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**THE PATENT COOPERATION TREATY (PCT)
AND ITS IMPORTANCE TO DEVELOPING COUNTRIES**

Document prepared by the International Bureau

Note: This document should be read in conjunction with the latest version of documents PCT/GEN/12 (Contracting States of the PCT), PCT/GEN/13 (Availability of 75% Reduction of Certain PCT Fees for Applicants from Certain States) and Yearly Review of the PCT.

INTRODUCTION

The traditional patent system

1. The traditional patent system requires the filing of individual patent applications for each country for which patent protection is sought, with the exception of the regional patent systems such as the African Intellectual Property Organization (OAPI) system, the Harare Protocol system established in the framework of the African Regional Industrial Property Organization (ARIPO), the Eurasian patent system and the European patent system. Under the traditional Paris Convention route, the priority of an earlier application can be claimed for applications filed subsequently in foreign countries but such later applications must be filed within 12 months of the filing date of the earlier application. This involves for the applicant the preparation and filing of patent applications for all countries in which he is seeking protection for his invention within one year of the filing of the first application. This means expenses for translation, patent attorneys in the various countries and payment of fees to the patent Offices, all at a time at which the applicant often does not know whether he is likely to obtain a patent or whether his invention is really new compared with the state of the art.

2. Filing of patent applications under the traditional system means that every single patent Office with which an application is filed has to carry out a formal examination of every application filed with it. Where patent Offices examine patent applications as to substance, each Office has to make a search to determine the state of the art in the technical field of the invention and has to carry out an examination as to patentability.

3. The principal difference between the traditional national patent system and the regional patent systems such as those mentioned above is that a regional patent is granted by one patent Office for several States. Otherwise, the procedure is the same, and the explanations given in the preceding two paragraphs are equally valid.

History of the PCT

4. In order to overcome some of the problems involved in the traditional system, the Executive Committee of the International (Paris) Union for the Protection of Industrial Property invited, in September 1966, BIRPI (the predecessor of WIPO) to undertake urgently a study of solutions to reduce the duplication of the effort both for applicants and national patent Offices. In 1967, a draft of an international treaty was prepared by BIRPI and presented to a Committee of Experts. In the following years, a number of meetings prepared revised drafts and a Diplomatic Conference held in Washington in June 1970 adopted a treaty called the Patent Cooperation Treaty. The Patent Cooperation Treaty or "PCT" entered into force on January 24, 1978, and became operational on June 1, 1978, with an initial 18 Contracting States. At the date of printing of this document, 119 Contracting States¹ had adhered to the PCT, a significant increase indicative of interest in the implementation of the Treaty.

5. The filing of international applications under the PCT commenced on June 1, 1978. During 2002, the International Bureau of WIPO received a total of 114, 048 applications filed worldwide, which represented a 9.7% increase over the number of applications filed in 2001. By the end of

¹ For the current list of Contracting States, see the latest version of document PCT/GEN/12.

2002, the International Bureau of WIPO had received a total of 798,308 international applications since PCT operations began.²

6. These brief indications of the progress of the PCT merely demonstrate the certainty that many more countries will become party to the PCT in the years ahead and that its use, evidenced by the number of applications filed, will continue to increase significantly.

WHAT IS THE PCT?

7. As its name suggests, the Patent Cooperation Treaty is an agreement for international cooperation in the field of patents. It is often spoken of as being the most significant advance in international cooperation in this field since the adoption of the Paris Convention itself. It is, however, largely a treaty for rationalization and cooperation with regard to the filing, searching and examination of patent applications and the dissemination of the technical information contained therein. The PCT does not provide for the grant of “international patents”: the task of and responsibility for granting patents remains exclusively in the hands of the patent Offices of, or acting for, the countries where protection is sought (the “designated Offices”). The PCT does not compete with but, in fact, complements the Paris Convention. Indeed, it is a special agreement under the Paris Convention open only to States which are also party to the Paris Convention.

Principal objectives of the PCT

8. The principal objective of the PCT is to simplify and to render more effective and more economical—in the interests of the users of the patent system and the Offices which have responsibility for administering it—the previously established means of applying in several countries for patent protection for inventions.

9. Before the introduction of the PCT system, virtually the only means by which protection of an invention could be obtained in several countries was to file a separate application in each country; these applications, each being dealt with in isolation, involved a repetition of the work of filing and examination in each country. To achieve its objective, the PCT:

- establishes an international system which enables the filing, with a single patent Office (the “receiving Office”), of a single application (the “international application”) in one language having effect in each of the countries party to the PCT which the applicant names (“designates”) in his application; a copy of the page of the PCT Request form used for making designations of States is contained in the Annex;
- provides for the formal examination of the international application by a single patent Office, the receiving Office;
- subjects each international application to an international search which results in a report citing the relevant prior art (mainly published patent documents relating to previous inventions) which may have to be taken into account in deciding whether the invention is patentable; that report is made available first to the applicant and is later published;

² For further statistics, see the Yearly Review of the PCT.

– provides for centralized international publication of international applications with the related international search reports, as well as their communication to the designated Offices; and

– provides the option of an international preliminary examination of the international application which gives to the Offices that have to decide whether or not to grant a patent, and to the applicant, a report containing an opinion as to whether the claimed invention meets certain international criteria for patentability.

10. The procedure described in the preceding paragraph, comparing it with the traditional procedure, is illustrated by the timelines in the Annex. It is commonly called the “international phase” of the PCT procedure, whereas one speaks of the “national phase” to describe the last part of the patent granting procedure which, as explained in paragraph 7, above, is the task of the designated Offices, i.e., the national Offices of, or acting for, the countries which have been designated in the international application. The filing of the international application, the international search and the international publication are covered by Chapter I of the Treaty; the international preliminary examination is covered by Chapter II of that Treaty. (In PCT terminology, a reference to “national” Office, “national” phase and “national” fees, includes the reference to the procedure before a regional patent Office.)

11. In most countries, patent Offices are facing questions of how best to allocate resources so as to ensure that the patent system yields the greatest return from the available manpower. In a country with some degree of economic growth and technological progress, an increase in the number of patent applications which must be handled by the national Office may be expected. In such a case, and if the country concerned is bound by the PCT, the PCT system would put that Office in a better position to cope with increased workload since an international application, by the time it reaches the national Office, has already been examined as to form by the receiving Office, been searched by the International Searching Authority and, in most cases, examined by an International Preliminary Examining Authority, thus providing the national Offices with the important benefit of being able to deal with more patent applications with the resources (including manpower) available to them, thanks to the centralized procedures carried out during the international phase which simplify the processing during the national phase.

12. Further main objectives of the PCT are to facilitate and accelerate access by industries and other interested sectors to technical information related to inventions and to assist developing countries in gaining access to technology.

HOW DOES THE PCT SYSTEM FUNCTION?

Who may file an international application? Where may it be filed?

13. Any national or resident of a PCT Contracting State can file an international application. International applications can be filed in most cases with the national Office, which will act as a PCT receiving Office. Nationals and residents of States which are party to the PCT and to the Harare Protocol, the Eurasian Patent Convention, the European Patent Convention or the Bangui Agreement generally also have the option of filing an international application with the ARIPO Office, the Eurasian Patent Office, the European Patent Office or the OAPI Office, respectively. Nationals and residents of some developing countries must file international applications with the International Bureau of WIPO, which acts as receiving Office for them. In

addition, the International Bureau acts as a receiving Office at the option of nationals and residents of all PCT Contracting States.

What is the effect of an international application?

14. An international application has the effect, as of the international filing date, of a national application in those PCT Contracting States which the applicant designates for a national patent in his application. It has the effect of a regional patent application in those PCT Contracting States which are party to a regional patent treaty, provided they are designated for a regional patent (that is, an ARIPO patent, a Eurasian patent, a European patent or an OAPI patent). The States party to the OAPI agreement can be designated only for an OAPI patent; national patents are not available in those States.

15. States party to the regional patent systems established by the Harare Protocol, by the Eurasian Patent Convention and by the European Patent Convention have the possibility of “closing the national route” for obtaining patent protection, whereby an international application designating such a State will automatically be treated as an application for a regional (ARIPO, Eurasian or European) patent and will thus be handled by the respective regional Patent Office.

Standardization of international applications

16. The PCT prescribes certain standards for international applications. An international application which is prepared in accordance with these standards will be acceptable, so far as the form and contents of the application are concerned, to all the PCT Contracting States, and no subsequent modifications because of varying national or regional requirements (and the cost associated therewith) will become necessary. No national law may require compliance with requirements relating to the form or contents of the international application different from or additional to those which are provided for by the PCT.

Costs of an international application

17. Only a single set of fees is incurred for the preparation and filing of the international application and they are payable in one currency and at one Office (the receiving Office). Payment of national fees to the designated Offices is delayed. The national fees become payable much later than for a filing by the traditional Paris Convention route.

18. The fees payable to the receiving Office for an international application consist of three main elements:

- the transmittal fee—to cover the work of the receiving Office;
- the search fee—to cover the work of the International Searching Authority; and
- the international fee—to cover the work of the International Bureau.

Fee reduction for certain applicants

19. An applicant who is a natural person and who is a national of and resides in a State whose per capita national income is below 3,000 US dollars (according to the average per capita national income figures used by the United Nations for determining its scale of assessments for the contributions payable for the years 1995, 1996 and 1997) is entitled to a reduction of 75% of certain PCT fees, including the international fee. If there are several applicants, each must satisfy

the above-mentioned criteria. The fee reduction will be available even if one or more of the applicants are not from PCT Contracting States, provided that each of them is a national and resident of a State that meets the above-mentioned requirements and that at least one of the applicants is a national or resident of a PCT Contracting State and thus is entitled to file an international application. For information about which States are concerned, see document PCT/GEN/13.

PCT-EASY

20. The International Bureau, in cooperation with the European Patent Office, has developed computer software entitled “PCT-EASY” which allows applicants in respect of international applications to fill in and print out computer-generated requests using personal computers. The software has been designed to aid applicants to correctly provide the bibliographic data in relation to the international application, and to protect applicants from certain kinds of inadvertent errors by incorporating over 200 validation checks of data which is input, an interactive user interface, and on-line messages and prompts. Applicants can file international applications containing requests prepared using the PCT-EASY software with receiving Offices which are prepared to accept them. The software is available for preparing requests in Chinese, English, French, German, Japanese, Russian and Spanish (that is, in all of the languages of publication under PCT Rule 48.3(a)). The use of the PCT-EASY software will result in a reduction in the international fee of 200 Swiss francs (or the equivalent in the currency in which the international fee is paid to the receiving Office) if (i) the applicant furnishes the request as a computer print-out prepared using the PCT-EASY software and (ii) accompanies that request with a computer diskette, prepared using that software, containing a copy in electronic form of the data contained in the request and of the abstract. The software (and additional documentation about its features and use) can be obtained from the International Bureau by mail or may be downloaded from WIPO’s PCT website at <http://pcteasy.wipo.int>. For further information about PCT-EASY, contact the PCT-EASY Help Desk (telephone: (41-22) 338 9523; facsimile machine: (41-22) 338 8040; e-mail: pcteasy.help@wipo.int).

In what language is the international application filed?

21. The language in which an international application may be filed depends upon the requirements of the receiving Office with which the application is filed. In certain cases, a translation is required for the purposes of international search and/or international publication. The main languages in which international applications are filed are Chinese, English, French, German, Japanese, Russian and Spanish.

The functions of the receiving Office

22. The receiving Office, after having made a formal check and accorded an international filing date, sends a copy of the international application to the International Bureau of WIPO (the “record copy”) and another copy (the “search copy”) to the International Searching Authority. It keeps a third copy (the “home copy”). The receiving Office also collects all the PCT fees and transfers the search fee to the International Searching Authority and the international fee to the International Bureau.

The international search

23. Every international application is subjected to an international search, that is, a high quality search of the patent documents and other technical literature in those languages in which most patent applications are filed (English, French and German and, in certain cases, Chinese, Japanese, Russian and Spanish). The high quality of the international search is assured by the standards prescribed in the PCT for the documentation, staff qualifications and search methods of the International Searching Authorities, which are experienced patent Offices that have been specially appointed to carry out international searches by the Assembly of the PCT Union (the highest administrative body created under the PCT) on the basis of an agreement to observe PCT standards and time limits.

Who carries out the international search?

24. The following Offices have been appointed to act as International Searching Authorities: the Australian Patent Office, the Austrian Patent Office, the China Intellectual Property Office, the European Patent Office, the Japan Patent Office, the Korean Intellectual Property Office, the Russian Patent Office, the Spanish Patent and Trademark Office, the Swedish Patent Office and the United States Patent and Trademark Office. The PCT Assembly in its 18th extraordinary session (held in Geneva from September 23 to October 1, 2002) appointed the Canadian Commissioner of Patents as ISA and IPEA (effective date is expected to be in the summer of 2004, subject to notification).

What documentation is consulted?

25. Each International Searching Authority is required to have at least the prescribed PCT minimum documentation, properly arranged for search purposes, which can be described in general as comprising the patent documents, as from 1920, of the major industrialized countries, together with agreed items of non-patent literature. The International Searching Authority, in making the search, must make use of its full facilities, i.e., the minimum documentation and any additional documentation it may possess. The obligation to consult at least the PCT minimum documentation guarantees a high level of international searching.

The international search report

26. The results of the international search are given in an international search report, which is normally made available to the applicant by the fourth or fifth month after the application is filed. The international search report contains no comment on the value of an invention but lists citations of prior art relevant to the claims of the international application and gives an indication of the possible relevance of the citations to the questions of novelty and inventive step (non-obviousness).

Usefulness of the international search report

27. The citations of relevant prior art in the international search report enable the applicant to calculate his chances of obtaining a patent in or for the countries designated in the international application and to decide whether it is worthwhile, in the light of the state of the art evidenced by the documents cited in the search report, to continue to seek protection for his invention in the designated States.

28. An international search report which is favorable, that is, in which the citations of prior art would appear not to prevent the grant of a patent, assists the applicant in the subsequent prosecution of the application before the designated Offices. If a search report is unfavorable, the applicant has the opportunity to amend the claims in his international application to better distinguish the invention from the state of the art or to withdraw the application before it is published.

29. The international search report assists designated Offices, in particular Offices which do not have technically qualified staff and an extensive collection of patent documents arranged in a manner suitable for search purposes, in examining applications and otherwise evaluating the inventions described.

The international-type search

30. For applications not filed under the PCT system, the PCT also provides a feature to strengthen national patent systems and to assist national Offices in the processing and granting of national patents. The national patent law can include provisions for an “international-type search” of purely national applications. This search is the same as an international search and is carried out by the International Searching Authority which the national Office specifies for carrying out international searches. Adoption of an international-type search mechanism has a two-fold benefit for the country. Firstly, it means that all patents would have been subjected to the same kind of search whether or not the corresponding applications took the PCT route. Secondly, national enterprises and inventors could have the benefits of an international-type search report even without filing an application under the PCT.

Who receives the international search report?

31. The International Searching Authority sends the international search report to the applicant and to the International Bureau. The International Bureau includes the search report in the international publication of the international application and sends a copy to the designated Offices.

International publication

32. International publication serves two main purposes: to disclose to the public the invention (i.e., in general, the technological advance made by the inventor) and to set out the scope of the protection which may ultimately be obtained.

33. *What is published?* The International Bureau publishes a (PCT) pamphlet which contains a front page setting out bibliographic data furnished by the applicant, together with data such as the International Patent Classification (IPC) symbol assigned by the International Searching Authority, a characteristic drawing, where applicable, and the abstract and also contains the description, the claims, any drawings and the international search report. If the claims of the international application have been amended, the claims are published both as filed and as amended. The International Bureau also publishes the *PCT Gazette* in paper form and in electronic form: both forms contain bibliographic data concerning published international applications; the electronic form also contains abstracts and drawings.

34. *When does international publication take place?* This occurs, in general, 18 months after the priority date of the international application.

35. *In what language is the pamphlet published?* The pamphlet is published in the language of the international application as filed, if that language is Chinese, English, French, German, Japanese, Russian or Spanish. If the international application has been filed in any other language, it is translated into one of the languages of publication listed above and the pamphlet is published in that language. (If, however, the international application is published in Chinese, French, German, Japanese, Russian or Spanish, the title of the invention, the abstract and the international search report are also published in English.)

36. *How can one select the pamphlets relating to a given field of technology?* The publication of each pamphlet is announced in the *PCT Gazette*, each issue of which also contains a Classification Index, allowing the selection of the published international applications by technical fields.

37. *How are the publications distributed?* These publications, the pamphlet and the *PCT Gazette*, are distributed free of charge by the International Bureau on a systematic basis to all PCT Contracting States. They are also available in DVD and CD-ROM format in searchable form. To the public, they are supplied on request, against payment of a fee. The *PCT Gazette* in electronic form is available free of charge on the PCT website (<http://www.wipo.int/pct/en/index.html>).

International preliminary examination

38. Once the applicant has received the international search report, he has the possibility of requesting an international preliminary examination in order to obtain an opinion as to whether the claimed invention meets any or all of the following criteria: whether it appears to be novel, whether it appears to involve an inventive step and whether it appears to be industrially applicable. The international preliminary examination is optional for the applicant. The international application does not proceed automatically to an international preliminary examination but only upon a specific demand by the applicant for international preliminary examination in which he states his wish to use the results of such examination in specific States designated in the international application—in the procedure under Chapter II, these are called the “elected States” to distinguish them from other designated States. A fee for international preliminary examination is due when a demand is filed with the International Preliminary Examining Authority, together with a handling fee (to cover the work of the International Bureau). Applicants from certain States are entitled to a 75% reduction of the handling fee (see paragraph 19 for further details).

The International Preliminary Examining Authorities

39. As in the case of the International Searching Authorities, the International Preliminary Examining Authorities are appointed by the Assembly of the PCT Union. The Offices which have been appointed are the same as those appointed as International Searching Authorities (see paragraph 24).

The results of the international preliminary examination

40. The results of the international preliminary examination are given in a report which is made available to the applicant and the “elected Offices” (which are the Offices of, or acting for, the elected States) through the International Bureau, which is also responsible for translating the report into English, if required by any elected Office. The opinion on the patentability of the invention, on the basis of the international criteria mentioned above, provides the applicant with an even stronger basis for calculating his chances of obtaining patents, and the elected Offices have an even

better basis for their decision whether to grant a patent. In countries where patents are granted without examination as to substance, the international preliminary examination report will provide a solid basis for parties interested in the invention (e.g., for licensing purposes) to evaluate the validity of such patents.

How do the Offices designated in the international application receive the application documents and when?

41. Usually upon publication of the international application (but at the latest by the end of the 19th month after the priority date), the International Bureau communicates the international application to the designated Offices. The copy communicated will be used for the subsequent prosecution of the international application before those Offices since, as explained above, the PCT is only a system for filing and not for granting patents; the latter remaining the exclusive task and responsibility of the designated Offices. In practice, more than half of these Offices have waived their right to weekly communication of copies of published international applications and receive, instead, a free-of-charge complete collection on Espace-World DVDs of all applications – a DVD workstation is also provided by the International Bureau. The main advantages of the DVD format are rapid access via computer and larger storage capacity. It is noted that, in any case, a designated Office is entitled to receive, upon specific request, copies (on paper) of the international applications and related documents, for applications in which it is designated.

When does the procedure before the designated (or elected) Offices start?

42. The PCT Assembly decided, at its 13th ordinary session (held in Geneva from September 24 to 3 October 2001), with effect from April 1, 2002, to change the time limit for performing the acts necessary to enter national phase to 30 months from 20 months from the priority date (see new Article 22). As a result, the time limit for entry into national phase under Chapter I or II of the PCT would be the same.

The decision of the Assembly contemplated transitional arrangements which will enable postponement of the entry into force of the modifications under Article 22 for countries which will have to change their national laws in order to implement the modifications. Such countries had to have notified the International Bureau accordingly, by January 31, 2002. Where a Contracting State has notified the International Bureau of an incompatibility between its national law and the new time limit, the time limit now revised will not apply to it.

Therefore (from April 1, 2002), the processing of an international application before the designated Offices may not start prior to the expiration of 30 months from the priority date, subject to the above proviso, unless the applicant requests an earlier start.

Prosecution before the designated (or elected) Offices

43. After having received an international search report and usually also an international preliminary examination report, and after having had the possibility of amending his application, the applicant is now in a good position to decide whether he has a chance of obtaining patents in the designated States. If he sees no likelihood, he can either withdraw his application or do nothing; in the latter case, the international application will lose the effect of a national application and the procedure will automatically come to an end. The applicant has in such a case saved himself great expense, namely, the costs involved in filing separate national applications under the

traditional Paris Convention route. He has not paid for applications and translations for the national Offices, he has not paid fees to those Offices, and he has not appointed local agents, all of which are required under the traditional Paris Convention route within 12 months from the priority date and must be done without having the basis for evaluating the likelihood of obtaining a patent, which is afforded under the PCT by the international search report and, optionally, the international preliminary examination report.

What must the applicant do to enter the national phase and when?

44. Where the applicant decides to continue the procedure, and only in that event, he must pay the prescribed national fees to the designated (or elected) Offices and, if required, furnish to these Offices translations of his international application into their official language; a local agent may also have to be appointed. The furnishing of the translation and the payment of the national fees must be effected within 30 months from the priority date. This applies only to designated Offices that have not notified the International Bureau of an incompatibility of their national laws with the new time limit (see paragraph 42 above).

Information about the PCT

45. WIPO has published a *PCT Applicant's Guide*. Volume I of this *Guide* contains general information for users of the PCT (relating to the international phase); Volume II contains information on the procedure before the designated and elected Offices (national phase). Further information is regularly published in the *PCT Gazette*, Section IV, Notices and Information of a General Character, and in the *PCT Newsletter*, a monthly publication which contains up-to-date news about the PCT. The PCT website (<http://www.wipo.int/pct/en/index.html>) includes the PCT Treaty and Regulations, the PCT Administrative Instructions, the *PCT Applicant's Guide* and the *PCT Newsletter* as well as other information of a general nature on the PCT.

ADVANTAGES OF THE PCT SYSTEM

Advantages for patent Offices

46. More and more patent Offices are having to consider how to employ their available manpower to greatest advantage. This is true not only because of the number of patent applications which they must handle (in a country in the process of development, the number must surely rise considerably in the future as a consequence of an increase in the country's industrial activity) but also because of the expanding role that patent Offices are being required to fulfill in providing technical advisory services to local industry (because of available patent documentation and technically trained staff), either in terms of advising on available technologies or in connection with national research and development activities. The PCT assists patent Offices in meeting these demands in various ways outlined in the following paragraphs (and, in summarized form, in the Annex).

47. Patent Offices can expect to employ their available manpower to handle more patent applications since those applications coming via the PCT are easier to process due, in particular, to the fact that verification as to compliance with formal requirements has generally been taken care of already during the international phase.

48. Patent Offices can save part of the cost of publishing. If the international application has been published in an official language of the country, they can forego publication altogether. Countries having a different official language may limit themselves to publishing only a translation of the abstract which accompanies international applications. Copies of the full text of the international application could be supplied upon request to interested parties.

49. The PCT does not affect the revenue of designated Offices unless they decide voluntarily to give a rebate on national fees in view of the savings they make through the PCT and in order to make the use of the international application route more attractive to the applicant. In any case, the most profitable source of revenue for most Offices is from annual or renewal fees, which are not affected by the Treaty.

50. Examining patent Offices benefit, in respect of most applications filed by foreigners, from an international search report and an international preliminary examination report.

51. Non-examining Offices receive an application which has already been examined as to form, which is accompanied by an international search report and possibly by an international preliminary examination report. This will put the Office, and the national industry affected by a patent and/or interested in licensing, in a much better position compared to the traditional system of filing national or regional applications. National authorities involved in approving licensing agreements likewise benefit from the greater value of a patent granted on the basis of an international application.

52. Patent Offices of States party to the Harare Protocol, to the Eurasian Patent Convention or to the European Patent Convention which opt to close the national route as outlined in paragraph 15, above, are not involved in the processing of international applications designating such States. Choosing this option is therefore particularly advisable if the national Patent Office is less well equipped than the regional Office and is not prepared to receive and process increasing numbers of applications.

Advantages for the applicant

53. Applicants may file their application in their own country (or, where applicable, with the competent regional Office, or with the International Bureau as receiving Office) with effect in foreign countries and have more time to make up their minds as to those foreign countries in which they wish to seek protection, and in a typical case they have spent much less money in the stage prior to granting than otherwise.

54. If the applicant does not use the international procedure offered by the PCT, he must start preparations for filing abroad three to six months before the expiration of the priority period. He must prepare translations of his application and must have them put into a different form for each country. Under the PCT, the applicant files only one application (the international application), within the priority year, with effect in all States he has designated; that application, which may be filed until the last day of the priority year, may be identical both as to language and form with his own national application.

55. The cost of further translation has to be met eventually, but not until eight (or 18) months later than under a procedure which does not use the PCT and only if the applicant, having evaluated the international search report and, where available, the international preliminary examination report also, is still interested in the countries concerned. These reports help the

applicant to make up his mind whether it is worthwhile continuing his efforts. If he decides that it is not, he saves all subsequent costs.

Advantages for the national economy and for industry

56. International applications will be pursued in the national phase only if the applicant believes, after seeing the results of the international search and usually also the international preliminary examination, that there are sound economical and technical reasons to do so. Thus, patents granted on the basis of international applications will usually provide a sounder basis for investment and transfer of technologies.

57. Technological progress is an essential factor of national economic development. It is now generally being recognized that real technological progress cannot be achieved or cannot continue in a country, even a highly industrialized country, without constant stimulation of domestic inventive activities and at the same time importation (via licenses) of advanced technologies from foreign countries. Since the PCT system greatly facilitates the obtaining of patent protection on an international level, and since the patents granted through the PCT route have been subjected to high quality international search and usually also international preliminary examination, more and more applicants are seeking patent protection on an international level through the PCT thus preparing the route for technology transfer and licensing agreements.

58. With more licensed technology, foreign investment will be stimulated. And with more advanced technologies and more investment, there will be increased levels of local employment and the technical skills of the local workforce will be enhanced. As the level of economic and technological development rises, an increasing number of nationals will use and greatly benefit from the PCT system when they seek patent protection abroad for their inventions, thus aiding in the penetration of export markets by local industry.

59. The economies of many developing countries are growing rapidly; more investment and technology transfer in various areas, depending on the country concerned, are needed as well as the creation and modernisation, locally, of certain types of industries (manufactures, etc.) and services. Since foreign investors and licensors are relatively more interested in investing in and transferring technologies to a country whose economy is growing and where production costs are relatively low, the PCT will often serve as an indispensable component part of the country's strategy to foster its growing economy and help its economic and technological level to continue to rise.

60. Advantages offered by the PCT to Contracting States are summarized in the Annex.

Technical information

61. A further important advantage of the PCT for developing countries lies in its information effect. It is now always very difficult to obtain a complete picture of all the patent documents published in many countries and many languages and of the most recent state of the art resulting therefrom. Since many important inventions are the subject of PCT applications, developing countries have, through the international publication of these applications, early and easier access to modern technological information. The access will be early, because international applications are published 18 months after the priority date of the application. It will be easier, because the application will be published in one of the most important languages and, where not in English,

with an English language abstract, and because the international search report, published together with the application, will make it easier to evaluate the technology disclosed in the application. Patent Offices of PCT Contracting States are entitled to receive, free of charge, a copy of all published international applications, of the *PCT Gazette*, and of any other publication of general interest published by the International Bureau in connection with the PCT.

Financial commitments

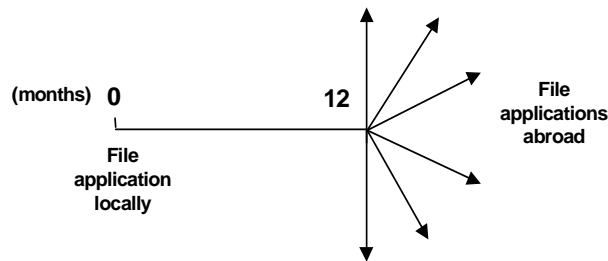
62. The PCT system is self-supporting since the fees paid by the applicants cover the costs incurred by WIPO in administering the system. No financial contributions are required from the Contracting States.

Conclusion

63. In conclusion, the PCT offers distinct advantages for developing countries participating in this system of international patent cooperation and requires no payment of contributions. That there is sufficient awareness of these advantages is confirmed by the impressive number of developing countries already party to the Treaty—over one third of all PCT Contracting States.

[Annex follows]

Traditional patent systems



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:

ARIPO, EAPO, EPO, OAPI

WIPO
Intro-1
17.08.98

PCT system

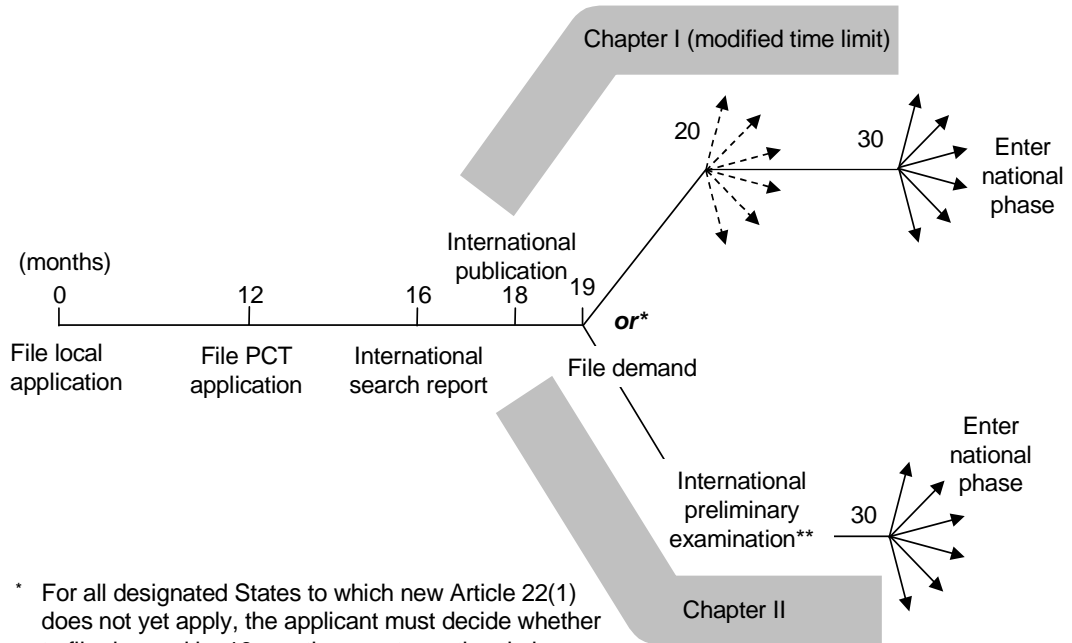
Local patent application followed within 12 months by international application under the PCT, claiming Paris Convention priority, with “national phase” commencing at 30 months*:

- one set of formality requirements
- international search
- international publication
- international preliminary examination
- international application can be put in order before national phase
- translations and national fees required at 30 months*, and only if applicant wishes to proceed

* As of 1 April 2002, however, some States will continue to apply a 20-month time limit where no demand for international preliminary examination has been filed before the expiration of 19 months from the priority date (for an updated list of those States concerned, see “Notification of incompatibility” on WIPO’s Internet site at <http://www.wipo.int/pct/en/index.html>)

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15.04.02

The new PCT System (as of 1 April 2002)



* For all designated States to which new Article 22(1) does not yet apply, the applicant must decide whether to file demand by 19 months or enter national phase by 20 months

** If the applicant wants to receive an international preliminary examination report, he must file a demand

Excerpt from the PCT request form (designations)

Sheet No.

Box No. V DESIGNATION OF STATES *Mark the applicable check-boxes below; at least one must be marked.*

The following designations are hereby made under Rule 4.9(a):

Regional Patent

- AP ARIPO Patent:** **GH** Ghana, **GM** Gambia, **KE** Kenya, **LS** Lesotho, **MW** Malawi, **MZ** Mozambique, **SD** Sudan, **SL** Sierra Leone, **SZ** Swaziland, **TZ** United Republic of Tanzania, **UG** Uganda, **ZM** Zambia, **ZW** Zimbabwe, and any other State which is a Contracting State of the Harare Protocol and of the PCT (*if other kind of protection or treatment desired, specify on dotted line*)
- EA Eurasian Patent:** **AM** Armenia, **AZ** Azerbaijan, **BY** Belarus, **KG** Kyrgyzstan, **KZ** Kazakhstan, **MD** Republic of Moldova, **RU** Russian Federation, **TJ** Tajikistan, **TM** Turkmenistan, and any other State which is a Contracting State of the Eurasian Patent Convention and of the PCT
- EP European Patent:** **AT** Austria, **BE** Belgium, **BG** Bulgaria, **CH & LI** Switzerland and Liechtenstein, **CY** Cyprus, **CZ** Czech Republic, **DE** Germany, **DK** Denmark, **EE** Estonia, **ES** Spain, **FI** Finland, **FR** France, **GB** United Kingdom, **GR** Greece, **IE** Ireland, **IT** Italy, **LU** Luxembourg, **MC** Monaco, **NL** Netherlands, **PT** Portugal, **SE** Sweden, **SI** Slovenia, **SK** Slovakia, **TR** Turkey, and any other State which is a Contracting State of the European Patent Convention and of the PCT
- OA OAPI Patent:** **BF** Burkina Faso, **BJ** Benin, **CF** Central African Republic, **CG** Congo, **CI** Côte d'Ivoire, **CM** Cameroon, **GA** Gabon, **GN** Guinea, **GQ** Equatorial Guinea, **GW** Guinea-Bissau, **ML** Mali, **MR** Mauritania, **NE** Niger, **SN** Senegal, **TD** Chad, **TG** Togo, and any other State which is a member State of OAPI and a Contracting State of the PCT (*if other kind of protection or treatment desired, specify on dotted line*)

National Patent (*if other kind of protection or treatment desired, specify on dotted line*):

- | | | |
|---|--|---|
| <input type="checkbox"/> AE United Arab Emirates | <input type="checkbox"/> GM Gambia | <input type="checkbox"/> NZ New Zealand |
| <input type="checkbox"/> AG Antigua and Barbuda | <input type="checkbox"/> HR Croatia | <input type="checkbox"/> OM Oman |
| <input type="checkbox"/> AL Albania | <input type="checkbox"/> HU Hungary | <input type="checkbox"/> PH Philippines |
| <input type="checkbox"/> AM Armenia | <input type="checkbox"/> ID Indonesia | <input type="checkbox"/> PL Poland |
| <input type="checkbox"/> AT Austria | <input type="checkbox"/> IL Israel | <input type="checkbox"/> PT Portugal |
| <input type="checkbox"/> AU Australia | <input type="checkbox"/> IN India | <input type="checkbox"/> RO Romania |
| <input type="checkbox"/> AZ Azerbaijan | <input type="checkbox"/> IS Iceland | <input type="checkbox"/> RU Russian Federation |
| <input type="checkbox"/> BA Bosnia and Herzegovina | <input type="checkbox"/> JP Japan | |
| <input type="checkbox"/> BB Barbados | <input type="checkbox"/> KE Kenya | <input type="checkbox"/> SC Seychelles |
| <input type="checkbox"/> BG Bulgaria | <input type="checkbox"/> KG Kyrgyzstan | <input type="checkbox"/> SD Sudan |
| <input type="checkbox"/> BR Brazil | <input type="checkbox"/> KP Democratic People's Republic | <input type="checkbox"/> SE Sweden |
| <input type="checkbox"/> BY Belarus | of Korea | <input type="checkbox"/> SG Singapore |
| <input type="checkbox"/> BZ Belize | <input type="checkbox"/> KR Republic of Korea | <input type="checkbox"/> SK Slovakia |
| <input type="checkbox"/> CA Canada | <input type="checkbox"/> KZ Kazakhstan | <input type="checkbox"/> SL Sierra Leone |
| <input type="checkbox"/> CH & LI Switzerland and Liechtenstein | <input type="checkbox"/> LC Saint Lucia | <input type="checkbox"/> TJ Tajikistan |
| <input type="checkbox"/> CN China | <input type="checkbox"/> LK Sri Lanka | <input type="checkbox"/> TM Turkmenistan |
| <input type="checkbox"/> CO Colombia | <input type="checkbox"/> LR Liberia | <input type="checkbox"/> TN Tunisia |
| <input type="checkbox"/> CR Costa Rica | <input type="checkbox"/> LS Lesotho | <input type="checkbox"/> TR Turkey |
| <input type="checkbox"/> CU Cuba | <input type="checkbox"/> LT Lithuania | <input type="checkbox"/> TT Trinidad and Tobago |
| <input type="checkbox"/> CZ Czech Republic | <input type="checkbox"/> LU Luxembourg | |
| <input type="checkbox"/> DE Germany | <input type="checkbox"/> LV Latvia | <input type="checkbox"/> TZ United Republic of Tanzania |
| <input type="checkbox"/> DK Denmark | <input type="checkbox"/> MA Morocco | <input type="checkbox"/> UA Ukraine |
| <input type="checkbox"/> DM Dominica | <input type="checkbox"/> MD Republic of Moldova | <input type="checkbox"/> UG Uganda |
| <input type="checkbox"/> DZ Algeria | | <input type="checkbox"/> US United States of America |
| <input type="checkbox"/> EC Ecuador | <input type="checkbox"/> MG Madagascar | |
| <input type="checkbox"/> EE Estonia | <input type="checkbox"/> MK The former Yugoslav Republic of | <input type="checkbox"/> UZ Uzbekistan |
| <input type="checkbox"/> ES Spain | Macedonia | <input type="checkbox"/> VC Saint Vincent and the Grenadines |
| <input type="checkbox"/> FI Finland | <input type="checkbox"/> MN Mongolia | <input type="checkbox"/> VN Viet Nam |
| <input type="checkbox"/> GB United Kingdom | <input type="checkbox"/> MW Malawi | <input type="checkbox"/> YU Yugoslavia |
| <input type="checkbox"/> GD Grenada | <input type="checkbox"/> MX Mexico | <input type="checkbox"/> ZA South Africa |
| <input type="checkbox"/> GE Georgia | <input type="checkbox"/> MZ Mozambique | <input type="checkbox"/> ZM Zambia |
| <input type="checkbox"/> GH Ghana | <input type="checkbox"/> NO Norway | <input type="checkbox"/> ZW Zimbabwe |

Check-boxes below reserved for designating States which have become party to the PCT after issuance of this sheet:

- | | | |
|--------------------------------|--------------------------------|--------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Precautionary Designation Statement: In addition to the designations made above, the applicant also makes under Rule 4.9(b) all other designations which would be permitted under the PCT except any designation(s) indicated in the Supplemental Box as being excluded from the scope of this statement. The applicant declares that those additional designations are subject to confirmation and that any designation which is not confirmed before the expiration of 15 months from the priority date is to be regarded as withdrawn by the applicant at the expiration of that time limit. (*Confirmation (including fees) must reach the receiving Office within the 15-month time limit.*)

Advantages of PCT in connection with national economic and industrial development (1)

- 1. More applicants are encouraged to seek patent protection in more Contracting States**
- 2. More and more applicants seek patent protection abroad only in respect of PCT Contracting States**
- 3. More opportunities arise for technology transfer from foreign countries based on patent protection granted**
- 4. Foreign investment which is often technology-related is stimulated**
- 5. Establishment or development of local industries is promoted as a result of more advanced technologies and more investment**

WIPO
PCS-4
28.02.00

Advantages of PCT in connection with national economic and industrial development (2)

- 6. More local jobs are created with development of local industries**
- 7. Technical skills of local workforce are enhanced with development of local industries and technology transfer**
- 8. Local inventive activities are further stimulated as the level of economic and technological development rises**
- 9. Nationals will use the PCT system to seek patent protection abroad for their inventions, thus aiding in the penetration of export markets by local industry**
- 10. With technological development and foreign trade expansion, the country will be in an even better position to further attract foreign investment and advanced technologies, and help its economic and technological level to continue to rise**

WIPO
PCS-5
28.02.00

Advantages of PCT for Patent Offices

1. More applications from abroad can be expected, due to designations in PCT applications
2. Applications coming via PCT are easier to process:
 - PCT formalities requirements already checked
 - international publication replaces national publication
 - international search report available
 - international preliminary examination report available in about 85% of cases
3. Reduces cost of publication
4. PCT provides free of charge:
 - *PCT Gazette*
 - DVD work station plus Espace-World DVDs
 - copies of all published international applications designating the country concerned (receipt of paper copies can be automatic or only on specific request)

WIPO
PCS-2
24.10.01

Advantages of PCT for Contracting States

1. Strengthening of international cooperation with other Contracting States and international governmental organizations in the field of patents, as well as regional patent offices
2. Assistance with legislation and training of staff to implement PCT
3. Greater awareness and publicity among applicants internationally about the country's patent system (entries in *PCT Applicant's Guide* and *PCT Gazette*)
4. Access to PCT for the country's inventors and industry
5. Greater use of the (local) patent system by foreign applicants
 - more work for local attorneys
6. PCT facilitates inflow of technology
7. Travel for one delegate provided to enable participation in certain PCT meetings in Geneva
8. No financial contributions required from Contracting States

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PCS-3
28.02.00

WIPO



PCT/GEN/12 Rev.39

ORIGINAL: English

DATE: August 6, 2003

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

PATENT COOPERATION TREATY (PCT)

CONTRACTING STATES OF THE
PATENT COOPERATION TREATY (PCT)

Document prepared by the International Bureau

E

PCT Contracting States
(122 on August 6, 2003)*



Albania	Denmark	Lithuania	Slovenia
Algeria	Dominica	Luxembourg	South Africa
Antigua and Barbuda	Ecuador	Madagascar	Spain
Armenia	Egypt (as from	Malawi	Sri Lanka
Australia	September 6, 2003)*	Mali	Sudan
Austria	Equatorial Guinea	Mauritania	Swaziland
Azerbaijan	Estonia	Mexico	Sweden
Barbados	Finland	Monaco	Switzerland
Belarus	France	Mongolia	Syrian Arab Republic
Belgium	Gabon	Morocco	Tajikistan
Belize	Gambia	Mozambique	The former Yugoslav
Benin	Georgia	Netherlands	Republic of Macedonia
Bosnia and Herzegovina	Germany	New Zealand	Togo
Botswana (as from	Ghana	Nicaragua	Trinidad and Tobago
October 30, 2003)*	Greece	Niger	Tunisia
Brazil	Grenada	Norway	Turkey
Bulgaria	Guinea	Oman	Turkmenistan
Burkina Faso	Guinea-Bissau	Papua New Guinea	Uganda
Cameroon	Hungary	Philippines	Ukraine
Canada	Iceland	Poland	United Arab Emirates
Central African Republic	India	Portugal	United Kingdom
Chad	Indonesia	Republic of Korea	United Republic of Tanzania
China	Ireland	Republic of Moldova	United States of America
Colombia	Israel	Romania	Uzbekistan
Congo	Italy	Russian Federation	Viet Nam
Costa Rica	Japan	Saint Lucia	Zambia
Côte d'Ivoire	Kazakhstan	Saint Vincent and the Grenadines	Zimbabwe
Croatia	Kenya	Senegal	
Cuba	Kyrgyzstan	Serbia and Montenegro	
Cyprus	Latvia	Seychelles	
Czech Republic	Lesotho	Sierra Leone	
Democratic People's	Liberia	Singapore	
Republic of Korea	Liechtenstein	Slovakia	

* This list includes all States that have adhered to the PCT by the date shown in the heading. Applicants intending to file international applications under the PCT should ask the receiving Office or the International Bureau about adherence by any further States. Where a State has adhered to but is not yet bound by the PCT, the date on which it will become bound is shown in parentheses; it cannot be designated in international applications filed before that date.

WIPO



PCT/GEN/13 Rev.29

ORIGINAL: English

DATE: August 6, 2003

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

PATENT COOPERATION TREATY (PCT)

AVAILABILITY OF 75% REDUCTION OF CERTAIN PCT FEES
FOR APPLICANTS FROM CERTAIN STATES

Document prepared by the International Bureau

E

1. With effect from January 1, 1996, the basic fee, the designation fee, the confirmation fee and the handling fee are reduced by 75% in respect of international applications filed under the Patent Cooperation Treaty (PCT) by an applicant who is a natural person and who is a national of and resides in a State whose per capita national income is below 3,000 US dollars (according to the average per capita national income figures used by the United Nations for determining its scale of assessments for the contributions payable for the years 1995, 1996 and 1997). If there are two or more applicants, each must satisfy those criteria.

2. The following States have a per capita national income below 3,000 US dollars according to the above-mentioned figures (the States the names of which are printed in **bold italics** are *PCT Contracting States*):

Afghanistan, **Albania, Algeria**, Angola, Argentina, **Armenia, Azerbaijan**, Bangladesh, **Belarus, Belize, Benin**, Bhutan, Bolivia, **Bosnia and Herzegovina**, Botswana (*PCT Contracting State as from October 30, 2003*), **Brazil, Bulgaria, Burkina Faso**, Burundi, Cambodia, **Cameroon**, Cape Verde, **Central African Republic, Chad**, Chile, **China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Czech Republic, Democratic People's Republic of Korea**, Democratic Republic of the Congo, Djibouti, **Dominica**, Dominican Republic, **Ecuador**, Egypt (*PCT Contracting State as from September 6, 2003*), El Salvador, **Equatorial Guinea**, Eritrea, **Estonia**, Ethiopia, Fiji, **Gabon, Gambia, Georgia, Ghana, Grenada**, Guatemala, **Guinea, Guinea-Bissau**, Guyana, Haiti, Honduras, **Hungary, India, Indonesia**, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, **Kazakhstan, Kenya**, Kiribati, **Kyrgyzstan**, Lao People's Democratic Republic, **Latvia**, Lebanon, **Lesotho, Liberia, Lithuania, Madagascar, Malawi**, Malaysia, Maldives, **Mali**, Marshall Islands, **Mauritania**, Mauritius, **Mexico**, Micronesia, **Mongolia, Morocco, Mozambique**, Myanmar, Namibia, Nepal, **Nicaragua, Niger**, Nigeria, Pakistan, Panama, **Papua New Guinea**, Paraguay, Peru, **Philippines, Poland, Republic of Moldova, Romania, Russian Federation**, Rwanda, Saint Kitts and Nevis, **Saint Lucia, Saint Vincent and the Grenadines**, Samoa, Sao Tomé and Príncipe, **Senegal, Serbia and Montenegro, Sierra Leone, Slovakia**, Solomon Islands, Somalia, **South Africa, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Tajikistan**, Thailand, **The former Yugoslav Republic of Macedonia, Togo**, Tonga, **Tunisia, Turkey, Turkmenistan**, Tuvalu, **Uganda, Ukraine**, Union of the Comoros, **United Republic of Tanzania**, Uruguay, **Uzbekistan**, Vanuatu, Venezuela, **Viet Nam**, Yemen, **Zambia, Zimbabwe**.

3. An international application may be filed only if the applicant, or, where there are two or more applicants, at least one of them, is a national or resident of a PCT Contracting State. Thus, the reduced fees are payable in respect of an international application in the following cases:

- (i) where there is one applicant only: if the applicant is a natural person and is
 - either a national of a State the name of which appears in **bold italics** in paragraph 2, above, *and* a resident of any of the States listed in paragraph 2, above;
 - or a resident of a State the name of which appears in **bold italics** in paragraph 2, above, *and* a national of any of the States listed in paragraph 2, above;

- (ii) where there are two or more applicants: if each applicant is a natural person and is
- a national of a State the name of which appears in paragraph 2, above,
 - *and* a resident of such a State,

provided that at least one of the applicants is a national or resident of a State the name of which appears in ***bold italics*** in paragraph 2, above.

4. In case of doubt, inquiries should be addressed to the International Bureau of WIPO.

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