

# WIPO



PCT/CAL/VI/5  
ORIGINAL: English  
DATE: May 2, 1996

**WORLD INTELLECTUAL PROPERTY ORGANIZATION**  
GENEVA

**INTERNATIONAL PATENT COOPERATION UNION  
(PCT UNION)**

**PCT COMMITTEE  
FOR ADMINISTRATIVE AND LEGAL MATTERS**

**Sixth Session\***  
**Geneva, April 29 to May 3, 1996**

REPORT

*adopted by the Committee*

## INTRODUCTION

1. The sixth session of the PCT Committee for Administrative and Legal Matters (hereinafter referred to as “the Committee”) was held in Geneva from April 29 to May 2, 1996.
2. The following members of the Committee were represented at the session: (i) the following 72 States, members of the International Patent Cooperation Union (PCT Union): Australia, Austria, Azerbaijan, Belarus, Belgium, Benin, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, Central African Republic, Chad, China, Congo, Côte d’Ivoire, Cuba, Czech Republic, Democratic People’s Republic of Korea, Denmark, Estonia, Finland, France, Gabon, Germany, Guinea, Hungary, Iceland, Ireland, Israel, Japan, Kazakstan, Kenya, Kyrgyzstan, Latvia, Lesotho, Lithuania, Madagascar, Malawi, Mali, Mauritania, Mexico, Mongolia, Netherlands, New Zealand, Niger, Norway, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Senegal, Slovakia, Slovenia, Spain, Sri Lanka, Swaziland, Sweden, Switzerland, Tajikistan, The former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Turkey, Uganda, Ukraine, United Kingdom, United States of America, Uzbekistan, Viet Nam; (ii) the European Patent Office (EPO) in its capacity as International Searching and Preliminary Examining Authority.

---

\* *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](mailto:pct.legal@wipo.int)

3. The following eight States, members of the International Union for the Protection of Industrial Property (Paris Union), participated in the session as observers: Bosnia and Herzegovina, Burundi, Croatia, Haiti, Indonesia, Jordan, Morocco, South Africa.
4. The following four intergovernmental organizations were represented by observers: African Intellectual Property Organization (OAPI), Eurasian Patent Organization (EAPO), Interstate Council on the Protection of Industrial Property (ICPIP), Organization of African Unity (OAU).
5. The following seven non-governmental organizations were represented by observers: Asian Patent Attorneys Association (APAA), Chartered Institute of Patent Agents (CIPA), Committee of National Institutes of Patent Agents (CNIPA), Federal Chamber of Patent Agents (FCPA), Institute of Professional Representatives before the European Patent Office (EPI), International Association for the Protection of Industrial Property (AIPPI), 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. François Curchod (Deputy Director General, WIPO) opened the session and welcomed the participants.

#### ELECTION OF A CHAIRMAN AND TWO VICE-CHAIRMEN

8. The session unanimously elected Mr. Bruce Murray (Australia) as Chairman and Mrs. 'Nyalleng 'Mabakuena Pii (Lesotho) and Mr. Ernö Szarka (Hungary) as Vice-Chairmen.

#### ADOPTION OF THE AGENDA

9. The Committee adopted for its session the agenda appearing in Annex II to this report.
10. Upon a suggestion by the Delegation of the Russian Federation, the Interstate Council on the Protection of Industrial Property (ICPIP), an interested international organization in the field of industrial property in the framework of the Commonwealth of Independent States, which was granted observer status by the Governing Bodies of WIPO in 1995, was invited to attend the session as an observer.

#### SUPPLEMENTARY INTERNATIONAL SEARCH SYSTEM: PROPOSED MODIFICATION OF TIME LIMITS FIXED IN THE PCT AND PROPOSED AMENDMENTS OF THE PCT REGULATIONS

11. Discussion was based on the proposals by the International Bureau as set out in document PCT/CAL/VI/2.

12. The Delegation of the Russian Federation, noting the stable growth of the PCT system and the positive trends for the future, suggested that this was the time to further improve the system. The Delegation stated its view that the results of the international phase should be made more sound and reliable for applicants as well as for designated and elected Offices. The Delegation stated that the Russian Patent Office, as an International Searching Authority, would be ready to work under the proposed supplementary international search system. The position of the Delegation at the PCT Assembly would depend on the favorable resolution of two problems, namely, the fact that the supplementary international search system might be used instead of international preliminary examination (which was useful to smaller designated Offices, in particular), and that the supplementary international search system should not discriminate between applicants in respect of residence and nationality.

13. The Representative of AIPPI informed the Committee that AIPPI's Council of Presidents, at a recent meeting in Cape Town, had welcomed the International Bureau's proposal for a supplementary international search. The Council had adopted a resolution supporting the proposal.

14. The Delegation of Bulgaria expressed its support for the position of the Delegation of the Russian Federation. The Delegation stated that, while the proposed supplementary international search system would be of benefit to applicants, the search results under that system should be available not later than the mandatory international search results if the request for supplementary international search was made in the request form. Applicants needed search results as early as possible.

15. The Delegation of the United Kingdom, while supporting the idea of making the PCT system more useful and flexible, noted that it was not convinced of the justification for the introduction of a supplementary international search because it had no direct evidence of any perceived problem with the mandatory international search, nor of any desire of users to extend the length of the international phase, nor was it aware of any widespread consultation by the International Bureau with users. The Delegation had had insufficient time for consultation of users within the United Kingdom concerning the International Bureau's assumption that the introduction of a supplementary international search was an appropriate solution to any problems with the mandatory international search. The Delegation further stated its view that the introduction of a second international search was a policy issue outside the competence of the Committee, and that a separate meeting of a competent body would be needed to prepare for a decision by the Assembly. Such a meeting should be held only after sufficient time had passed to allow full consultation with users. The Delegation emphasized that any comments the Committee may make as to the proposed amendments to the Regulations<sup>1</sup> would be without prejudice to later consideration of the need for, or the appropriateness of, the proposed supplementary international search system.

16. The Delegation of the Netherlands noted with regret that the proposed introduction of a supplementary international search report appeared to be the result of alleged poor quality in the mandatory international search report. The Delegation stated that the proposed system may even perpetuate such a problem concerning quality, since two bad searches did not necessarily add up to one good one. It was thus not convinced of the need for a

---

<sup>1</sup> References in this document to "Articles" and "Rules" are, respectively, to those of the Patent Cooperation Treaty (PCT) and of the Regulations under the PCT ("the Regulations"), or to such provisions as proposed to be amended or added, as the case may be.

supplementary international search report in general. It did, however, see merit in having a search of full-text documentation in a range of languages rather than in English-language abstracts (compare Rule 34.1(e)). The Delegation agreed with the view of the Delegation of Bulgaria that a supplementary international search should be contemporaneous with the mandatory international search so that the international preliminary examination could take both results into account. On the question of the proposed extension of the time limit for entering the national phase under Article 22, the Delegation expressed doubts as to that approach and noted that there seemed to be a trend towards speeding up the patent granting procedure. Introduction of a system which permitted applicants to enter the national phase within 30 months from the priority date with two search reports but no international preliminary examination report would not provide a significant advantage and would go against this trend. The interested circles in the Netherlands would not favor, in the interests of legal security, any extension of the time limit for entering the national phase.

17. The Delegation of Romania stated its preliminary agreement with the proposed supplementary international search system, but indicated that a number of the proposed amendments to specific Rules, for example, concerning refunds of fees, would require further discussion.

18. The Delegation of Spain expressed doubts as to whether a supplementary international search system could be introduced without a revision of the Treaty, noting that such a system was not provided for in the Treaty and could not be implemented merely by a decision of the Assembly to modify the time limit in Article 22.

19. The Delegation of the United States of America indicated its support for the position of the Delegation of the United Kingdom and stated that International Searching Authorities should focus on improving their search tools and capabilities to search foreign language documents.

20. The Delegation of Canada stated its support for the International Bureau's proposal on the basis of the limited consultations it had been able to undertake with users. Such consultations suggested that those users for whom extra time to enter the national phase was important would support increased flexibility in the PCT system, especially if costs were decreased.

21. The Delegation of France stated that it could only make preliminary comments on the proposed new procedures at this stage, noting that it had not received the working document in sufficient time to consider all the implications of the proposed changes and to consult users. As to improving the quality of international search reports, the Delegation stated its view that the proposed supplementary international search system was not an appropriate remedy for such a problem since it could result in two search reports of mediocre quality. The Delegation believed that a more constructive solution would be for the International Searching Authorities to work together in the interests of applicants towards improving the quality of the international search.

22. As to the time limit for entering the national phase, the Delegation of France believed that third parties needed to know within a reasonable time about pending applications, and that to lengthen the time limits would be in the interest only of applicants. The Delegation believed that the proposed supplementary international search system should be considered by the PCT

Committee for Technical Cooperation and that the PCT Assembly should only examine the matter once that Committee had given its advice.

23. The Delegation of Switzerland expressed doubts as to whether the proposed supplementary international search system could be introduced by way of an extension of the time limit for entering the national phase. It appeared to that Delegation that the supplementary international search system was a new instrument which extensively changed the present system. The Delegation noted that the International Bureau's proposal mentioned the term "new system" and that the proposed provisions were comprised in a new chapter which included a number of very detailed rules. The Delegation was of the opinion that such a new system could only be introduced by way of a revision of the Treaty itself. Furthermore, the Delegation indicated that it was of the view that the quality of the mandatory international searches carried out at present was satisfactory, but that if that were not the case, efforts should be concentrated on improving the quality of the mandatory search with a view to a possible recognition by all Offices in the future. The Delegation further indicated that some of the interested circles in Switzerland had been partly critical and partly interested by the new system but inquired as to its implementation and cost.

24. The Representative of EPI supported in principle the introduction of the proposed supplementary international search system in view of its optional character, in particular if the mandatory and supplementary searches were made using different search methods and on the basis of different documentation. The classification of the application should be made anew or at least reviewed by the International Searching Authority carrying out the supplementary international search. The supplementary search fee should not be higher than the fee for the mandatory international search, and the carrying out of supplementary international searches should not result in delaying the search and examination of national applications. However, there would be no need for a supplementary international search system if designated Offices were to accept the results of the mandatory international search and abstain from unnecessary searches in the national phase.

25. The Delegation of Japan expressed its willingness to consider the International Bureau's proposal, aiming to make the PCT search system meet users' needs to a greater extent. The Delegation stated that, while the supplementary international search system as proposed might help applicants to obtain more information and gain time before entering the national phase, efforts should be maintained to improve the mandatory international search system by improving the contents of prior art databases and search tools. Further, the Delegation stated that it was in the process of investigating the needs of users regarding the proposal. However, the Japanese Patent Office had concerns about the additional workload if it agreed to participate in the proposed system. The Delegation expressed doubts as to whether the proposed amendment to Article 22 constituted a mere modification of a time limit which could be decided by the PCT Assembly.

26. The Representative of OAPI welcomed the International Bureau's proposal, which provided further advantages for users of the PCT system, in particular the fact that a request for supplementary international search would have the effect of postponing the entry into the national phase until 30 months from the priority date, as if a demand for international preliminary examination had been filed, that the filing of a request for supplementary international search would not exclude the filing of a demand for international preliminary examination, that the introduction of the supplementary international search system would not necessitate a revision of the Treaty, and that the making available to designated Offices of a

supplementary international search report would increase the level of confidence placed in applications filed under the PCT when they entered the national phase. The Representative further noted that the supplementary international search system would be likely to reduce the risk of rejection of applications at the time of national phase processing, and it would help the granting of stronger patents by designated Offices which did not undertake examination (this was in particular the case of OAPI, in respect of which more than 50% of the applications filed with the Office were based on international applications). Nevertheless, he suggested that there be continued reflection on this matter before implementation of the system, the efficiency of which had raised no doubts.

27. The Delegation of Sweden noted that one of the aims of the PCT system was to assist those Offices which did not have the necessary resources to undertake national search and examination by providing them with international search and preliminary examination reports. The Delegation drew attention to the existing possibility of obtaining two international searches, namely, an international-type search under Article 15(5)(c) for a national application and the international search in respect of an international application. During consultations with interested circles in Sweden, users had stated that they would welcome the introduction of further alternatives in the PCT system and, in particular, the availability of an additional search. However, they feared that the supplementary international search system would cause less use of international preliminary examination and thus that, as third parties, they would not have as much information about competitors' applications at the time of entering the national phase, and that the proposed system would delay the grant of patents by designated Offices. The Delegation agreed with views expressed by the Delegations of France, the Netherlands, Spain and the United Kingdom. It further stated that, as an International Searching Authority operating within the framework of the European Patent Organisation, further thought would have to be given to the consequence for the proposed system of the Protocol on Centralisation to the European Patent Convention. Moreover, the Delegation doubted whether the Assembly could decide to introduce such a supplementary international search system which was not expressly envisaged by the Treaty.

28. The Delegation of Slovenia, while associating itself with the observations made by the Delegations of France, Sweden, the United Kingdom and the United States of America, stated that its position was still not final, and expressed its wish to further study the proposal.

29. The Representative of FICPI indicated FICPI's wholehearted support for the International Bureau's proposal, which would be of great value in particular to small and medium-sized enterprises who would benefit from availability of a less expensive alternative to international preliminary examination by learning more about relevant prior art and at the same time postponing entry into the national phase. Applicants would also benefit from the possibility of combining supplementary international search and international preliminary examination. The Representative accepted that differences in national laws and practice towards prior art were a fact of life, so that mandatory international search reports were often not regarded by the national Offices as sufficient and conclusive in the national phase. The Representative welcomed the International Bureau's proposal in that context, emphasizing that the participation of all International Searching Authorities would be very important. The Representative noted further that the existing system worked best in the national phase where the same Office had carried out the international search (and international preliminary examination). There would therefore be advantages in obtaining supplementary international search reports from other Offices.

30. The Delegation of Portugal referred to two principle objectives of the PCT, namely, to simplify the multiple filing of patent applications worldwide, and to assist national Offices by providing an international search of high quality. It stated that, if the main reason for the introduction of the supplementary search system was unsatisfactory quality of mandatory international search reports, other possible means to improve the quality of these reports should be studied. It questioned whether the results of a supplementary international search could be expected to differ significantly from those of the mandatory international search. Finally, it expressed its concern whether the supplementary search system could be introduced by modifying time limits under Article 47(2), as proposed, without a revision of the PCT by a diplomatic conference.

31. The Representative of the EPO emphasized the complexity of the proposal and indicated that the EPO would need more time for consultation with its member States and interested circles, which would take place shortly. The EPO supported the PCT system, through which about half of all European applications were filed, and underlined that it was responsible for carrying out about half of all international searches and international preliminary examinations. The Representative expressed the EPO's concern that the introduction of the supplementary international search system could create a shift away from international preliminary examination during the international phase, thus depriving national Offices of the benefit of international preliminary examination reports in the national phase, and disturbing the basic structure of the PCT system comprising an international search followed by international preliminary examination. The Representative questioned whether the supplementary international search system could be introduced through a mere modification of a time limit, without a revision of the PCT by a diplomatic conference.

32. The Delegation of the Republic of Korea indicated its support for the International Bureau's proposal, expressing, however, concerns about possible redundancy between mandatory international search and supplementary international search, in relation to possible overlap in the documentation searched. Avoiding such overlap was one of the main aims of the PCT. The Delegation stated that, in order to promote its use, supplementary international search should be less expensive than international preliminary examination, and that the time limit for establishing the supplementary international search report would not necessarily have to be the same as that for establishing the international preliminary examination report. The Delegation suggested that consideration be given to permitting applicants to amend the claims after receiving the supplementary international search report, and to withdraw a request for supplementary international search, for example, until 30 months from the priority date.

33. The Delegation of Trinidad and Tobago indicated its support for the position of the Delegation of the United Kingdom, stating that it would need additional time to study the International Bureau's proposal, although it seemed that the proposal offered significant advantages. Expressing its understanding for the concerns expressed by several other Delegations, it also questioned whether the supplementary search system could be introduced without a revision of the Treaty by a diplomatic conference.

34. The Delegation of Côte d'Ivoire, while associating itself with the observations made by the Representative of OAPI, expressed its support for the International Bureau's proposal, but indicated that more time was needed to study it in greater detail.

35. The Delegation of the former Yugoslav Republic of Macedonia expressed its general support for the International Bureau's proposal, and indicated that it would be in a position to express more detailed views after consultations with users which were scheduled to take place in May 1996.

36. The Delegation of Niger indicated its support for the proposed supplementary international search system, noting that mandatory international search reports were often not regarded by designated Offices as sufficient and conclusive. The Delegation indicated that more time would be needed to further consider the proposal.

37. The Delegation of Israel took the opportunity to thank the PCT Authorities and the International Bureau for their assistance to Israel in joining the PCT. It referred to proposed Rule 101 and questioned whether the correction of defects in the request for a supplementary international search might not be covered by Rule 91.

38. The Delegation of Germany, sharing concerns expressed by the Delegations of Japan, the United States of America and the EPO and certain member States of the EPO, stated that more time would be needed for consultations with interested circles, and questioned whether the proposed supplementary international search system represented a real improvement of the international search procedure and whether it could be introduced without a revision of the Treaty by a diplomatic conference.

39. The Delegation of Finland indicated that it needed more time for further study of and consultation on the proposed supplementary international search system and questioned whether it could be introduced without a revision of the Treaty by a diplomatic conference.

40. The Delegation of Cameroon supported the views expressed by the Representative of OAPI and indicated that it would need more time to further consider the proposal. The Delegation shared the doubts of other delegations as to whether the proposed supplementary international search system could be introduced by the Assembly in the way proposed.

41. The Delegation of Austria, noting that the Austrian Patent Office was one of the smaller International Searching and Preliminary Examining Authorities, expressed its concern about a possible shift of users from the international preliminary examination system to the proposed supplementary international search system. The Delegation questioned whether applicants would really gain much from a supplementary international search, the results of which would not be very much different from the results obtained from the mandatory international search, so that the entire examination procedure would, in effect, be left to the national phase.

42. The Representative of FCPA indicated FCPA's general support for the International Bureau's proposal but stated that more time was needed to further study it. The Representative stressed the advantages of giving applicants the option of obtaining a supplementary international search report and further postponing entry into the national phase. Whatever problems existed with the quality of international searches, the applicant would at least obtain more information about the prior art by having two search reports. The Representative suggested that consideration be given to extending the time limit provided for in Article 39(1) so that applicants could first request a supplementary international search and then file a demand for international preliminary examination.

43. The Delegation of Mali stated its general support for the International Bureau's proposal, but it needed more time to further consider it.
44. The Delegation of Burkina Faso, associating itself with the observations made by the Representative of OAPI and delegations of other member States of OAPI, expressed its general support for the International Bureau's proposal, but emphasized that the interests of developing countries should be borne in mind.
45. The Delegation of Gabon, indicating its support for the International Bureau's proposal, expressed agreement with the views of the Representative of OAPI and delegations of other member States of OAPI.
46. The Delegation of Lesotho indicated its support for the International Bureau's proposal but, associating itself with the observations made by other delegations, expressed its wish to have more time available for consultations with interested circles.
47. The Delegation of Guinea, associating itself with the observations made by the Representative of OAPI, expressed its support for the International Bureau's proposal, emphasizing its user-friendliness and the greater flexibility it offered applicants.
48. The Delegation of Belgium, while understanding the desire of users of the PCT for improved procedures and greater flexibility, expressed understanding for the concerns of a number of other delegations and indicated that it would need more time to further study the International Bureau's proposal.
49. The Delegation of Australia expressed its general support for the International Bureau's proposal, emphasizing the benefits of a more competitive international search system, and said that the proposal was supported by users in Australia. The Delegation believed that, although it may be difficult to ascertain the precise nature of differences between international search reports produced by the various International Searching Authorities, applicants would be able to work out for themselves which possibilities suited them.
50. In view of the concerns expressed by other delegations about the need for a revision of the Treaty by a diplomatic conference, and in order to add greater flexibility to the PCT system, the Delegation of Australia suggested that consideration be given to modifying the time limit for entering the national phase fixed in Article 22 by increasing it to 30 months in all cases, leaving it to applicants to decide how to proceed during the international phase. Applicants could then choose to receive only the mandatory international search report, or to request supplementary international search and/or demand international preliminary examination; in all cases, the time limit for entry into the national phase would be 30 months from the priority date. The Delegation emphasized that 80% of all applicants were already using Chapter II and taking advantage of the 30-month time limit. The procedures for supplementary international search could be established in the Regulations without the need for a diplomatic conference. The Delegation indicated that the Australian Patent Office would be prepared to perform supplementary international searches if the system were introduced.
51. The International Bureau explained that its proposal did not suggest that any International Searching Authority was not providing good search services. However, different Offices used different search tools, searching methods and classification practice,

and had capacities in different languages. As a result, instead of giving full faith and credit to all international search reports, some national Offices carried out further searches in the national phase. Years of effort had not changed this practice, and this called for other alternatives to be explored while still seeking to further improve the quality of all international searches. The proposed system would not increase the number of international applications entering the national phase within 30 months from the priority date since 80% of applications already underwent international preliminary examination and therefore benefited from the 30-month time limit for entering the national phase.

52. The International Bureau noted that introducing the proposed supplementary international search system through a revision of the Treaty by a diplomatic conference would be very difficult if not virtually impossible. It would take years for the amendments to enter into force. Very long delays would occur before ratification of the changes had been achieved in all Contracting States, which would make it necessary to run the present and the modified PCT system side by side for a long period. This would be in the interest of neither applicants nor Offices.

53. The Delegation of Denmark indicated its general support for the International Bureau's proposal, noting that users had already expressed great interest in it. It also indicated, as had other delegations, its wish for further time to study the proposal, including any legal aspects. However, the Delegation expressed the view that it was very important to find a solution, which was a matter of great interest to users in Denmark.

54. The Delegation of Ireland expressed the view that while accepting the position that not all international search reports had the same degree of acceptability in different Offices, it was of the opinion that the present proposal would, instead of solving the problem, only perpetuate a two-tier structure in respect of the quality of search reports. It also doubted as to whether the supplementary international search system was the most appropriate way to extend the time limit for entering the national phase. The proposed system would also have serious implications for the Irish national grant procedure which provides for the acceptance of a published PCT application with its international search report as one of the forms of evidence of novelty. The Delegation said that it was not in favor of introducing the supplementary international search system for the purpose of extending the time limit to 30 months, but that in any case more time was needed to consider the proposal and to consult with users.

55. The Delegation of China said that it believed that a supplementary international search would benefit both applicants and designated Offices, and supported the proposal by the International Bureau.

56. The Representative of the EAPO expressed the EAPO's support for the proposal of the International Bureau, noting that it would be attractive to users and would add greater flexibility to the PCT procedure.

57. Following a decision by the Chairman to consider, without prejudice to the acceptability of the proposed supplementary international search system in its principle, details of the proposed amendments, the International Bureau indicated, in connection with the proposed modifications in Article 22, that, in its view, Article 47(2) gave the Assembly the power to fix modified time limits which applied subject to compliance with specified criteria. The powers conferred to the Assembly by Article 47(2) went beyond the making of mere changes in the

number of months. The modification of Article 22(2) by the Assembly in 1984 had already gone beyond such a change. The condition for the modified time limit to apply, namely, the filing of a request for a supplementary international search within 19 months from the priority date could, through an amendment of the Regulations under Article 58, introduce new procedures for a supplementary international search system if this was useful for the administration and implementation of the Treaty. In particular in view of the fact that the supplementary international search system was optional, there was no need for an express authorization for the introduction of this additional search possibility.

58. The Delegation of the Netherlands expressed the view that what was being attempted in the International Bureau's proposal was a combination of a modification of a time limit, which was permissible, with the introduction of a new procedure, which was not permissible in the absence of a legal basis in the Treaty. The long list of provisions of the Treaty that were proposed to be excluded from the supplementary international search system by proposed Rule 97.1(c) was an example of the apparent incompatibility of the International Bureau's proposal with the Treaty. Moreover, if the single International Searching Authority envisaged in Article 16(2) already existed, the present proposal would not be a possibility. It was the receiving Office which had the responsibility of determining which should be the competent International Searching Authority or Authorities and this was not respected by the new system. As regards the previous modification of Article 22(2) just mentioned by the International Bureau, the Delegation was of the opinion that, in 1984, after long discussions, it had been decided that nothing more be done than was strictly necessary to achieve the modification of the time limit.

59. The Delegation of Austria stated that it saw legal problems in that the proposal to introduce a supplementary international search system would lead to two kinds of international searches, one for which all provisions of the PCT would be relevant and another for which only certain provisions would apply.

60. The Delegation of France suggested that the limited confidence felt by designated Offices in international search reports should be addressed by improved cooperation among the International Searching Authorities. The Delegation requested details as to who were the users referred to in paragraphs 3 and 4 of document PCT/CAL/VI/2.

61. In relation to several of the points raised by delegations, the International Bureau explained that the exclusions in proposed Rule 97.1(c) should be seen as qualifying proposed Rule 97.1(b). The fact that Rule 97.1(c) excluded certain procedures from applying to the supplementary international search did not take the procedure outside the Treaty. It was just a way of determining details for the new procedure through reference instead of spelling all details out in long rules. Cooperation between International Searching Authorities had been institutionalized. The Meeting of International Authorities would continue to hold sessions when required, and addressed difficulties in the current system. In response to the Delegation of France, the International Bureau explained that it had regular contact with users of the PCT throughout the world, and that some of those users, for example those represented by FICPI and AIPPI, had expressly supported the proposed supplementary international search system. Many users worldwide were most interested in an extension of the time limit for entering the national phase and would be content to have the possibility of obtaining a supplementary international search instead of an international preliminary examination.

62. The Delegation of Australia confirmed that users in Australia had, in discussions with the Australian Patent Office, expressed similar interest to that referred to by the International Bureau as a result of its contact with users.

63. The Delegation of Spain expressed doubts as to whether the proposed change to Article 22 would be allowed under Article 47(2) since the latter gave the Assembly only the right to modify time limits. In its view, the change proposed to Article 22 would not only modify the time limit for entering the national phase but would also add a condition of a substantive nature, namely, that the modified time limit would apply only if the applicant had requested a supplementary international search within 19 months from the priority date. The Delegation noted that it saw no basis in the Treaty for the proposed supplementary international search system. The Delegation also felt that the exclusion of Article 17(2)(a) in proposed Rule 97.1(c) and the express reference in proposed Rule 104.3 to the situations referred to Article 17(2)(a) were not consistent.

64. The Delegation of Hungary expressed doubts as to the proposed modification of Article 22, but observed that Article 16(2) might constitute a possible basis for the supplementary international search system, noting that nothing in the Treaty seemed to expressly preclude the preparation of more than one search in relation to an international application. The Delegation expressed support for the proposal by the Delegation of Australia that the time limit in Article 22 be modified simply by replacing 20 months by 30 months, without requiring any precondition to be complied with by applicants.

65. The Delegation of Bulgaria expressed its agreement with the views expressed by the Delegation of the Netherlands and supported the view that the introduction of a supplementary international search system of the kind proposed would require revision of the Treaty to introduce new substantive provisions. The Delegation suggested that consideration could be given to introducing the supplementary international search system outside the usual procedure followed in the international phase. Another option could be to provide, within the existing framework of the Treaty, for a supplementary international search to be requested, within 19 months from the priority date, in conjunction with the filing of a demand for international preliminary examination. The Delegation expressed its doubts as to the consistency between proposed Rules 97.1(c) and 104.3 in relation to the applicability of Article 17(2)(a) to supplementary international search.

66. The Delegation of Sweden expressed its agreement with the doubts of the Delegations of the Netherlands and Bulgaria as to the legal basis for the proposed change to Article 22 which, in its view, was not in the nature of a mere modification of the time limit for entering the national phase but rather constituted a substantive change. The Delegation suggested that the proposed supplementary international search should be carried out in parallel with the mandatory international search, so that the time limit for entering the national phase would not need to be modified.

67. The Delegation of Slovenia suggested that the apparent limited confidence of national Offices in international searches should be addressed more directly by studying other solutions such as the adoption by the International Searching Authorities of a more harmonized approach to the carrying out of mandatory international searches, rather than by the introduction, at the expenses of applicants, of a supplementary international search system. Moreover, encouraging applicants to move away from the international preliminary examination procedure was not desirable. The Delegation believed that the proliferation of

searches by different Offices during the international phase would tend to revert to a situation which the PCT intended to avoid. In the event that a supplementary international search system were to be introduced, the Delegation would agree with the view of the Delegation of Hungary as to the possibility of relying on Article 16 to provide a legal basis.

68. The International Bureau expressed interest in the view expressed by the Delegation of Hungary that the present provisions of Article 16 may provide a basis for the carrying out of more than one international search. It was essential to find ways of introducing additional features into the PCT system so as to meet the needs of users without having to revise the Treaty in a diplomatic conference. The International Bureau emphasized that its proposal in fact comprised two aspects: first, the time limit for entering the national phase (which it felt could be modified pursuant to Article 47(2)), and second, the introduction of the supplementary international search system (which it felt could be done by the Assembly in the Regulations made under Article 58). The International Bureau also noted that the International Searching Authorities, in the context of the Meeting of International Authorities (MIA), were pursuing efforts to harmonize their searching methods, where possible, so as to increase the acceptability of international search reports, and it was expected that such efforts would continue.

69. The Delegation of New Zealand, noting that it would be desirable to improve the PCT system for the benefit of users, expressed the view that a way of introducing the supplementary international search system which would not raise questions as to its legal basis should be sought. The Delegation supported the proposal of the Delegation of Australia to the effect that the proposal to modify Article 22 should be simplified by merely increasing the time limit for entering the national phase under Chapter I from 20 months to 30 months without any condition.

70. The Delegation of the Netherlands doubted that Article 58 permitted the Regulations to be amended so as to introduce a new procedure for which there was no basis in the Treaty itself. It felt sympathy with the views expressed by the Delegations of France and Slovenia concerning ways in which search reports could be improved, noting that this would require closer cooperation and harmonization of procedures among the International Searching Authorities. It also needed to be remembered that, with the increased availability of searchable on-line databases and other search tools in machine readable form, differences in searching methods would diminish, although the difference based on Authorities' capacities in different languages would remain.

71. The Delegation of France expressed the view that, if a supplementary international search system were to be introduced, it should be equally available to all applicants. However, the requirement for the preparation of translations for use by the International Searching Authority which was to carry out the supplementary international search operated to the disadvantage of some categories of applicants but would be to the advantage of English-speaking applicants.

72. The Delegation of Israel expressed the desire that, if a supplementary international search system were to be introduced, the fees should be set at a sufficiently low level to enable all applicants to take advantage of the procedure (including individual applicants with limited financial resources).

73. In response to a comment by the Delegation of the United Kingdom that there was no provision in the proposed new Rules for any refund of the supplementary international search fee, the International Bureau explained that Rule 16 and the various Agreements with the International Bureau, under which the International Searching Authorities carried out international searches, already provided for refunds, in certain circumstances, of the fee for the mandatory international search. Those provisions would apply to refunds of the supplementary international search fee in the same circumstances. There was no absolute need for any express provision in the new Regulations, but the need for clarification would be considered in a revised proposal.

74. The Delegation of France, in response to the statement made by the Delegation of Israel, noted that the International Searching Authorities needed to be able to cover their costs in carrying out international searches in an efficient manner. There would be difficulties if the International Searching Authority carrying out the supplementary international search were in some way expected to check on the results of the mandatory international search undertaken by another Authority. The Delegation felt also that the proposed processing fee to be payable for the benefit of the International Bureau seemed to be set at a rather high level.

75. The International Bureau noted that it might be of interest to study certain options for reducing the scope of the supplementary international search in a way which would not cause difficulties, for example, by enabling the search to be restricted to prior art documents in a particular language. Such a possibility might enable the fixing of the supplementary search fee at a somewhat lower level in such cases.

76. The Delegation of Hungary said that it would favor a supplementary international search system in which the fees payable were not too high. It believed that the fees charged by the various Authorities should be as uniform as possible so that the choice of applicants as to International Searching Authority would not be unduly influenced by the cost of the searches from the various Authorities.

77. The Delegation of Slovenia suggested that it might even be worthwhile to speculate about the effects of a prohibitively high fee for supplementary international search, so as to ensure that the request for a supplementary international search would remain the exception rather than become the rule.

78. The Delegation of Canada noted that fluctuations in exchange rates between the Canadian dollar and the German mark had resulted in a considerable burden on Canadian applicants requesting international searches from the EPO. It would be desirable for such problems to be borne in mind in considering further developments of the supplementary international search system.

79. The Delegation of Australia noted that not only official fees, but also professional fees paid to patent attorneys, had to be taken into account when evaluating the costs of the supplementary international search system for applicants.

80. In response to a question from the Delegation of Hungary, the International Bureau indicated that it was envisaged that a copy of the mandatory international search report would be sent to the International Searching Authority carrying out the supplementary international search only in those cases where the mandatory international search report was already

available at the time when, upon a request for a supplementary international search, a search copy was sent to that Authority.

81. The Delegation of the Netherlands wondered whether a request for supplementary international search which was received after the expiration of 19 months from the priority date should not be allowed to proceed, contrary to the proposal made by the International Bureau, since at present a demand for international preliminary examination which was filed after the expiration of the 19-month time limit was permitted to proceed. In addition, the Delegation inquired as to the need for the indication that the supplementary international search had to be completed "as soon as possible," noting that Rule 42, concerning the mandatory international search, did not contain such an indication and that one of the objectives of the proposed supplementary international search system appeared to be to allow applicants to buy more time before proceeding into the national phase.

82. The International Bureau explained that, even though the PCT provided for the possibility of a demand to be filed after the expiration of the 19-month time limit, which could indeed be somewhat confusing to applicants, practically no applicants made use of that possibility. That was the main reason why the International Bureau's proposal did not provide for such a possibility in respect of the proposed supplementary international search. However, if the view of the Committee were that such a possibility should be provided for, the International Bureau would reconsider the matter.

83. In respect of the time limit for establishment of the proposed supplementary international search report, the International Bureau explained that no time limit computed from the filing of the request for a supplementary international search had been included in the proposal so as not to impose too much pressure on International Searching Authorities which would have to handle the additional work involved. While it would be desirable for such a report to be available and taken into account during the international preliminary examination, the applicant should, on the other hand, be able to wait until receipt of the mandatory international search report before requesting a supplementary international search. The cost of any required translation of the international application for carrying out the supplementary international search should not have to be incurred by applicants before the mandatory international search report was available.

84. The Delegation of France pointed out that the International Bureau's proposal provided for a time limit of 28 months from the priority date for the establishment of the supplementary international search report. The Delegation wondered whether the International Searching Authorities would be able to comply with that time limit due to the additional workload under the proposed supplementary international search system. The Delegation noted that a large number of Offices were facing reductions in their financial resources and emphasized that, if a strict time limit were to be provided, the International Searching Authorities concerned might not be able to comply with it.

85. The Chairman pointed out that a supplementary international search carried out by an International Searching Authority (such as the EPO) would, in many cases, merely anticipate a search in the national (or regional) phase which would have to be carried out later in respect of the same application anyway.

86. The Representative of the EPO indicated that, even though the overall workload of the EPO would appear to be similar under the proposed supplementary international search

system, there could be, depending on the number of international applications concerned, some problems caused by a likely shifting of the work from the International Preliminary Examining Authority (since less demands for international preliminary examination could be expected to be filed) to the International Searching Authority. In addition, there was at present no fixed time limit for establishment of the search report for European patent applications, compared to the fixed time limit proposed for the supplementary international search.

87. In response to a question from the Delegation of the United Kingdom, the International Bureau indicated that it could happen that the supplementary international search report would be available before the mandatory international search report. However, if the International Searching Authority concerned observed the time limit for establishment of the mandatory international search report, the latter should always be available prior to international publication, and the published pamphlet would thus contain both the mandatory international search report and the supplementary international search report. The supplementary international search report would not be published before the mandatory international search report. If the supplementary international search report was not available by the time of international publication, the International Bureau would later “republish” the first page of the pamphlet with the search report concerned, as was done for a mandatory international search report which was not available by the time of international publication.

88. The Delegation of Slovenia wondered whether designated Offices would welcome a supplementary international search report if they already had limited confidence in the mandatory international search report. The Delegation also asked whether receiving Offices would be entitled to ask for a special fee in order to handle the request for supplementary international search.

89. The International Bureau indicated that the receiving Offices would have no additional work since the request for supplementary international search could be made to them only in the request form at the time of filing the international application. Any separately submitted request would have to be filed direct with the International Bureau, not involving the receiving Offices.

90. The Delegation of Australia noted that, if a separately submitted request for supplementary international search was in fact filed with the receiving Office, that Office would have to transmit such a request to the International Bureau, which could justify the fixing of a special fee.

91. In response to a question by the Delegation of the United Kingdom, the International Bureau indicated that the coding (such as A1, A2, A3) of the PCT publications which would contain a supplementary international search report was yet to be considered.

92. The Delegation of Denmark expressed the view that users would be in favor of the proposed supplementary international search system only if they had a wide choice of International Searching Authority, so it was essential that all International Searching Authorities participate.

93. The Delegation of the United States of America indicated that, due to the likely increase in workload, it would strongly object to mandatory participation by all International Searching Authorities in the proposed supplementary international search system.

94. The Delegation of the Russian Federation supported the views expressed by the Delegation of Denmark, in particular because, if any International Searching Authority was prepared to act for applicants from only some Contracting States, that would constitute discrimination between applicants and would be contrary to the international character of the PCT system.

95. The Representative of OAPI indicated that it should be left to the applicant to decide which International Searching Authority should be requested to carry out a supplementary international search and that, therefore, participation in the new system should be mandatory for each International Searching Authority.

96. The Delegation of Bulgaria supported the view expressed by the Delegation of the Russian Federation that the supplementary international search should be available to applicants from all Contracting States, without any discrimination. Participation by the International Searching Authorities should not be optional.

97. The Delegation of Austria indicated that, if the Austrian Patent Office, as one of the smaller International Searching Authorities, were to agree to participate in the proposed supplementary international search system, it would have to consider the questions of additional workload and the amount of the supplementary international search fee. The Office would want to be able to decide the extent of its participation.

98. In response to a request for clarification made by the Delegation of Australia concerning the consequences if a request for supplementary international search was considered not to have been made, the International Bureau expressed the view that the proposed extension of the time limit for entry into the national phase would not apply in such a case. If desired, that could be expressed more clearly in any future draft.

99. In connection with the suggestion by the Delegation of Australia that the time limit in Article 22 should be extended to 30 months from the priority date in all cases, the Delegation of the Netherlands indicated that it was not in favor of making the Chapter I time limit the same as the Chapter II time limit. The Delegation believed that such a change would render meaningless certain Articles of the Treaty (such as Articles 37(4)(a), 64(1) and 64(2)). The Delegation additionally stated that it seemed strange, looking at the structure of the Treaty as a whole, to propose to extend the Chapter I time limit to make it the same as the Chapter II time limit, noting the decision of the Assembly in 1984 to specifically make the time limit for national phase entry under Chapter II longer. It likewise appeared strange to state in Articles 39 and 40 that certain time limits were not applicable and then to apply, if the suggestion by the Delegation of Australia were adopted, exactly the same time limits. Furthermore, the users which it had consulted were not in favor of such a change (see paragraph 16, above).

100. The Delegation of Australia stated that its proposal was in response to the wish of Australian users to have more time before the start of the national phase and was also an attempt to avoid any doubt as to the legal basis for the change to Article 22 proposed by the International Bureau. Applicants should not be obliged to use the proposed new supplementary international search procedure if they wished only to “buy” more time. The aim should be to bring the PCT procedure up to the expectations of present users.

101. The Delegation of Canada stated its support in principle for the suggestion of the Delegation of Australia, further stating that, in the limited consultations that it had been able to conduct, users had expressed their interest in acquiring more flexibility and gaining more time at a lower cost.

102. The Delegation of France stated that the proposal of the International Bureau depended on the willingness of the International Searching Authorities to participate in the proposed system. The Delegation suggested that the International Bureau should, in considering revised proposals, ensure that the International Searching Authorities agreed to carry out the additional work which would be involved.

103. The Delegation of Australia stated that its Office, as an International Searching Authority, was willing in principle to participate in the proposed supplementary international search system but that it needed to further consider the proposal. The Delegation believed that the supplementary international search system, to be successful, would require the willingness of both the International Searching Authorities and of all Contracting States.

104. The International Bureau stated that in the light of the comments made concerning the structure of the Treaty, an extension of the current time limits in both Article 22 (from 20 to 24 or 30 months) and Article 39 (for example, from 30 to 36 months) was a possibility worth consideration.

105. The Delegation of the Netherlands indicated that it saw no need to modify Article 22(2), and questioned why the proposed Rules concerning supplementary international search were added to the existing Regulations in a proposed new Part G, rather than being included in existing Part B, "Rules Concerning Chapter I of the Treaty." The Delegation further suggested that there should be a time limit within which a request for a supplementary international search could be withdrawn and an indication of to whom the notice of withdrawal should be addressed, and that the effects of such a withdrawal after the expiration of that time limit should be clearly stated in the Regulations. Moreover, the provisions for withdrawal of a request for a supplementary international search should be included, together with other provisions for withdrawals, in Rule 90*bis*.

106. The Delegation of the United Kingdom referred to proposed Rule 97.1(c) and suggested that the International Preliminary Examining Authority should be required to take into account the results of a supplementary international search report, where such a report had been established in sufficient time. The Delegation also questioned whether proposed Rule 100 should provide expressly for a refund of fees where a request for supplementary international search was withdrawn under proposed Rule 105.1(a) or considered not to have been made under proposed Rule 101.1(b), before the request for a supplementary international search had been transmitted to the International Searching Authority which would carry out the supplementary international search. The Delegation noted that present Rules 16.2 and 57.6 provided for the refund of fees in broadly comparable cases. The Delegation also stated that the possibility of a refund should be considered where a negative determination under Article 11(1) had been made, where the international application had already been considered withdrawn before the request for a supplementary international search had been transmitted to the International Searching Authority, or where a request for a supplementary international search had been received after the expiration of 19 months from the priority date and had been considered not to have been made under proposed Rule 97.1(a). The Delegation further questioned whether Article 17(3)(b) should be excluded from the

proposed supplementary international search, as proposed by Rule 97.1(c), since that would appear to allow a national Office to treat as withdrawn claims which had not been searched by the International Searching Authority which carried out the mandatory international search, even if those claims had been searched by the International Searching Authority which carried out the supplementary international search because the latter took a different view on the criteria of unity of invention or had carried out a search for a second invention against payment of additional search fees. The Delegation, noting that Article 17(2)(a) was excluded from the proposed supplementary international search so that the International Searching Authority carrying out the supplementary international search could not make a declaration under that Article, also asked whether, therefore, Article 22(2) should not also be excluded. Finally, the Delegation asked whether Rule 41 should not also be excluded from the proposed supplementary international search, noting that corresponding Article 15(5) was proposed to be excluded (see proposed Rule 97.1(c)).

107. The Representative of the EPO referred to the suggestion of the International Bureau that an extension of the time limit fixed under Article 39(1) be considered, and wondered whether the 19-month time limit under Article 39(1) for filing a demand for international preliminary examination should not also be extended in the context of that suggestion.

108. In response to the question raised by the Representative of the EPO, the International Bureau said that the extension of the time limits both for filing a demand for international preliminary examination and for entry into the national phase under Chapter II should be considered, and noted that such a modification could be implemented with or without the introduction of a supplementary international search system. It should be possible to strike a compromise between the interests of both applicants (in postponing entry into the national phase) and third parties (in having information as early as possible about the status of international applications).

109. The Representative of OAPI considered that it would be unfortunate to envisage the possibility of a revision of Article 15 together with Article 22, taking into account the scope of the proposed modifications; he therefore suggested that the modifications be based on the above-mentioned Articles and that they be simply included in the Regulations. The Representative also agreed with earlier statements by other delegations in relation to refunds of the supplementary search fee, expressing the view, in particular, that fees for supplementary international search should be refunded if the request for supplementary international search was withdrawn before transmittal to the International Searching Authority.

110. The Delegation of France reiterated the difficulty it had with taking a position on the International Bureau's proposal without having had consultations with users. This would apply also to the possibility of extending the time limits for entering the national phase both under Chapter I (from 20 to 30 months) and Chapter II (for example, from 30 to 36 months). Concerning proposed Rule 97.1(c), and with reference to the comments on that Rule by the Delegation of the United Kingdom, the Delegation of France inquired as to how mere regulations made under a treaty could determine the application of that treaty, given the precedence of the Treaty over the Regulations, and suggested that this meant that the International Bureau's proposal went beyond a mere modification under Article 47(2) of the time limits in Article 22.

111. The International Bureau reiterated that the exclusions in proposed Rule 97.1(c) needed to be read in the light of proposed Rule 97.1(b). Nearly all procedures under the Treaty in relation to the mandatory international search should be applicable equally to the proposed supplementary international search. Exclusion of some of those procedures which simply did not fit with supplementary international search did not seem to create any legal problem. The drafting of proposed Rule 97.1(b) and (c) could, however, be reviewed to overcome the perceived difficulty.

112. The Delegation of the Russian Federation, while generally supporting the proposal by the International Bureau, reiterated its concern that enabling an International Searching Authority not to perform supplementary international searches for applicants from certain Contracting States (see proposed Rule 97.1(d)) would create the possibility of discrimination. It also said that it found the suggestion made by the Delegation of Australia, that the time limit under Article 22 be increased to 30 months in all cases, interesting and that it intended to consult users on that suggestion.

113. The Chairman summarized the discussion as follows:

- (a) most delegations welcomed the International Bureau's proposal in so far as it attempted to solve problems connected with international search;
- (b) a number of delegations had indicated that they had had insufficient time to consult internally and with interested circles, although some delegations either had been able to undertake such consultations or would hold them shortly;
- (c) the delegations which took the floor had indicated that the views expressed here were of a preliminary nature due to the lack of time to discuss the matter beforehand;
- (d) attention should continue to be given to the present (mandatory) international search procedure, in particular to make efforts with a view to achieving a higher quality in international search reports so as to meet the needs of designated Offices, but the view of the International Bureau that the supplementary international search system could be introduced in parallel with such efforts was noted;
- (e) many delegations had raised the question of the possible need for a revision of the Treaty by a diplomatic conference if the supplementary international search system were to be introduced as proposed, but the view of the International Bureau that such a procedure was not feasible in the short term was noted;
- (f) the International Searching Authorities should further clarify their views as to whether and as from when they would be willing to participate in a system such as that proposed for supplementary international search and should in particular evaluate the effects of such a system on workload and estimate the amounts of fees needed;
- (g) the implications of a supplementary international search system for the international preliminary examination procedure needed to be considered;
- (h) alternatives to the proposed supplementary international search system involving an extension of the time limit for entry into the national phase under Chapter I should be considered; for example, the supplementary international search could be undertaken in

parallel with the mandatory international search and without any extension of the time limit to enter national phase under Article 22; a mere extension of the 20-month time limit fixed in Article 22 could be envisaged; and, finally, the possibility to extend not only the time limit under Article 22 but also the time limits under Article 39(1) could be considered;

(i) there was agreement that practical details should be reconsidered after the basic principles had been agreed upon.

114. The International Bureau, noting that there had not been enough time for all delegations to be able to undertake consultations before the session of the Committee, stated that it would appreciate receiving from all delegations, including intergovernmental organizations and non-governmental organizations, any views which may result from such consultations as well as any new ideas. The International Bureau would study the points made during the session of the Committee as well as any results of the said consultations that would be communicated to it. Thereafter, the International Bureau intended to convene a consultative meeting to which at least the International Searching and Preliminary Examining Authorities as well as representatives of users would be invited, with a view to considering various alternatives, including possible improvements to the mandatory international search procedure and possible extensions of the time limits under both Articles 22 and 39(1). The main purpose of such a meeting would be to give guidance to the International Bureau as to its future work before the matter was taken up again in the official bodies of the PCT Union.

115. The Delegation of the Netherlands asked whether the changes envisaged to the PCT system could continue to be considered outside of the framework of a revision of the Treaty. It noted that the proposed modifications to the Regulations did not appear to be allowed under either Article 58(1)(i) or (ii), and probably not under Article 58(1)(iii). Although a basis for the proposed supplementary international search might be found in Articles 15 and 16 (as suggested by the Delegation of Hungary), it remained that the provisions of the Treaty and Regulations consistently referred to “the” international search report and did not seem to envisage that two separate international search reports might be established. Closer cooperation between the International Searching Authorities would appear to be the best means of overcoming the existing problems associated with the international search.

116. The Delegation of Portugal, noting the difficulties associated with revising the Treaty in a diplomatic conference, stated that it nevertheless agreed with the Delegation of the Netherlands that the introduction of the proposed supplementary international search system could hardly be done without a diplomatic conference.

117. The Delegation of France reiterated its view that the International Searching Authorities should comply with their existing obligations under the Treaty, and welcomed the information by the International Bureau that the International Searching Authorities met regularly to discuss questions related to international search. It also reiterated its view that the Treaty did not envisage more than one international search and that there were thus legal difficulties associated with the introduction of a system such as the supplementary international search system proposed by the International Bureau.

118. The Committee noted the plans of the International Bureau as outlined in paragraph 114, above.

**BILINGUAL PCT GAZETTE: PROPOSED AMENDMENTS OF THE PCT REGULATIONS**

119. Discussion was based on the proposals by the International Bureau as set out in document PCT/CAL/VI/3.

120. The Delegation of Congo stated that it had no problem with the proposal by the International Bureau, noting that the proposal had the advantage of bringing the Gazette up to date with technology and that it would maintain a balance between the French and the English languages. Since the envisaged objective is to improve the quantity, quality and cost of production with a view to making savings which could be the subject of a program benefiting Contracting States, the Delegation saw no disadvantages for such a concern to be considered as a priority.

121. The Delegation of Japan stated that it could agree with the International Bureau's proposal in the light of the budgetary savings involved, but asked whether subscribers to the Gazette had been consulted concerning the proposed change.

122. The International Bureau indicated that it had taken advantage of the opportunities offered by recent meetings in the framework of the WIPO Permanent Committee on Industrial Property Information (PCIPI) and the PCT Committee for Technical Cooperation (PCT/CTC), both of which were involved with patent documentation questions, to consult informally with patent documentation users represented at those meetings about the proposed change to the Gazette. The conclusion of those informal discussions was that, while some users would prefer to see the abstract and drawings continue to be published in the Gazette, they could accept such a change provided that the CD-ROMs containing PCT application data were published close to the international publication date. The International Bureau further stated that, while there currently existed a certain delay in production of certain CD-ROMs, the International Bureau had addressed this matter with the CD-ROM producers and expected earlier issuance of CD-ROMs in the near future. Moreover, the International Bureau had reached an understanding with those users consulted that the proposed bilingual Gazette would be implemented only if the CD-ROMs could be published promptly upon international publication, for example, any delay should not be longer than one week. The International Bureau was taking the necessary steps to ensure timely CD-ROM production.

123. The Delegation of the United Kingdom stated that, while it had not had sufficient time to consult users of the Gazette, it had consulted libraries which used the Gazette a great deal. Those libraries regretted the disappearance of abstracts and had raised the problem of the time of delivery of CD-ROMs. The Delegation stated that, in light of the above comments of the International Bureau, that issue should not present a problem in the long term.

124. The Delegation of the Russian Federation supported the proposal of the International Bureau, noting that libraries seemed to prefer CD-ROMs while some examiners seemed to prefer using documentation on paper. The Delegation stated that the national bulletin produced by the Russian Patent Office also omitted the drawings and abstracts.

125. The Delegation of Canada expressed its support for the proposal of the International Bureau, noting that the Canadian Patent Office had, 15 years ago, adopted a format very similar to that proposed now by the International Bureau. The Delegation queried whether magnetic tapes containing data concerning international applications would still be available

from the International Bureau, and what the International Bureau proposed to do with moneys saved as a result of the implementation of the proposal if it was adopted.

126. The International Bureau confirmed that magnetic tapes would continue to be produced and made available as at present. Savings from implementing the proposal would merely reduce the substantial deficit incurred in the production of the Gazette in its present format, which would be reflected in the next biennial budget to be considered at the meetings of the Governing Bodies of WIPO scheduled for September–October 1997.

127. The Delegation of Slovenia expressed its support for the International Bureau's proposal and suggested that a study be made of whether the savings achieved could be used for the benefit of Contracting States, such as by the provision, free of charge, of additional CD-ROM products.

128. The Representative of EPI expressed the hope that PCT applicants and users would benefit from any savings resulting from the publication of a bilingual Gazette, and that any such savings would be used only for PCT-related purposes.

129. The Delegation of Portugal, noting the expected savings, expressed its agreement with the proposal of the International Bureau, and suggested that the International Bureau make proposals as to how the moneys saved could be used. The Delegation noted specifically that the provision of further CD-ROMs and CD-ROM workstations could be considered in light of the increasing use of CD-ROM technology.

130. The Delegation of the Central African Republic stated that, in the light of the economic issues described by the International Bureau, it supported the proposal.

131. The Representative of OAPI expressed the view that the elimination from the Gazette of abstracts and drawings would considerably reduce the usefulness of the Gazette as a search tool for OAPI member States, because the important information contained in the abstract and drawings would be less readily available.

132. The Delegation of France stated that it was not in a position to support the International Bureau's proposal at this time and that it had not had enough time to consult users of patent documentation about the proposal. The Delegation emphasized the importance and usefulness of the Gazette in its usual paper form whose "abstracts and drawings" part was highly appreciated and showed ease of consultation. It expressed its concern that the deletion of abstracts and drawings would render the Gazette difficult to read because it would contain only bibliographic data. Alternative sources of patent information, such as CD-ROM products and on-line databases, did not have the same advantages as the Gazette in its present form so far as content, time of availability, up-to-date information and language conditions were concerned. Unlike the Gazette, on-line databases, such as PCTPAT, did not contain drawings, and were not accessible free of charge nor updated at the same time as the Gazette. Moreover, the Delegation expressed its concern that the availability of abstracts and drawings of published international applications would become dependent on private publishers, national Offices or intergovernmental Organizations, on which the International Bureau had, from a legal standpoint, no decision-making power. Rule 86 should be amended in such a way as to expressly indicate that abstracts continue to be translated by the International Bureau into English and French, even if the Gazette were no longer to contain abstracts, and to mention the alternative carriers on which they would be made available at the same time as the Gazette.

The Delegation expressed its concern about rushing into the adoption of a recommendation on this issue, which was of the utmost importance to the Delegation, and suggested that PCT/CTC should study the proposal in more detail. The Delegation recommended that the savings envisaged by the proposal, if it proceeded, should be used to provide national Offices with free-of-charge magnetic tapes containing in particular abstracts in French and drawings, which are presently charged for and which are used to update the databases or publish CD-ROMs.

133. The International Bureau indicated that it would study carefully the proposals made by several delegations as to the possible uses of envisaged savings, but that the main goal of the exercise was to reduce the deficit incurred by publishing the Gazette in its present form and to streamline publication of the Gazette to meet the real needs of both users and Offices, taking advantage of new and widely used technologies.

134. The Delegation of Bulgaria expressed its support for the International Bureau's proposal since many of the readers of patent documents in Bulgarian libraries tended to use CD-ROM products as their main source for searching in the PCT patent documentation, rather than paper copies of the Gazette. It also supported the suggestion of the Delegation of Slovenia and expressed the interest of its Office in obtaining at least one additional set of ESPACE ACCESS CD-ROM products free of charge.

135. The Representative of FICPI, associating FICPI with the statement made by the Delegation of the United Kingdom, indicated its support for the proposal given the substantial cost savings envisaged.

136. The Representative of CNIPA conveyed a suggestion of CNIPA's French national group that Rule 86.2 should continue to require the Gazette to be published in separate French and English versions but an amendment should be made so as to permit the Director General to decide that information referred to in Rule 86.1(i) and (iv) could be published in a bilingual version.

137. The Delegation of the United States of America expressed its support for the International Bureau's proposal, provided that CD-ROM products as alternative sources of information about published international applications would be available on the day of publication or shortly thereafter.

138. The Delegation of the former Yugoslav Republic of Macedonia expressed its support for the International Bureau's proposal and also for that of the Delegation of Slovenia, noting the needs for assistance of States whose average *per capita* national income was below 3,000 US Dollars.

139. The Delegation of China expressed its concern about the proposal to no longer publish abstracts and drawings in the Gazette. The Delegation stated that it was aware of the increasingly heavy workload which the publication of the Gazette in paper form represented for the International Bureau. It recognized that it was easy to carry out a search by using CD-ROMs containing published international applications. The Chinese Patent Office was continuing its efforts with a view to finding a solution allowing, for the purposes of search, to expand the use of CD-ROMs. The Delegation indicated that it had no objection to the deletion of the abstracts and drawings from the Gazette in so far as other means permitting the use of the PCT technical data were found.

140. The Representative of the EPO expressed the EPO's support for the International Bureau's proposal, indicating that the International Bureau's proposal went in the direction of the EPO's Bulletin. The Representative noted that most of the CD-ROM products containing information about published international applications were published by the EPO. The Representative indicated that the MIMOSA software which had been developed would enable the inclusion of drawings in ESPACE ACCESS CD-ROMs. It was also planned to offer more frequent and timely updates. The Representative, referring to the EPO's many years of experience with CD-ROM products, pointed out that the EPO regarded them as a most user-friendly source of patent information which was well accepted by users once they overcame their initial lack of familiarity with a new medium. The Representative indicated that there was close cooperation between the EPO and WIPO in respect of the CD-ROMs containing PCT-related data and that their production would be continued. Furthermore, he indicated that a common solution should be found in order to solve the problem raised by the French-speaking countries. The Representative also indicated that he could support the proposal of the Delegation of France that Rule 86 be amended so as to require that abstracts be translated into English and French, even though the Gazette itself would no longer contain abstracts.

141. The Delegation of Cuba expressed its pleasure at its country having recently joined the PCT, noting particularly, with gratitude, the cooperation it had received from the national Offices of Brazil, Spain and Switzerland and from the International Bureau. The Delegation expressed its support for the International Bureau's proposal as well as for the views expressed by the Delegation of Slovenia.

142. In reply to a question by the Delegation of the United Kingdom as to the second sentence of Rule 86.2(a) which was proposed to be deleted, the International Bureau explained that, given the considerable costs of producing the Gazette in English and French, it would be very unlikely that the costs of the publication of the Gazette in any other language could be recovered or adequately subsidized.

143. The Delegation of Germany expressed its support for the proposal by the International Bureau.

144. The Delegation of Burkina Faso agreed with the International Bureau's proposal but would prefer that, for the time being, a paper version containing abstracts and drawings be retained, for the reasons stated by the Delegations of China and France and the Representative of OAPI, and emphasized in particular the needs of developing countries for a version which was readily accessible to users.

145. The Delegation of France noted the absence from the International Bureau's oral proposal of details as to the timing and frequency of production of CD-ROMs. Moreover, it asked whether drawings could be included in the data accessible via data bases such as PCTPAT. The Delegation suggested that, in the absence of suitable guarantees, alternatives to the International Bureau's proposal, providing the same advantages as the present Gazette (in relation to content of information, language, cost and time of publication), should be considered.

146. The Delegation of the Netherlands asked whether the proposed bilingual Gazette would continue to be published weekly, which was confirmed by the International Bureau. Furthermore, since the proposed amendment of Rule 86.2 left untouched the mention, in

paragraph (b), of the possibility of having the Gazette published in editions in languages other than English and French, the Delegation wondered whether Rule 86.2(a) should not refer to a “multilingual” rather than a “bilingual” Gazette in order to cover the possibility of addition of a further language without requiring any further amendment of the Rule.

147. The International Bureau explained that, in its view, Rule 86.2(b), which had never been made use of, was obsolete and could be deleted. Any proposal to publish the Gazette in any language other than English and French would in any event need to go to the Assembly which could further amend the Rule if it so desired.

148. The Delegation of Romania agreed with the thrust of the International Bureau’s proposal, noting the savings which would result. However, the absence from the Gazette of abstracts and drawings would diminish its interest to users in Romania and elsewhere. The Delegation therefore suggested that drawings be omitted as a first stage, and abstracts later. To shorten the published text, reference could be made where possible to the relevant Articles of the Treaty, and numeric codes could be used to identify countries.

149. The Delegation of Côte d’Ivoire expressed agreement with the aim of reducing the deficit involved in producing the Gazette, but was concerned that the omission of abstracts and drawings might not serve the interests of those users for whom the Gazette was an important source of information, in particular in developing countries. The Delegation suggested that the Gazette should be made bilingual but should continue for the time being to include abstracts and drawings, allowing more time for developing countries to acquire the required technology, in particular CD-ROM workstations, before abstracts and drawings were omitted from the Gazette.

150. The Delegation of Australia commented that, in its experience, few users had the opportunity to see the paper copy of the Gazette, and it supported the International Bureau’s proposal for a bilingual Gazette provided that timely issue of CD-ROMs was assured.

151. The Representative of OAPI stated that the concerns of both applicants and other users of patent information needed to be addressed. A consensus should be developed concerning a replacement for the Gazette in its present form before it was decided to eliminate abstracts and drawings. The abstracts in French should appear in CD-ROM products and express reference to a publication of that kind should be made in the Regulations.

152. The International Bureau noted that the national Offices of many PCT Contracting States presently received, free of charge, under the budget of the PCT Union, both the Gazette and CD-ROMs and also CD-ROM workstations. Contracting States in which there was no national industrial property Office granting patents received the same materials under WIPO’s technical assistance program, so that all Contracting States had access to CD-ROM workstations and CD-ROMs containing abstracts and drawings of international applications. The International Bureau also noted that French-language abstracts of published international applications were available on CD-ROMs. It would be neither practicable nor economical to produce a bilingual Gazette including abstracts and drawings or to omit abstracts and drawings in stages. Furthermore, the International Bureau acknowledged that it would be necessary to allow sufficient time for the national Offices and the International Bureau itself to undertake the implementation of the proposed change under the best possible conditions.

153. The Delegation of France reiterated its view that the Committee was not in a position to make any recommendations to the Assembly at that stage.

154. The Chairman, summarizing the discussion, noted that a clear majority of delegations favored in principle the International Bureau's proposal to issue a bilingual Gazette without abstracts and drawings. He also noted the view expressed by some delegations that there should be some time before any changes were implemented, and therefore suggested that the Committee agree in principle to the International Bureau's proposal, leaving the question of timing for a later decision.

155. The Delegation of France said that it was not only a matter of timing but that further studies were required, in particular, on the availability of appropriate alternative carriers. Although the proposal for a bilingual Gazette may be found acceptable later, the Delegation reiterated its view that it was too early to make recommendations.

156. In conclusion, the Committee agreed in principle to the proposal of the International Bureau contained in document PCT/CAL/VI/3, and requested the International Bureau to study the points raised during the discussions and thereafter to bring the matter to an appropriate body of the PCT Union.

#### FILING LANGUAGES FOR INTERNATIONAL APPLICATIONS AND TRANSLATIONS FOR INTERNATIONAL SEARCH AND/OR INTERNATIONAL PUBLICATION: POSSIBLE LIBERALIZATION OF THE REQUIREMENTS OF THE PCT REGULATIONS

157. Discussion was based on document PCT/CAL/VI/4, presented by the International Bureau.

158. In response to a question from the Delegation of Côte d'Ivoire, the International Bureau confirmed that the expression "national language" used in paragraph 6 of the document should be understood as meaning "official language" (that is, a language used by an Office) since handling of applications filed in many languages might create too many difficulties for the various receiving Offices. The Delegation noted that there were 63 national languages used in Côte d'Ivoire.

159. The Delegation of Hungary welcomed the envisaged liberalization which, in its view, would respond to the needs of local PCT users. It asked for clarification as to which would be the language in which a translation would be required for the purposes of international search and international publication.

160. The International Bureau replied that a translation into any language accepted by the competent International Searching Authority which was a language of publication under Rule 48.3 could be accepted, if the receiving Office so permitted.

161. The Delegation of Bulgaria expressed full support for the envisaged liberalization since it would be beneficial to local users.

162. The Delegation of Sweden indicated that it welcomed the envisaged liberalization. It inquired whether the International Bureau acting as receiving Office had given thought to which languages it would be prepared to accept.

163. The International Bureau noted that, at present, all seven languages of publication under the PCT were available as languages in which international applications could be filed with it as receiving Office. The possibility of specifying other languages could be considered.

164. The Delegation of Portugal noted that Portuguese was the fifth most spoken language in the world and that, nevertheless, Portuguese was not an official language under the PCT. It further indicated that, when more Portuguese-speaking countries had become bound by the PCT, it might request that Portuguese be included in the list of publication languages under the PCT. The Delegation expressed support for the envisaged liberalization on the understanding that the existing availability of languages would remain at least as wide as at present for all receiving Offices.

165. The Representative of OAPI welcomed the envisaged added flexibility in the language requirements which needed to be met in order to obtain an international filing date.

166. The Delegation of the Russian Federation indicated that national applications could be filed with the Russian Patent Office in any language, provided that a translation into Russian was submitted within two months from the filing date. Therefore, the envisaged liberalization was consistent with that situation and was welcomed. It further indicated that there were 140 national languages used in the Russian Federation.

167. The Delegation of Slovenia expressed its support for the envisaged liberalization but stressed that, since the matter of filing language was being considered also in the framework of the proposed Patent Law Treaty (PLT), consistency should be ensured between the PCT system and the PLT.

168. The Delegation of Spain indicated support for the envisaged liberalization. It inquired whether it would be the application as filed or the application as translated which would be considered to be the record copy of the international application.

169. The International Bureau explained that the record copy was the application which had been accorded an international filing date, that is, the application in the language of filing. The International Bureau pointed out that, in the present cases (involving Dutch and Nordic languages) in which an international application could be filed in a language other than a publication language, a translation had to be prepared in English. Preparation of that translation was carried out under the responsibility of the International Searching Authority. In the case of a translation required for the purpose of carrying out the international search only, the translation was prepared under the responsibility of the receiving Office (at present, this applied only in the case of certain international applications filed in Spanish). Under the new system being discussed, any necessary translation would have to be prepared under the responsibility of the applicant. It was clear that, for example, in the case of litigation arising in connection with a patent based on an international application, the designated Office concerned could always obtain from the International Bureau a copy of the application in the language in which it was originally filed, even though it would be published only in one of the languages of publication under the PCT and the communication under Article 20 would comprise a copy of the international application as published.

170. The Representative of the EPO acknowledged that some national Offices accepted filings of patent applications in a variety of languages; the EPO had no objections to the envisaged liberalization, all the more since filings in certain languages other than the official languages of the EPO were permitted under the European Patent Convention. The Representative pointed out, however, that the EPO in its capacity as an International Searching Authority carried out searches for about 40 different receiving Offices, so there was a high risk of delay in receipt of search copies, and thus that the establishment of international search reports may be delayed. In addition, if an international search report was established shortly before international publication, the number of separate publications of international search reports would increase. Furthermore, the applicant might face the disadvantage of having too little time, or even no time at all, to evaluate the contents of the international search report before deciding whether to file a demand for international preliminary examination and/or enter the national phase. In respect of the activities of the International Bureau as a receiving Office, the Representative asked whether special attention had been given to those international applications which would be transmitted to the International Bureau under Rule 19.4 (where none of the applicants was entitled to file the application with the Office with which it was filed).

171. The International Bureau indicated that in some cases the international search report may be delayed, but, since it was envisaged that the time limit for furnishing the translation for the purpose of international search would be rather short (for example, one month from the filing date), there appeared to be enough time for the International Searching Authority to complete its work before international publication.

172. The International Bureau noted that, at present, the EPO carried out searches on the basis of Dutch-language applications (filed with the receiving Offices of Belgium and the Netherlands) and that the required translations had to be into English. It could be envisaged, for the future, that the translation might be into any of the official languages of the EPO, all of which were languages of publication under the PCT.

173. As to cases where an international application transmitted under Rule 19.4 to the International Bureau as receiving Office happened to be in a language other than one of the publication languages, the International Bureau noted that further study of the problem was needed.

174. The Delegation of Israel suggested that the receiving Office should be able to require, together with the request form and for its internal use, the indications of the names and addresses of the applicants and inventors, as well as an address for service and the title of the invention, in an official language of the Office.

175. The Delegation of France indicated that it could not formulate an opinion on the envisaged liberalization since it had not had time to study the contents of the document.

176. In response to a question by the Delegation of France, the International Bureau noted that compliance with any physical requirements would need to be checked by the receiving Office on the basis of the text of the application as filed only to a limited extent, since only the translation, which would be published, needed to comply with the physical requirements affecting the international publication. The necessary details could be outlined in the PCT Receiving Office Guidelines.

177. The Committee, noting that document PCT/CAL/VI/4 had only been presented to it at the start of the session and that, therefore, only a preliminary opinion could be given, expressed its agreement in principle with the possible changes outlined in the said document, and invited the International Bureau to proceed with the preparation of detailed proposals along those lines, taking into account the views expressed during the meeting of the Committee.

#### OTHER MATTERS

178. No matter was raised under this agenda item.

[Annexes follow]

LISTE DES PARTICIPANTS/  
LIST OF PARTICIPANTS

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

I. MEMBRES DU COMITÉ/MEMBERS OF THE COMMITTEE

ALLEMAGNE/GERMANY

Markus ORTLIEB, Legal Counsellor, Ministry of Justice, Bonn

Stefanie KRIENER (Miss), Legal Counsellor, German Patent Office, Munich

AUSTRALIE/AUSTRALIA

Bruce MURRAY, Commissioner of Patents, Australian Industrial Property Organisation, Canberra

AUTRICHE/AUSTRIA

Peter HOFBAUER, Presidential Department II, Administration of the PCT, Austrian Patent Office, Vienna

AZERBAÏDJAN/AZERBAIJAN

Mir Yagub SEYIDOV, Director, Department of Patent and Licence, State Committee on Science and Technology, Baku

Toura IAKOUBOVA (Mrs.), Director, National Center of Patent Examination, Department of Patent and Licence, State Committee on Science and Technology, Baku

BÉLARUS/BELARUS

Valery KUDASHOV, Chairman, Belarus Patent Office, Minsk

Alexander CHENADO, Deputy Head, Patent Examination Division, Belarus Patent Office, Minsk

Volga DAUGAPOLAVA (Mrs.), Third Secretary, Law Department, Ministry of Foreign Affairs, Minsk

BELGIQUE/BELGIUM

Stefan DRISQUE, ingénieur, Office de la propriété industrielle, Bruxelles

BÉNIN/BENIN

Etienne KPOSSOU, chef du Service des brevets, Centre national de la propriété industrielle, Ministère de l'industrie et des petites et moyennes entreprises, Cotonou

BRÉSIL/BRAZIL

Guido F.S. SOARES, Minister Counsellor, Permanent Mission, Geneva

Maria Margarida MITTELBACH (Miss), Director of Patent Directorate, National Institute of Industrial Property, Ministry of Industry, Commerce and Tourism, Rio de Janeiro

Marcia Timotheo OLIVEIRA (Mrs.), Technician, PCT Section, National Institute of Industrial Property, Ministry of Industry, Commerce and Tourism, Rio de Janeiro

Luiz Cesar GASSER, Second Secretary, Permanent Mission, Geneva

BULGARIE/BULGARIA

Tatyana LEKOVA (Mrs.), Head, Patent and Information Services, Patent Office of the Republic of Bulgaria, Sofia

BURKINA FASO

Mathieu HIEN, conseiller des affaires économiques, Direction générale du développement industriel, Ministère du commerce, de l'industrie et de l'artisanat, Ouagadougou

CAMEROUN/CAMEROON

Jacqueline Nicole MONO NDJANA NGO TONJE (Mme), chef du Service de la propriété industrielle, Direction du développement industriel et de l'artisanat, Ministère du développement industriel et commercial, Yaoundé

CANADA

Pierre TRÉPANIÉ, Deputy Director, Patent Examination, Canadian Intellectual Property Office, Hull

Agnès LAJOIE (Mme), chef de division (Classification), Office de la propriété intellectuelle du Canada, Hull

CHINE/CHINA

WU Weicheng, conseiller, division du PCT, Office chinois des brevets, Beijing

CONGO

André Ludovic NGOUAKA-TSOUMOU, directeur de la coopération, Ministère du développement industriel, de l'énergie, des mines, et des postes et télécommunications, Brazzaville

CÔTE D'IVOIRE

Marc Georges SÉRY, conseiller, Mission permanente, Genève

CUBA

Rolando Miguel HERNÁNDEZ VIGAUD, Head, Department of Legal and International Affairs, National Office of Inventions, Technical Information and Marks, La Habana

DANEMARK/DENMARK

Anne Rejnhold JØRGENSEN (Mrs.), Head of Division, Danish Patent Office, Taastrup

Bente Skovgaard KRISTENSEN (Miss), Head of Section, Danish Patent Office, Taastrup

ESPAGNE/SPAIN

Miguel HIDALGO LLAMAS, conseiller juridique, Département des brevets et modèles, Office espagnol des brevets et des marques, Madrid

ESTONIE/ESTONIA

Toomas LUMI, Deputy Director General, Estonian Patent Office, Tallinn

ÉTATS-UNIS D'AMÉRIQUE/UNITED STATES OF AMERICA

Robert L. STOLL, Administrator, Office of Legislation and International Affairs, Patent and Trademark Office, Department of Commerce, Washington, D.C.

Stephen G. KUNIN, Deputy Assistant Commissioner for Patent Policy and Projects, Patent and Trademark Office, Department of Commerce, Washington, D.C.

Charles PEARSON, Administrator, Patent Cooperation Treaty Legal Affairs, Patent and Trademark Office, Department of Commerce, Washington, D.C.

Jeffrey P. KUSHAN, Attaché, United States Mission to the World Trade Organization, Geneva

EX-RÉPUBLIQUE YOUGOSLAVE DE MACÉDOINE/THE FORMER YUGOSLAV  
REPUBLIC OF MACEDONIA

Gorgi FILIPOV, Director, Industrial Property Protection Office, Skopje

Liljana VARGA (Mrs.), Assistant Director, Industrial Property Protection Office, Skopje

FÉDÉRATION DE RUSSIE/RUSSIAN FEDERATION

Valeri JERMAKYAN, Deputy Director, VNIIGPE, Committee of the Russian Federation for Patents and Trademarks (Rospatent), Moscow

Evgueni BURIAK, Consultant, VNIIGPE, Committee of the Russian Federation for Patents and Trademarks (Rospatent), Moscow

FINLANDE/FINLAND

Maarit LÖYTÖMÄKI (Mrs.), Deputy Director, National Board of Patents and Registration, Helsinki

Marjo Hannele AALTO-SETÄLÄ (Miss), Legal Adviser, National Board of Patents and Registration, Helsinki

FRANCE

Benjamine VIDAUD-ROUSSEAU (Mme), conseiller pour les organisations internationales, Institut national de la propriété industrielle, Paris

Jacques VÉRONE, chef du Bureau OEB-PCT, Division administrative des brevets, Institut national de la propriété industrielle, Paris

GABON

Paulin EDOU EDOU, directeur de la réglementation, du contrôle et de la normalisation industriels, Direction générale de l'industrie, Ministère du commerce, de l'industrie, des PME, de l'artisanat, chargé du redressement du secteur parapublic et de la privatisation, Libreville

GUINÉE/GUINEA

Cécé KPOHOMOU, chef de service adjoint, Service national de la propriété industrielle, Ministère du commerce, de l'industrie, des petites et moyennes entreprises, Conakry

HONGRIE/HUNGARY

Ernö SZARKA, President, Hungarian Patent Office, Budapest

Margit SÜMEGHY (Mrs.), Head, Legal and International Department, Hungarian Patent Office, Budapest

László BRETZ, Deputy Head, Industrial Property Administration Department, Hungarian Patent Office, Budapest

IRLANDE/IRELAND

Krishnaswamy SRINIVASAN, Senior Examiner, Patents Office, Dublin

ISLANDE/ICELAND

Ómar G. INGVARSSON, Head, Patent Division, Icelandic Patent Office, Reykjavik

ISRAËL/ISRAEL

Aryeh LITT, Deputy Commissioner of Patents, Patent Office, Ministry of Justice, Jerusalem

JAPON/JAPAN

Shoji TAKIZAWA, Director, PCT Affairs Office, First Formality Examination Division, First Examination Department, Japanese Patent Office, Tokyo

Takashi YAMASHITA, Deputy Director, International Affairs Division, General Administration Department, Japanese Patent Office, Tokyo

Hideaki IBUKI, Deputy Director, General Administration Division, General Administration Department, Japanese Patent Office, Tokyo

Hitoshi WATANABE, First Secretary, Permanent Mission, Geneva

KAZAKSTAN

Raushan ALCHIMBAYEVA (Mrs.), Deputy Chairman, National Patent Office, Almaty

KENYA

John Ezekiel Kabue MUCHAE, Deputy Director, Legal Department, Kenya Industrial Property Office, Ministry of Research, Technical Training and Technology, Nairobi

KIRGHIZISTAN/KYRGYZSTAN

Roman O. OMOROV, Head, Patent Department, Ministry of Science and Education of the Kyrgyz Republic, Bishkek

LESOTHO

‘Nyalleng ‘Mabakuena PII (Mrs.), Registrar General, Registrar General’s Office, Maseru

LETONIE/LATVIA

Mara ROZENBLATE (Mrs.), Chief Examiner (PCT Applications), Patent Office of the Republic of Latvia, Riga

LITUANIE/LITHUANIA

Rimvydas NAUJOKAS, Director, State Patent Bureau of the Republic of Lithuania, Vilnius

MADAGASCAR

Jocellin ANDRIANIRIANAZAKA, chef du service des brevets, Office malgache de la propriété industrielle (OMAPI), Ministère de l'industrie et de l'artisanat, Antananarivo

Nadimalala RABETSIMIALONA, conseiller, Mission permanente, Genève

MALAWI

Mzondi Haviland CHIRAMBO, Registrar General, Department of the Registrar General, Ministry of Justice, Blantyre

MALI

Mamadou TRAORÉ, chef de la division de la propriété industrielle, Direction nationale des industries, Ministère de l'industrie, de l'artisanat et du tourisme, Bamako

MAURITANIE/MAURITANIA

Ould Meïmou HAMADI, directeur de l'industrie, Ministère des mines et de l'industrie, Nouakchott

MEXIQUE/MEXICO

Juan Antonio TOLEDO BARRAZA, Patents Director, Mexican Institute of Industrial Property, Mexico

Dolores JIMÉNEZ HERNÁNDEZ (Mrs.), Counsellor, Permanent Mission, Geneva

MONGOLIE/MONGOLIA

Damdunsuren DEMBEREL, Director, Mongolian Patent Office, Ministry of National Development, Ulaan Baatar

Dolgor ZOLBOOT, Head, Law and Policy Department, Mongolian Patent Office, Ministry of National Development, Ulaan Baatar

NIGER

Jérôme Oumarou TRAPSIDA, directeur du développement industriel, Ministère des mines, de l'industrie et de la technologie, Niamey

NORVÈGE/NORWAY

Karl RYGH, Head of Division, Patent Department, Norwegian Patent Office, Oslo

Randi Merete WAHL (Miss), Head of Division, Legal Department, Norwegian Patent Office, Oslo

NOUVELLE-ZÉLANDE/NEW ZEALAND

Natalie Joan GRAY (Miss), Assistant Commissioner of Patents, New Zealand Patent Office, Wellington

OUGANDA/UGANDA

Ruth Christine MASIKA (Mrs.), Registrar General, Registrar General's Department, Ministry of Justice, Kampala

OUZBÉKISTAN/UZBEKISTAN

Pulat Kirgizbaevich KHABIBULLAEV, Chairman, State Committee on Science and Technology, Tashkent

Akil AZIMOV, Director, State Patent Office, Tashkent

PAYS-BAS/NETHERLANDS

Siep DE VRIES, Head, Chemical Division, Netherlands Industrial Property Office, Rijswijk

POLOGNE/POLAND

Zenobiusz MIKLASINSKI, Vice-President, Patent Office of the Republic of Poland, Warsaw

Krzysztof GOS, Administrator, PCT Section, Patent Office of the Republic of Poland,  
Warsaw

PORTUGAL

José MOTA MAIA, président, Institut national de la propriété industrielle, Lisbonne

Isabel AFONSO (Mme), directeur du Service des brevets, Institut national de la propriété  
industrielle, Lisbonne

José Sérgio CALHEIROS DA GAMA, conseiller juridique, Mission permanente, Genève

RÉPUBLIQUE CENTRAFRICAINE/CENTRAL AFRICAN REPUBLIC

Boniface ENDJINGBOGO, secrétaire général, Ministère de l'industrie, du commerce et de  
l'artisanat, Bangui

RÉPUBLIQUE DE CORÉE/REPUBLIC OF KOREA

Deok Cheol CHOI, Deputy Director, Application Division, Korean Industrial Property Office,  
Seoul

Joon-Kyu KIM, Counsellor, Permanent Mission, Geneva

RÉPUBLIQUE DE MOLDOVA/REPUBLIC OF MOLDOVA

Ion DANILIUC, Deputy Director General, State Agency on Industrial Property Protection,  
Kishinev

RÉPUBLIQUE POPULAIRE DÉMOCRATIQUE DE CORÉE/DEMOCRATIC PEOPLE'S  
REPUBLIC OF KOREA

PAK Gyong Ok (Mrs.), Officer, Invention Office, Pyongyang

CHANG Ryong Hui (Mrs.), Attaché, Permanent Mission, Geneva

AN Myong Hun, Second Secretary, Permanent Mission, Geneva

RÉPUBLIQUE TCHÈQUE/CZECH REPUBLIC

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

ROUMANIE/ROMANIA

Ion CONSTANTIN, coordonnateur PCT, Office d'État pour les inventions et les marques, Bucarest

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

Iuliana BÂJENARU (Mrs.), First Secretary, Head of Private International Law Section, Legal Affairs and Treaties Division, Ministry of Foreign Affairs, Bucharest

ROYAUME-UNI/UNITED KINGDOM

Jim AYLING, Senior Examiner, Intellectual Property Policy Directorate, The Patent Office, Newport

Richard C. KENNEL, Senior Examiner, Legal Division, Patents and Designs Directorate, The Patent Office, Newport

SÉNÉGAL/SENEGAL

Amadou Moctar DIENG, chef du Service de la propriété industrielle et de la technologie, Ministère de l'énergie, des mines et de l'industrie, Dakar

SLOVAQUIE/SLOVAKIA

Vladimir BANSKÝ, Director of the International and PCT Department, Industrial Property Office of the Slovak Republic, Banská Bystrica

Vladimír DOVICA, Third Secretary, Permanent Mission, Geneva

SLOVÉNIE/SLOVENIA

Bojan PRETNAR, Director, Slovenian Intellectual Property Office, Ljubljana

Andrej PIANO, Counsellor to the Government, Slovenian Intellectual Property Office,  
Ljubljana

SRI LANKA

Gamage Dushyantha Dilip Kumar PERERA, Assistant Registrar of Patents and Trade Marks,  
Registry of Patents and Trade Marks, Colombo

SUÈDE/SWEDEN

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

Marie ERIKSSON (Ms.), Head of Division, Swedish Patent and Registration Office,  
Stockholm

SUISSE/SWITZERLAND

Roland-Jean TSCHUDIN, état-major, Division des brevets, Institut fédéral de la propriété  
intellectuelle, Berne

SWAZILAND

Stephen MAGAGULA, Acting Senior Assistant Registrar General, Registrar General's  
Office, Ministry of Justice, Mbabane

Queen MATSEBULA (Miss), Acting Assistant Registrar General, Registrar General's Office,  
Ministry of Justice, Mbabane

TADJIKISTAN/TAJIKISTAN

Khabiboulllo F. FAYAZOV, Director, National Center for Patents and Information,  
Dushanbe

TCHAD/CHAD

Abassalah Adoum YOUSOUF, directeur général adjoint, Ministère du commerce et de la  
promotion industrielle, N'Djamena

TOGO

N'na Sary KANDA (Mme), chargée des brevets d'invention, Structure nationale de la propriété industrielle, Direction du développement industriel, Ministère de l'industrie, des sociétés d'État et de développement de la zone franche, Lomé

TRINITÉ-ET-TOBAGO/TRINIDAD AND TOBAGO

Mazina KADIR (Miss), Deputy Registrar General, Registrar General's Department, Ministry of Legal Affairs, Port of Spain

Mary-Ann RICHARDS (Miss), Deputy Permanent Representative, Permanent Mission, Geneva

TURQUIE/TURKEY

Hülya ÇAYLI (Mrs.), Head of Patent Department, Turkish Patent Institute, Ankara

UKRAINE

Valery PETROV, Chairman, State Patent Office of Ukraine, Kyiv

Vladimir LALO, Advisor, State Patent Office of Ukraine, Kyiv

VIET NAM

PHAN Ngan Son, Senior Patent Examiner, Invention and Utility Solution Department, National Office of Industrial Property, Hanoi

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

Larissa GRUSZOW (Mrs.), Principal Administrator, International Legal Affairs, Directorate General 5, Munich

André CARDON, Director, Search, Directorate General 1, The Hague

York BUSSE, Principal Administrator, International Legal Affairs, Directorate General 5, Munich

## II. ÉTATS OBSERVATEURS/OBSERVER STATES

### AFRIQUE DU SUD/SOUTH AFRICA

Andrew Gordon MICHIE, Second Secretary, Permanent Mission, Geneva

### BOSNIE-HERZÉGOVINE/BOSNIA AND HERZEGOVINA

Ismet GALIJASEVIC, Director, Institute for Standardization, Metrology and Patents, Sarajevo

Sabahka RADJO (Miss), Attaché, Permanent Mission, Geneva

### BURUNDI

Diomède MIKAZA, premier conseiller, Mission permanente, Genève

### CROATIE/CROATIA

Ivan SUGJA, Assistant Director, State Patent Office of the Republic of Croatia, Zagreb

Tatjana SUCIC (Mrs.), Patent Examiner, State Patent Office of the Republic of Croatia, Zagreb

Jasminka ADAMOVIC (Mrs.), Legal Expert, State Patent Office of the Republic of Croatia, Zagreb

### HAITI

Fritzner GASPARD, conseiller, Mission permanente, Genève

### INDONÉSIE/INDONESIA

Bambang HIENDRASTO, First Secretary, Permanent Mission, Geneva

Leonardo DOS REIS, Second Secretary, Permanent Mission, Geneva

JORDANIE/JORDAN

Ibrahim AWAWEH, First Secretary, Permanent Mission, Geneva

MAROC/MOROCCO

Abdellah BENMELLOUK, deuxième secrétaire, Mission permanente, Genève

III. ORGANISATIONS INTERGOUVERNEMENTALES/  
INTERGOVERNMENTAL ORGANIZATIONS

CONSEIL INTERÉTATIQUE POUR LA PROTECTION DE LA PROPRIÉTÉ  
INDUSTRIELLE (CIPPI)/INTERSTATE COUNCIL ON THE PROTECTION OF  
INDUSTRIAL PROPERTY (ICPIP)

Valery PETROV, Chairman, Kyiv

ORGANISATION AFRICAINE DE LA PROPRIÉTÉ INTELLECTUELLE (OAPI)/  
AFRICAN INTELLECTUAL PROPERTY ORGANIZATION (OAPI)

Issaka SALIA, directeur de la propriété intellectuelle, Yaoundé

ORGANISATION EURASIENNE DES BREVETS (OEAB)/EURASIAN PATENT  
ORGANIZATION (EAPO)

Alexandre Vladimirovich SENCHIKHIN, Chief Officer, Moscow

ORGANISATION DE L'UNITÉ AFRICAINE (OUA)/ORGANIZATION OF AFRICAN  
UNITY (OAU)

Mustapha CHATTI, attaché, Délégation permanente, Genève

IV. ORGANISATIONS NON GOUVERNEMENTALES/  
NON-GOVERNMENTAL ORGANIZATIONS

Association asiatique d'experts juridiques en brevets (APAA)/Asian Patent Attorneys  
Association (APAA): Nobuo OGAWA (Member of the Patent Committee, Tokyo)

Association internationale pour la protection de la propriété industrielle (AIPPI)/International Association for the Protection of Industrial Property (AIPPI): Gianfranco DRAGOTTI (Secretary of Committee Q109, Milan)

Chartered Institute of Patent Agents (CIPA): Christopher J.W. EVERITT (CIPA Patents Committee Member, London)

Committee of National Institutes of Patent Agents (CNIPA): Christopher J.W. EVERITT (London); Ulrich Karl NAUMANN (Munich)

Federal Chamber of Patent Agents (FCPA), Germany (Patentanwaltskammer - PAK): Ulrich Karl NAUMANN (Patent Attorney, Member of the Board, Munich)

Fédération internationale des conseils en propriété industrielle (FICPI)/International Federation of Industrial Property Attorneys (FICPI): Christopher J.W. EVERITT (President of the Study and Work Commission, London)

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

#### V. BUREAU/OFFICERS

Président/Chairman: Bruce MURRAY (Australie/Australia)

Vice-présidents/Vice-Chairmen: Ernő SZARKA (Hongrie/Hungary)  
'Nyalleng 'Mabakuena PII (Mrs.) (Lesotho)

Secrétaire/Secretary: Philip Thomas (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

Département du PCT/PCT Department: Busso BARTELS (directeur/Director); Division des opérations du PCT/PCT Operations Division: Gary SMITH (directeur/Director); Division

juridique du PCT/PCT Legal Division: Philip THOMAS (directeur/Director);  
Isabelle BOUTILLON (Ms.) (juriste principale/Senior Legal Officer); Matthew BRYAN  
(juriste principal/Senior Legal officer); Eric WOLFF (juriste principal/Senior Legal Officer);  
Claus MATTHES (juriste/Legal Officer); Division des pays en développement  
(PCT)/Developing Countries (PCT) Division: WANG Zhengfa (directeur/Director)

Département du budget et des finances/Budget and Finance Department: Joachim BILGER  
(chef de la Section du budget/Head, Budget Section)

[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. Supplementary international search system: Proposed modification of time limits fixed in the PCT and proposed amendments of the PCT Regulations (document PCT/CAL/VI/2)
5. Bilingual PCT Gazette: Proposed amendments of the PCT Regulations (document PCT/CAL/VI/3)
6. Filing languages for international applications and translations for international search and/or international publication: Possible liberalization of the requirements of the PCT Regulations (document PCT/CAL/VI/4)
7. Other matters
8. Adoption of the report of the session
9. Closing of the session

[End of Annex and of document]