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INTERNATIONAL PATENT COOPERATION UNION
(PCT UNION)

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

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AMENDMENTS ADOPTED BY THE ASSEMBLY
ON OCTOBER 5, 2005, WITH EFFECT FROM APRIL 1, 2007:
CLARIFICATIONS AND CONSEQUENTIAL AMENDMENTS

Document prepared by the International Bureau

1. The Annex to this document contains proposals to further amend Rules 20.8, 55.2 and 91.3 as adopted by the PCT Assembly on October 5, 2005, and due to enter into force on April 1, 2007 (see document PCT/A/34/6, Annex II). The proposals are in the nature of clarifications and consequential amendments further to the amendments already adopted. Explanations are set out in the Annex in Comments relating to the provisions concerned.

2. *The Working Group is invited to consider the proposals contained in the Annex.*

[Annex follows]

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ANNEX

PROPOSED AMENDMENTS OF THE PCT REGULATIONS:¹

AMENDMENTS ADOPTED BY THE ASSEMBLY
ON OCTOBER 5, 2005, WITH EFFECT FROM APRIL 1, 2007:
CLARIFICATIONS AND CONSEQUENTIAL AMENDMENTS

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¹ 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 20²

International Filing Date

20.1 to 20.7 [No change]

20.8 *Incompatibility With National Laws*

(a) [No change] If, on October 5, 2005, any of Rules 20.3(a)(ii) and (b)(ii), 20.5(a)(ii) and (d), and 20.6 are not compatible with the national law applied by the receiving Office, the Rules concerned shall not apply to an international application filed with that receiving Office for as long as they continue not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by April 5, 2006. The information received shall be promptly published by the International Bureau in the Gazette.

(a-bis) Where a missing element or part cannot be incorporated by reference in the international application under Rules 4.18 and 20.6 because of the operation of paragraph (a) of this Rule, the receiving Office shall proceed as provided for in Rule 20.3(b)(i), 20.5(b) or 20.5(c), as the case may be.

[COMMENT: It is proposed to add a new paragraph (a-bis) to Rule 20.8 so as to clarify the procedure to be followed by a receiving Office which has notified the International Bureau of the incompatibility of any of the Rules referred to in paragraph (a) with the national law applied by that Office.]

² The proposed amendments are shown relative to the text of Rule 20 as adopted by the Assembly on October 5, 2005, with effect from April 1, 2007.

[Rule 20.8, continued]

(b) [No change] If, on October 5, 2005, any of Rules 20.3(a)(ii) and (b)(ii), 20.5(a)(ii) and (d), and 20.6 are not compatible with the national law applied by the designated Office, the Rules concerned shall not apply in respect of that Office in relation to an international application in respect of which the acts referred to in Article 22 have been performed before that Office for as long as they continue not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by April 5, 2006. The information received shall be promptly published by the International Bureau in the Gazette.

(c) Where an element or part is considered to have been incorporated by reference in the international application by virtue of a finding of the receiving Office under Rule 20.6(b), but that incorporation by reference does not apply to the international application for the purposes of the procedure before a designated Office because of the operation of paragraph (b) of this Rule, the designated Office shall treat the application as if the international filing date had been accorded under Rule 20.3(b)(i) or 20.5(b), or corrected under Rule 20.5(c), as the case may be, provided that Rule 82^{ter}.1(c) and (d) shall apply *mutatis mutandis*.

[COMMENT: It is proposed to add a new paragraph (c) to Rule 20.8 so as to clarify the procedure to be followed by a designated Office which has notified the International Bureau of the incompatibility of any of the Rules referred to in paragraph (b) with the national law applied by that Office.]

Rule 55³

Languages (International Preliminary Examination)

55.1 [No change]

55.2 *Translation of International Application*

(a) [No change]

(a-*bis*) A translation of the international application into a language referred to in paragraph (a) shall include any element referred to in Article 11(1)(iii)(d) or (e) furnished by the applicant under Rule 20.3(b) or 20.6(a) and any part of the description, claims or drawings furnished by the applicant under Rule 20.5(b) or 20.6(a) which is considered to have been contained in the international application under Rule 20.6(b).

[COMMENT: It is proposed to further amend Rule 55.2(a-*bis*) so as to clarify that the translation furnished by the applicant under Rule 55.2(a) should only include those missing elements or parts furnished by the applicant under Rule 20.3(b) or 20.6(a), or furnished under Rule 20.5(b) or 20.6(a), which, under Rule 20.6(b), are considered to have been contained in the international application on the date on which one or more elements referred to in Article 11(1)(ii) were first received by the receiving Office.]

(b) to (d) [No change]

55.3 [No change]

³ The proposed amendments are shown relative to the text of Rule 55 as adopted by the Assembly on October 5, 2005, with effect from April 1, 2007.

Rule 91⁴

**Rectification of Obvious Mistakes in the
International Application and Other Documents**

91.1 and 91.2 [No change]

91.3 *Authorization and Effect of Rectifications*

(a) to (e) [No change]

(f) A designated Office may disregard a rectification that was authorized under Rule 91.1 only if it finds that it would not have authorized the rectification under Rule 91.1 if it had been the competent authority, provided that no designated Office shall disregard any rectification that was authorized under Rule 91.1 without giving the applicant the opportunity to make observations, within a time limit which shall be reasonable under the circumstances, on the Office's intention to disregard the rectification.

[COMMENT: It is proposed to amend paragraph (f) so as to ensure that the applicant has an opportunity to react to the intention of the designated Office to disregard the rectification that was authorized under Rule 91.1. The wording of the proposed amendment is modeled on Rule 26bis.3(g) as adopted by the Assembly on October 5, 2005, with effect from April 1, 2007.]

[End of Annex and of document]

⁴ The proposed amendments are shown relative to the text of Rule 91 as adopted by the Assembly on October 5, 2005, with effect from April 1, 2007.