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# Yearly Review of the PCT: 2002



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## **Yearly Review of the PCT: 2002**

### **Introduction**

The Patent Cooperation Treaty (PCT) continued to experience rapid growth in 2002, as it has done so since PCT operations began in 1978. In this publication, the World Intellectual Property Organization (WIPO) presents the results of operations under the PCT in 2002 and the main events which occurred in that year in relation to the PCT.

The Patent Cooperation Treaty (PCT) system offers inventors and industry an advantageous route for obtaining patent protection internationally. By filing one "international" patent application under the PCT, protection for an invention can be sought simultaneously in each of a large number of countries. Both applicants and patent Offices of PCT member States benefit from the uniform formality requirements, the centralized international publication provided under the PCT system, and the international search and preliminary examination reports (which put applicants in a much better position to decide whether or not to proceed with the national patent granting procedure before the various designated patent Offices, and which are of great use to those patent Offices when deciding whether or not to grant a patent).

Sustained growth in the use of the PCT system is a strong indication of the strategic importance of patents to business. The PCT offers businesses operating in overseas markets a simplified and cost-effective means of obtaining patent protection in multiple countries. Users have found that putting the PCT at the heart of their patent strategy has generated significant benefits.

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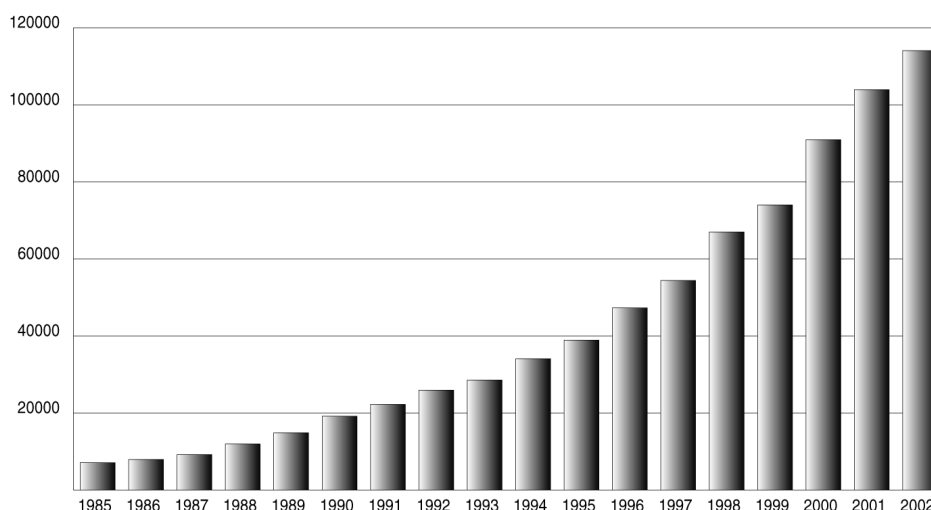
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## Statistics

### Number of international applications filed worldwide in 2002

The International Bureau of WIPO received a total of 114,048 applications filed worldwide,<sup>1</sup> which represented a 9.7% increase compared with 2001.

*International applications received each year since 1985*



*Number of international applications filed by country of origin, and corresponding percentages of the total, in 2002 as compared with 2001*

<i>Country of origin</i> <sup>2</sup>		<i>Number of applications</i>		<i>Percentage</i>	
		<b>2002</b>	<b>2001</b>	<b>2002</b>	<b>2001</b>
US	United States of America	44,609	(40,003)	39.1	(38.5)
DE	Germany	15,269	(13,616)	13.4	(13.1)
JP	Japan	13,531	(11,846)	11.9	(11.4)
GB	United Kingdom	6,274	(6,233)	5.5	(6.0)
FR	France	4,877	(4,619)	4.3	(4.4)
NL	Netherlands	4,019	(3,187)	3.5	(3.1)
SE	Sweden	2,988	(3,502)	2.6	(3.4)
KR	Republic of Korea	2,552	(2,318)	2.2	(2.2)
CH&LI	Switzerland and Liechtenstein	2,469	(2,011)	2.2	(1.9)
CA	Canada	2,210	(2,030)	1.9	(1.9)

*[continued on next page]*

1. Figures for international applications filed in 2002 are based on the number of record copies of international applications received, under PCT Article 12, by the International Bureau in 2002 from PCT receiving Offices (including the Receiving Office Section of the International Bureau).

2. The figures relate to the country of residence of the applicant.

<i>Country of origin</i> <sup>3</sup>		<i>Number of applications</i>		<i>Percentage</i>	
		<b>2002</b>	<b>2001</b>	<b>2002</b>	<b>(2001)</b>
IT	Italy	2,041	(1,574)	1.8	(1.5)
AU	Australia	1,775	(1,754)	1.6	(1.7)
FI	Finland	1,762	(1,623)	1.5	(1.6)
IL	Israel	1,199	(1,248)	1.0	(1.2)
CN	China	1,124	(1,670)	1.0	(1.6)
DK	Denmark	989	(929)	0.9	(0.9)
ES	Spain	729	(575)	0.6	(0.6)
BE	Belgium	697	(681)	0.6	(0.7)
RU	Russian Federation	616	(551)	0.5	(0.5)
AT	Austria	563	(630)	0.5	(0.6)
NO	Norway	525	(525)	0.5	(0.5)
IN	India	480	(316)	0.4	(0.3)
ZA	South Africa	407	(418)	0.4	(0.4)
SG	Singapore	322	(271)	0.3	(0.3)
NZ	New Zealand	301	(279)	0.3	(0.3)
IE	Ireland	257	(212)	0.2	(0.2)
BR	Brazil	204	(193)	0.2	(0.2)
HU	Hungary	148	(130)	0.1	(0.1)
MX	Mexico	128	(107)	0.1	(0.1)
PL	Poland	98	(105)	0.1	(0.1)
LU	Luxembourg	91	(95)	0.1	(0.1)
TR	Turkey	86	(72)	0.1	(0.1)
CZ	Czech Republic	74	(79)	0.1	(0.1)
GR	Greece	74	(54)	0.1	(0.1)
HR	Croatia	63	(55)	0.1	(0.1)
UA	Ukraine	61	(48)	0.1	(0.1)
SI	Slovenia	44	(41)	<0.1	(<0.1)
IS	Iceland	35	(28)	<0.1	(<0.1)
CO	Colombia	33	(14)	<0.1	(<0.1)
YU	Yugoslavia	30	(31)	<0.1	(<0.1)
BG	Bulgaria	29	(22)	<0.1	(<0.1)
PT	Portugal	29	(36)	<0.1	(<0.1)
PH	Philippines	26	(5)	<0.1	(<0.1)
SK	Slovakia	24	(29)	<0.1	(<0.1)
RO	Romania	15	(30)	<0.1	(<0.1)
KZ	Kazakhstan	14	(6)	<0.1	(<0.1)
CU	Cuba	13	(10)	<0.1	(<0.1)
BY	Belarus	12	(18)	<0.1	(<0.1)
CY	Cyprus	12	(18)	<0.1	(<0.1)
EE	Estonia	11	(8)	<0.1	(<0.1)
ID	Indonesia	9	(5)	<0.1	(<0.1)
BA	Bosnia and Herzegovina	8	(4)	<0.1	(<0.1)
GE	Georgia	8	(5)	<0.1	(<0.1)
LV	Latvia	8	(9)	<0.1	(<0.1)
LT	Lithuania	7	(2)	<0.1	(<0.1)

*[continued on next page]*

3. The figures relate to the country of residence of the applicant.

<i>Country of origin</i> <sup>4</sup>		<i>Number of applications</i>		<i>Percentage</i>	
		<b>2002</b>	<b>2001</b>	<b>2002</b>	<b>2001</b>
MA	Morocco	7	(2)	<0.1	(<0.1)
CR	Costa Rica	6	(5)	<0.1	(<0.1)
MC	Monaco	6	(5)	<0.1	(<0.1)
MK	The former Yugoslav Republic of Macedonia	6	(3)	<0.1	(<0.1)
AE	United Arab Emirates	5	(4)	<0.1	(<0.1)
BB	Barbados	5	(5)	<0.1	(<0.1)
AM	Armenia	4	(15)	<0.1	(<0.1)
EC	Ecuador	4	(0)	<0.1	(0)
DZ	Algeria	3	(4)	<0.1	(<0.1)
LK	Sri Lanka	3	(2)	<0.1	(<0.1)
ZW	Zimbabwe	3	(2)	<0.1	(<0.1)
TG	Togo	2	(0)	<0.1	(0)
TN	Tunisia	2	(0)	<0.1	(0)
UZ	Uzbekistan	2	(0)	<0.1	(0)
VN	Viet Nam	2	(0)	<0.1	(0)
AZ	Azerbaijan	1	(2)	<0.1	(<0.1)
BJ	Benin	1	(0)	<0.1	(0)
KE	Kenya	1	(0)	<0.1	(0)
MD	Republic of Moldova	1	(0)	<0.1	(0)
SD	Sudan	1	(4)	<0.1	(<0.1)
SL	Sierra Leone	1	(0)	<0.1	(0)
SZ	Swaziland	1	(0)	<0.1	(0)
TZ	United Republic of Tanzania	1	(0)	<0.1	(0)
ZM	Zambia	1	(0)	<0.1	(0)
AG	Antigua and Barbuda	0	(1)	0	(<0.1)
AL	Albania	0	(8)	0	(<0.1)
CI	Côte d'Ivoire	0	(2)	0	(<0.1)
SN	Senegal	0	(2)	0	(<0.1)
TT	Trinidad and Tobago	0	(1)	0	(<0.1)
TOTAL		114,048	(103,947)	100.0	(100.0)

4. The figures relate to the country of residence of the applicant.

Although the above figures correspond to a large extent to the filings with the receiving Offices in the country of residence of the applicant, 21,805 international applications (19.1%) were filed with regional Offices or the International Bureau as receiving Offices, as shown in the table below.

<i>Regional Office or International Bureau</i>		<i>Number of applications</i>		<i>Percentage of total of all PCT receiving Offices</i>	
		<b>2002</b>	<b>2001</b>	<b>2002</b>	<b>2001</b>
EP	European Patent Office	15,888	(14,492)	13.9	(13.9)
IB	International Bureau	5,902	(2,665)	5.2	(2.6)
EA	Eurasian Patent Office	12	(5)	<0.1	(<0.1)
AP	African Industrial Property Organization	3	(1)	<0.1	(<0.1)
TOTAL		21,805	(17,163)	19.1	(16.5)

### **Top countries of origin**

Applicants from the United States of America filed the largest number of PCT applications in 2002, having filed 39.1% of all applications, followed by Germany (13.4%), Japan (11.9%), the United Kingdom (5.5%) and France (4.3%), thus repeating the pattern of recent years.

### **Filings from developing countries**

Among the countries in which over 100 international applications were filed, there was a significant increase in applications filed by applicants from India (51.9%), Mexico (19.6%), Singapore (18.8%) and the Republic of Korea (10.1%). A total of 5,359 international applications originated from developing countries, the highest number originating from the Republic of Korea (2,552), China (1,124), India (480), South Africa (407) and Singapore (322).

### **International Bureau as receiving Office**

In 2002, there was a sharp increase in the number of international applications filed with the International Bureau as receiving Office (RO/IB), which received 5,862 international applications, that is 102.6% more than in 2001, from applicants from 59 countries.

## Designation of States

In 2002, the average number of States designated per international application was 119 (2001: 107) (this figure is higher than the number of PCT Contracting States as some States are double-counted if they are designated for both a national patent and a regional patent). The applicants in respect of 81.4% of international applications filed in 2002 (2001: 77.0%) used the possibility of paying the maximum of five designation fees while making as many as all possible designations. Note that, as from January 1, 2004, international applications will automatically include the designation of all PCT Contracting States (see "Meetings—PCT Assembly," below).

For statistics on the number of international applications filed containing requests prepared using the PCT-EASY software, see "Developments in electronic filing—PCT-EASY," below.

## International Searching Authorities

The number of international applications that were sent to each International Searching Authority in 2002 to be subjected to an international search is indicated below:

<i>International Searching Authority</i>		<i>Number of applications</i>		<i>Percentage</i>	
		<b>2002</b>	<b>2001</b>	<b>2002</b>	<b>2001</b>
EP	European Patent Office	63,985	(63,128)	56.0	(60.7)
US	United States of America	25,818	(17,793)	22.7	(17.1)
JP	Japan	12,770	(11,182)	11.2	(10.8)
SE	Sweden	4,034	(4,481)	3.5	(4.3)
KR	Republic of Korea	2,296	(2,033)	2.0	(2.0)
AU	Australia	2,201	(2,086)	1.9	(2.0)
CN	China	1,116	(1,661)	1.0	(1.6)
ES	Spain	667	(514)	0.6	(0.5)
RU	Russian Federation	641	(556)	0.6	(0.5)
AT	Austria	513	(493)	0.5	(0.5)
TOTAL		114,041 <sup>5</sup>	(103,927)	100.0	(100.0)

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5. Seven of the 114,048 international applications filed in 2002 are not included in this total because international processing had been discontinued or the International Searching Authority is not yet known.



## Languages of filing/publication

In 2002, international applications were filed in the following languages:

<i>Language of filing</i> <sup>6</sup>	<i>Number of applications</i>		<i>Percentage</i>	
	<b>2002</b>	<b>2001</b>	<b>2002</b>	<b>2001</b>
English	74,510	(66,993)	65.3	(64.5)
German	15,436	(14,198)	13.5	(13.7)
Japanese	12,663	(11,129)	11.1	(10.7)
French	4,523	(4,488)	4.0	(4.3)
Korean	1,694	(1,445)	1.5	(1.4)
Chinese	977	(1,576)	0.9	(1.5)
Swedish	871	(1,077)	0.8	(1.0)
Spanish	789	(624)	0.7	(0.6)
Russian	613	(525)	0.5	(0.5)
Finnish	529	(541)	0.5	(0.5)
Italian	490	(372)	0.4	(0.4)
Dutch	450	(493)	0.4	(0.5)
Norwegian	243	(258)	0.2	(0.2)
Danish	171	(153)	0.1	(0.1)
Hungarian	29	(22)	<0.1	(<0.1)
Croatian	19	(21)	<0.1	(<0.1)
Czech	16	(12)	<0.1	(<0.1)
Slovenian	15	(9)	<0.1	(<0.1)
Slovak	5	(7)	<0.1	(<0.1)
Turkish	3	(4)	<0.1	(<0.1)
Portuguese	2	(0)	<0.1	(0)
<b>TOTAL</b>	<b>114,048</b>	<b>(103,947)</b>	<b>100.0</b>	<b>(100.0)</b>

In 2002, 104,085 international applications were published in the form of PCT pamphlets (2001: 99,606) in one of the seven languages of publication, as follows:

<i>Language of publication</i>	<i>Number of applications</i>		<i>Percentage</i>	
	<b>2002</b>	<b>2001</b>	<b>2002</b>	<b>2001</b>
English	72,255	(69,287)	69.4	(69.6)
German	13,847	(14,004)	13.3	(14.1)
Japanese	11,483	(9,817)	11.0	(9.9)
French	4,523	(4,138)	4.4	(4.1)
Chinese	795	(1,308)	0.8	(1.3)
Spanish	628	(542)	0.6	(0.5)
Russian	554	(510)	0.5	(0.5)
<b>TOTAL</b>	<b>104,085</b>	<b>(99,606)</b>	<b>100.0</b>	<b>(100.0)</b>

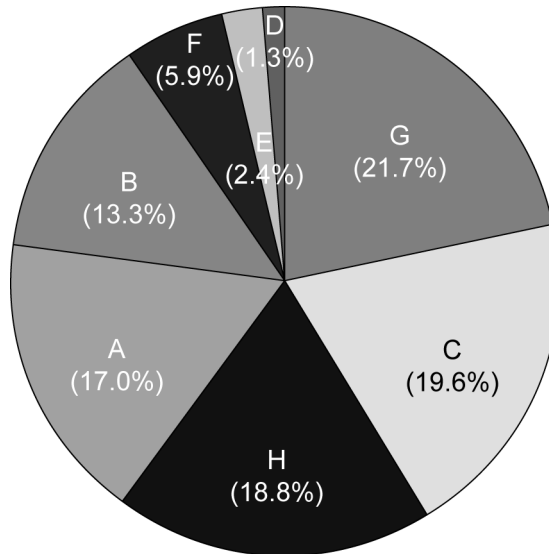
On the same day as the publication of the pamphlets, entries relating to those international applications were also published in the *PCT Gazette*.

6. An international application filed in a language other than one of the languages of publication under the PCT is published as a translation into a language of publication; see next paragraph.

## Fields of technology

The main fields of technology to which published international applications related were physics, chemistry and metallurgy, and electricity. The chart below shows the breakdown of PCT applications published in 2002 according to the eight main technical fields of the International Patent Classification (IPC).

*PCT applications published in 2002: breakdown according to the main technical fields under the IPC*



### *Main technical fields (sections) under the IPC:*

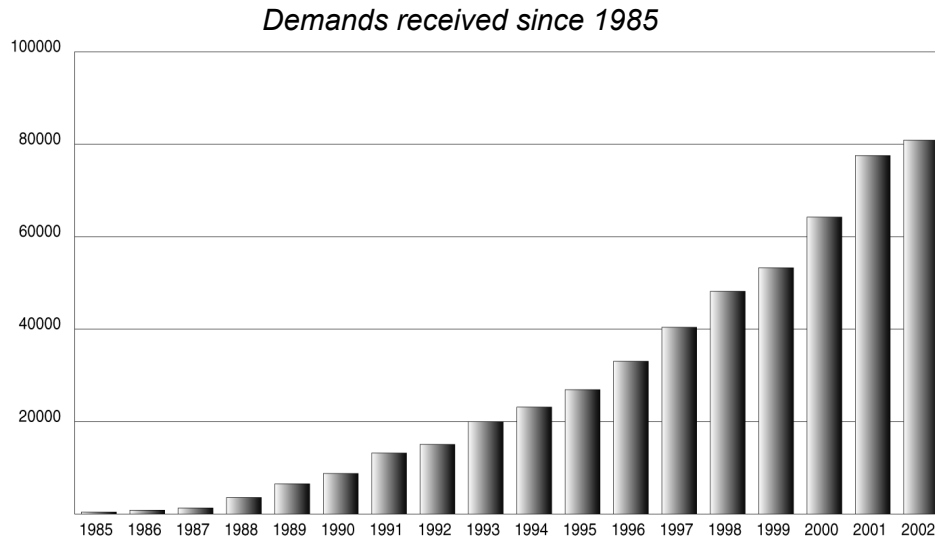
G	Physics	B	Performing operations; transporting
C	Chemistry; metallurgy	F	Mechanical engineering; lighting, heating, weapons, blasting
H	Electricity	E	Fixed constructions
A	Human necessities	D	Textiles; paper

For information on the specific contents of each main technical field, consult the IPC on the WIPO website at:

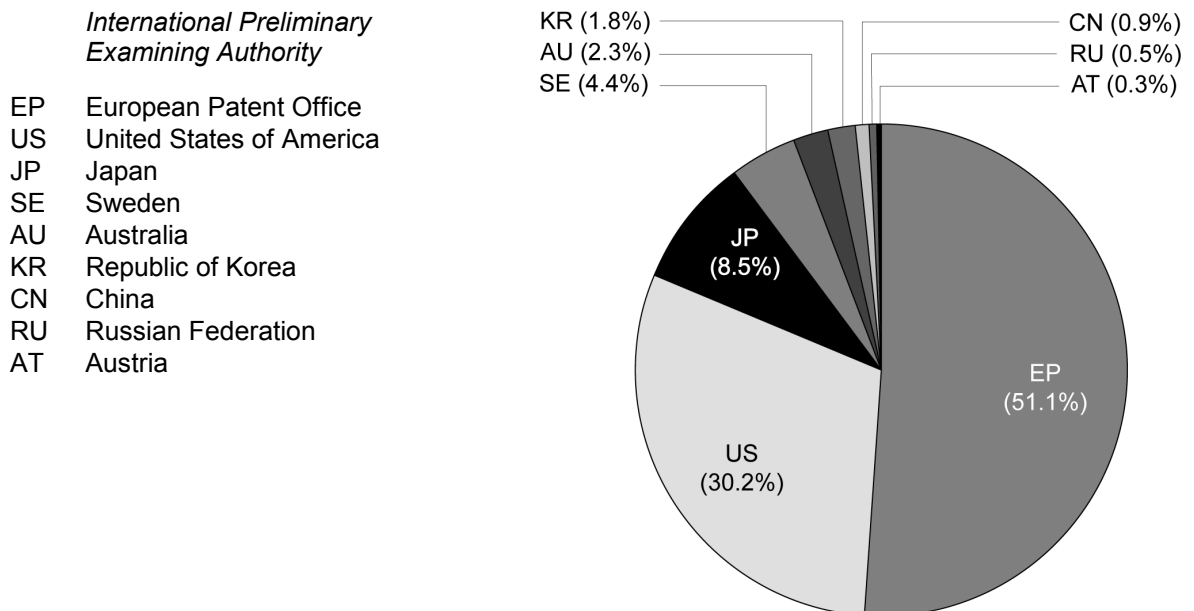
[http://www.wipo.int/classifications/fulltext/new\\_ipc/index.htm](http://www.wipo.int/classifications/fulltext/new_ipc/index.htm)

## International Preliminary Examining Authorities

The number of demands sent to the International Bureau by the International Preliminary Examining Authorities in 2002 amounted to 80,853, which is 4.2% more than in 2001. The number of demands received in each calendar year since 1985 is indicated below:



The proportion of demands sent by each International Preliminary Examining Authority to the International Bureau in 2002 is indicated below:



## **Dissemination of information on the PCT**

In 2002, the PCT Information Service responded to almost 25,000 requests for information from PCT users, and the PCT Legal Division resolved legal issues in connection with 1,200 cases.

Officials of the International Bureau participated in 200 seminars and presentations that dealt with the use and advantages of the PCT and the promotion of accession to it. Those seminars and presentations were held in Algeria, Argentina, Austria, Barbados, Belize, Brazil, Cameroon, Cape Verde, China, Colombia, the Comoros, Costa Rica, Cuba, the Democratic Republic of the Congo, Denmark, the Dominican Republic, Eritrea, Ethiopia, Finland, France, Germany, Greece, Grenada, Guinea, India, Indonesia, Italy, Japan, Laos, Mauritius, Mexico, Mongolia, Morocco, Namibia, the Netherlands, New Zealand, Oman, Pakistan, the Philippines, Qatar, Rwanda, Senegal, Singapore, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Tunisia, Turkey, the United Kingdom, the United Republic of Tanzania, the United States of America, Yugoslavia and Zambia. They were given to about 12,600 users and potential users of the PCT system in the following languages: Arabic, Chinese, English, Finnish, French, German, Italian, Japanese, Mongolian, Serbian and Spanish. They included 17 specialized presentations on the use of the PCT-EASY software and three presentations on the PCT-SAFE pilot phase, given to some 850 people.

From March 25 to 27, 2002, WIPO organized a "Conference on the International Patent System," in Geneva. Presentations were given on a wide range of topics, including the PCT, by 54 speakers from both the public and private sectors, including senior government figures and chief executives of major companies, and from the academic world; some 400 delegates attended the conference.

## Developments in 2002

### PCT Contracting States

#### *New Contracting States*

During 2002, two new Contracting States became bound by the PCT (on the dates shown in parentheses):

Saint Vincent and the Grenadines (August 6, 2002);  
Seychelles (November 7, 2002)

Nicaragua deposited its instrument of accession to the PCT on December 6, 2002, and will become bound by the PCT on March 6, 2003, thus bringing the number of States which had acceded to the PCT by December 31, 2002, to 118, as follows:

Albania	Denmark	Madagascar	Sri Lanka
Algeria	Dominica	Malawi	Sudan
Antigua and Barbuda	Ecuador	Mali	Swaziland
Armenia	Equatorial Guinea	Mauritania	Sweden
Australia	Estonia	Mexico	Switzerland
Austria	Finland	Monaco	Tajikistan
Azerbaijan	France	Mongolia	The former Yugoslav Republic of
Barbados	Gabon	Morocco	Macedonia
Belarus	Gambia	Mozambique	Togo
Belgium	Georgia	Netherlands	Trinidad and Tobago
Belize	Germany	New Zealand	Tunisia
Benin	Ghana	Nicaragua	Turkey
Bosnia and Herzegovina	Greece	Niger	Turkmenistan
Brazil	Grenada	Norway	Uganda
Bulgaria	Guinea	Oman	Ukraine
Burkina Faso	Guinea-Bissau	Philippines	United Arab Emirates
Cameroon	Hungary	Poland	United Kingdom
Canada	Iceland	Portugal	United Republic of
Central African Republic	India	Republic of Korea	Tanzania
Chad	Indonesia	Republic of Moldova	United States of
China	Ireland	Romania	America
Colombia	Israel	Russian Federation	Uzbekistan
Congo	Italy	Saint Lucia	Viet Nam
Costa Rica	Japan	Saint Vincent and the Grenadines	Yugoslavia
Côte d'Ivoire	Kazakhstan	Senegal	Zambia
Croatia	Kenya	Seychelles	Zimbabwe
Cuba	Kyrgyzstan	Sierra Leone	
Cyprus	Latvia	Singapore	
Czech Republic	Lesotho	Slovakia	
Democratic People's Republic of Korea	Liberia	Slovenia	
	Liechtenstein	South Africa	
	Lithuania	Spain	
	Luxembourg		

### *Wider-ranging regional patents*

During 2002, seven PCT Contracting States acceded to the European Patent Convention and became, or will become, bound by that Convention on the dates shown in parentheses below. Those States can now be designated for a European patent instead of, or in all cases but Slovenia which has closed its national route, in addition to, a national patent.

Bulgaria, Czech Republic, Estonia, Slovakia (July 1, 2002)  
Slovenia (December 1, 2002)  
Hungary (January 1, 2003)  
Romania (March 1, 2003)

### **Developments in electronic filing**

Modifications of the *Administrative Instructions Under the PCT* entered into force on January 7, 2002, containing the legal framework and technical standard necessary to enable the implementation of electronic filing and processing of PCT applications. International applications filed in compliance with Part 7 and Annex F of the *Administrative Instructions* will benefit from a reduction of 200 Swiss francs in the international fee. The modifications allow any PCT receiving Office having the necessary technical systems in place to be able to decide to accept the filing of international applications in electronic form in accordance with Part 7 and Annex F, provided they notify the International Bureau of their requirements. So far, the only Office which has made such a notification is the European Patent Office.

#### *PCT-SAFE*

WIPO continued its work on developing the electronic filing software, PCT-SAFE (Secure Applications Filed Electronically). This software, based on an enhanced version of the PCT-EASY software (see below), will enable PCT applicants to file an entire PCT international application in electronic form, either on-line over the Internet or using physical media (e.g., 3.5 inch diskette, CD-R, DVD-R). The first test filing using the PCT-SAFE software took place in November 2002, and under a pilot phase, which is expected to be fully operational in early 2003, applicants who have been registered by the International Bureau may file, with the International Bureau as receiving Office, applications prepared using PCT-SAFE in the form of a computer print-out together with a copy of the application in electronic form. It is expected that the International Bureau as receiving Office will accept the filing of international applications in fully electronic form after completion of the pilot phase—the date will be announced in due course—and it is expected that the PCT-SAFE system will be fully operational in December 2003. For further information on PCT-SAFE, visit the PCT-SAFE website at:

<http://www.wipo.int/pct-safe>

#### *PCT-EASY*

There has been a continued increase in the number of applicants taking advantage of the benefits of filing international applications containing requests prepared using the PCT-EASY software. Of the 114,048 international applications filed in 2002, 45,300 (39.7%) contained a request which was prepared using the PCT-EASY software (2001: 35.0%).

New versions of the PCT-EASY software were made available to PCT users in January and October 2002, and preparations were made in December 2002 for an update that was released in January 2003. The updates incorporated many changes which occurred throughout the year (for example, new PCT Contracting States and changes regarding designations for regional patents, changes in fees). During the course of 2002, three receiving Offices notified the International Bureau that they were prepared to accept the filing of international applications containing requests prepared using PCT-EASY together with PCT-EASY diskettes, bringing the number of receiving Offices which have made such notifications to 68 (out of the 95 PCT receiving Offices), and over 2,500 new users were registered, bringing the total number of registered users at the end of 2002 to about 10,000.

### **IMPACT Project**

The IMPACT (Information Management for the Patent Cooperation Treaty) Project made progress in 2002. The development and deployment of the Systematic Communication on Request system ("Systematic COR system") has been completed allowing the communication, in electronic form (CD or DVD) or on paper, of documents relating to all international applications concerned, to designated Offices. The development of the Specific Communication on Request system ("Specific COR system") has progressed and is expected to be fully operational soon. Under the latter, designated Offices choose to receive documents, in electronic form (CD or DVD) or on paper, relating only to selected international applications. In the longer term, these documents will also become available on-line.

### **Changes in rules and procedures**

#### *New time limit under PCT Article 22(1)*

The time limit for performing the acts necessary for entering the national phase under Chapter I is now the same as the time limit under Chapter II, that is, 30 months from the priority date, as the result of a modification of PCT Article 22(1). The new time limit entered into force on April 1, 2002, subject to the possibility of transitional reservations by Contracting States because of incompatibility with their national law. The Offices of 24 Contracting States notified the International Bureau of such incompatibility, but 10 of those Offices have since withdrawn their notifications.

#### *Modification of "WO" publication numbering system*

As a result of the significant increase in PCT filings over the last few years, a new system of numbering of PCT applications was introduced by way of a modification of Section 404 of the *Administrative Instructions Under the PCT*, effective July 1, 2002. The modification provides for a six-digit serial number, instead of a five-digit number. There will also be a modification, with effect from January 1, 2004, of the serial number component of the international application number and the year format in both the international application and the international publication numbers.

#### *Change concerning tables related to sequence listings*

As from September 6, 2002, Part 8 of the *Administrative Instructions* was modified to enable applicants to file, in addition to the sequence listing part of the description, tables related to sequence listings in electronic form.

*Change procedure for future modifications of the technical standard for the electronic filing and processing of international applications*

Annex F to the *Administrative Instructions* was modified, with effect from December 12, 2002, to introduce new section 2.5 setting out a special procedure for the proposal, consideration and implementation of future modifications of the technical requirements for the electronic filing and processing of international applications.

Further amendments to the PCT Regulations were adopted during the meeting of the PCT Assembly—see below.

## **PCT meetings**

### *Assembly of the PCT Union*

Based on intensive preparatory work carried out by the Working Group on Reform of the PCT, which held its second session in Geneva from April 29 to May 3, 2002, and by the Committee on Reform of the PCT, which held its second session in Geneva from July 1 to 5, 2002, the PCT Assembly, at its thirty-first (18th extraordinary) session in Geneva from September 23 to October 1, 2002, unanimously adopted a large set of PCT reform-related amendments of the PCT Regulations. The most important amendments are outlined below, listed according to the applicable date of entry into force:

Entry into force: October 17, 2002:

*Fee reduction for international applications filed in electronic form.* The Assembly adopted an amendment to item 4 of the Schedule of Fees (annexed to the PCT Regulations) to reduce the international fee (comprising the basic fee and the designation fee) by 200 Swiss francs with respect to international applications filed in electronic form, on or after October 17, 2002, with a receiving Office which has notified the International Bureau under Section 710 of the *Administrative Instructions Under the PCT* that it is prepared to receive international applications in that form.

Entry into force: January 1, 2003:

*Translation for international publication.* Amendments were made relating to the language of filing of the request (PCT Rule 12.1(c)) and to the translation of the international application where the application is filed in a language which is not a language of publication and where no translation is required for the purposes of international search (new PCT Rule 12.4).<sup>7</sup>

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<sup>7</sup> For details about the languages accepted for the filing of requests with certain Offices (PCT Rule 12.1(c)) see Section IV of *PCT Gazette* Nos. 51/2002 and 02/2003, available at <http://www.wipo.int/pct/en/gazette/weekissu.htm>. For details about the language(s) accepted for the translation of international applications into a language of publication (new PCT Rule 12.4) see Section IV of *PCT Gazette* No. 51/2002 at the above-mentioned website address.



*Missed time limit for entering the national phase.* Amendments were made relating to the reinstatement of rights after failure to comply with requirements for entering the national phase within the applicable time limit (new PCT Rule 49.6). This new Rule applies to international applications filed on or after January 1, 2003, and to international applications filed before that date, in respect of which the applicable time limit under PCT Article 22 or, where applicable, under PCT Article 39(1), expires on or after January 1, 2003.<sup>8</sup>

Entry into force: January 1, 2004:

*Enhanced international search and preliminary examination system.* The Assembly adopted amendments to the PCT Regulations to introduce an “enhanced international search and preliminary examination system,” aimed at rationalizing the PCT international search and international preliminary examination procedures. The main feature of the new enhanced system is that one of the main elements of the present international preliminary examination procedure under Chapter II, namely, the establishment of a written opinion, will in effect be advanced and incorporated into the international search procedure under Chapter I. Under the new system, the International Searching Authority (ISA) will be responsible for establishing a preliminary and non-binding written opinion addressing the question whether the claimed invention appears to be novel, to involve an inventive step and to be industrially applicable (the main internationally accepted criteria for patentability). If a demand for international preliminary examination is filed, that written opinion will also be used for the purposes of international preliminary examination under Chapter II, thus combining the international search and international preliminary examination procedures to a much greater extent than is the case at present.

*Overhaul of the designation system.* The PCT Assembly agreed to streamline and rationalize the designation system. Amended PCT Rule 4.9 will apply to all international applications whose international filing date is on or after January 1, 2004. Under the new designation system, the applicant will obtain an automatic and all-inclusive coverage of all designations available under the Treaty without, at the time of filing the international application, having to designate individual Contracting States, choose certain kinds of protection or indicate whether national or regional protection is sought—such matters will be dealt with upon entry into the national phase.<sup>9</sup>

In the context of introducing the new designation system, the introduction of a “flat” international filing fee was also approved. This fee will replace the current separate basic fee and designation fees. It was also agreed that consideration should be given to incorporating the handling fee into that new fee.

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<sup>8</sup> Eighteen designated Offices have notified the International Bureau that new PCT Rule 49.6 is not compatible with the applicable national law; that Rule will therefore not apply in respect of those designated Offices for as long as their reservations are in force. For details see Section IV of *PCT Gazette* No. 05/2003, available at <http://www.wipo.int/pct/en/gazette/weekissu.htm>.

<sup>9</sup> The Offices of three States (Germany, Republic of Korea and the Russian Federation) have notified the International Bureau that this new Rule will not apply to them, and that any request may contain an indication that the designation of any of those three States is not made, for as long as the respective national laws continue to so provide.

*Availability of priority documents from digital libraries.* Amendments to the PCT Regulations were adopted whereby, if the international application is filed on or after January 1, 2004, the applicant may, instead of submitting the priority document in paper form to the International Bureau or the receiving Office, request, where applicable, that the priority document be obtained from a digital library (to be established).

Entry into force: summer of 2004 (expected):

*Appointment of a new International Searching and Preliminary Examining Authority.* Upon the recommendation of the PCT Committee for Technical Cooperation (PCT/CTC), the Assembly appointed the Canadian Commissioner of Patents as an International Searching and Preliminary Examining Authority, bringing the number of such Authorities to 11. The Agreement under which the Authority will operate is expected to enter into force in the summer of 2004.

Other decisions by the Assembly

*PCT minimum documentation.* The PCT Assembly took note of the recommendation of the PCT/CTC, that the Meeting of International Authorities under the PCT (PCT/MIA) undertake a study on the inclusion, in the non-patent literature part of the PCT minimum documentation, of traditional knowledge-related periodicals and databases, as well as a study on the use of databases in certain technical fields.

*Future work on PCT Reform.* The PCT Assembly agreed on a program for further work on reform of the PCT system. It agreed that two sessions of the Working Group on Reform of the PCT should be convened between the September 2002 and September 2003 sessions of the PCT Assembly to consider:

- outstanding proposals for reform;
- options for revising the Treaty itself; and
- the development of a common quality framework for the international search and international preliminary examination procedures under the PCT.

For further details about the specific changes, including the text of the amended Regulations, see the Report of the meeting which is available on the PCT website at:

[www.wipo.int/pct/en/meetings](http://www.wipo.int/pct/en/meetings)

*Third session of the Working Group on Reform PCT*

The Working Group met in Geneva from November 18 to 22, 2002. It discussed some 50 outstanding proposals for reform of the PCT which had not yet been considered in detail and agreed about which of those proposals should be included in the work program of the Working Group. Those include, in particular:

- possible future development of the international search and preliminary examination system, including options whereby designated Offices, particularly smaller designated Offices, could derive greater benefit from the results of the international phase;
- to further conform PCT requirements to those of the Patent Law Treaty (PLT);

- a review of procedures relating to the checking of formalities by both the receiving Offices and the International Bureau;
- the establishment of a central electronic deposit system for sequence listings.

The Working Group discussed a set of specific proposals relating to the issue of restoration of the right of priority. It also agreed on proposed amendments to the Regulations in connection with the correction and addition of priority claims, with a view to their possible submission to the Assembly for adoption at its next session in September-October 2003.

Finally, the Working Group discussed a proposal by the United Kingdom for the establishment of a common quality framework for international search and international preliminary examination.

For further information, see the documents which were prepared for discussion at the meeting, as well as the Chair's summary of the session, at:

[www.wipo.int/pct/en/meetings](http://www.wipo.int/pct/en/meetings)

### **PCT Gazette in electronic form**

In November 2002, a new prototype of the *PCT Gazette* in electronic form was made available for public testing on the WIPO website. The prototype includes a number of improvements, including:

- a single, simplified layout;
- “reactive” INID codes (when the cursor is placed over a code or the code is clicked, the title of the code appears);
- information on republications (including the images of republished pages); and
- searchable access to the full text of the description and claims.

To view the prototype, visit the WIPO website at:

<http://ipdl.wipo.int>

click on “search IPDL” and then on “PCT Full Text Database Prototype” (second item in the list).

### **PCT materials on the Internet**

New and improved resources on the PCT website (<http://www.wipo.int/pct/en/>) contributed to a 30% increase in the number of hits in 2002. During this year, not only were the number of resources available in English, French and Spanish expanded and updated but a number of key resources were added to the German PCT resources page as well as two new sets of PCT pages in Chinese and Japanese.

Once again the single most popular item downloaded from the WIPO website was the PCT request form in editable format. Following the success of the editable request and demand forms an additional five forms were added to the collection of available editable forms in English and French.

Website visitors were alerted to both new and updated resources by an e-mail message from the e-mail updating service. Introduced at the end of 2001, the service is very popular; the number of subscribers at the end of 2002 stood at 3,250. Subscribers to this service receive between two and five e-mail notifications per month. The number of website downloads of all PCT flagship publications (available in PDF) now far exceeds the number of requests for printed paper copies. These publications include the *PCT Gazette*, *PCT Applicant's Guide*, *Patent Cooperation Treaty and Regulations Under the PCT* and *Basic Facts about the PCT*. The *PCT Gazette* remains the most popular website resource, maintaining an average of 25,000 hits per month.