee. The Delegation therefore did not find it possible to subscribe to the proposals.

13. All the other delegations which took the floor on the matter expressed support for the principle behind the proposals, noting that applicants would have greater flexibility in filing international applications than they had at present. All representatives of the non-governmental organizations also expressed their support.

14. The Delegation of Japan, in expressing its general support, referred to the need to bear in mind any consequences affecting the budget of the PCT Union. The International Bureau informed the Committee that the costs incurred by the proposed functioning of the International Bureau as receiving Office would be fully recovered by transmittal fees paid by applicants, so that the PCT budget would not be affected.

15. The International Bureau noted that the operation of the proposed provisions would be clearly explained in the PCT Applicant's Guide for the benefit of PCT users.

16. The Committee proceeded to discuss particular provisions of the proposals. The following paragraphs reflect only selected important points made in interventions relating to those Rules. Other details were noted by the Secretariat.

17. Rules 4.1(b)(vi) and 4.14bis. The Committee approved the proposed amendments set out in Annex III to this report.

18. The Committee agreed that, where no indication or an unclear indication of the choice of the International Searching Authority was made in the request part of the international application, the receiving Office would be in a position, in most cases, to deduce from the amount of the international search fee paid or at least from the amount indicated in the fee calculation sheet which was the International Searching Authority chosen by the applicant. The receiving Office would then simply make an *ex officio* correction in the request. The International Bureau indicated that appropriate modifications of the Receiving Office Guidelines would be prepared.

19. For those cases where the applicant's choice of International Searching Authority could not be established, it was agreed that the invitation under Rule 16bis to pay missing fees would be complemented by asking the applicant to make his choice of International Searching Authority within the same time limit as that fixed in the invitation. Such a procedure would guarantee that there would be no more delay than there could be at present in the transmittal of the search copy to the International Searching Authority. Appropriate modifications of the invitation form for use by receiving Offices should be prepared by the International Bureau.

20. Rule 4.1(c)(iii). Subject to any further amendment of proposed Rule 19.4 (see paragraph 28), the Committee approved the proposed amendment of Rule 4.1(c) to add new item (iii), as set out in Annex III to this report.

21. Rules 18.1 and 18.2. The Committee approved the proposed amendments set out in Annex III to this report.

22. The International Bureau noted that, under the Rules as proposed to be amended, consultation with the national Office would, depending on the circumstances, take place either before or after notification of the applicant under Article 11(2) that Article 11(1)(i) had not

been complied with. The International Bureau as receiving Office would always be obliged to apply the decision of the national Office relating to residence or nationality.

23. Rules 19.1(a) and 19.2. The Committee approved the proposed amendments set out in Annex III to this report.

24. Several delegations expressed concern about the effect of the proposed amendments on national security provisions. The majority of the Committee agreed that compliance with such provisions should be the responsibility of applicants and agents filing international applications with the International Bureau as receiving Office, just as for any other filing abroad. The International Bureau was not in a position to enforce national security provisions, noting particularly that Article 30 prohibited disclosure of any international application by the receiving Office to any Office which was not a designated Office. The Delegation of the EPO informed the Committee that, under the European Patent Convention, it did not perform any national security check, and that this system, to its knowledge, had never caused any problem.

25. In response to a question by the Delegation of Sweden, the International Bureau explained that the establishment of the International Bureau as receiving Office in proposed Rule 19.1(a)(iii) offered advantages over a series of bilateral agreements which might be made under Rule 19.1(b). The International Bureau noted that Rule 19.1(b) provides for a national Office or intergovernmental organization to act as receiving Office instead of, rather than as an alternative to, the national Office of the State concerned.

26. The Delegation of France reiterated the reservation it had expressed earlier in the discussion (see paragraph 12).

27. Rule 19.4. The Committee generally approved the proposed new Rule set out in Annex III to this report. Some delegations indicated that they needed to study the proposal further.

28. It was generally felt that there was no need for the request by the applicant referred to in proposed Rule 19.4(b) and in proposed Rule 4.1(c)(iii). However, several delegations indicated that they wished to study further the need for such a request. The text concerned is therefore shown in Annex III in square brackets.

29. In response to a question by the Delegation of Sweden, the International Bureau confirmed that, if a fee required under Rule 19.4(b) was not paid to the national Office, the international application would not need to be transmitted to the International Bureau.

30. In response to a request for clarification by a delegation, the International Bureau stated that the proposed amendments were intended to be so interpreted that the national Office would not transmit an international application to the International Bureau as receiving office if the national Office had made a finding that none of the applicants was a resident or national of a Contracting State. If any indications of residence or nationality had, been omitted, the receiving Office would first invite the applicant to correct the request by furnishing the prescribed indications concerning the applicant before making such a finding.

31. Rule 35.3. The Committee approved the proposed new Rule set out in Annex III to this report.

32. The Delegation of the EPO noted that, since Articles 16(2) and 32(2) enabled receiving Offices to specify competent International Searching Authorities and International Preliminary Examining Authorities, those provisions would seem to apply equally to the International Bureau as receiving Office. The International Bureau pointed out that proposed Rule 35.3 expressly provided that the relevant Rules relating to specifying of Authorities by the receiving Office would not apply to the International Bureau as receiving Office.

33. In response to a question raised by the Delegation of the EPO, the International Bureau explained that the reference to “Contracting States” in proposed Rule 35.3(a)(i) included any receiving Office of, or acting for, Contracting States.

34. Rule 54.1. The Committee, approved the proposed amendments set out in Annex III to this report.

35. Rule 54.3. The Committee approved the proposed new Rule set out in Annex III to this report.

36. Rule 59.1. The Committee approved the proposed amendments set out in Annex III to this report.

37. Rule 83.1bis. The Committee approved the proposed new Rule set out in Annex III to this report.

38. Rule 90.1(a) and (d)(i). The Committee approved the proposed amendments set out in Annex III to this report.

39. Rule 92.4(i). Although a number of delegations and the representatives of PCT users believed that the proposed new paragraph (i) of Rule 92.4 would be helpful to applicants, the proposed provision did not receive approval by the Committee. Several delegations noted that the date of receipt was the decisive date under Article 11 and Rule 20.

AMENDMENT TO RULE 91 OF THE REGULATIONS UNDER THE PCT: CONSIDERATION OF A PROPOSAL BY THE UNITED KINGDOM

40. Rule 91.1(b-bis) and (c). The Committee considered a proposal to amend Rule 91.1 submitted by the United Kingdom (see document PCT/CAL/V/3) as well as a proposal by France (see document PCT/CAL/V/5).

41. The proposal by the United Kingdom to include a new paragraph (b-bis) in Rule 91.1 was supported by the Delegations of Australia, Canada, Switzerland and the EPO, and by the representatives of the non-governmental organizations.

42. Most of the other delegations which took the floor expressed sympathy for the general spirit of the proposal, which aimed to expand the possibilities for correction of errors made by applicants in the request or the demand which might cause loss of rights. However, several delegations felt that particular remedies for specific kinds of errors, should be provided for in other parts of the Regulations. In this context, it was pointed out that specific remedies already existed outside Rule 91.1 for some of the errors exemplified in the proposal by the United Kingdom.

43. In respect of errors in the indications of applicants' residence and nationality, reference was made to Section 329 of the Administrative Instructions and to proposed Rule 19.4 which would provide a further safeguard for applicants in this respect. As far as the correction of errors in designations was concerned, the existing possibility under Rule 4.9(b) and (c) of confirming a precautionary, designation within 15 months from the priority date was felt to largely take care of such errors. The omissions or errors in priority claims could be corrected, in certain circumstances, under the existing provision of Rule 4.10(b). The other errors referred to in the United Kingdom's proposal would not lead to loss of rights and were of a hypothetical nature. Therefore no further remedies seemed to be required to deal with them.

44. The Committee was in general agreement that possibilities for further improvements in specific remedies should be studied. However, a relaxation of the general conditions for rectification of obvious errors in Rule 91.1 was not agreed to by the Committee. Some delegations noted that the evaluation of evidence extraneous to the file would cause considerable work for Offices, and attempts at fraud could not be excluded. Moreover, it was felt by some delegations that there was a risk that the proposed liberalization of the general provisions permitting rectification of obvious errors, even though expressly limited to the request and the demand, could lead to the development of undesirable practices in relation to the rectification of errors in the description, claims and drawings, possibly resulting in the addition of new matter to the disclosure.

45. The Delegation of France, in introducing its proposed revised wording of Rule 91.1(b-*bis*) in document PCT/CAL/V/5, emphasized that what was offered as rectification would be acceptable only if, after consideration of the supporting evidence, it constituted the only possible solution at the time of filing of the request or demand. Several delegations supported France's proposal, noting that extraneous evidence should only be considered under the existing criteria contained in Rule 91.1(b).

46. The United Kingdom's proposal to delete paragraph (c) of Rule 91.1 was also not approved by the Committee.

47. Although the proposals of both the United Kingdom and France had received some support, no agreement was reached concerning them. The Committee invited the Delegation of the United Kingdom to pursue the matter further and to attempt to seek different solutions for the correction of errors, taking into account the comments made during the session.

48. Rule 91.1(e). The Delegation of Australia noted an apparent error in the wording of Rule 91.1(e). The word "and" at the end of item (iii) should be deleted or changed to read "or." The Committee agreed that the word "and" should be deleted. and approved the proposed amendment set out in Annex III to this report. The amendment concerns the English text only.

ELECTRONIC FILING OF INTERNATIONAL APPLICATIONS: CONSIDERATION OF PROPOSED AMENDMENTS TO THE REGULATIONS UNDER THE PCT

49. Discussion was based on the proposals by the International Bureau set out in document PCT/CAL/V/4.

50. The International Bureau gave a general presentation of the EASY Project and outlined a step-by-step plan for the implementation of EASY filing of international applications under

the PCT. In the first stage of this plan, which was expected to be operational in January 1994, only the “form software” module would be made available to applicants. That module would permit, through the completion of logical screens, the preparation of the “request part” of the international application and the printing of the request as a computer print-out which would be signed and filed with the remainder of the international application on paper. Together with a diskette containing the request in EASY format. Further stages of implementation would be decided upon later, in the light of both practical experience gained in the initial stage and developments in the EASY project, but such further stages were not expected to materialize before the beginning of 1995.

51. The Committee welcomed the development of an electronic filing system for international applications and expressed general support for the implementation plan.

52. The representatives of the non-governmental organizations also welcomed the development of the EASY Project for international applications and expressed the wish to be associated with it at an early stage. They noted with satisfaction the fact that no applicant would be obliged to depart from the usual (that is, non-electronic) procedures for filing international applications on paper.

53. Rules 89bis and 93.4. Several delegations, noting that the first stage proposed by the International Bureau could be implemented without any amendment to the Regulations, expressed the view that adoption of proposed Rule 89bis permitting the electronic filing of international applications would be premature at this stage, having regard to the possible impact of new technical developments within the framework of the EASY Project on the requirements to be specified for the electronic filing of international applications under the PCT. Some delegations also stated that, in addition to a general Rule permitting the electronic filing of international applications, there were certain important legal questions which should be solved in the Regulations themselves rather than in the Administrative Instructions, in particular, the question whether the electronic version would be the authentic text of the international application.

54. The Committee accordingly agreed that consideration of amendments to the Regulations concerning electronic filing of international applications should be deferred, which would allow the experience gained in the implementation of the first stage and the expected technical developments of the EASY Project to be taken advantage of in the preparation of such amendments.

55. The Committee unanimously adopted this report on May 27, 1993.

[Annexes I to III follow]

ANNEXE I/ANNEX I

LISTE DES PARTICIPANTS/
LIST OF PARTICIPANTS

I. MEMRES DU COMITÉ/MEMBERS OF THE COMMITTEE

(dans l'ordre alphabétique des noms français des États)
(in the alphabetical order of the names in French of the States)

ALLEMAGNE/GERMANY

Stefanie KRIENER (Miss), Higher Executive Officer, German Patent Office, Munich

AUSTRALIE/AUSTRALIA

Bruce Ian MURRAY,,Deputy,Commissioner of Patents, Deputy Registrar of Designs,
Australian Industrial Property Organisation, Canberra

AUTRICHE/AUSTRIA

Peter HOFBAUER, Presidential and Technical Department, Austrian Patent Office, Vienna

BULGARIE/BULGARIA

Kalin A. BORISSOV, Second Secretary, Permanent Mission, Geneva

CANADA

Pierre TREPANIER, chef, Division de l'examen, Consommation et affaires commerciales
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DANEMARK/DENMARK

Jan LARSEN, Head of Section, Danish Patent Office, Taastrup

ESPAGNE/SPAIN

Juan IBAÑEZ BALLANO, chef de la Section du brevet européen et du PCT, Office espagnol
des brevets et des marques, Madrid

Jaime COS CODINA, directeur des programmes pour les relations avec l'Office européen des
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ETATS-UNIS D'AMÉRIQUE/UNITED STATES OF AMERICA

Charles E. VAN HORN, Patent Policy and Projects Administrator, Patent and Trademark
Office, Department of Commerce, Washington, D.C.

Charles PEARSON, Administrator, International Division Legal Staff, Patent and Trademark
Office, Department of Commerce, Washington, D.C.

Gary L. SMITH, Acting Director, PCT Operations, Patent and Trademark Office, Department of Commerce, Washington, D.C.

FRANCE

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Jacques VERONE, responsable de la Section administrative du PCT et des demandes européennes, Institut national de la propriété industrielle, Paris

GRÈCE/GREECE

Theodora SIMITSI (Mme), avocat, Département des affaires juridiques et internationales. Organisation de la propriété industrielle (OBI). Athènes

HONGRIE/HUNGARY

Gyögy SZEMZÖ, Head, Patent Division. National Office of Inventions, Budapest

Judit JAKAB-MOLNAR (Mrs.), Head. Patent Section for Mechanical Industry, National Office of Inventions, Budapest

IRLANDE/IRELAND

Krishnaswamy SRINIVASAN, Senior Examiner. Patents Office, Dublin

ITALIE/ITALY

Bruno GRADI, chef de Division (brevet européen et PCT), Office italien des brevets et des marques, Ministère de l'industrie, du commerce et de l'artisanat Rome

JAPON/JAPAN

Mitsuru ICHIBA, Director, PCT Affairs Office, Japanese Patent Office, Tokyo

Yoshiyuki TAKAGI, First Secretary, Permanent Mission, Geneva

NORVÈGE/NORWAY

Ingolf LILLEVIX, Head of Division, Patent Department, Norwegian Patent Office, Oslo

Toril FOSS (Mrs.), Head of Division, Patent Department, Norwegian Patent Office, Oslo

Randi Merete WAHL (Miss), Legal Executive Officer, Norwegian Patent Office, Oslo

NOUVELLE-ZÉLANDE/NEW ZEALAND

Kenneth, Bruce POPPLEWELL, Assistant Commissioner of Patents, New Zealand Patent Office, Lower Hutt

PAYS-BAS/NETHERLANDS

Siep de VRIES, Head of the Chemical Division, Bureau for Industrial Property, Patent Office, Rijswijk

POLOGNE/POLAND

Bogdan ROKICKI, directeur, Division des demandes, Office des brevets de la République de Pologne, Varsovie

PORTUGAL

Isabel AFONSO (Mme), chef de la Division des brevets, Institut national de la propriété industrielle, Lisbonne

Adriano QUEIROS FERREIRA, conseiller juridique, Mission permanente, Genève

REPUBLIQUE TCHÈQUE/CZECH REPUBLIC

Marta HOŠKOVA (Mrs.), Head of Department, Industrial Property Office of the Czech Republic, Prague

ROUMANIE/ROMANIA

Constanta MORARU (Mme), conseiller juridique, Office d'État pour les inventions et les marques, Bucarest

ROYAUME-UNI/UNITED KINGDOM

Cedric G.M. HOPTROFF, Principal Examiner, The Patent Office, London

Brian HARDEN, Superintending Examiner, The Patent Office, Newport, Gwent

SUÈDE/SWEDEN

Jan-Eric BODIN, Deputy Head, Patents, The Patent and Registration Office, Stockholm

Marie ERIKSSON (Miss), Head of Division, The Patent and Registration Office, Stockholm

SUISSE/SWITZERLAND

Peter MESSERLI, chef du Service juridique I (propriété industrielle), Office fédéral de la propriété intellectuelle, Berne

Roland TSCHUDIN, chef de la Division de l'administration des brevets, Division principale des brevets, Office fédéral de la propriété intellectuelle, Berne

VIET NAM

DO KHAC CHIEN, Director, International Relations Department, National Office on Inventions, Hanoi

OFFICE EUROPÉEN DES BREVETS (OEB)/EUROPEAN PATENT OFFICE (EPO)

Larissa GRUSZOW (Mrs.), Principal Administrator, International Legal Affairs, European Patent Office, Munich

York BUSSE, Principal Administrator, International Legal Affairs, European Patent Office. Munich

Ingwer KOCH, Principal Lawyer. Patent Law., European Patent Office. Munich

II. ÉTATS OBSERVATEURS/OBSERVER STATES

CHILI/CHILE

Pablo ROMERO, premier secrétaire, Mission permanente, Genève

CHINE/CHINA

WA0 Ting, Deputy Director, Division I, International Cooperation Department, Chinese Patent Office, Beijing

WU Zhenxiang, First Secretary, Permanent Mission, Geneva

INDONESIE/INDONESIA

Leonardo DOS REIS, Third Secretary, Permanent Mission, Geneva

LIBYE/LIBYA

Mohamed EL-FAKIH SALEH, Second Secretary, Permanent Mission, Geneva

III. ORGANISATIONS INTERGOUVERNEMENTALES/
INTERGOVERNMENTAL ORGANIZATIONS

ORGANISATION DES NATIONS UNIES (ONU)/UNITED NATIONS (UN)

Conférence des Nations Unies sur le commerce et le développement (CNUCED)/United Nations Conference on Trade and Development (UNCTAD)

Ataollah SHAFII, Economic Affairs Officer. Technology Programme, International Trade Division, United Nations Conference on Trade and Development, Geneva

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

Association internationale pour la protection de la propriété industrielle, (AIPPI)/International Association for the Protection of Industrial Property, (AIPPI): Heinz BARDEHLE (Chairman

of the PCT Committee; Patent Attorney, Munich); Michael N. MELLER (Patent Attorney, New York)

Chambre fédérale des conseils en brevets (FCPA)/Federal Chamber of Patent Attorneys (FCPA): Eugen POPP (Patent Attorney, Munich)

Comité des instituts nationaux d'actents de brevets (CNIPA)/Committee of National Institutes of Patent Agents (CNIPA): Eugen POPP (Patent Attorney, Munich)

Fédération européenne des mandataires de l'industrie en Propriété industrielle (FEMIPi)/European Federation of Agents of Industry in Industrial Property (FEMIPi): Felix A. JENNY (Honorary Board Member and Member of Working Group EP/PCT/CPC, Basel)

Fédération internationale des conseils en Propriété industrielle (FICPI)/International Federation of Industrial Property Attorneys (FICPI): Knud RAFFNSØE (President of Study and Works Commission (CET), Taastrup)

Institut des mandataires agréés près l'Office européen des brevets (EPI)/Institute of Professional Representatives Before the European Patent Office (EPI): Felix A. JENNY (Chairman of the European Patent Practice Committee, Basel)

V. BUREAU/OFFICERS

Président/Chairman: Peter MESSERLI (Suisse/Switzerland)

Vice-Présidents/Vice-Chairmen: Charles VAN HORN (Etats-Unis d'Amérique/
United States of America)
Bogdan ROKIČKI (Pologne/Poland)

Secrétaire/Secretary: Busso BARTELS (OMPI/WIPO)

VI. BUREAU INTERNATIONAL DE L'ORGANISATION MONDIALE DE LA PROPRIÉTÉ INTELLECTUELLE (OMPI)/INTERNATIONAL BUREAU OF THE WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

François CURCHOD, Vice-directeur général/Deputy Director General

Division juridique du PCT/PCT Legal Division: Busso BARTELS, Directeur/Director;
Louis O. MAASSEL, Consultant; Philip THOMAS, Juriste principal/Senior Legal Officer;
Isabelle BOUTILLON (Ms.), Juriste/Legal Officer; Matthew R. BRYAN, Juriste/Legal Officer

Division de l'administration du PCT/PCT Administration Division: Daniel BOUCHEZ, Directeur/Director

WANG Zhengfa, Directeur-Conseiller/Director-Advisor

[L'annexe II suit/Annex II follows]

ANNEX II

AGENDA

adopted by the Committee

1. Opening of the session
2. Election of a Chairman and two Vice-Chairmen
3. Adoption of the agenda
4. The International Bureau as alternative receiving Office: consideration of proposed amendments to the Regulations under the PCT (document PCT/CAL/V/2)
5. Amendment to Rule 91 of the Regulations under the PCT: consideration of a proposal by the United Kingdom (document PCTICAL/V/3)
6. Electronic filing of international applications: consideration of proposed amendments to the Regulations under the PCT (document PCT/CAL/V/4)
7. Other matters
8. Adoption of the report of the session
9. Closing of the session

[Annex III follows]

ANNEX III

PROPOSED AMENDMENTS TO THE REGULATIONS

Rule 4 **The Request (Contents)**

4.1 Mandatory and Optional Contents; Signature

(a) (No change)

(b) The request shall, where applicable, contain:

(i) to (iv) [No change]

(v) a reference to a parent application or parent patent,.

(vi) an indication of the applicant's choice of competent International Searching Authority.

[(c) The request may contain:

(i) [No change]

(ii) a request to the receiving Office to transmit the priority document to the International Bureau where the application whose priority is claimed was filed with the national Office or intergovernmental authority which is the receiving Office,

(iii) the request referred to in Rule 19.4(b).]

(d) [No change]

4.2 to 4.14 [No change]

4.14*bis* Choice of international Searching Authority

If two or more International Searching Authorities are competent for the searching of the international application, the applicant shall indicate his choice of International Searching Authority in the request.

4.15 to 4.17 [No change]

Rule 18 **The Applicant**

18.1 Residence and Nationality*

* The title has been amended to read “Residence and Nationality” instead of “Residence.”

(a) Subject to the provisions of paragraphs (b) and (c), the question whether an applicant is a resident or national of the Contracting State of which he claims to be a resident or national shall depend on the national law of that State and shall be decided by the receiving Office.

(b) In any case,

(i) possession of a real and effective industrial or commercial establishment in a Contracting State shall be considered residence in that State. and

(ii) a legal entity constituted according to the national law of a Contracting State shall be considered a national of that State.

(c) Where the international application is filed with the International Bureau as receiving Office, the International Bureau shall, in the circumstances specified in the Administrative Instructions, request the national Office of, or acting for, the Contracting State concerned to decide the question referred to in paragraph (a). The International Bureau shall inform the applicant of any such request. The applicant shall have an opportunity to submit arguments directly to the national Office. The national Office shall decide the said question promptly.

18.2 [Deleted]

18.3 and 18.4 [No change]

Rule 19 **The Competent Receiving Office**

19.1 Where to File

(a) Subject to the provisions of paragraph (b), the international application shall be filed, at the option of the applicant,

(i) with the national Office of or acting for the Contracting State of which the applicant is a resident,

(ii) with the national Office of or acting for the Contracting State of which the applicant is a national, or

(iii) irrespective of the Contracting State of which the applicant is a resident or national, with the International Bureau.

(b) and (c) [No change]

19.2 Two or More applicants

If there are two or more applicants:

(i) 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;

(ii) the international application may be filed with the International Bureau under Rule 19.1(a)(iii) if at least one of the applicants is a resident or national of a Contracting State.

19.3 [No change]

19.4 Transmittal to the International Bureau as Receiving Office

(a) Where an international application is filed with a national Office which acts as a receiving Office under the Treaty by an applicant who is a resident or national of a Contracting State, but that national Office is not competent under Rule 19.1 or 19.2 to receive that international application, that international application shall, subject to paragraph (b), be considered to have been received by that Office on behalf of the International Bureau as receiving Office under Rule 19.1(a)(iii).

(b) Where, pursuant to paragraph (a), an international application is received by a national Office on behalf of the International Bureau as receiving Office under Rule 19.1(a)(iii), that national Office shall, [if so requested by the applicant and unless prescriptions concerning national security prevent the international application from being so transmitted, promptly transmit it to the International Bureau. Such transmittal may be subjected by the national Office to the payment of a fee, for its own benefit, equal to the transmittal fee charged by that Office under Rule 14. The international application so transmitted shall be considered to have been received by the International Bureau as receiving Office under Rule 19.1(a) (iii) on the date of receipt of the international application by that national Office.

Rule 35 **The Competent International Searching Authority**

35.1 and 35.2 [No change]

35.3 When the International Bureau Is Receiving Office Under Rule 19.1(a)(iii)

(a) The International Bureau in its capacity as receiving Office under Rule 19.1(a)(iii) shall, for the purposes of any agreement referred to in Article 16(3)(b), be considered

(i) to be acting for those Contracting States for which the International Searching Authority is prepared to act in accordance with the terms of the agreement, and

(ii) to have specified the International Searching Authority as competent for the searching of international applications filed by residents or nationals of those States,

and the International Bureau shall publish information accordingly.

(b) Where two or more International Searching Authorities are competent under paragraph (a) the choice shall be left to the applicant.

(c) Rules 35.1 and 35.2 shall not apply to the International Bureau as receiving Office under Rule 19.1(a)(iii).

Rule 54

The Applicant Entitled to Make a Demand

54.1 Residence and Nationality

(a) Subject to the provisions of paragraph (b), the residence or nationality of the applicant shall, for the purposes of Article 31(2), be determined according to Rule 18.1(a) and (b).

(b) The International Preliminary Examining Authority shall, in the circumstances specified in the Administrative Instructions, request the receiving Office or, where the international application was filed with the International Bureau as receiving Office, the national Office of, or acting for, the Contracting State concerned to decide the question whether the applicant is a resident or national of the Contracting State of which he claims to be a resident or national. The International Preliminary Examining Authority shall inform the applicant of any such request. The applicant shall have an opportunity to submit arguments directly to the Office concerned. The Office concerned shall decide the said question promptly.

54.2 [no change]

54.3 International Applications Filed with the International Bureau as Receiving Office

Where the international application is filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), the International Bureau shall, for the purposes of Article 31(2)(a), be considered to be acting for the Contracting State of which the applicant is a resident or national.

54.4 [No change]

Rule 59

The Competent International Preliminary Examining Authority

59.1 Demands Under Article 31(2)(a)

(a) For demands made under Article 31(2)(a), each receiving Office of or acting for a Contracting State bound by the provisions of Chapter II shall, in accordance with the terms of the applicable agreement referred to in Article 32(2) and (3), inform the International Bureau which International Preliminary Examining Authority is or which International Preliminary Examining Authorities are competent for the international preliminary examination of international applications filed with it. The International Bureau shall promptly publish such information. Where several International Preliminary Examining Authorities are competent, the provisions of Rule 35.2 shall apply *mutatis mutandis*.

(b) Where the international application was filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), Rule 35.3(a) and (b) shall apply *mutatis mutandis*.

Paragraph (a) of this Rule shall not apply to the International Bureau as receiving Office under Rule 19.1(a)(iii).

59.2 [No change]

Rule 83

Right to Practice Before International Authorities

83.1 [No change]

83.1bis Where the International Bureau Is the Receiving Office

(a) Any person who has the right to practice before the national Office of, or acting for, a Contracting State of which the applicant or if there are two or more applicants, any of the applicants is a resident or national shall be entitled to practice in respect of the international application before the International Bureau in its capacity as receiving Office under Rule 19.1(a)(iii).

(b) Any person having the right to practice before the International Bureau in its capacity as receiving Office in respect of an international application shall be entitled to practice in respect of that application before the International Bureau in any other capacity and before the competent International Searching Authority and competent International Preliminary Examining Authority.

83.2 [No change]

Rule 90

Agents and Common Representatives

90.1 Appointment as Agent

(a) A person having the right to practice before the national Office with which the international application is filed or, where the international application is filed with the International Bureau, having the right to practice in respect of the international application before the International Bureau as receiving Office may be appointed by the applicant as his agent to represent him before* the receiving Office, the International Bureau, the International Searching Authority and the International Preliminary Examining Authority.

(b) and (c) [No change]

(d) An agent appointed under paragraph (a) may, unless otherwise indicated in the document appointing him, appoint one or more sub-agents to represent the applicant as the applicant's agent:

* The amendment consists in deleting, before the words “the receiving Office,” the words “that Office acting as.”

(i) before the receiving Office, the International Bureau, the International Searching Authority and the International Preliminary Examining Authority, provided that any person so appointed as sub-agent has the right to practice before the national Office with which the international application was filed or to Practice in respect of the international application before the International Bureau as receiving Office, as the case may be;

(ii) [No change]

90.2 to 90.6 [No change]

Rule 91 **Obvious Errors in Documents**

91.1 Rectification

(a) to (d) [No change]

(e) No rectification, shall be made except with the express authorisation:

(i) and (ii) [No change]

(iii) of the International Preliminary Examining Authority if the error is in any part of the international application other than the request or in any paper submitted to that Authority,⁺

(iv) [No change]

(f) to (g-*quater*) [No change]

[End of Annex III and of document]

⁺ The amendment, which consists in deleting, at the end of the item, the word “and,” is to the English text only.