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INTERNATIONAL PATENT COOPERATION UNION (PCT UNION)

ASSEMBLY

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AMENDMENT OF THE REGULATIONS UNDER THE PATENT COOPERATION TREATY

proposed by the Director General

1. When the amounts of the international fee (Rule 15) and the handling fee (Rule 57) were fixed by the Assembly, in its first session (April 1978), "it was agreed that the amounts of the fees fixed in the Regulations in US dollars and Swiss francs are to be considered only as a basis on which the amount of the fees in the various national currencies (other than US dollars and Swiss francs) are fixed by the Director General after consultation with the country of each currency. Such agreement is based on an interpretation of Rule 15.3(b) and similar provisions of the Regulations which vest the right of expressing fees in national currencies in the receiving Offices. The said amounts are the rounded up or rounded down equivalents of the amounts indicated in the Regulations. The Director General was asked to propose to the next session of the Assembly a revision of the relevant provisions of the Regulations so that they spell out this interpretation" (PCT/A/I/14, paragraph 98).
2. In order to enable the receiving Offices to avoid any responsibility in connection with the search fee--which each of them will generally collect in its own currency but whose original amount is established by each International Searching Authority in a currency of its own choice--analogous changes seem to be required in Rule 16.1(b).

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3. The Annex to this document contains the draft of Rules 15.1, 15.2, 15.3, 16.1(b) and 57 as amended with a view to carrying out the intentions indicated in the preceding two paragraphs.

4. The Assembly is invited to amend the Regulations under the Patent Cooperation Treaty as proposed in the Annex to this document.

[Annex follows]

ANNEX

RULE 15

THE INTERNATIONAL FEE

15.1. BASIC FEE AND DESIGNATION FEE

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

(i) a “basic fee,” and

(ii) as many “designation fees” as there are States designated in the international application, provided that, where a regional patent is sought for certain designated States, only one designation fee shall be due for those States.

15.2. AMOUNTS

The amounts of the basic fee and of the designation fee shall be established, for each receiving Office, by the Director General in consultation with that Office and in the currency or currencies prescribed by that Office; the amounts so established shall be published in the Gazette. The amounts in each currency shall be the equivalents, in round figures, of the amounts established in Swiss francs by the Assembly. Where the exchange rate between the Swiss franc and any of the said currencies undergoes a change of, more than 10% (ten percent), the Director General shall, after consultation with the receiving Offices having prescribed that currency, establish new amounts for the said fees. Such new amounts shall become applicable from the date fixed by the Director General after consultation with the interested receiving Offices; the said date shall follow by at least 15 days the date, of publication of the new amounts in the Gazette.

15.3. MODE OF PAYMENT

The international fee shall be payable in the currency or currencies prescribed by the receiving Office, it being understood that, when transferred by the receiving Office to the International Bureau, it shall be freely convertible into Swiss currency.

[15.4, 15.5 and, 15.6: No change.]

RULE 16

THE SEARCH FEE

16.1. RIGHT TO ASK FOR A FEE

(a) [No change.]

(b) The search fee shall be collected by the receiving Office. The amount of the said fee so to be collected shall be established for each interested receiving Office, by the Director General in consultation with that Office and in the currency or currencies prescribed by that Office. The amount in each currency shall be the equivalent, in round figures, of the amount established by the International Searching Authority in a currency of its choice. Where the exchange rate between the latter currency and any of the said other currencies undergoes a change of more than 10% (ten percent), the Director General shall, after consultation with the receiving Office having prescribed that currency, establish a new amount for the search fee. Such new amount shall become applicable from the date fixed by the Director General after consultation with the interested receiving Office; the said date shall follow by at least 15 days the date of publication of the new amount in the Gazette. The search fee, when transferred by the receiving Office to the International Searching Authority, shall be freely convertible into the currency prescribed by that Authority. Where the amount actually received by the said Authority in the currency it has prescribed is less than that established by it, the difference will be paid to the International Searching Authority by the International Bureau, whereas, if the amount actually received is more, the difference will belong to the International Bureau.

RULE 57

THE HANDLING FEE AND THE SUPPLEMENT TO THE
HANDLING FEE

57.1. REQUIREMENT TO PAY

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

(b) Where, because of a later election or elections, the international preliminary examination report must, in application of Article 36(2), be translated by the International Bureau into one or more additional languages, a "supplement to the handling fee" shall be payable for each additional language to the International Bureau for its benefit.

57.2. AMOUNTS

(a) The amount of the handling fee shall be established, for each International Preliminary Examining Authority, by the Director General in consultation with that Authority and in the currency or currencies prescribed by that Authority; such amount shall be published in the Gazette. The amount in each currency shall be the equivalent, in round figures, of the

amount established in Swiss francs by the Assembly. Where the exchange rate between the Swiss franc and any of the said currencies undergoes a change of more than 10% (ten percent), the Director General shall, after consultation with the International Preliminary Examining Authorities having prescribed that currency, establish a new amount for the said fee. Such new amount shall become applicable from the date fixed by the Director General after consultation with the interested International Preliminary Examining Authorities; the said date shall follow by at least 15 days the date of publication of the new amount in the Gazette. The amount payable in any particular case shall be the established amount increased by as many times the same amount as the number of languages into which the international preliminary examination report must, in application of Article 36(2), be translated by the International Bureau.

(b) The amount of the supplement to the handling fee shall be established by the Assembly in Swiss francs.

57.3. MODE AND TIME OF PAYMENT

(a) The handling fee shall be due at the time the demand is submitted.

(b) Any supplement to the handling fee shall be collected by the International Bureau and shall be due at the time the later election is submitted.

(c) The handling fee shall be payable in the currency or currencies prescribed by the International Preliminary Examining Authority to which the demand is submitted, it being understood that, when transferred by that Authority to the International Bureau, it shall be freely convertible into Swiss currency.

(d) Any supplement to the handling fee shall be payable in Swiss currency.

57.4. FAILURE TO PAY (HANDLING FEE)

(a) Where the handling fee is not paid as required, the International Preliminary Examining Authority shall invite the applicant to pay the fee within 1 month from the date of the invitation.

(b) If the applicant complies with the invitation within the prescribed time limit, the demand shall be considered as if it had been received on the date on which the International Preliminary Examining Authority receives the fee, unless, under Rule 60.1(b), a later date is applicable.

(c) If the applicant does not comply with the invitation within the prescribed time limit, the demand shall be considered as if it had not been submitted.

57.5. FAILURE TO PAY (SUPPLEMENT TO THE HANDLING FEE)

(a) Where the supplement to the handling fee is not paid as required, the International Bureau shall invite the applicant to pay the supplement within 1 month from the invitation.

(b) If the applicant complies with the invitation within the prescribed time limit, the later election shall be considered as if it had been received on the date on which the

International Bureau receives the supplement, unless, under Rule 60.2(b), a later date is applicable.

(c) If the applicant does not comply with the invitation within the prescribed time limit, the later election shall be considered as if it had not been submitted.

57.6. REFUND

In no case shall the handling fee, including any supplement thereto, be refunded.

[End of Annex and of document]