

Patent Cooperation Treaty (PCT) Working Group

**Twelfth Session
Geneva, June 11 to 14, 2019**

TRANSFER OF PCT FEES

Document prepared by the International Bureau

SUMMARY

1. A preliminary review by the International Bureau of the results of the pilot project for the “netting” of certain PCT fees has shown that the pilot arrangements have delivered benefits for the International Bureau and for other Offices¹, both in their roles as receiving Offices (ROs) and as International Authorities (see document PCT/WG/12/19).
2. Further extensions and improvements of the arrangements depend on ensuring that processes, information transfer and timings are consistent between all participating Offices. This document sets out draft amendments to the PCT Regulations and modifications to the Administrative Instructions to provide a consistent legal basis for the transfer of fees via the International Bureau, as well as allowing for continued direct payment of fees according to the current normal process where Offices are not, for the moment, able to participate in this new arrangement.
3. To maximize the possibility of participation, the proposals allow for Offices to use the process solely to the extent of making fee transfers via the International Bureau, with the netting of transfers of fees collected by an Office against transfers of fees for the benefit of that Office being treated as a further option.

¹ In this document, “Offices” refers to national and regional Offices in their roles as receiving Offices and as International Authorities, and also to the International Bureau in its main role and as a receiving Office.

BACKGROUND

4. For an update on the pilot project for the transfer of fees via the International Bureau and netting of payments, which began in 2018, see document PCT/WG/12/19.

5. The project was begun by the International Bureau as “the netting project”, with the main aims of reducing its exposure to exchange rate fluctuations and to better control the levels of money held in accounts in currencies for which the International Bureau has few expenses. However, the main benefits reported by receiving Offices and by International Searching Authorities (ISAs) are in the efficiency gains coming from:

- (a) allowing Offices to make all required transfers of fees to other Offices in a single transaction;
- (b) each Office receiving all fees due from other Offices in a single transaction;
- (c) each RO being able to communicate to the ISAs information on the search fees due in the same way for each Authority competent for searching international applications filed at that RO;
- (d) ISAs receiving a consistent and pre-validated list of search fees being transferred from each RO; and
- (e) eliminating the need for an ISA to submit claims under Rule 16.1(e) to the IB for reimbursement of foreign exchange losses or submission to the IB of foreign exchange gains for ROs participating in the netting pilot which submit fees in prescribed currencies different from the fixed currency.

6. To gain the full benefits of this system for ISAs or for ROs with more than one competent ISA, it would be ideal if all international phase fees being collected by one Office for the benefit of a different Office were to use the same fee transfer arrangements. That is, all fees would be transferred via the International Bureau and, as far as practical, made subject to netting where an Office both transferred and received fees. In the view of the International Bureau, this should be the aim in the medium term if it can be demonstrated that the benefits are proportionate to possible costs to the International Bureau and other Offices. However, it does not appear practical immediately because:

- (a) some Offices have legal or procedural barriers to address before they can change their fee transfer and receipt arrangements;
- (b) some Offices are required to keep their transactions related to operations in different capacities or functions (receiving Office vs International Authority; payments vs receipts) strictly segregated;
- (c) the checks required by the International Bureau would require additional staff to be able to expand the arrangements to a significantly larger group of Offices, with costs rising potentially beyond the benefit to be achieved unless it was ensured that data sent by Offices (especially ROs) would be of a sufficiently high quality, consistency and timeliness so that the large majority of transactions could be near-fully automated by the International Bureau.

7. It should be noted that there are several distinct sets of costs and benefits related to different options within the proposed changes to the Netting Pilot contained in this document. Some of the benefits require only that the transfers by Offices are made via the International Bureau and that the information supporting the transfers is provided to the International Bureau to a consistent timetable and in a consistent format. Other benefits are specifically dependent

on the grouping of payments to or from different Offices, or else “netting”, that is, offsetting payments against receipts.

8. The largest benefits to the International Bureau depend on the offsetting of payments against receipts for Offices with high volumes of fees being moved in each direction, so that the balance of cash that the International Bureau needs to maintain in any particular currency can be minimized. Nevertheless, though this has been implemented easily by some Offices in the pilot, it is recognized that making such a change could be difficult and costly for some Offices, because it might require a significant change to national IT systems and/or accounting practices; potentially, such changes may require consent and change not only by the Office but by other areas of government that may not share the benefits.

PROPOSED AMENDMENTS TO THE REGULATIONS AND PROPOSED MODIFICATIONS OF THE ADMINISTRATIVE INSTRUCTIONS

9. The aim of the proposals in this document is to create a legal framework that provides a clear basis for transferring fees via the International Bureau, allowing and encouraging Offices to participate if they can meet the requirements. In addition, the enabling provisions in the Regulations are kept sufficiently flexible so that the Administrative Instructions can be updated in the future to require the system to be used in a wider set of situations, should this be desired and appear practical.

10. Importantly, the proposals seek to separate the issues of transfer of fees via the International Bureau from the netting of the transfers of different groups of fees. Offices are strongly encouraged to embrace netting where practical, but would be free to participate in the general arrangements for transfers of fees without the use of netting. For such Offices, the changes would be limited to changing the bank accounts to which transfers are made and ensuring that timings and data formats were consistent with the new arrangements.

11. To emphasize that netting is not a required part of the system, the proposal no longer refers to the overall system as “the WIPO Netting System”. Rather, the service is provisionally referred to as “the WIPO Fee Transfer Service”, and those transactions between the International Bureau and an individual Office where fees collected by that Office for the benefit of another Office and fees collected by another Office for the benefit of that Office are offset against one another are referred to as “fee transfers subject to netting”.

CURRENT PROCESS

12. Under the PCT, fees payable by the applicant are either payable directly to an Office (in its various PCT capacities) for PCT services rendered by that Office (example: the applicant pays the transmittal fee to the RO) or payable to an Office for services rendered by a different Office (example: the applicant pays the search fee to the RO, which collects that fee for the benefit of the ISA for carrying out the international search). Similarly, certain fees are payable to the International Bureau, either for its own benefit (example: the applicant pays the supplementary search handling fee to the International Bureau) or payable to the International Bureau for the benefit of other Offices (example: the applicant pays a supplementary search fee to the International Bureau for the benefit of the Authority specified for supplementary search).

13. Where fees are collected by Offices, including the International Bureau, in their various PCT capacities (hereinafter referred to as “collecting Offices”) for the benefit of other Offices (hereinafter referred to as “beneficiary Offices”), the subsequent transfer of the fees from the collecting Office to the beneficiary Office is governed by the Regulations. In particular:

- (a) under Rule 15.1, the international filing fee, which is for the benefit of the International Bureau, is collected by the RO and “promptly” transferred by that Office to the International Bureau;
- (b) under Rule 16.1, the search fee, which is for the benefit of the ISA which carries out the international search, is collected by the RO and “promptly” transferred by the RO to that Authority;
- (c) under Rule 45*bis*.3, the supplementary search fee, which is for the benefit of the Authority specified for supplementary search, is to be collected by the International Bureau and “promptly” transferred by the International Bureau to that Authority;
- (d) under Rules 57.1 and 57.2, the handling fee, which is for the benefit of the International Bureau, is collected by the International Preliminary Examining Authority and “promptly” transferred by that Authority to the International Bureau.
- (e) under Rule 16.1(e), differences (due to exchange rate fluctuations) under Rule 16.1(e) relating to search fees received by the ISA from an RO are transferred by the International Bureau to the ISA (where the difference belongs to that Authority) or by that Authority to the International Bureau (where the difference belongs to the International Bureau).

14. In practice, these requirements are usually implemented by monthly transfers of fees, but with a variety of timetables, as well as formats and means of transmission of supporting information.

PROPOSED NEW PROCESS

15. The proposed new process involves all transfers of fees between different participating Offices being made via the International Bureau to a common timetable and with common procedures. Ideally, the arrangements would minimize the total number of transactions between the International Bureau and any particular Office. However, individual Offices could agree with the International Bureau whether payments would be subject to netting (for Offices both transferring and receiving fees) and whether payments to or from different Offices would be merged into single payments or made separately.

16. Offices acting as both RO and ISA for the same international application would remain responsible for any transfer that might be required between accounts representing different roles within the Office, according to whatever processes were considered appropriate.

17. Specifically, the required processes would be as follows:

Notifications concerning the payment of individual fees

(a) Each Office collecting fees (collecting Office) for the benefit of another Office (beneficiary Office) would notify the International Bureau promptly, confirming that a particular individual fee had been paid in full.

(b) The International Bureau would in turn notify the beneficiary Office of the receipt of the fee. That Office would begin the actions for which the fee was paid on the basis of having received that notification from the International Bureau (and any other required documents or information, such as the search copy in the case of the search fee).

Consolidated Lists of Fees Collected During the Previous Month – Payments from the Collecting Offices in the Case of No Netting

(c) By a first specified date each month, each collecting Office would provide one or more lists to the International Bureau, consolidating the information for all the fees received in the previous calendar month for the benefit of other Offices, together with any information required to handle corrections and omissions from earlier months. For Offices submitting the relevant individual notifications through ePCT, the International Bureau would prepare this list automatically on behalf of the Office (a system is under development for this purpose, allowing the Office to confirm and, where necessary, correct the details).

(d) Where the collecting Office had not agreed to net these amounts against payments due from other Offices, the Office would transfer the indicated sum to the International Bureau no later than the timetable described in paragraph 18 below. At the choice of the collecting Office, this could be a single payment (strongly preferred, where possible) or several payments, each representing the sub-total for an agreed group of fees, such as international filing fees or search fees due to specific ISAs.

(e) Where search fees were collected by an RO in a prescribed currency different from the fixed currency, the International Bureau would normally receive the fees in the prescribed currency, but transfer them to the ISA in the fixed currency. This would eliminate the need for payments of the difference under Rule 16.1(e) for any applications where the fee was transferred in this way.

Consolidated Lists of Fees for the Benefit of ISAs – Payments to the Beneficiary Offices

(f) On a second specified date each month, the International Bureau would, for the Offices that receive fees for their benefit from other Offices (primarily Offices in their capacity as an ISA), submit statements summarizing the total amounts collected by collecting Offices during the previous month.

(g) Where netting of fees had been agreed, the International Bureau would provide to the other Office an indication of the difference to be paid by the International Bureau or the other Office, as appropriate.

(h) The International Bureau (in the case where no netting was to take place, or where the difference was in favor of the other Office) or the other Office would transfer the indicated amount or amounts to the other no later than the date specified in the common timetable described in paragraph 18 below.

18. To make the system work effectively, the information concerning the fees due to be transferred between any pair of Offices (via the International Bureau) in any month must all be prepared in time for the netting statements to be prepared and the actual transfers of fees must occur within a limited window of time. As such, all Offices must work to a common timetable. It is envisaged that this timetable would normally be drawn up annually, around September of each year for the whole of the following calendar year. The due dates for each month would be proposed so as to allow sufficient time for each stage to be completed, having regard to the holidays in the various Member States, so that all transfers would be completed in accordance with the common timetable.

19. Annex I sets out proposed amendments to the PCT Regulations, designed to allow Administrative Instructions to be made, providing detailed procedures for the transfer of fees collected by one Office for the benefit of a second Office.

20. Annex II sets out initial draft modifications to the PCT Administrative Instructions covering:
- (a) the case where both the collecting Office and the beneficiary Office agree to the transfer of fees via the International Bureau, both:
 - (i) where some or all of the groups of fees being transferred between an Office and the International Bureau are netted; and
 - (ii) where some or all of the groups of fees are transferred as separate payments;
- and
- (b) the case where one of the two Offices does not agree to transfer the fees via the International Bureau, in which case the fees would be transferred directly between the Offices in the same way as at present.

21. If the Working Group recommends that the amendments to the PCT Regulations in Annex I be proposed for adoption by the PCT Assembly, the International Bureau would hold further consultations on the Administrative Instructions, using PCT Circulars, before the amendments to the Regulations entered into force.

22. The Working Group is invited to consider the proposals set out in the Annexes to this document.

[Annexes follow]

PROPOSED AMENDMENTS TO THE PCT REGULATIONS²

TABLE OF CONTENTS

Rule 15 The International Filing Fee	2
15.1 [No Change] The International Filing Fee	2
15.2 Amount; Transfer.....	2
15.3 and 15.4 [No Change]	3
Rule 16 The Search Fee	4
16.1 Right to Ask for a Fee.....	4
16.2 and 16.3 [No Change]	5
Rule 45 <i>bis</i> Supplementary International Searches	6
45 <i>bis</i> .1 and 45 <i>bis</i> .2 [No Change]	6
45 <i>bis</i> .3 Supplementary Search Fee	6
45 <i>bis</i> .4 to 45 <i>bis</i> .9 [No change].....	6
Rule 57 The Handling Fee	7
57.1 [No Change] Requirement to Pay	7
57.2 Amount; Transfer.....	7
57.3 and 57.4 [No Change]	8
Rule 96 The Schedule of Fees; Collection and Transfer of Fees	9
96.1 [No Change] Schedule of Fees Annexed to Regulations	9
96.2 Notification of Receipt of Fees; Transfer of Fees	9

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 15

The International Filing Fee

15.1 [No Change] *The International Filing Fee*

Each international application shall be subject to the payment of a fee for the benefit of the International Bureau (“international filing fee”) to be collected by the receiving Office.

15.2 Amount: Transfer

[COMMENT: It is proposed to amend the title of Rule 15.2 so as to clarify that it not only covers the amount of the fee payable by the applicant but also the transfer of that fee to the International Bureau.]

(a) [No change] The amount of the international filing fee is as set out in the Schedule of Fees.

(b) [No change] The international filing fee shall be payable in the currency or one of the currencies prescribed by the receiving Office (“prescribed currency”).

(c) Where the prescribed currency is the Swiss franc, the receiving Office shall ~~promptly~~ transfer the said fee to the International Bureau in Swiss francs in accordance with Rule 96.2.

[COMMENT: It is proposed to add new Rule 96.2 (see below) to provide details on the transfer of fees for Offices that collect fees for the benefit of a different Office (such as, for example, the receiving Office collecting the international filing fee for the benefit of the International Bureau) and so as to clarify the procedure with regard to the transfer of fees where a “collecting” Office participates in the WIPO Fee Transfer Process.]

[Rule 15.2, continued]

(d) Where the prescribed currency is a currency other than the Swiss franc and that currency:

(i) is freely convertible into Swiss francs, the Director General shall establish, for each receiving Office which prescribes such a currency for the payment of the international filing fee, an equivalent amount of that fee in the prescribed currency according to directives given by the Assembly, and the amount in that currency shall promptly be transferred by the receiving Office to the International Bureau [in accordance with Rule 96.2](#);

[COMMENT: See Comment on Rule 15.2(c), above.]

(ii) is not freely convertible into Swiss francs, the receiving Office shall be responsible for the conversion of the international filing fee from the prescribed currency into Swiss francs and shall promptly transfer that fee in Swiss francs, in the amount set out in the Schedule of Fees, to the International Bureau [in accordance with Rule 96.2](#). Alternatively, if the receiving Office so wishes, it may convert the international filing fee from the prescribed currency into euros or US dollars and promptly transfer the equivalent amount of that fee in euros or US dollars, as established by the Director General according to directives given by the Assembly as referred to in item (i), to the International Bureau [in accordance with Rule 96.2](#).

[COMMENT: See Comment on Rule 15.2(c), above.]

15.3 and 15.4 *[No Change]*

Rule 16

The Search Fee

16.1 *Right to Ask for a Fee*

(a) [No change] Each International Searching Authority may require that the applicant pay a fee (“search fee”) for its own benefit for carrying out the international search and for performing all other tasks entrusted to International Searching Authorities by the Treaty and these Regulations.

(b) The search fee shall be collected by the receiving Office. The said fee shall be payable in the currency prescribed by that Office (“prescribed currency”).

(c) Where the prescribed currency is the currency in which the International Searching Authority has fixed the said fee (“fixed currency”), the receiving Office shall promptly transfer the said fee to that Authority in that currency.

[COMMENT: See Comment on Rule 15.2(c), above.]

(d) Where the prescribed currency is not the fixed currency and that currency:

(i) is freely convertible into the fixed currency, the Director General shall establish, for each receiving Office which prescribes such a currency for the payment of the search fee, an equivalent amount of that fee in the prescribed currency according to directives given by the Assembly, and the amount in that currency shall promptly be transferred by the receiving Office to the International Searching Authority [in accordance with Rule 96.2](#);

[COMMENT: See Comment on Rule 15.2(c), above.]

[Rule 16.1(d), continued]

(ii) is not freely convertible into the fixed currency, the receiving Office shall be responsible for the conversion of the search fee from the prescribed currency into the fixed currency and shall promptly transfer that fee in the fixed currency, in the amount fixed by the International Searching Authority, to the International Searching Authority [in accordance with Rule 96.2](#).

[COMMENT: See Comment on Rule 15.2(c), above.]

(e) [No change] Where, in respect of the payment of the search fee in a prescribed currency, other than the fixed currency, the amount actually received under paragraph (d)(i) of this Rule by the International Searching Authority in the prescribed currency is, when converted by it into the fixed currency, less than that fixed by it, the difference will be paid to the International Searching Authority by the International Bureau, whereas, if the amount actually received is more, the difference will belong to the International Bureau.

[COMMENT: Under the new arrangements for transfer of fees via the International Bureau, the International Bureau would always transfer the search fee to the ISA in the fixed currency. Differences between the fee in the fixed currency and the amount in the prescribed currency when converted to the fixed currency would be dealt with directly by the International Bureau. Consequently, this provision would only apply with regard to those fees that continued to be transferred directly from the receiving Office to the International Searching Authority.]

(f) [No change] As to the time limit for payment of the search fee and the amount payable, the provisions of Rule 15.3 relating to the international filing fee shall apply mutatis mutandis.

16.2 and 16.3 [No Change]

Rule 45bis

Supplementary International Searches

45bis.1 and 45bis.2 [No Change]

45bis.3 Supplementary Search Fee

(a) [No change]

(b) [No change] The supplementary search fee shall be collected by the International Bureau. Rules 16.1(b) to (e) shall apply *mutatis mutandis*.

(c) to (e) [No change]

45bis.4 to 45bis.9 [No change]

Rule 57

The Handling Fee

57.1 [No Change] Requirement to Pay

Each demand for international preliminary examination shall be subject to the payment of a fee for the benefit of the International Bureau (“handling fee”) to be collected by the International Preliminary Examining Authority to which the demand is submitted.

57.2 Amount: Transfer

[COMMENT: It is proposed to amend the title of Rule 57.2 so as to clarify that it not only covers the amount of the fee payable by the applicant but also the transfer of that fee to the International Bureau.]

(a) and (b) [No change]

(c) Where the prescribed currency is the Swiss franc, the Authority shall **promptly** transfer the said fee to the International Bureau in Swiss francs in accordance with Rule 96.2.

[COMMENT: See Comment on Rule 15.2(c), above.]

(d) Where the prescribed currency is a currency other than the Swiss franc and that currency:

[Rule 57.2(d), continued]

(i) is freely convertible into Swiss francs, the Director General shall establish, for each Authority which prescribes such a currency for the payment of the handling fee, an equivalent amount of that fee in the prescribed currency according to directives given by the Assembly, and the amount in that currency shall promptly be transferred by the Authority to the International Bureau [in accordance with Rule 96.2](#);

[COMMENT: See Comment on Rule 15.2(c), above.]

(ii) is not freely convertible into Swiss francs, the Authority shall be responsible for the conversion of the handling fee from the prescribed currency into Swiss francs and shall promptly transfer that fee in Swiss francs, in the amount set out in the Schedule of Fees, to the International Bureau [in accordance with Rule 96.2](#). Alternatively, if the Authority so wishes, it may convert the handling fee from the prescribed currency into euros or US dollars and promptly transfer the equivalent amount of that fee in euros or US dollars, as established by the Director General according to directives given by the Assembly as referred to in item (i), to the International Bureau [in accordance with Rule 96.2](#).

[COMMENT: See Comment on Rule 96.2, below.]

57.3 and 57.4 [No Change]

Rule 96

The Schedule of Fees: Collection and Transfer of Fees

[COMMENT: It is proposed to amend the title of Rule 96, consequential on the proposed addition of proposed new Rule 96.2.]

96.1 *[No Change]* Schedule of Fees Annexed to Regulations

The amounts of the fees referred to in Rules 15, 45bis.2 and 57 shall be expressed in Swiss currency. They shall be specified in the Schedule of Fees which is annexed to these Regulations and forms an integral part thereof.

96.2 Notification of Receipt of Fees; Transfer of Fees

(a) For the purposes of this Rule, "Office" shall mean the receiving Office (including the International Bureau acting as receiving Office), the International Searching Authority, an Authority specified for supplementary international search, the International Preliminary Examining Authority or the International Bureau.

(b) Where, in accordance with these Regulations or the Administrative Instructions, a fee is collected by one Office ("collecting Office") for the benefit of another Office ("beneficiary Office"), the collecting Office shall promptly notify the receipt of each such fee to the beneficiary Office in accordance with the Administrative Instructions. Upon receipt of the notification, the beneficiary Office shall proceed as if it had received the fee on the date on which the fee was received by the collecting Office.

[COMMENT 1: It is proposed to add new Rule 96.2(a) and (b) to clarify that, where an Office collects a fee for the benefit of another Office (example: the receiving Office (RO) collects the search fee for the benefit of the International Searching Authority (ISA)), the "beneficiary Office" should not wait for the actual transfer of the fee but rather commence processing of the application upon receipt of a notification by the collecting Office that it had received the fee (in the example: start the international search on receipt of the notification that the RO had received the search fee, provided that all other requirements had been met, such as the transmission of the search copy).]

[COMMENT 2: The Rule does not apply to fees collected by an Office for its own benefit, whether in the same role or otherwise. Any case where an Office needed to transfer fees “to itself”, for example because search fees collected by the RO needed to be moved to the same Office’s separate ISA account, would be left entirely to the local arrangements of the Office.]

[COMMENT 3: In practice, any new system prepared for making these notifications should also notify the International Bureau of fees received by an Office for its own benefit (at least the search fees and potentially others such as transmittal, late payment, protest and additional search and examination fees). The International Bureau is likely to propose this as a future requirement of either the Regulations or the Administrative Instructions, once it is practical for Offices to comply without undue cost.]

(c) The collecting Office shall transfer any fees collected for the benefit of a beneficiary Office to that Office in accordance with the Administrative Instructions.

[Annex II follows]

PROPOSED MODIFICATIONS TO THE ADMINISTRATIVE INSTRUCTIONS

TABLE OF CONTENTS

Section 114 Transfer of Fees [Deleted]	2
Annex G Transfer of Fees	3
I. Introduction	3
II. Transfer of Fees via the International Bureau	3
II.1 Agreement to Participate in the WIPO Fee Transfer Process	3
II.2 Transmission of Fee Information by Participating Offices to the International Bureau	4
II.3 Transmission of Fee Information by the International Bureau to Participating Offices	7
II.4 Transfer of Fees	9
II.4.1 Fee Transfers to Beneficiary Offices; Fee Transfers Subject to Netting	9
II.4.2 Fee Transfers Not Subject to Netting	9
II.4.3 Transfer of Fees Not Included in the WIPO Fee Transfer Process	9
II.5 Correction of Errors and Omissions	10
III. Transfer of Fees by or to Offices Not Participating in the WIPO Fee Transfer Process	10

Section 114

Transfer of Fees ~~[Deleted]~~

The transfer of fees under Rule 96.2(c) shall be carried out in accordance with Annex G.

[COMMENT: See proposed new Annex G to the Administrative Instructions, below.]

ANNEX G

TRANSFER OF FEES

[COMMENT: It is proposed to add a new Annex G to the Administrative Instructions so as to provide detailed instructions with regard to the transfer of PCT fees from collecting Offices to beneficiary Offices, including provisions relating to the timing of transfers and special provisions where an Office agrees with the International Bureau to net fees collected and due, to minimize the number of transactions and associated fees and administrative costs.]

I. INTRODUCTION

1. Pursuant to PCT Rule 96.2(c) and Section 114 of the PCT Administrative Instructions, the transfer of fees collected by one Office for the benefit of another Office shall be carried out in accordance with the provisions set out in this Annex.

2. For the purposes of this Annex, the expression "Office" has the same meaning as defined in PCT Rule 96.2(a), namely: "Office" shall mean the receiving Office (including the International Bureau as receiving Office), the International Searching Authority, an Authority specified for supplementary search, the International Preliminary Examining Authority or the International Bureau.

II. TRANSFER OF FEES VIA THE INTERNATIONAL BUREAU

II.1 AGREEMENT TO PARTICIPATE IN THE WIPO FEE TRANSFER PROCESS

3. An Office ("participating Office") may agree with the International Bureau, by way of an exchange of letters, to participate in the WIPO process for exchanging fees via the International Bureau ("WIPO Fee Transfer Process") for PCT purposes by:

- (a) transferring PCT fees collected by it for the benefit of another participating Office to that other participating Office via the International Bureau in accordance with the provisions set out in this Annex; and
- (b) having PCT fees collected by other participating Offices for its benefit transferred to it via the International Bureau in accordance with the provisions set out in this Annex.

A participating Office may also agree:

- (c) to participate in the WIPO Fee Transfer Process for the purposes of all PCT fees, or of some PCT fees but not others, or to limit its participation to the transfer of fees by it under paragraph (a);
- (d) that some or all of the transfers of fees by it under paragraph (a) and the transfer of fees to it under paragraph (b) shall be subject to netting in accordance with the provisions set out in this Annex ("fee transfer subject to netting"), in which case it may also agree to net different groups of PCT fees as separate netting processes.

The International Bureau shall publish a notice in the PCT Gazette indicating the Offices and PCT fees concerned.

[COMMENT: Although the agreement between a participating Office and the International Bureau is a bilateral one, the scope of an International Searching Authority's participation will affect the actions necessary for the receiving Offices for which it is competent and vice-versa. Consequently, it is essential that the scope of participation is visible to all participating Offices so that they can set up their payment and receipt processes accordingly. The International Bureau would take into account the effect of any changes on the processes with regard to other Offices in agreeing the dates on which any change would take effect.]

II.2 TRANSMISSION OF FEE INFORMATION BY PARTICIPATING OFFICES TO THE INTERNATIONAL BUREAU

4. Any participating Office shall establish a list each month, in an agreed standard format, preferably in XML, of the following PCT fee information, as applicable:

[COMMENT: The term "agreed standard format" is intended to provide considerable flexibility for interim arrangements. The aim is eventually to exchange all fee information in a single, consistent XML format. However, where an Office produces an existing data feed to consistent standards to support the transfer of fees from one Office to another, the International Bureau will seek to allow its use with minimum changes, including inferring data items that have not been explicitly provided if they can readily be inferred from the context of the data transfer.]

(a) with regard to each international filing fee collected during the preceding month by it in its capacity as a receiving Office under Rule 15.1 for the benefit of the International Bureau:

- (i) the international application number;
- (ii) the date of receipt of the international application;
- (iii) the payment date;
- (iv) the fee code³;
- (v) the code of the receiving Office (the Office responsible for collecting the fee);
- (vi) the code "IB" (the Office for whose benefit the fee has been collected).

[COMMENT: It is desirable to include items (iv) and (v) in the lists, even though they will be the same on every row, in order to establish a consistent approach across different fee types (see item (c), below), and to avoid the need to change the data formats in the event that the system is expanded in the future to handle "centralized payments", where one Office (normally the International Bureau) accepts payments on behalf of another Office.]

- (vii) the currency for payment according to Rule 15.2(c) or (d);
- (viii) the amount of each component of the international filing fee;

³ The fee code shall indicate the type of fee and any relevant variants, such as fee reductions.

- (ix) the total amount of the international filing fee;

and the total amount of international filing fees so collected by it during the preceding month;

(b) with regard to each search fee collected during the previous month by it in its capacity as a receiving Office under Rule 16.1(b) for the benefit of a different participating Office as International Searching Authority:

- (i) the international application number;
- (ii) the date of receipt of the international application;
- (iii) the payment date;
- (iv) the fee code⁴;
- (v) the code of the receiving Office (the Office responsible for collecting the fee);
- (vi) the code of the International Searching Authority (the Office for whose benefit the fee has been collected);

[COMMENT: see comment on paragraph (a), items (iv) and (v), above]

- (vii) the currency for payment according to Rule 16.1(c) or (d);
- (viii) the amount of the search fee;

and the total amount of search fees so collected by it during the preceding month;

(c) with regard to each handling fee collected during the preceding month by it in its capacity as an International Preliminary Examining Authority under Rule 57.1 for the benefit of the International Bureau:

- (i) the international application number;
- (ii) the date of receipt of the demand;
- (iii) the payment date;
- (iv) the fee code⁵;
- (v) the code of the International Preliminary Examining Authority (the Office responsible for collecting the fee);
- (vi) the code "IB" (the Office for whose benefit the fee has been collected);

[COMMENT: see comment on paragraph (a), items (iv) and (v), above]

- (vii) the currency for payment according to Rule 57.2(c) or (d);

⁴ See footnote 3.

⁵ See footnote 3.

(viii) the amount of the handling fee;

and the total amount of handling fees so collected by it during the preceding month;

(d) any information required to add or correct details of fees omitted or indicated incorrectly in previous months' lists and not corrected prior to the establishment of any relevant netting statement;

(e) any information required in relation to other payments to be made by the participating Office using the netting system.

5. Any participating International Searching Authority that receives search fees from non-participating Offices in a prescribed currency different from the fixed currency shall establish a list in an agreed standard format, preferably in XML, of the following PCT fee information, relating to those search fees:

(i) the international application number;

(ii) the date of receipt of the international application;

(iii) the payment date;

(iv) the fee code⁶;

(v) the code of the International Searching Authority (where the difference referred to in Rule 16.1(e) belongs to the International Searching Authority);

(vi) the code "IB" (where the difference referred to in Rule 16.1(e) belongs to the International Bureau);

[COMMENT: see comment on paragraph (a), items (iv) and (v), above]

(vii) the prescribed currency;

(viii) the amount of the search fee received in the prescribed currency;

(ix) the amount of the search fee when converted into the fixed currency on that date;

and the total amount of such differences relating to search fees received by it covering either the preceding month, calendar quarter, year or other period as agreed with the International Bureau. The Authority shall also submit documentation agreed with the International Bureau showing the amounts transferred in the prescribed currency, the date, the exchange rate applied and the amount received in the fixed currency.

[COMMENT: The relevant documentation would normally be the bank statements.]

⁶ See footnote 3.

6. Any participating Office shall transmit the list or lists referred to in paragraphs 4 and 5, above, to the International Bureau electronically (by e-mail or by any other means agreed) in accordance with a yearly common timetable established by the International Bureau following consultations with the participating Offices, specifying the latest date of each month by which Offices shall transmit the fee information to the International Bureau. Where the participating Office uses the electronic services provided by the International Bureau for the management of PCT fee payments and the transmission of search copies⁷, those services [shall][may] be used to make this transmission.

[COMMENT: Paragraphs 4 to 6 set out details with regard to the fee information to be provided by the participating Office to the International Bureau, as well as the means of transmittal of such fee information. For receiving Offices using ePCT to transmit the individual notifications of receipt of filing and search fees, the relevant lists would be prepared automatically by the system on the relevant date. Similar arrangements might also apply to other sets of fees managed through ePCT or by notifications transmitted to a suitable standard.]

7. The International Bureau shall carry out a thorough check of the fee information received against the information it holds in its databases with regard to the international applications concerned and confirm to that Office that the information it has received is accurate. In case of differences that require reconciliation, the International Bureau shall contact the participating Office.

[COMMENT: The International Bureau would check that the fees paid were correct, based on the bibliographic data, selected Offices and page counts in its records. Any differences would be investigated to determine whether the fee or the data held was incorrect. Where possible, this check would be done immediately on receipt of the individual notifications under Rule 96.2(b), rather than waiting until the monthly list was established, since in the latter case the corrections would typically be agreed too late and need to be included in the following month's statements.]

II.3 TRANSMISSION OF FEE INFORMATION BY THE INTERNATIONAL BUREAU TO PARTICIPATING OFFICES

8. The International Bureau shall establish a list or lists each month, in an agreed standard format, preferably in XML, of the fees collected by the International Bureau or notified to the International Bureau in a list according to paragraph 5 as having been collected for the benefit of that participating Office, setting out the following fee information, as applicable:

(a) with regard to the search fees collected by International Bureau in its capacity as a receiving Office during the preceding month for the benefit of the participating Office in its capacity as an International Searching Authority, or collected by any other participating Office in its capacity as a receiving Office during the preceding month for the benefit of the participating Office in its capacity as an International Searching Authority and notified to the International Bureau in accordance with paragraph 4, above:

(i) the international application number;

⁷ The relevant services are the browser-based ePCT services for indication of fee payment and eSearchCopy.

- (ii) the date of receipt of the international application;
 - (iii) the payment date;
 - (iv) the fee code⁸;
 - (v) the code of the receiving Office (the Office responsible for collecting the fee);
 - (vi) the code of the International Searching Authority (the Office for whose benefit the fee has been collected);
 - (vii) the fixed currency; and
 - (viii) the amount of the fee owed to the International Searching Authority;
- (b) with regard to the supplementary search fees collected by the International Bureau during the preceding month for the benefit of the participating Office in its capacity as an Authority specified for supplementary international search:
- (i) the international application number;
 - (ii) the date of receipt of the international application;
 - (iii) the fee code⁹;
 - (iv) the code "IB" (the Office responsible for collecting the fee);
 - (v) the code of the Authority specified for supplementary international search (the Office for whose benefit the fee has been collected);
 - (vi) the fixed currency; and
 - (vii) the amount of the fee owed to the Authority specified for supplementary international search;
- (c) any information required to add or correct details of fees omitted or indicated incorrectly in previous months' lists and not corrected prior to the establishment of any relevant netting statement;
- (d) any information required in relation to other payments to be made to the beneficiary participating Office using the WIPO netting system.

[COMMENT: Paragraph 8 sets out details with regard to the fee information to be provided by the International Bureau to the participating Office.]

9. For any groups of fee transfers subject to netting, the International Bureau shall establish, on the basis of the fee information established by the participating Office under paragraph 4, above, and the fee information established by the International Bureau under paragraph 8, above, a netting statement for the preceding month, indicating the net amount in favor of the participating Office or of the International Bureau, as the case may be.

⁸ See footnote 3.

⁹ See footnote 3.

[COMMENT: Paragraph 9 sets out details with regard to the netting statement to be prepared by the International Bureau, setting out the net amount in favor of either the participating Office or of the International Bureau, as the case may be.]

10. Where the participating Office has agreed to transfer certain PCT fees as separate groups or to net only certain groups of fees against others (see paragraph 3(d), above), the International Bureau shall establish the list of the fee information referred to in paragraph 8, above, and the netting statement referred to in paragraph 9, above, separately for each such different groups of PCT fees.

11. The list or lists of the fee information established under paragraph 8, above, and the netting statement or statements established under paragraph 9, above, shall be transmitted by the International Bureau to the participating Office electronically (by e-mail or by any other means agreed) in accordance with a yearly common timetable established by the International Bureau following consultations with the participating Offices, specifying the latest date of each month by which the list(s) and the netting statement(s) should be established.

II.4 TRANSFER OF FEES

II.4.1 Fee Transfers to Beneficiary Offices: Fee Transfers Subject to Netting

12. Where a fee list under paragraph 8 relates to fee transfers not subject to netting, or where the net amount indicated on a netting statement under paragraph 9 is in favor of the participating Office, the International Bureau shall transfer the net amount to the participating Office in which the netting statement has been established no later than the date set in the common timetable. The International Bureau shall bear all bank charges, if any, for this transfer.

13. Where the net amount indicated on a netting statement under paragraph 9 is in favor of the International Bureau, the participating Office shall transfer the net amount to the International Bureau in which the netting statement has been established, no later than the date set in the yearly common timetable. The participating Office shall bear all bank charges, if any, for this transfer.

[COMMENT: Paragraphs 12 and 13 set out details with regard to the actual transfer of the amounts payable in cases where the International Bureau needs to collate lists from different sources. This includes all cases of beneficiary Offices, since these will need to consider fees from at least one national Office and the International Bureau, whether or not netting occurs. It also allows for the possibility of an Office that is not a beneficiary Office for PCT purposes netting fees collected as a PCT collecting Office against non-PCT fees.]

II.4.2 Fee Transfers Not Subject to Netting

14. Where a collecting Office has not agreed that fee transfers shall be subject to netting, or where only certain groups of fees will be subject to netting, transfers by that Office of fees which are not subject to netting shall be carried out in the full amount as indicated, no later than the date set in the common timetable

II.4.3 Transfer of Fees Not Included in the WIPO Fee Transfer Process

15. Where a participating Office has agreed to participate in the WIPO Fee Transfer Process for the purposes of some PCT fees but not others, the transfer by the participating Office of fees not to be included in the WIPO Fee Transfer Process shall be carried out in accordance with paragraph 17, below.

II.5 CORRECTION OF ERRORS AND OMISSIONS

16. Any errors or omissions discovered in the information transmitted concerning fees collected by one Office for the benefit of another shall be notified promptly to the International Bureau. The International Bureau shall promptly inform any other Office to which the erroneous information has been transmitted. Where the error is discovered too late to correct the lists on which the transfers of fees are based during the same month, the correction shall be included in the lists and transfers to be made the following month.

III. TRANSFER OF FEES BY OR TO OFFICES NOT PARTICIPATING IN THE WIPO FEE TRANSFER PROCESS

17. Where an Office has not agreed to participate in the WIPO Fee Transfer Process (“non-participating Office”), the transfer, where applicable, of:

- (a) international filing fees under Rule 15.2(c) or (d) collected by the Office in its capacity as a receiving Office for the benefit of the International Bureau;
- (b) search fees under Rule 16.1(c) or (d) collected by the Office in its capacity as a receiving Office for the benefit of a non-participating Office in its capacity as an International Searching Authority;
- (c) supplementary search fees under Rule 45**bis**.3(b) collected by the International Bureau for the benefit of the non-participating Office in its capacity as an Authority specified for supplementary search;
- (d) handling fees under Rule 57.2(c) or (d) collected by the Office in its capacity as an International Preliminary Examining Authority for the benefit of the International Bureau; and
- (e) differences under Rule 16.1(e) relating to search fees received by the Office in its capacity as an International Searching Authority;

shall be carried out promptly in accordance with Rule 15.2(c) or (d), Rule 16.1(c) or (d), Rule 45**bis**.3(b), Rule 57.2(c) or (d), or Rule 16.1(e), as applicable, preferably in accordance with a monthly time table for such transfers agreed between the Offices concerned and/or the International Bureau. The Office carrying out the transfer shall bear all bank charges, if any, for the transfer of the fees referred to in paragraphs (a), (b) and (d) and, where the difference belongs to the International Bureau, paragraph (e), whereas the International Bureau shall bear all bank charges, if any, for the transfer of the fees referred to in paragraph (c) and, where the difference belongs to the Office in its capacity as an International Searching Authority, paragraph (e).

[COMMENT: Offices which decided against participation in the WIPO Fee Transfer Process would continue to be required to transmit fee information and to transfer fees collected for the benefit of other Offices (in their various PCT capacities) or for the benefit of the International Bureau “promptly” to the beneficiary Office or to the International Bureau, as the case may be.]

[End of Annex II and of document]