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INTERNATIONAL PATENT COOPERATION UNION
(PCT UNION)

WORKING GROUP ON REFORM OF THE PATENT
COOPERATION TREATY (PCT)

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PCT MINIMUM DOCUMENTATION:
ADDITION OF PATENT DOCUMENTS
OF THE REPUBLIC OF KOREA

Proposal by the Republic of Korea

SUMMARY

1. The Republic of Korea intends to propose to the PCT Assembly in September-October 2005 that Rule 34 be amended so as to include patent documents of the Republic of Korea in the PCT minimum documentation used in carrying out international searches. The Meeting of International Authorities Under the PCT has supported this proposal and has requested a task force to report on when the International Searching Authorities could be ready for this to be brought into force. The Working Group is invited to comment on the proposal.

BACKGROUND

2. The Korean Intellectual Property Office is among the top 10 in the world in terms of the number of patent applications received, both as a national Office and as a receiving Office under the PCT. An ever-increasing number of first patent filings are made with the Office, particularly in the fields of information technology and biotechnology, making Korean patent documents a particularly important source of technical information throughout the world.

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This is shown by the rapidly increasing use of the free Internet-based Korean patent document search service (KIPRIS¹) by users from outside the Republic of Korea.

3. The Korean Intellectual Property Office also acts as an International Searching and Preliminary Examining Authority and is aware of what data is necessary for patent documents of the Republic of Korea to be used as an effective search tool. All of these documents are available in electronic format (either image or full-text). English language abstracts of patents and published patent applications are available from 1979 onwards in searchable SGML format. The number and types of these documents are as follows:

<i>Type</i>	<i>Coverage</i>	<i>Format</i>	<i>Number of documents</i>
Granted patents	1948 to 1998	Image	456,000
	1979 to the present	SGML	144,000
Published patent applications	1983 to 1998	Image	412,000
	1983 to the present	SGML	1,058,000
English language abstracts	1979 to the present	SGML	550,000

4. All of the PCT International Authorities and many other national Offices have received CD-ROMs containing English language abstracts of patent documents of the Republic of Korea published since 1979. Some have also received CD ROMs containing the patent documents themselves. The Korean Intellectual Property Office and other International Authorities are currently discussing technical arrangements for ensuring suitable access to and updating of this documentation in electronic form to ensure that the information can be accessed efficiently as part of an international search, with a view to allowing all the Authorities to be ready to search Korean patent documents efficiently not later than January 1, 2006.

5. At its eleventh session in February 2005, the Meeting of International Authorities expressed its support for the proposal that patent documents from the Republic of Korea be included in the PCT minimum documentation. It requested a task force to report, by July 1, 2005, on when all the Authorities could be expected to be ready to efficiently search this documentation (see paragraph 22 of document PCT/MIA/11/14).

6. It is intended that this proposal be put to the Committee for Technical Cooperation for its opinion under PCT Article 56(3) and subsequently to the PCT Assembly, at its 34th session in September-October 2005, for a decision to amend Rule 34 with effect from a date to be recommended by the task force referred to in paragraph 5, above.

PROPOSAL

7. The Annex contains draft amendments to PCT Rule 34, which would include in the PCT minimum documentation patent documents published by the Korean Intellectual Property Office. The documents would include patents and published applications for patents and English language abstracts of patents or published patent applications, but not utility models.

¹ The service is available at <http://eng.kipris.or.kr>.

8. Equivalent to the current arrangements for patent documents in Japanese, Russian and Spanish which form part of the PCT minimum documentation, International Authorities for which Korean is not an official language would not be required to include patent documents of the Republic of Korean in their search collections unless an English language abstract was available. The practical result of this would be that the International Authorities, other than the Korean Intellectual Property Office, would only be required to include those documents published from 1979 onwards.

9. The Working Group is invited to comment on the proposals contained in the Annex to this document.

[Annex follows]

ANNEX

PROPOSED AMENDMENTS OF THE PCT REGULATIONS:²

MINIMUM DOCUMENTATION:
PATENT DOCUMENTS OF THE REPUBLIC OF KOREA

TABLE OF CONTENTS

Rule 34 Minimum Documentation.....	2
34.1 <i>Definition</i>	2

² Proposed additions and deletions are indicated, respectively, by underlining and striking through the text concerned. Certain provisions that are not proposed to be amended may be included for ease of reference.

Rule 34

Minimum Documentation

34.1 *Definition*

(a) [No change] The definitions contained in Article 2(i) and (ii) shall not apply for the purposes of this Rule.

[COMMENT: In this rule, “patent” does not include types of protection for inventions other than patents, and “application” does not include applications for such other types of protection. Consequently, the proposals below do not extend to the utility models of the Republic of Korea.]

(b) [No change] The documentation referred to in Article 15(4) (“minimum documentation”) shall consist of:

(i) [No change] the “national patent documents” as specified in paragraph (c),

(ii) and (iii) [No change]

(c) [No change] Subject to paragraphs (d) and (e), the “national patent documents” shall be the following:

[Rule 34.1(c), continued]

- (i) [No change] the patents issued in and after 1920 by France, the former *Reichspatentamt* of Germany, Japan, the former Soviet Union, Switzerland (in the French and German languages only), the United Kingdom, and the United States of America,

- (ii) the patents issued by the Federal Republic of Germany, [the Republic of Korea](#) and the Russian Federation,

[COMMENT: The States whose patent documents are specifically listed as being included in the PCT minimum documentation are divided into two categories. Those which existed in 1920 are listed under paragraph (c)(i) and their patent documentation from that year onwards is included (subject to the provisos in paragraphs (d) and (e), below). States established after 1920 are listed in paragraph (c)(ii) and all patents from these States from the date of their creation form part of the PCT minimum documentation (subject to the same provisos).]

- (iii) [No change] the patent applications, if any, published in and after 1920 in the countries referred to in items (i) and (ii),

[COMMENT: Similarly, all the published applications for patents from States listed in paragraph (c)(ii) form part of the PCT minimum documentation, subject to the provisos in paragraphs (d), (e) and (f), below. The limitation by date is, of course, only relevant to the States listed in paragraph (c)(i).]

- (iv) to (vi) [No change]

[Rule 34, continued]

(d) [No change] Where an application is republished once (for example, an *Offenlegungsschrift* as an *Auslegeschrift*) or more than once, no International Searching Authority shall be obliged to keep all versions in its documentation; consequently, each such Authority shall be entitled not to keep more than one version. Furthermore, where an application is granted and is issued in the form of a patent or a utility certificate (France), no International Searching Authority shall be obliged to keep both the application and the patent or utility certificate (France) in its documentation; consequently, each such Authority shall be entitled to keep either the application only or the patent or utility certificate (France) only.

[COMMENT: As with other patent documents, the International Authorities would not be obliged to keep both a published application and a patent granted on the basis of that application in the Republic of Korea in their documentation.]

[Rule 34, continued]

(e) Any International Searching Authority whose official language, or one of whose official languages, is not Japanese, [Korean](#), Russian or Spanish is entitled not to include in its documentation those patent documents of Japan, [the Republic of Korea](#), the Russian Federation and the former Soviet Union as well as those patent documents in the Spanish language, respectively, for which no abstracts in the English language are generally available. English abstracts becoming generally available after the date of entry into force of these Regulations shall require the inclusion of the patent documents to which the abstracts refer no later than six months after such abstracts become generally available. In case of the interruption of abstracting services in English in technical fields in which English abstracts were formerly generally available, the Assembly shall take appropriate measures to provide for the prompt restoration of such services in the said fields.

[COMMENT: International Authorities, other than the Korean Intellectual Property Office, would not be required to include patent documents from the Republic of Korea prior to 1979 in their documentation, since English abstracts are only available from that year onwards.]

(f) [No change] For the purposes of this Rule, applications which have only been laid open for public inspection are not considered published applications.

[COMMENT: Paragraph (f) is not relevant to patent documents from the Republic of Korea.]

[End of Annex and of document]