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GENEVA

**INTERNATIONAL PATENT COOPERATION UNION
(PCT UNION)**

ASSEMBLY

**Thirty-First (18th Extraordinary) Session
Geneva, September 23 to October 1, 2002**

**MATTERS CONCERNING THE PCT UNION
(REFORM OF THE PCT:
PROPOSAL BY THE UNITED KINGDOM)**

Document prepared by the International Bureau

1. The International Bureau received, on July 15, 2002, a proposal submitted by the United Kingdom on reform of the Patent Cooperation Treaty (PCT). The said proposal is annexed to this document.

2. *The Assembly is invited to consider the proposal contained in the Annex to this document.*

[Annex follows]

ANNEX

A PROGRAMME FOR SUSTAINED QUALITY AND EFFICIENCY;
AN OUTLINE PAPER FROM THE UNITED KINGDOM

Introduction

1. At the recent meeting of the Committee on Reform of the PCT at the beginning of July the United Kingdom delegation stated that the UK is very satisfied with the progress we have made in the PCT reform process. The meeting agreed to recommend an expanded International Search Report and the changing of the designations system. When the general assembly decides on these proposals we will have achieved the very important goal of strengthening the international phase. However, we are of the opinion that we need to build upon these improvements. The meeting also agreed (PCT/R/2/9, para 49) that the matter be put on the Agenda for the PCT Assembly in September.
2. If we are going to establish a system which enables the duplication of effort in the national or regional phases to be reduced we must establish a common quality framework for the International Phase and a system for monitoring results. This would also assist the process of the work on substantive patent law harmonisation to which we are all committed.

Background

3. The rationale of the PCT is to provide a single entry to the granting of patents at national or regional level around the world. It has been very successful as is shown by the massive growth in PCT activity. The PCT clearly meets customer needs for simpler procedures supporting global patenting. However, this has not reduced the workload on many national or regional offices. This is because ISAs and IPEAs often choose to repeat work in the National Phase already performed in the International Phase. This repeated effort also increases the costs and burden for users.
4. A solution which meets long-term needs and fits the emerging WIPO agenda for the development of the international patent system is to strengthen the International Phase. The International Search Report, the International Search Opinion and the International Preliminary Examination Report must be of sufficient quality and effect to minimise the work required in the National or Regional Phase. This would also be of help to patent offices which rely on the work done in the International Phase to underpin their granting process.

Outline Proposal

5. There is much in the present Treaty on which to build. What is needed is a substantive quality content within the framework which allows all to have equal confidence in the work of others.

6. The existing requirements for International Searching Authorities (set out in Rule 36) and for International Preliminary Examination Authorities (set out in Rule 63) should be amended to include not only:
 - 6.1 Numbers of competent staff
 - 6.2 Access to sufficient prior art and ability to interpret itBut also
 - 6.3 Appropriate recruitment and training procedures
 - 6.4 Clear search and examination practices and management structures to maintain them in line with the international guidelines.
7. The above requirements are similar to the components identified by the international quality criterion ISO 9001:2000 on which many organisations build their quality management. Quality management also implies substantive quality standards and procedures for assessing and maintaining quality.
8. Quality standards for search and examinations should be set out for International Search Authorities and International Preliminary Examination Authorities to meet. These could be drawn from the existing search and examination guidelines and identify the basic requirements for efficient search techniques that deal adequately with patentability and with plurality of invention. The examination standards would cover assessing novelty, inventiveness, disclosure, unity, and support.
9. Arrangements should be drawn up to sample searches and examination to ensure quality is maintained, that practice is maintained consistently, and that ISAs and IPEAs are kept up to date on desired practice changes. Such a mechanism needs to be independent, simple and fair. Equally we could develop technical cooperation by opening or formalising new channels of communication between designated/elected offices and ISAs and IPEAs to allow case-specific and general feedback, with WIPO taking an overview. The Committee for Technical Cooperation seems a possible vehicle given the provisions of articles 56(3)(i) and 56(3)(ii) which cover all the activities mentioned above.

Recommendation

10. The United Kingdom requests that the quality framework for the International Phase be incorporated into the reform programme, and that this outline be discussed at the Committee or Working Group on Reform of the PCT.

[End of Annex and of document]