

## **Meeting of International Authorities under the Patent Cooperation Treaty (PCT)**

**Twenty-First Session**  
**Tel Aviv, February 11 to 13, 2014**

### TRAINING OF EXAMINERS

*Document prepared by the International Bureau*

#### **SUMMARY**

1. In line with the PCT roadmap recommendation endorsed by Member States in 2010 as to how best to address skills and manpower shortage of IP Offices in developing and least developed countries, the International Bureau seeks to initiate a dialogue with International Authorities and all Member States to discuss (i) how technical assistance activities around examiner training might be improved, (ii) the extent to which Member States could support such technical assistance activities, and (iii) the role that the International Bureau could play to facilitate international cooperation in the area of examiner training and the sharing of tools and training materials.

#### **BACKGROUND**

2. At its third session, held in Geneva from June 14 to 18, 2010, the PCT Working Group endorsed a series of recommendations to improve the functioning of the PCT system, based on a study prepared by the International Bureau (document PCT/WG/3/2) and related submissions from certain Member States (documents PCT/WG/3/5 and PCT/WG/3/13). The Working Group's discussions are outlined in the report of the session (document PCT/WG/3/14 Rev., paragraphs 14 to 137). At its forty-first (24<sup>th</sup> extraordinary) session, held in Geneva from September 20 to 29, 2010, the PCT Assembly discussed and noted the Working Group's report (see paragraphs 5 to 28 of document PCT/A/41/4).

3. The “PCT roadmap” recommendations endorsed by the PCT Working Group cover a variety of actions which should be undertaken by the International Bureau, applicants, Contracting States and national Offices (acting in both their national and international capacities) to make the PCT system more effective both for processing patent applications and for supporting technology transfer and technical assistance for developing countries. Many of the recommendations focused on matters where collective action may be appropriate, including recommendations not directly related to the processing of international applications but requiring technical assistance by the International Bureau or between Contracting States to be delivered in the broad context of the PCT.

4. One of those recommendations endorsed by Member States where “collective action” may be appropriate and which requires technical assistance relates to the question as to how best to address skills and manpower shortage of Offices, notably in developing and least developed countries. In that regard, document PCT/WG/3/2 set out the following considerations:

*Addressing Skills and Manpower Shortage*

“178. Recruitment of staff is a national issue. Once suitable staff have been found, they will require training, which is difficult for small Offices which do not already have a strong body of examiners with the appropriate skills. Some experience can be gained directly from the use of PCT reports (see paragraph 135(c) [of document PCT/WG/3/2], above), but formal training is essential for effective use of search systems and examination. There is a limited amount which the IB is able to do directly to help national Offices address such training needs since, while the IB has a number of staff with experience of search and examination work, this is not a function in which it has sufficient direct activity to maintain the necessary expertise.

“179. On the other hand, many medium and large national and regional Offices offer training to examiners from other Offices both by bringing examiners to the headquarters of the assisting Office to join training there, and by sending trainers out to other Offices to deliver training on-site. Noting that some of the largest Offices are themselves having difficulty training enough examiners, the availability of this training is limited.

“180. While the IB assists with such training on request to the extent permitted by its capacity (for example, providing simultaneous training on PCT procedures as part of such courses), in general such training tends to be negotiated bilaterally without the IB or other Offices being aware that it is taking place. As a result, some Offices which make requests for training might receive assistance in overlapping areas from several different Offices and for others it may not be possible to arrange anything. It might be desirable if there were more communication between Offices in arranging such training in order to maximize the benefits of courses run and make them available to more Offices.”

5. Based on those considerations, the Working Group endorsed the following recommendation:

“181. Consequently, it is *recommended* that national Offices which are able to offer training in search and substantive examination should consider coordinating their activities in order to provide complementary training which can bring benefits to as wide a range of recipient Offices as possible. This might include indicating the amount and type of training which they were able to offer; allowing requests for training to be matched to the courses available; and running regional rather than national training where several Offices are found to have similar language and substantive needs. The IB should consider a similar approach in relation to training in PCT procedural processes such as the work of a receiving Office.”

## TRAINING OF EXAMINERS

6. In line with the above recommendation, the International Bureau continues to provide specific training on PCT procedures to staff of Offices of PCT Member States, notably of developing and least developed countries, including Offices appointed to act as International Authorities, in the form of national, sub-regional or regional workshops and seminars and training events taking place at WIPO's headquarters in Geneva, and by distance learning.
7. In addition, the International Bureau continues with its efforts to assist Offices, notably of developing and least developed countries, in the planning and the design of training activities, and continues to provide general training courses for Office staff, including examiners, for example, on general basics of the patent system, on patent drafting and on patent information, both in the form of workshops and seminars and by distance learning. Examples of these training activities provided by the International Bureau are provided in the list of technical assistance activities reported on a regular basis to the PCT Working Group (see Annexes I and II to document PCT/WG/6/11). These activities include both those supported by the WIPO regular budget and by Funds-In-Trust from donor Member States and the European Union.
8. However, it has to be recognized that the International Bureau has only limited capacities, both in terms of financial as well as human resources with the appropriate expertise and skills, to be able to directly help national Offices to address all of their actual training needs, notably in the area of training of examiners in search and substantive examination. The focus of the International Bureau has thus been to work towards better coordination of such training activities with Offices of Member States which are able to offer such training, notably in search and substantive examination for examiners of Offices in developing and least developed countries, with the aim of bringing benefits to as wide a range of recipient Offices as possible.
9. To that effect, the International Bureau has continued its discussions and cooperation with potential "donor Offices" with regard to the amount and type of training which they are able to offer, to allow requests for training to be matched to the courses available, and to organize regional rather than national training events where several Offices are found to have similar language and substantive needs. With the help of and in close coordination with such donor Offices, the International Bureau has been able to offer a substantial number of training activities, including training of examiners in search and substantive examination. The International Bureau is very grateful to those donor Offices for their cooperation and assistance in the past and for the continued support and commitment in the future, in an area where the capacity of even the largest donor Offices is limited.
10. However, in the view of the International Bureau, there would appear scope for improvement in the planning, design, coordination and delivery of training by donor Offices (including, but not limited to those which act as International Authorities), notably in search and substantive examination for examiners of Offices in developing and least developed countries. Demand for such training is on the rise and continues to outstrip "supply". All too often, demand is "*ad hoc*" but cannot be met by donor Offices which, while generally prepared and committed to providing resources (both human and financial), are not in a position to adequately respond to such *ad hoc* requests due to longer-term planning and budgeting needs; concerns also exist about the impact of *ad hoc* requests on the "core work" (search and examination) of their own examiners acting as trainers, compared with the benefits which can be achieved for the recipient Office as a result. All too often, what is demanded and supplied are "short-term" training activities, such as week-long workshops or seminars, with little or no follow-up "refresher" training. Yet what would appear to be needed is longer-term, well-designed, planned and coordinated training, education and capacity-building programs, enabling Offices in developing and least developed countries to improve their patent examination capacities. Ideally, this should be complemented by continuing follow-up of participants. This would enable suitable refresher training to be delivered to revise and consolidate the skills learnt during the program and for the long-term benefits of the programs to be evaluated and fed back to those responsible for the delivery and design of future programs.

11. Examples of efforts to address the challenges set out in paragraph 10, above, include longer-term capacity-building programs. One recent example is IP Australia's Regional Patent Examination Training (RPET) program, a competency-based program that focusses on search and examination procedures under the PCT, modeled on IP Australia's own approach to examiner training. This program provides a comprehensive and intensive two-year online training course mainly delivered remotely to participants with both Australian and local examiners providing one-on-one mentoring, on-the-job training and continuous assessment of the trainee's work. Further information on this program can be found on the IP Australia web site<sup>1</sup>; details of the inaugural program provided to the PCT Working Group are outlined in paragraph 228 of document PCT/WG/6/24. Another example is the Japan Patent Office (JPO)'s Long-Term Fellowship program, one of the training programs offered by the JPO as part of its cooperation in human resources development project established in 1996<sup>2</sup>. This is a 6-month training program available to executive trainees of IP Offices of developing and least-developed countries mainly in the Asian Pacific Region. Similar longer-term programs might be offered by other Offices, including those acting as International Authorities, either individually or as coordinated programs supported by several Offices working together.

12. In line with the recommendation endorsed by the Member States set out in paragraph 5, above, the International Bureau thus wishes to initiate a dialogue with International Authorities and with all Member States to discuss:

- (a) how technical assistance activities around examiner training might be improved, including a discussion of experiences, "best practices" and "lessons learnt";
- (b) the extent to which Member States could support such technical assistance activities, both individually and collectively, either directly through Offices capable of providing examiner training (including, but not limited to those which act as International Authorities) or indirectly by contributing funds to support longer-term, well designed, planned and coordinated training, education and capacity-building programs; and
- (c) the role that the International Bureau could play to facilitate international cooperation in the area of examiner training and the sharing of tools and training materials.

*13. International Authorities are invited to comment on the issues set out in the present document, in particular in paragraph 12(a).*

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<sup>1</sup> <http://www.ipaustralia.gov.au/about-us/news-and-media/you-tube-transcripts/rpet-project/>

<sup>2</sup> [http://www.training-jpo.go.jp/en/modules/pico2/index.php?content\\_id=7143](http://www.training-jpo.go.jp/en/modules/pico2/index.php?content_id=7143)