



Introduction to the Patent Cooperation Treaty (PCT)

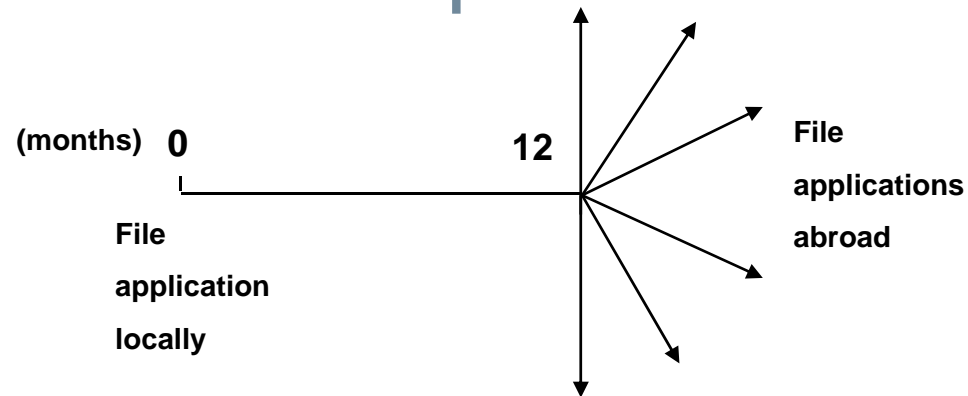
Matthew Bryan, Director, PCT Legal Division, WIPO
October 2014

PCT answers

This presentation answers the following questions about the PCT:

- 1. what is it?**
- 2. how does it work?**
- 3. why is it so widely used, and growing?**
- 4. what are its main advantages?**
- 5. where to find more information?**

Using the traditional patent system to seek multinational patent



Local patent application followed within 12 months by multiple foreign applications claiming priority under Paris Convention:

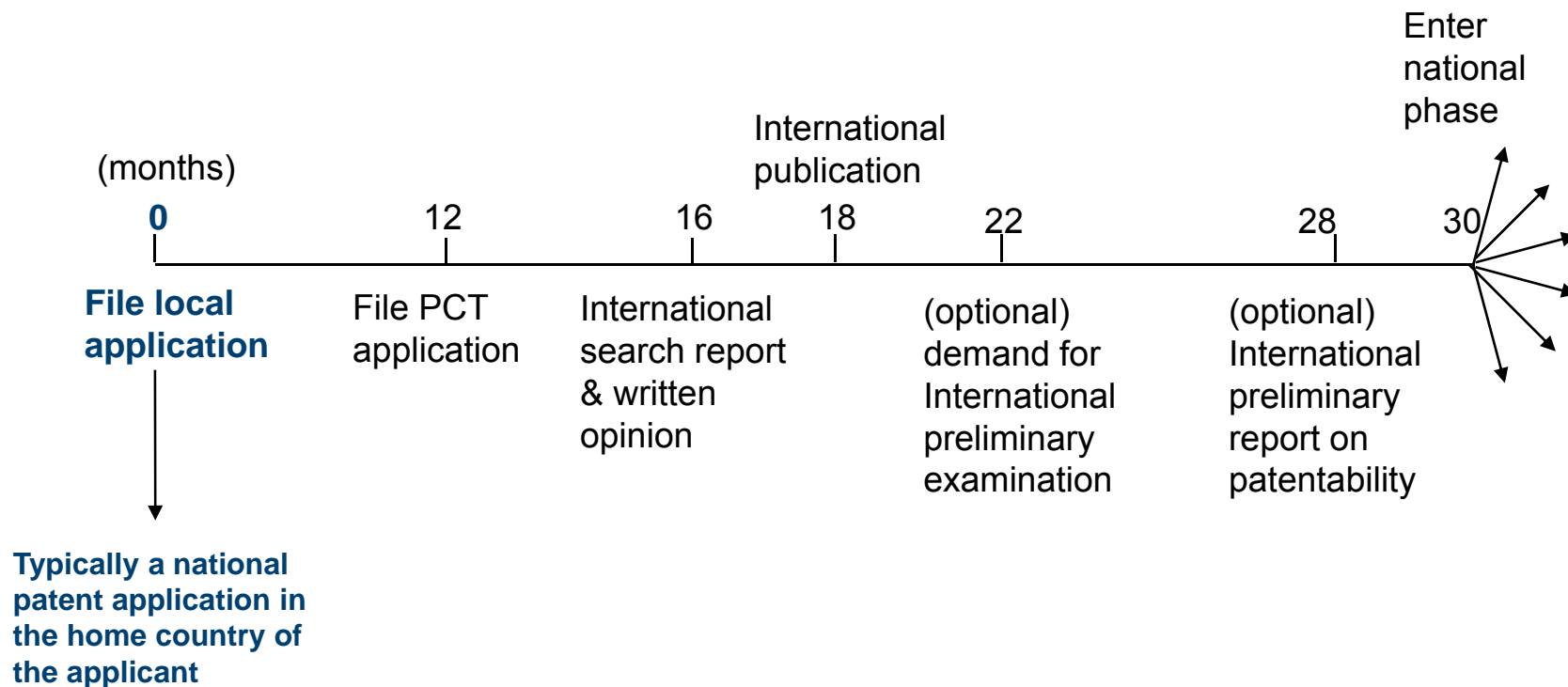
- multiple formality requirements
- multiple searches
- multiple publications
- multiple examinations and prosecutions of applications
- translations and national fees required at 12 months

Some rationalization because of regional arrangements:

WIPO | PCT
The International
Patent System

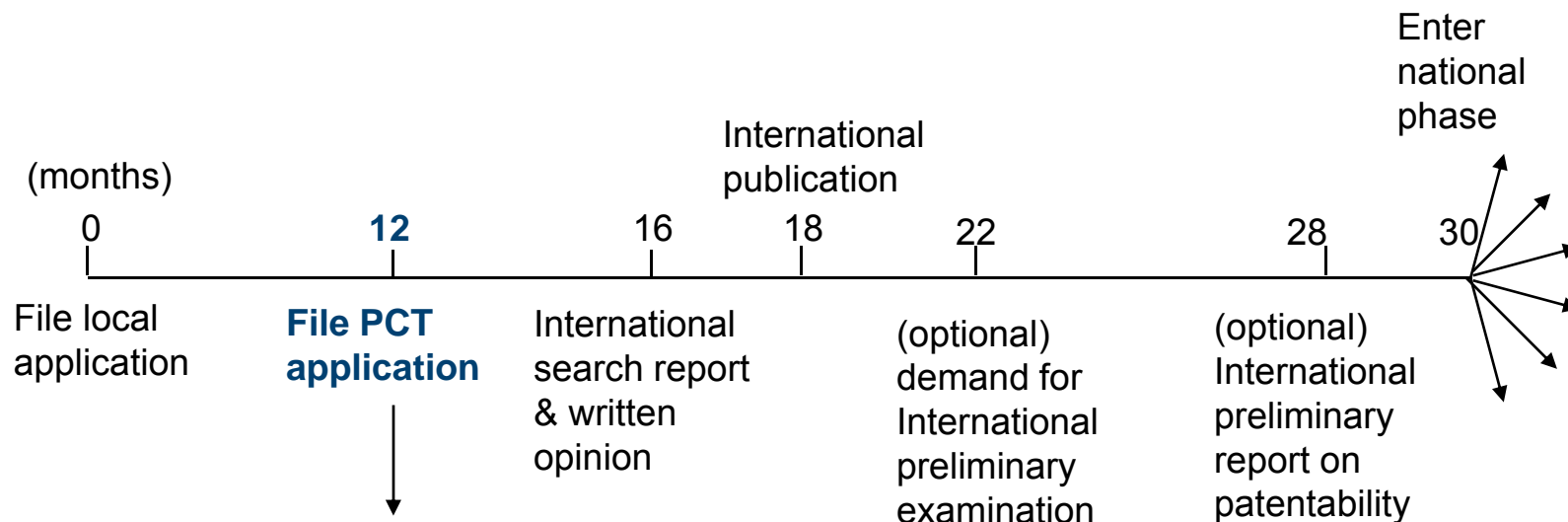
The PCT System

--typical use, in more detail



The PCT System

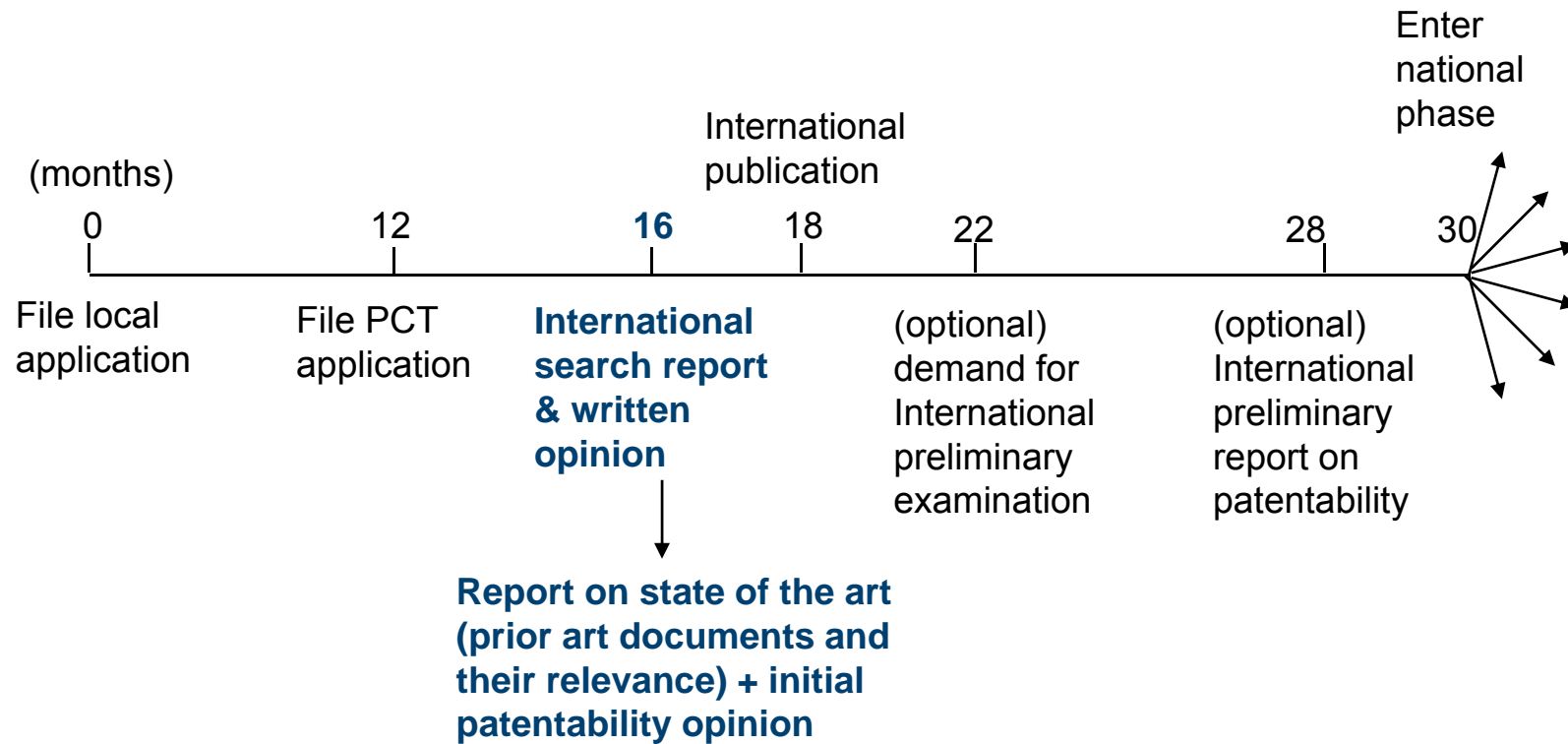
--typical use, in more detail



Typically filed in same national patent office--one set of fees, one language, one set of formality requirements--and legal effect in all PCT States

The PCT System

--typical use, in more detail



PCT International Searching Authorities

The ISAs are the following 20 Offices*:

- Australia
- Austria
- Brazil
- Canada
- Chile (begins operating on 22 October 2014)
- China
- Egypt
- Finland
- India
- Israel
- Japan
- Republic of Korea
- Russian Federation
- Singapore (not yet operating)
- Spain
- Sweden
- Ukraine (not yet operating)
- United States of America
- European Patent Office
- Nordic Patent Institute

* Office of filing decides
on which ISAs are available

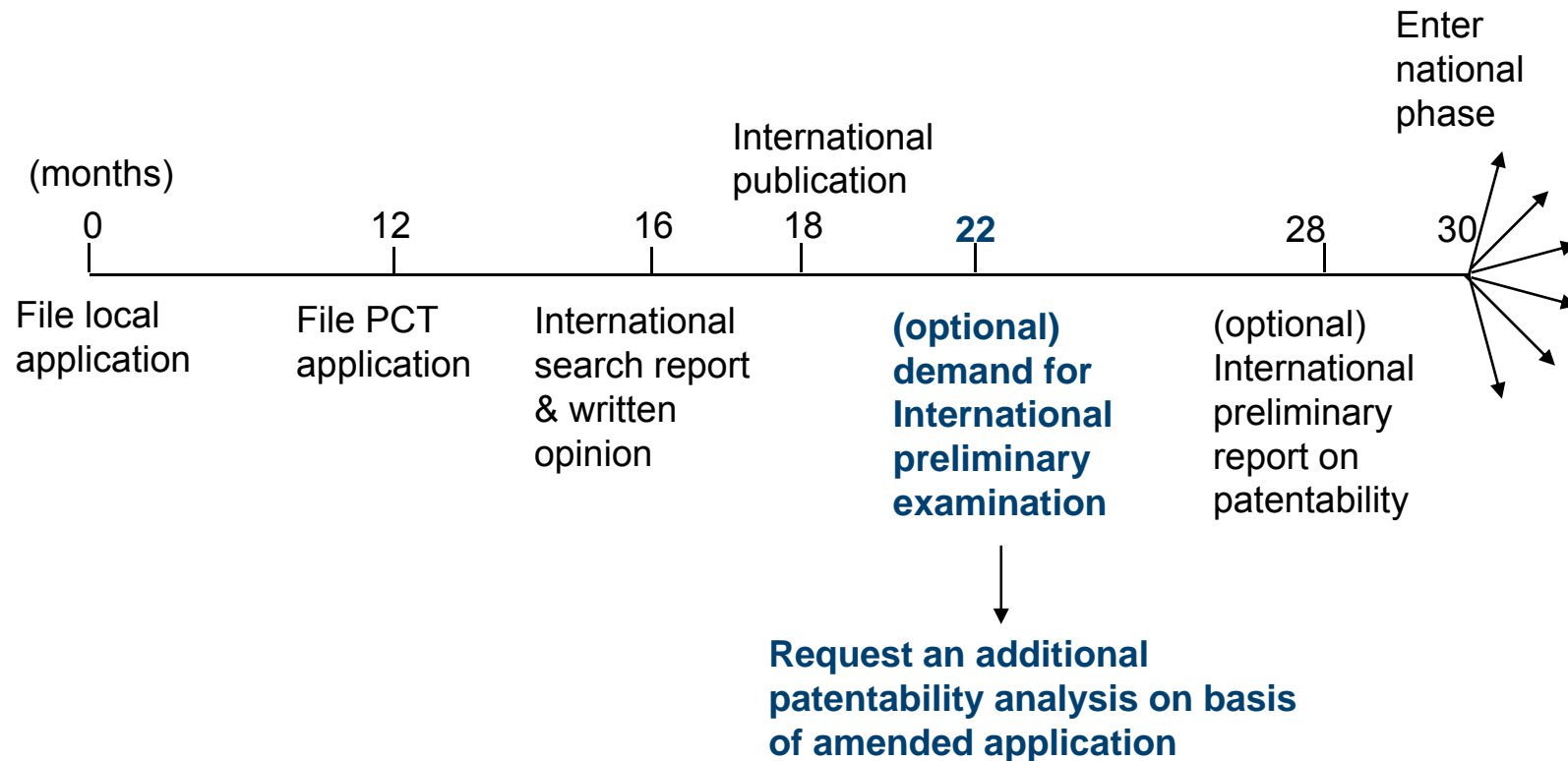
The PCT System

--typical use, in more detail



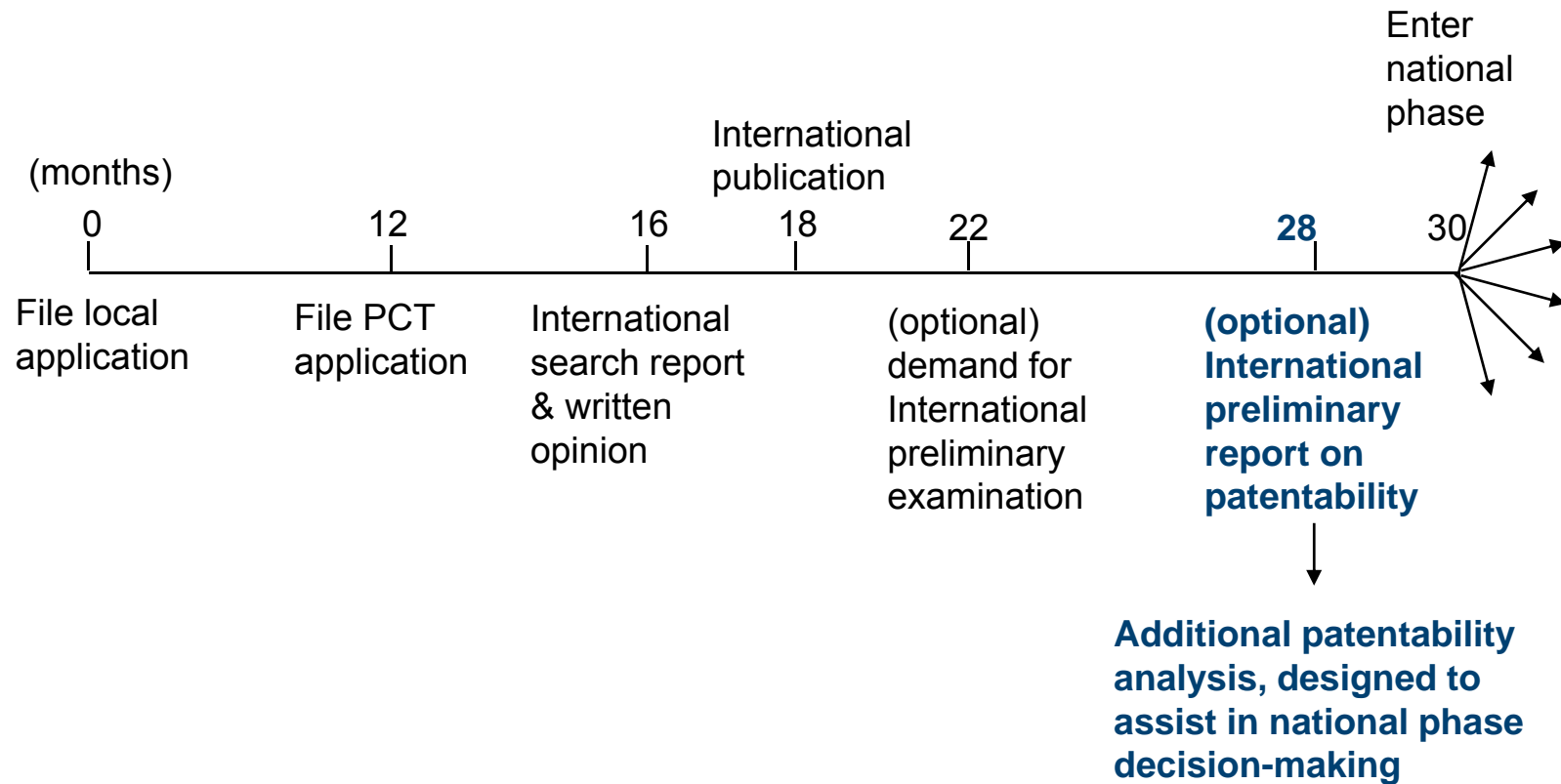
The PCT System

--typical use, in more detail



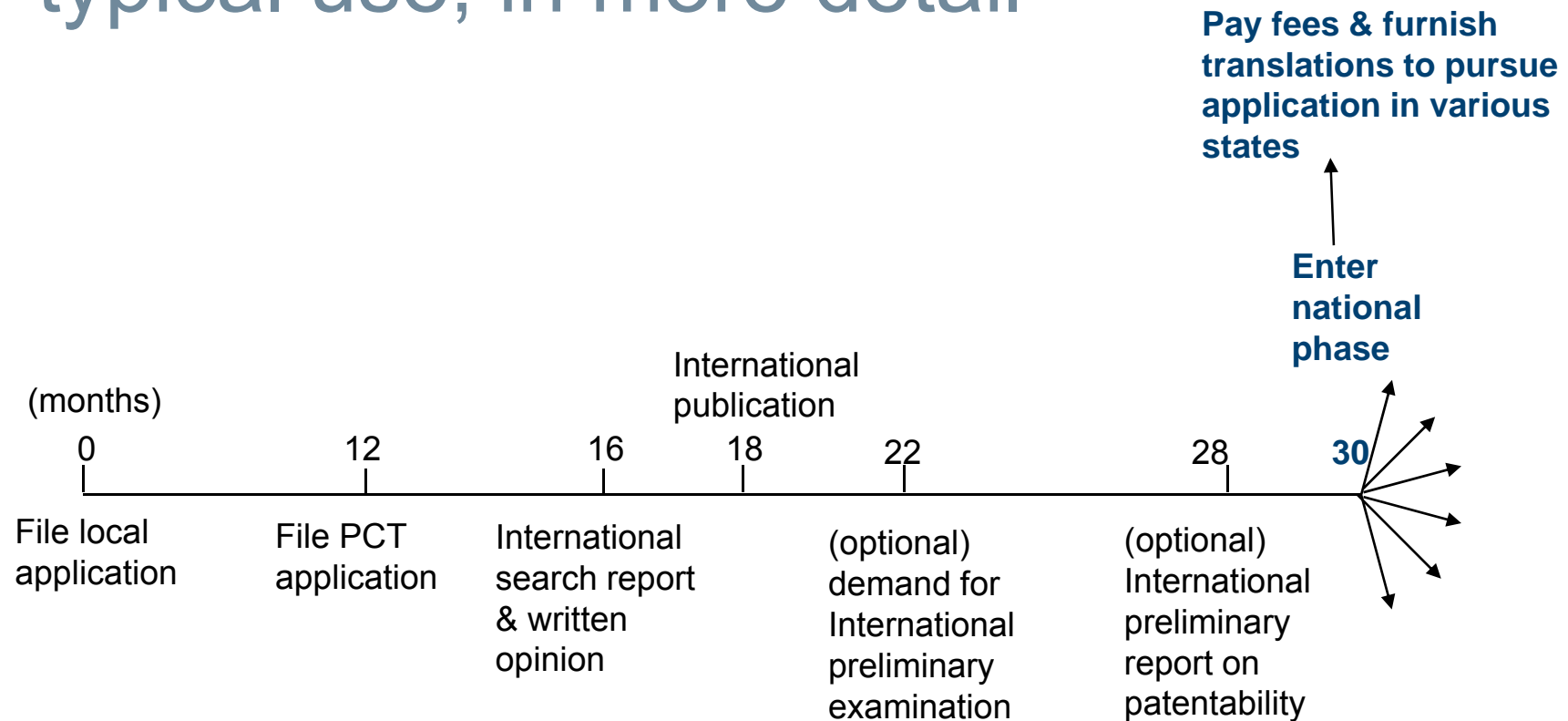
The PCT System

--typical use, in more detail



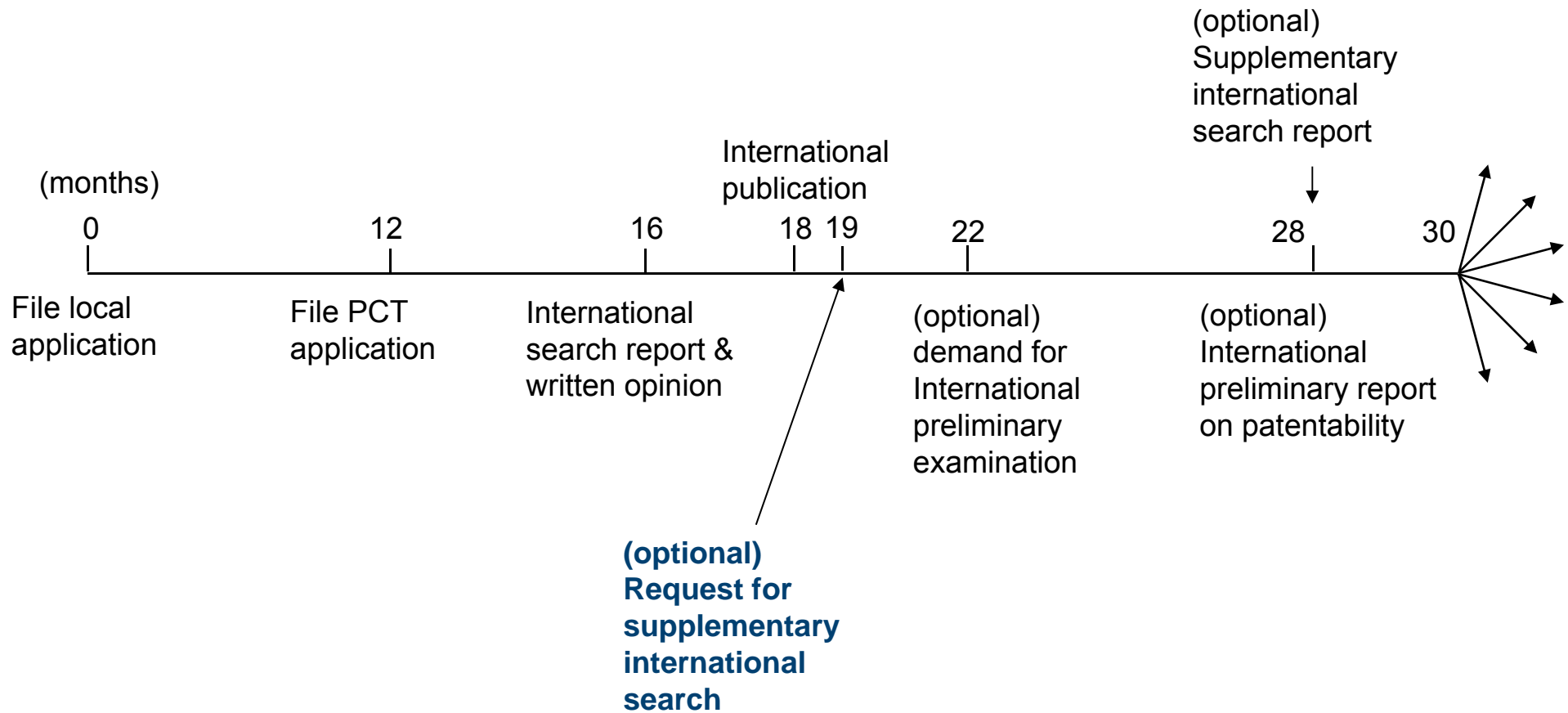
The PCT System

--typical use, in more detail

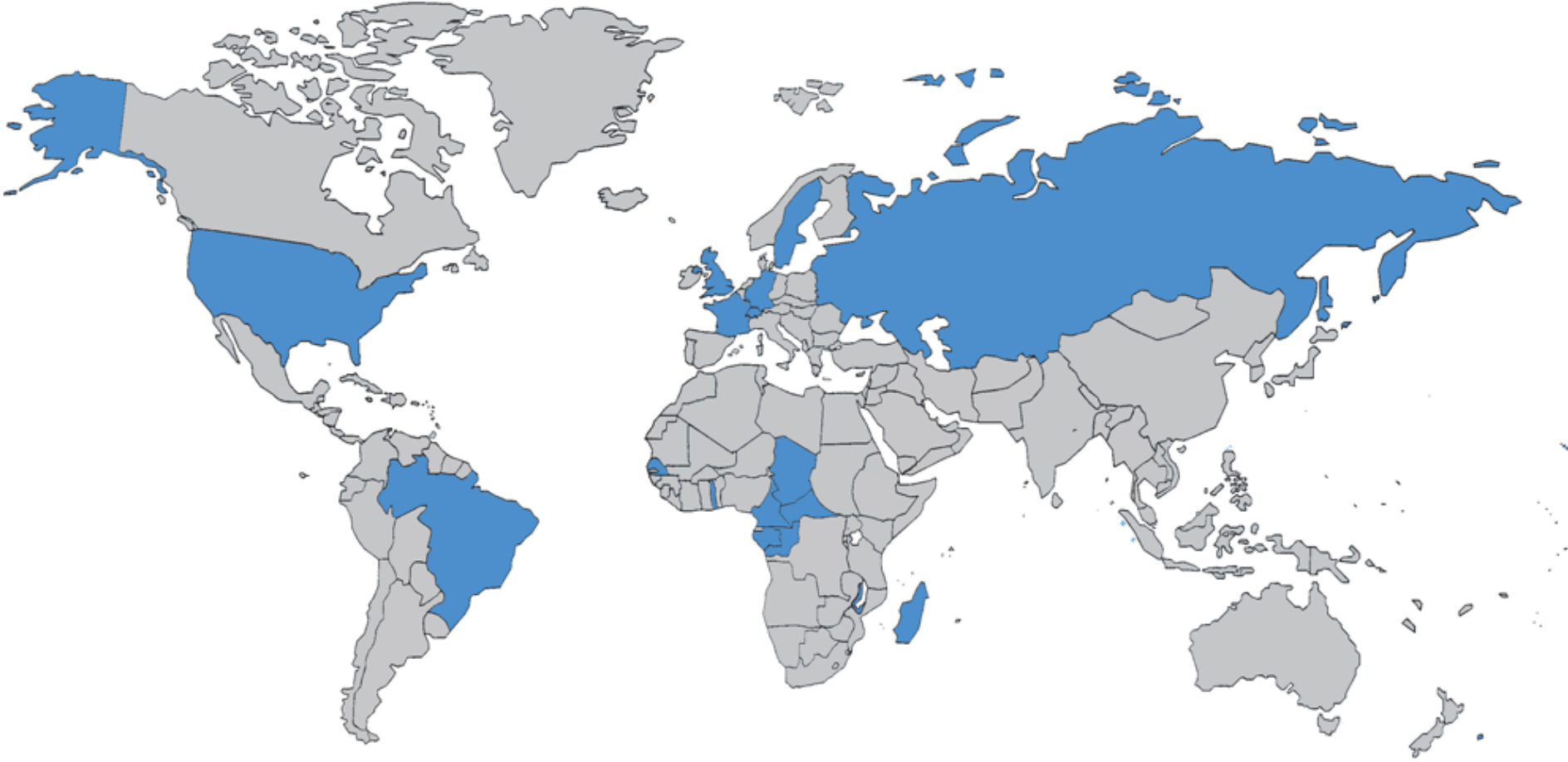


The PCT System

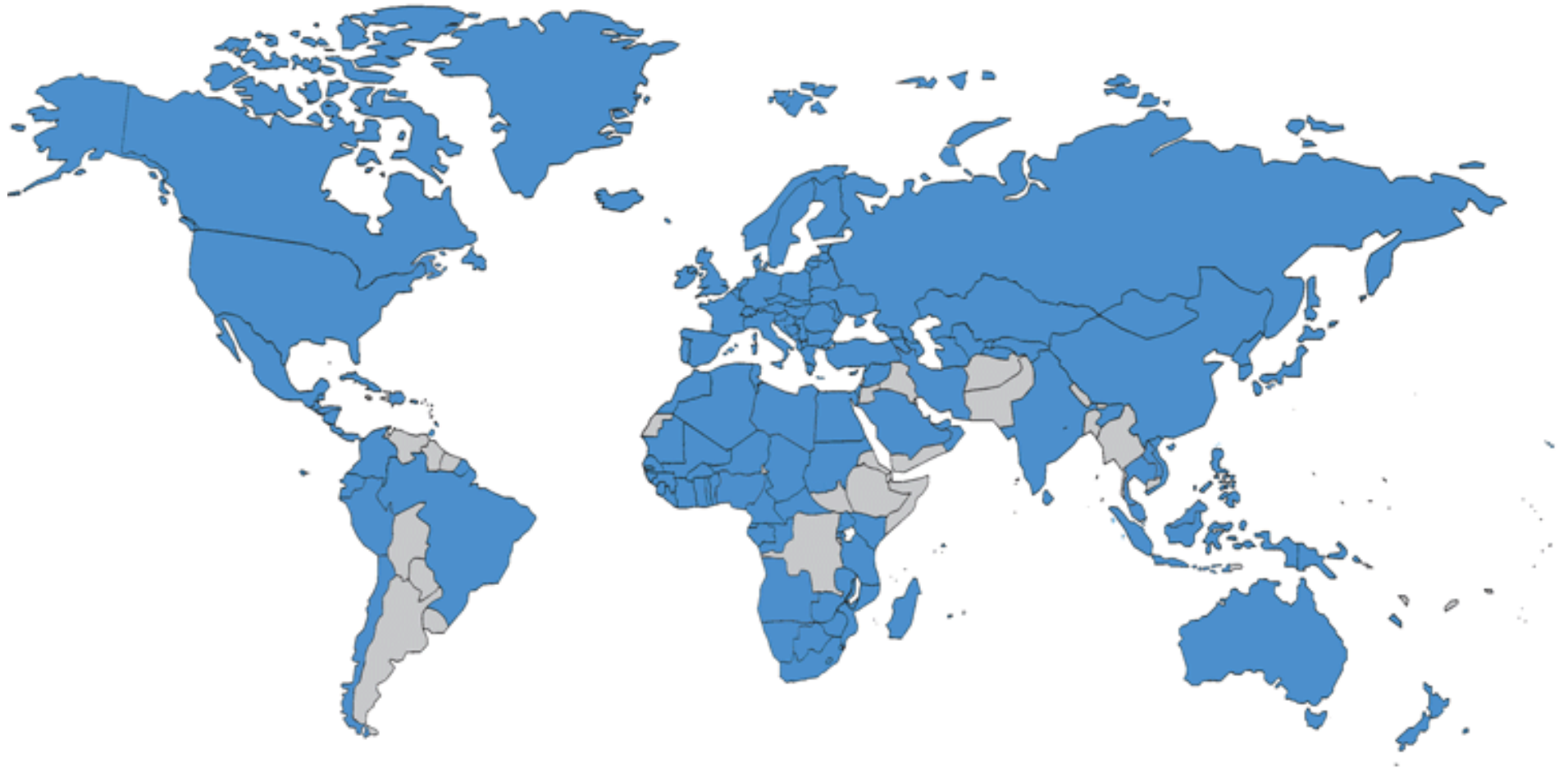
--typical use, in more detail



The PCT in 1978

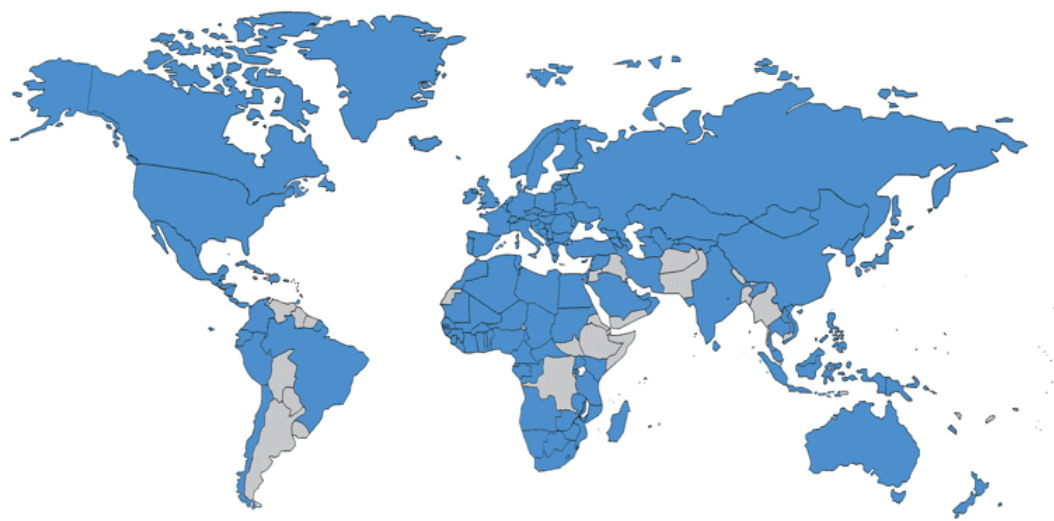


PCT Coverage Today



148 PCT States

 =PCT



Albania
Algeria
Angola
Antigua and Barbuda
Armenia
Australia
Austria
Azerbaijan
Bahrain
Barbados
Belarus
Belgium
Belize
Benin
Bosnia and Herzegovina
Botswana
Brazil
Brunei Darussalam
Bulgaria
Burkina Faso
Cameroon
Canada
Central African Republic
Chad
Chile
China

Colombia
Comoros
Congo
Costa Rica
Côte d'Ivoire
Croatia
Cuba
Cyprus
Czech Republic
Democratic People's
Republic of Korea
Denmark
Dominica
Dominican Republic
Ecuador
Egypt
El Salvador
Equatorial Guinea
Estonia
Finland
France
Gabon
Gambia
Georgia
Germany
Ghana

Greece
Grenada
Guatemala
Guinea
Guinea-Bissau
Honduras
Hungary
Iceland
India
Indonesia
Iran (Islamic Republic of)
Ireland
Israel
Italy
Japan
Kazakhstan
Kenya
Kyrgyzstan
Lao People's Dem Rep.
Latvia
Lesotho
Liberia
Libyan Arab Jamahiriya
Liechtenstein
Lithuania
Luxembourg

Madagascar
Malawi
Malaysia
Mali
Malta
Mauritania
Mexico
Monaco
Mongolia
Montenegro
Morocco
Mozambique
Namibia
Netherlands
New Zealand
Nicaragua
Niger
Nigeria
Norway
Oman
Panama
Papua New Guinea
Peru
Philippines
Poland
Portugal

Qatar
Republic of Korea
Republic of Moldova
Romania
Rwanda
Russian Federation
Saint Lucia
Saint Vincent and
the Grenadines
San Marino
Sao Tomé e Príncipe
Saudi Arabia
Senegal
Serbia
Seychelles
Sierra Leone
Singapore
Slovakia
Slovenia
South Africa
Spain
Sri Lanka
Sudan
Swaziland
St. Kitts and Nevis
Sweden

Switzerland
Syrian Arab Republic
Tajikistan
Thailand
The former Yugoslav
Republic of Macedonia
Togo
Trinidad and Tobago
Tunisia
Turkey
Turkmenistan
Uganda
Ukraine
United Arab Emirates
United Kingdom
United Republic of Tanzania
United States of America
Uzbekistan
Viet Nam
Zambia
Zimbabwe

WIPO | PCT
The International
Patent System

Countries not yet in PCT

Afghanistan

Andorra

Argentina

Bahamas

Bangladesh

Bhutan

Bolivia

Burundi

Cambodia

Cape Verde

Democratic Republic of
Congo

Djibouti

Eritrea

Ethiopia

Fiji

Guyana

Haiti

Iraq

Jamaica

Jordan

Kiribati

Kuwait

Lebanon

Maldives

Marshall Islands

Mauritius

Micronesia

Myanmar

Nauru

Nepal

Pakistan

Palau

Paraguay

Samoa

Solomon Islands

Somalia

South Sudan

Suriname

Timor-Leste

Tonga

Tuvalu

Uruguay

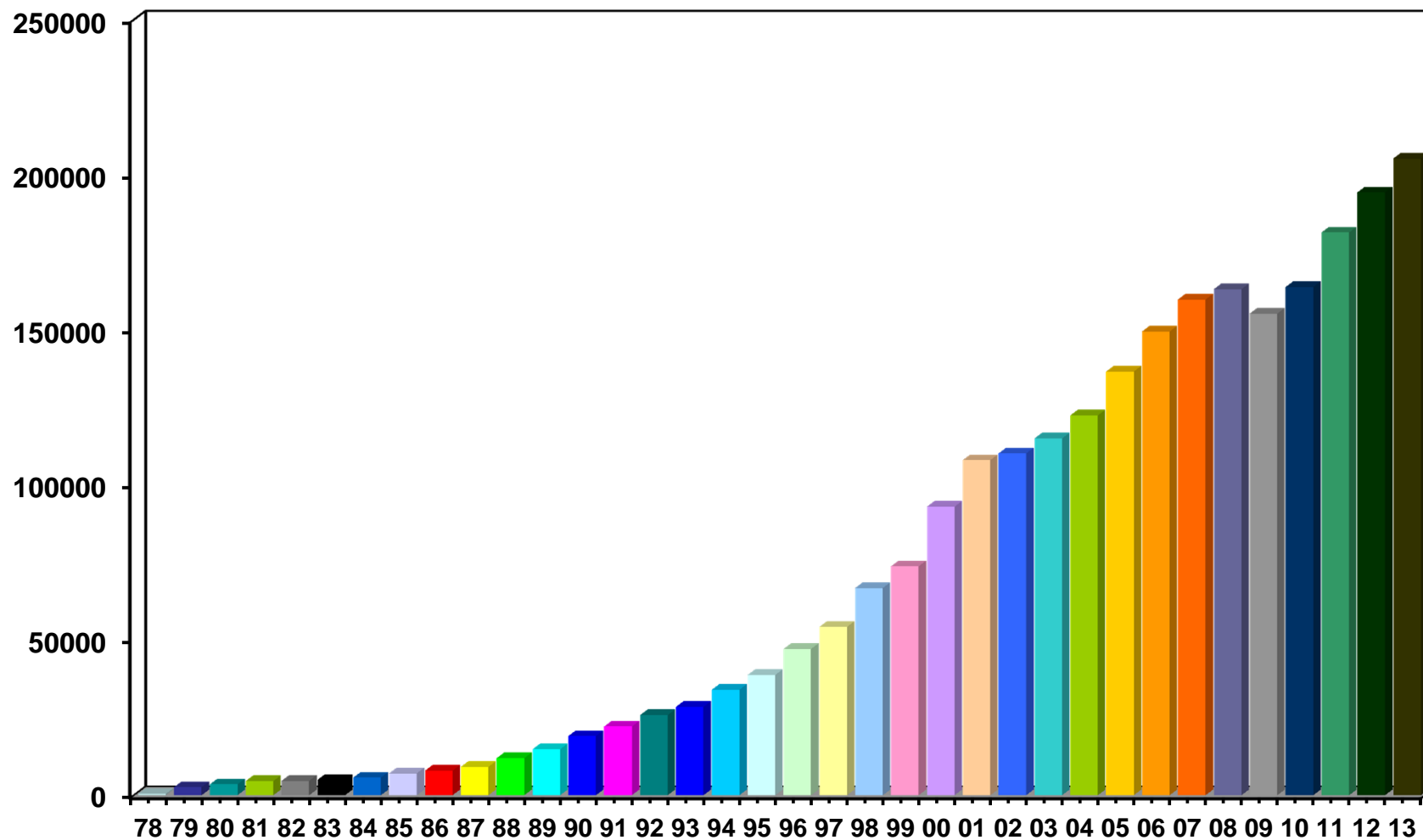
Vanuatu

Venezuela

Yemen

(45)

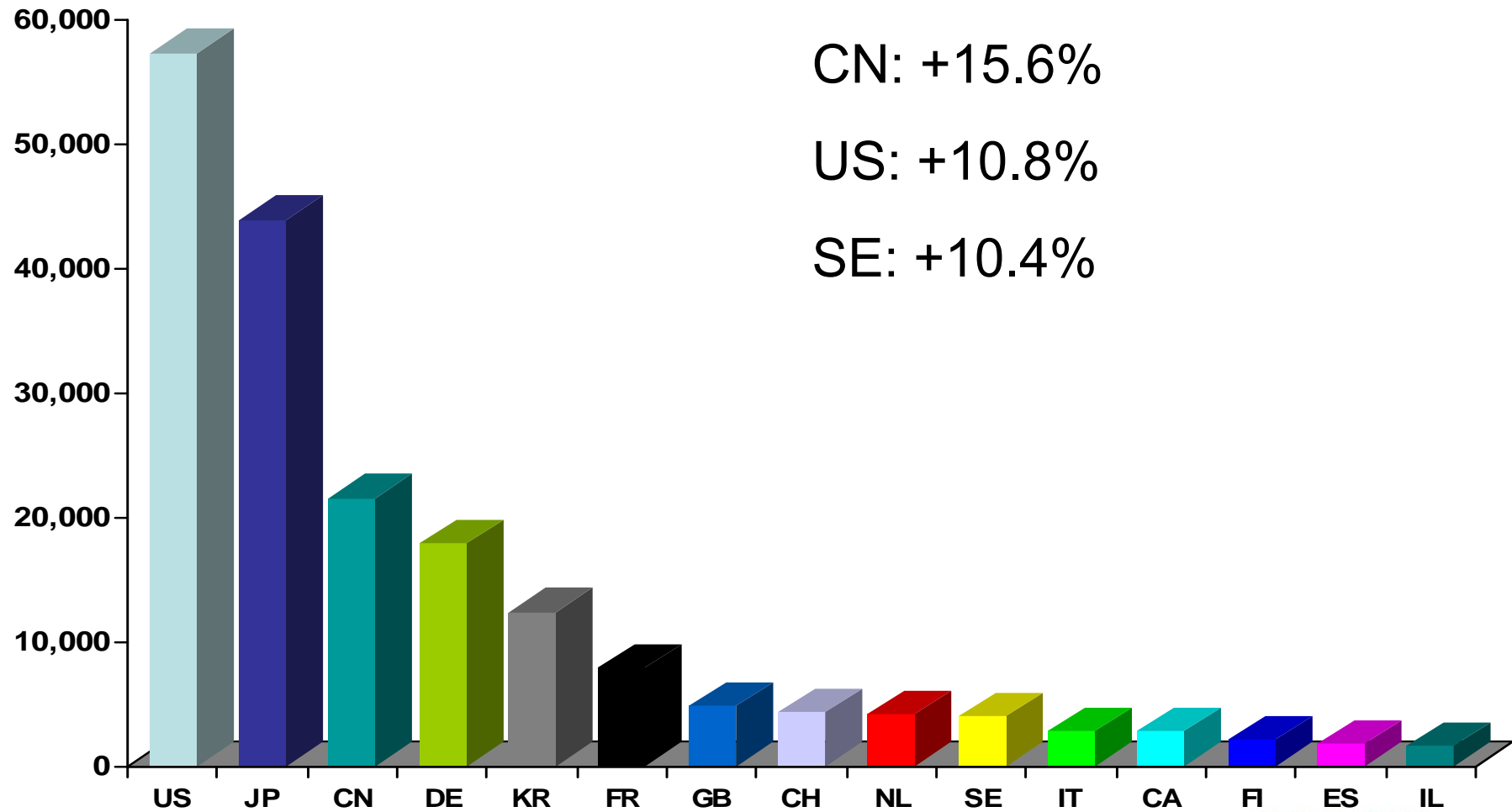
PCT Applications 2013



2013: 205,300 PCT applications (+5.1%)

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Patent System

International applications received in 2013 by country of origin

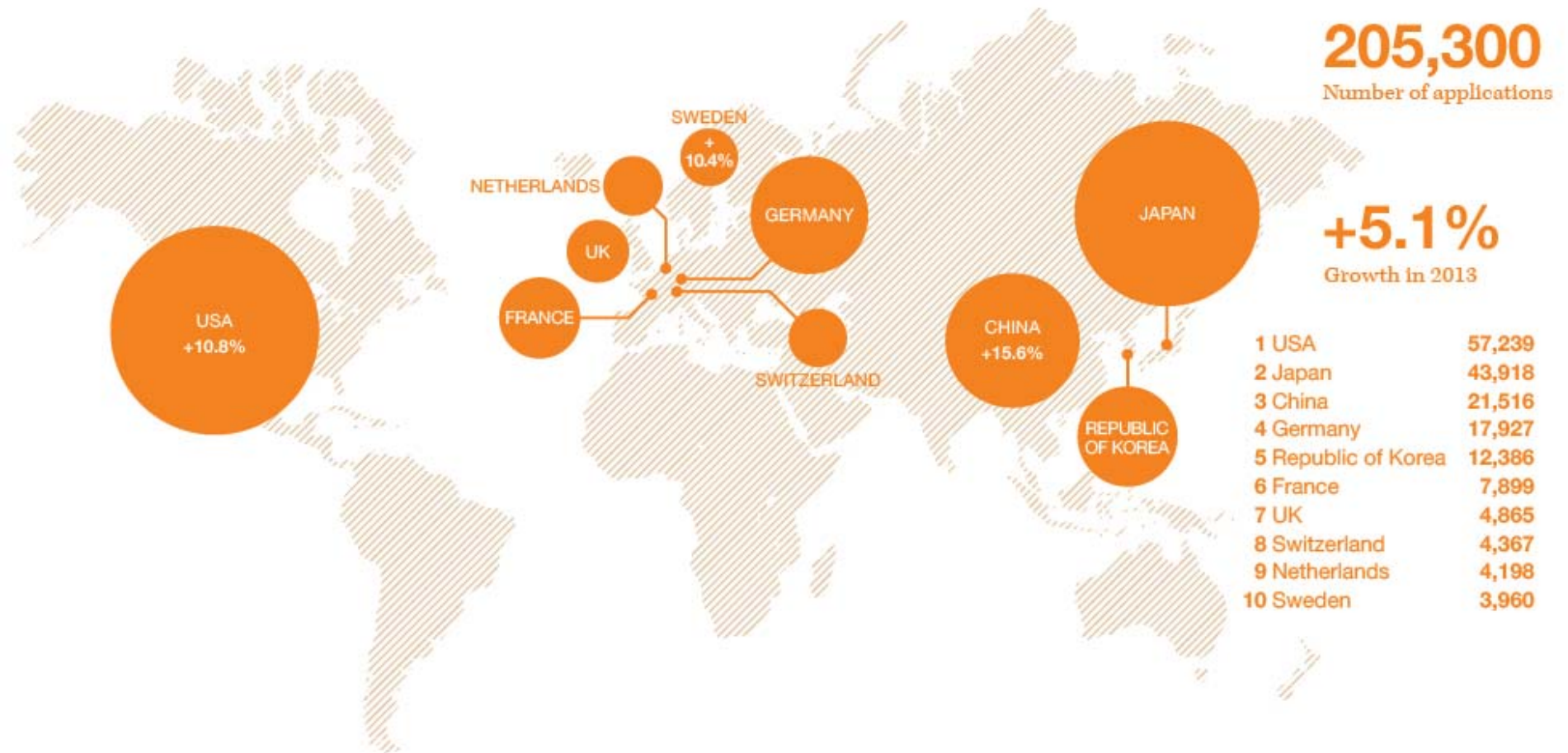


CN: +15.6%

US: +10.8%

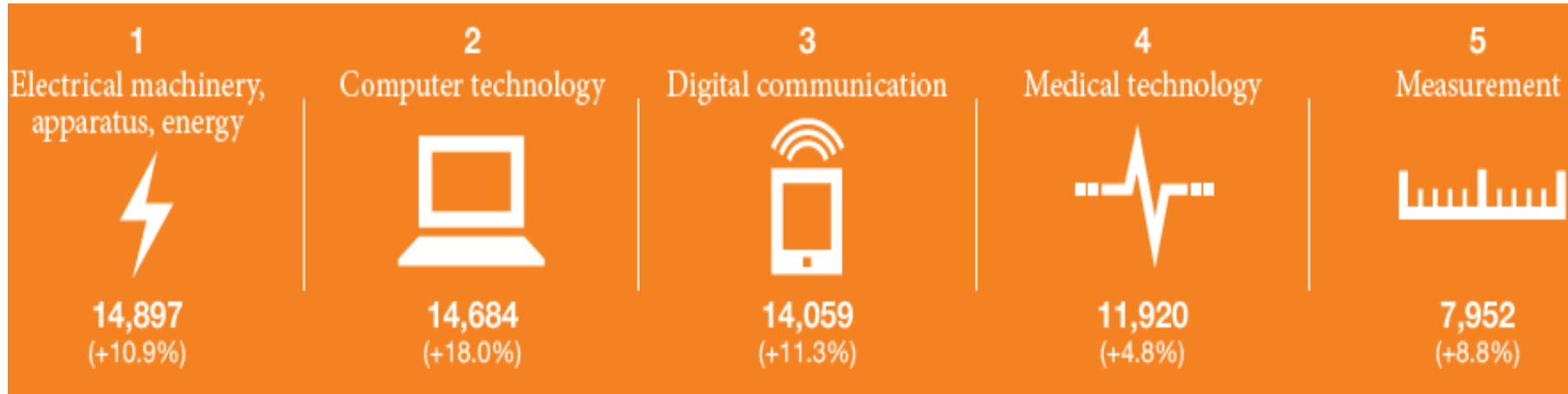
SE: +10.4%

Main PCT filing countries: 2013

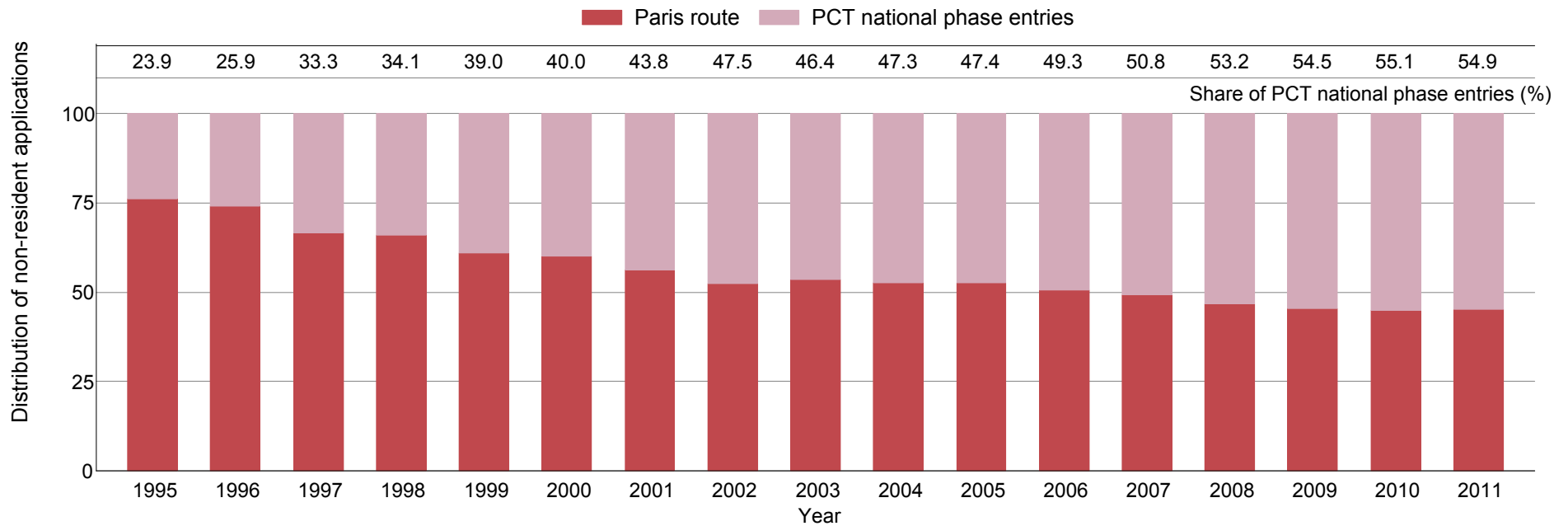


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Patent System

Main technology fields: 2013



Paris route vs. PCT national phase



General remarks on the PCT System

- The PCT System is a patent application “filing” system, not a patent “granting” system. There is no “PCT patent” or “global patent”
- The decision on granting patents is made exclusively by national or regional Offices in the national phase
- Only inventions may be protected via the PCT by applying for patents, utility models and similar titles
- Design and trademark protection cannot be obtained via the PCT. There are separate international conventions dealing with these types of industrial property protection (the Hague Agreement and the Madrid Agreement and Protocol, respectively)

The PCT... and business

Most businesses worldwide which seek and use patents wish to:

- control costs while preserving options
- make informed business decisions
- use the best tools available when seeking protection

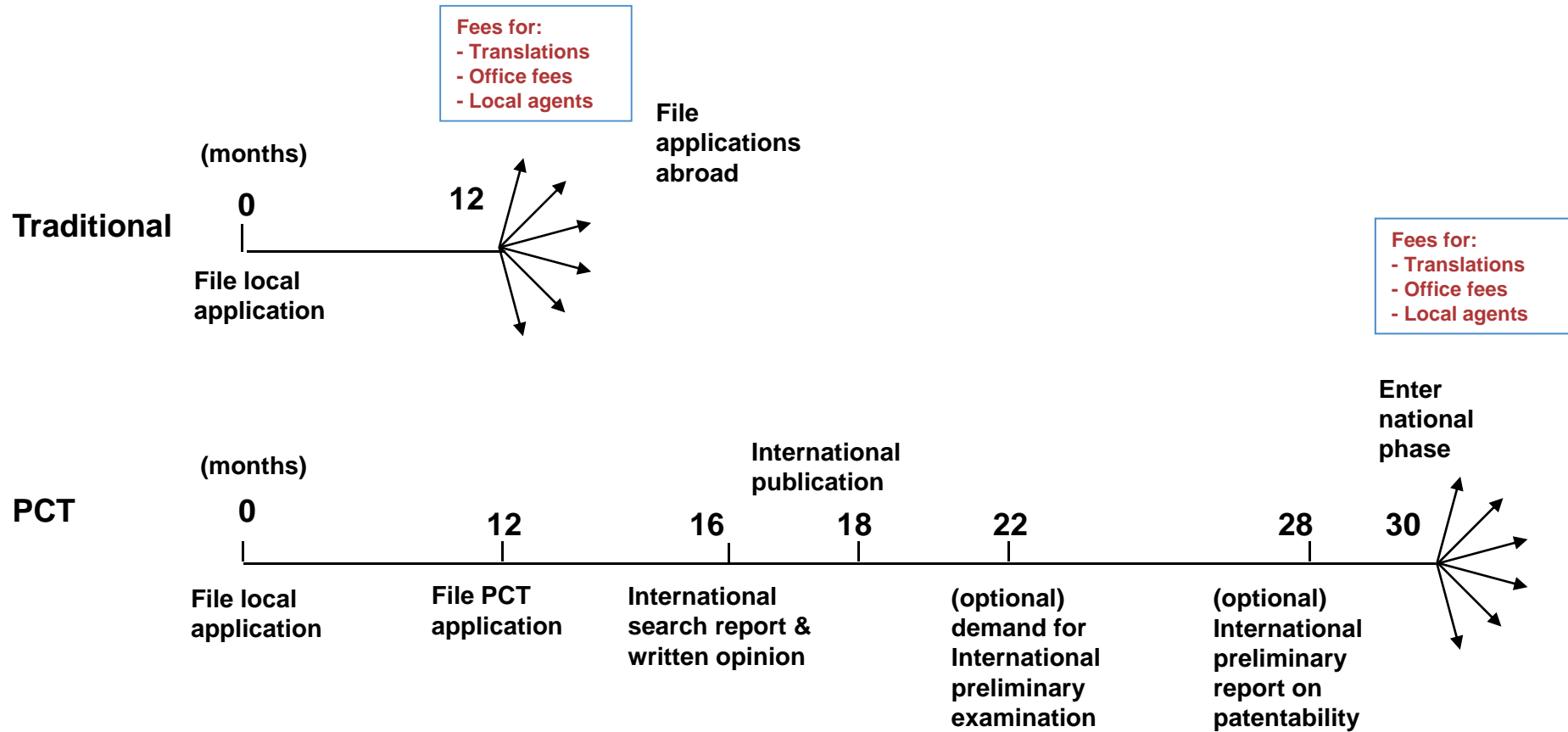
The PCT responds to these objectives

Certain PCT Advantages

The PCT, as the cornerstone of the international patent system, provides a worldwide system for simplified filing and processing of patent applications, which—

1. postpones the major costs associated with internationalizing a patent application

Traditional patent system vs. PCT System



Certain PCT Advantages

The PCT, as the cornerstone of the international patent system, provides a worldwide system for simplified filing and processing of patent applications, which—

1. postpones the major costs associated with internationalizing a patent application
2. provides a strong basis for patenting decisions

Example: PCT International Search Report

C. DOCUMENTS CONSIDERED TO BE RELEVANT		
Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	JP 50-14535 B (NCR CORPORATION) 28 May 1975 (28.05.75), column 4, lines 3 to 27	7-9, 11
X	GB 392415 A (JONES) 18 May 1933 (18.05.33) Fig. 1	1-3
Y	page 3, lines 5-7	4, 10
A	Fig. 5, support 36	11-12
X	GB 2174500 A (STC) 5 November 1986 (05.11.86) page 1, lines 5-15, 22-34, 46-80; Fig. 1	1-3
Y		4
A	US 4322752 A (BIXTY) 30 March 1982 (30.03.82) claim 1	1
A	GREEN, J.P. Integrated Circuit and Electronic Compass, IBM Technical Disclosure Bulletin, October 1975, Vol. 17, No. 6, pages 1344 and 1345	1-5

Symbols indicating which aspect of patentability the document cited is relevant to (for example, novelty, inventive step, etc.)

Documents relevant to whether or not your invention may be patentable

The claim numbers in your application to which the document is relevant

Example: PCT Written opinion of the International Searching Authority

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY		International application No.						
Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement								
1. Statement								
Novelty (N)	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">Claims</td> <td style="border-bottom: 1px solid black;">Claim(s) 3-15</td> <td style="width: 10%; text-align: right;">YES</td> </tr> <tr> <td>Claims</td> <td style="border-bottom: 1px solid black;">Claim(s) 16</td> <td style="text-align: right;">NO</td> </tr> </table>	Claims	Claim(s) 3-15	YES	Claims	Claim(s) 16	NO	Patentability assessment of claims
Claims	Claim(s) 3-15	YES						
Claims	Claim(s) 16	NO						
Inventive step (IS)	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">Claims</td> <td style="border-bottom: 1px solid black;">Claim(s) 8, 10-12</td> <td style="width: 10%; text-align: right;">YES</td> </tr> <tr> <td>Claims</td> <td style="border-bottom: 1px solid black;">Claim(s) 3-7, 9, 14-16</td> <td style="text-align: right;">NO</td> </tr> </table>	Claims	Claim(s) 8, 10-12	YES	Claims	Claim(s) 3-7, 9, 14-16	NO	
Claims	Claim(s) 8, 10-12	YES						
Claims	Claim(s) 3-7, 9, 14-16	NO						
Industrial applicability (IA)	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">Claims</td> <td style="border-bottom: 1px solid black;">Claim(s) 3-16</td> <td style="width: 10%; text-align: right;">YES</td> </tr> <tr> <td>Claims</td> <td style="border-bottom: 1px solid black;">_____</td> <td style="text-align: right;">NO</td> </tr> </table>	Claims	Claim(s) 3-16	YES	Claims	_____	NO	
Claims	Claim(s) 3-16	YES						
Claims	_____	NO						
2. Citations and explanations:								
<p>INDEPENDENT CLAIM 3</p> <p>Document US-A-5 332 238, which is considered to represent the most relevant state of the art, discloses (cf. relevant passages indicated in the ISR) a device from which the subject-matter of INDEPENDENT CLAIM 3</p> <p>Document US-A-5 332 238, which is considered to represent the most relevant state of the art,</p>								

Reasoning supporting the assessment

Certain PCT Advantages

The PCT, as the cornerstone of the international patent system, provides a worldwide system for simplified filing and processing of patent applications, which—

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2. provides a strong basis for patenting decisions
3. harmonizes formal requirements

Harmonization of formal requirements

PCT Article 27(1): “No national law shall require compliance with requirements relating to the form or contents of the international application different from or additional to those which are provided for in this Treaty and Regulations.”

***PCT Applicant’s Guide*, paragraph 4.011:** “There is a prescribed form for the international application. This form must be accepted by all designated Offices for the purposes of the national phase, so that there is no need to comply with a great variety of widely differing formal requirements in the many countries in which protection may be sought.”

Certain PCT Advantages

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2. provides a strong basis for patenting decisions
3. harmonizes formal requirements
4. protects applicant from certain inadvertent errors

PCT protection from inadvertent errors

PCT procedures also help protect the applicant from errors which may occur:

- inviting the corrections of defects and insufficient or missing fee payments
- handling filings with non-competent receiving Offices
- carrying out a double formality review to identify defects
- providing for restoration of the right of priority
- providing for incorporation by reference of missing parts
- providing for rectification of obvious mistakes
- excusing delays in national phase entry

Certain PCT Advantages

The PCT, as the cornerstone of the international patent system, provides a worldwide system for simplified filing and processing of patent applications, which—

1. postpones the major costs associated with internationalizing a patent application
2. provides a strong basis for patenting decisions
3. harmonizes formal requirements
4. protects applicant from certain inadvertent errors
5. evolves to meet stakeholder needs

PCT Meetings

- Meeting of International Authorities—annual (usually first quarter)
- PCT Working Group—annual (usually second quarter)
- PCT Assembly—September/October
- Conferences and seminars for PCT users
- Constant contact with PCT users

Certain PCT Advantages

The PCT, as the cornerstone of the international patent system, provides a worldwide system for simplified filing and processing of patent applications, which—

1. postpones the major costs associated with internationalizing a patent application
2. provides a strong basis for patenting decisions
3. harmonizes formal requirements
4. protects applicant from certain inadvertent errors
5. evolves to meet stakeholder needs
6. is used by the world's major corporations, universities and research institutions when they seek multinational patent

Top PCT Applicants 2013

1. Panasonic—JP (2881)
2. ZTE—CN (2309)
3. Huawei—CN (2094)
4. Qualcomm—US (2036)
5. Intel—US (1852)
6. Sharp—JP (1840)
7. Bosch—DE (1786)
8. Toyota—JP (1696)
9. Ericsson—SE (1467)
10. Philips—NL (1423)
11. Siemens—DE (1323)
12. Mitsubishi Electric—JP (1312)
13. Samsung Electronics—KR (1193)
14. NEC—JP (1190)
15. LG Electronics—KR (1170)
16. Fujifilm Corporation (1008)
17. Shenzhen China Star
Optoelectronics—CN (916)
18. Sony—JP (915)
19. Hitachi—JP (841)
20. Nokia—FI (807)

() of published PCT applications

Top University PCT Applicants 2013

1. University of California (US)
2. MIT (US)
3. Columbia University (US)
4. University of Texas (US)
5. Harvard University (US)
6. Johns Hopkins (US)
7. Korea Advanced Institute of Science and Technology (KR)
8. Leland Stanford University (US)
9. Cornell University (US)
10. Cal Tech (US)
11. University of Florida (US)
12. Postech Foundation (KR)
13. Seoul National University (KR)
14. Peking University (CN)
15. Nanyang Technical University (CN)
16. University of Tokyo (JP)
17. Isis Innovation Limited (GB)
18. University of Pennsylvania (US)
19. University of Michigan (US)
20. National University of Singapore (SG)

PCT filing cost scenarios

1. Individual applicant from Indonesia (no corporate applicant)

□ PCT filing costs:

- Transmittal fee: approx. CHF 75
- International filing fee: CHF 133
 - 90% reduction applied by WIPO because of status as individual applicant from a qualifying country
- Search fee (EP): CHF 575.25 (full amount: CHF 2301)
 - 75% reduction applied by EPO

➤ CHF 783.25

2. Small business from South Africa

□ PCT filing costs:

- Transmittal fee: approx. CHF 40
- International filing fee: CHF 1,330 (full fee)
- Search fee (AU): CHF 1,765

➤ CHF 3,247

PCT E-filing fee reductions

- ❑ **300 Swiss francs:** **electronic filings**
request and text of application in character
coded format (for example, XML)

- ❑ **200 Swiss francs:** **electronic filings**
request but not text of application in
character-coded format (for example, PDF)

- ❑ **100 Swiss francs:** **electronic filings**
request not in character-coded format
(for example, PDF)

- ❑ **100 Swiss francs:** **paper filings**
request printout created with PCT-SAFE
diskette prepared with PCT- SAFE
(this reduction ends on 1 July 2015)

PCT training options

- 29 PCT training videos on WIPO's Youtube channel and WIPO's PCT page
- PCT distance learning course content available in the 10 PCT publication languages
- PCT webinars
 - providing free updates on developments in PCT procedures, and PCT strategies—previous webinars are archived and freely available
 - upon request also for companies or law firms, for example, for focused training on how to use ePCT
- In-person PCT seminars and training sessions

PCT Resources/Information

- For further information about the PCT, see

www.wipo.int/pct/en/

- For general questions about the PCT, contact the PCT Information Service at:

Telephone: (+41-22) 338 83 38

Facsimile: (+41-22) 338 83 39

E-mail: pct.infoline@wipo.int