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GENEVA

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

**MEETING OF INTERNATIONAL AUTHORITIES
UNDER THE PATENT COOPERATION TREATY (PCT)**

**Eleventh Session
Geneva, February 21 to 25, 2005**

**QUALITY FRAMEWORK:
ASSISTANCE RELATING TO OFFICES SEEKING APPOINTMENT
AS INTERNATIONAL AUTHORITIES**

Document prepared by the International Bureau

SUMMARY

1. The Meeting is invited to consider the extent to which existing International Authorities may be able to offer assistance to Offices which intend to apply to become International Authorities in ensuring that they are able to comply with the quality framework set out in the PCT International Search and Preliminary Examination Guidelines (“the Guidelines”) and to the Committee for Technical Cooperation (“CTC”) and the Assembly in having confidence that appropriate systems will be in place before a new International Authority is appointed.

BACKGROUND

2. The inclusion of Chapter 21 (“A Common Quality Framework for International Search and Preliminary Examination”) in the Guidelines means that the International Authorities are each required to maintain a quality management system to assess the work done in its role as an Authority and the resources and systems which are in place to support that work, and to ensure that improvements are made wherever possible.

3. The minimum requirements for International Searching Authorities and International Preliminary Examining Authorities under Rules 36 and 63 respectively are becoming a less

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realistic measure of the ability of an Office to deliver a high quality service as an International Authority. The vast majority of the PCT minimum documentation is now available electronically, so that its availability for search purposes is not a measure of an Office's commitment to providing the fullest possible search. Neither can it be said that there is a definite fixed number of examiners which is necessary to ensure the breadth of knowledge required to provide effective search and examination across the whole of technology, given that at any time and in any Office this might depend on many factors, including:

- (a) the increasing spectrum, and in some cases specialization of technologies;
- (b) the previous and ongoing experience and training available to the individual examiners; and
- (c) improvements in the tools available for assisting examiners to conduct searches more effectively and to retrieve necessary background information.

4. An effective quality management system is an increasingly important part of ensuring the quality of international search and preliminary examination within the PCT system. It is in the interests of the Contracting States and their national and regional Offices to be certain that all International Authorities have appropriate quality management systems, but it is of particular significance to the International Authorities themselves since, in their role as designated and elected Offices, they are among the major users of the results of international searches and preliminary examinations by other Authorities. Furthermore, it is important to confidence in the system from applicants and third parties that there should be wider recognition of effective appraisal by all Authorities of their systems.

5. However, a quality system may be more difficult to implement than the easily defined measures of minimum documentation and numbers of examiners within an Office, particularly for an Office which so far has experience only of national search and examination and not the particular requirements of the PCT system. It will also be more difficult for Contracting States to form a reliable view in the CTC and in the Assembly of whether a sufficient quality management system is in place or being prepared prior to deciding whether an interested Office should be appointed as an International Authority, particularly since the self-assessment nature of the quality framework under Chapter 21 of the Guidelines means that Authorities are not generally required to provide detailed information to the Assembly.

ASSISTANCE TO OFFICES INTERESTED IN BECOMING AN INTERNATIONAL AUTHORITY

6. In the event that an Office expresses an interest in becoming an International Authority, it may be desirable for the existing International Authorities to offer assistance to that Office in developing its staff and systems so as to be able to ensure both that a high quality service can be achieved in actions to be performed under the PCT and that appropriate quality systems can be seen by Contracting States to be in place, so that the CTC and the Assembly have confidence when making the decision to appoint a new Authority. Many of the International Authorities already provide technical assistance to other Offices around the world in the form of training, equipment or services.

7. It would, of course, be up to the existing International Authorities to offer the required assistance, since the International Bureau has neither the budget nor the expertise to offer most of the specialized assistance which might be needed. Nevertheless, the Meeting may

wish to discuss, in general terms, the aims which should be pursued in the provision of assistance and the types of assistance which could be provided in order to achieve those aims. This might include assistance which could be offered by individual International Authorities and the role that might be played by the Meeting of International Authorities in coordination of activities and the provision of collective advice.

EFFECTIVE CONSIDERATION OF APPLICATIONS TO BECOME AN INTERNATIONAL AUTHORITY

8. A further possible step in improving confidence in the appointment of International Authorities might be the introduction of a procedure whereby interested Offices would submit a report to the Meeting of International Authorities Under the PCT on the quality systems which were in place or which it was intended to introduce. Such a report might be of a similar type to those reports which existing International Authorities were required to make in accordance with Stage 1 of the reporting arrangements set out in paragraph 21.17 of the Guidelines:

“Each Authority should be required to submit an initial report to the Meeting of International Authorities under the PCT (MIA) describing what it has done to implement a QMS based on the broad requirements set out in the present document. ...”

9. The Meeting might then either offer an opinion to the CTC, which could be taken into account in its advice to the Assembly under Article 16(3)(e), or else the opinion could be made directly to the Assembly in parallel with the advice of the CTC. To introduce such a system would require a decision of either the CTC or the Assembly concerning the basis on which the relevant body intended to make any future decision or offer its future advice concerning applications for appointment of new International Authorities.

10. If such a system were to be adopted, it would be desirable for the Meeting to offer informal and confidential advice to any interested Office concerning the preparation of its systems and of its application to be appointed as an Authority as part of the assistance described in paragraphs 6 and 7, above, in order to avoid difficulties and delays at a later stage during the formal process of application.

11. The Meeting is invited to consider what assistance might be offered by existing International Authorities:

(a) to Offices which are seeking appointment as an International Authority in developing their staff and systems; and

(b) to the Committee for Technical Cooperation and the Assembly in evaluating the quality systems of such Offices.

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