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## INTERNATIONAL PATENT COOPERATION UNION (PCT UNION)

### ASSEMBLY

#### Tenth Session (4<sup>th</sup> Ordinary)\* Geneva, September 26 to October 4, 1983

#### WORKING CAPITAL FUND OF THE PCT UNION

##### *Memorandum of the Director General*

1. The Patent Cooperation Treaty (PCT) provides, in Article 57, that

“The [PCT] Union shall have a working capital fund which shall be constituted by a single payment made by each Contracting State ...” (paragraph (7) (a)),

“The amount of the initial payment of each Contracting State to the said fund or of its participation in the increase thereof shall be decided by the Assembly [of the PCT Union] on the basis of principles similar to those provided for under paragraph (5) (b)” (paragraph (7) (b)), that is, “with due regard to the number of international applications which has emanated from each of them [the Contributing States] in the relevant year” (paragraph (5) (b)),

“The terms of payment shall be fixed by the Assembly [of the PCT Union] on the proposal of the Director General and after it has heard the advice of the Coordination Committee of the Organization [that is, WIPO]” (paragraph (7) (c)).

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2. In 1978, just after the entry into force of the PCT, the Assembly of the PCT Union considered the question but decided "to postpone the question of the contribution of the working capital fund of the PCT Union until the ordinary session of the Assembly of the PCT Union in 1982" (AB/IX/19, paragraph 82) presumably because the Assembly did not want to burden member States with payments towards the working capital fund as long as the member States had to pay deficit-covering contributions.

3. Because of the change in the budget cycles, the PCT Assembly did not meet in an ordinary session in 1982. It meets in such a session 1983, and the matter is put before that session.

4. The draft budget of the PCT Union for 1984 and thereafter does not provide for any deficit-covering contributions.

5. It is proposed that the PCT Union decide upon the establishment of a working capital fund as follows:

- (i) The amount of the working capital fund will be 3,000,000 francs.
- (ii) The working capital fund will be established by means of the payment of 500,000 francs on July 1 of each of the years 1984, 1985, 1986, 1987, 1988 and 1989. The amount that each State member of the PCT Union will pay each year will be in the same proportion to 500,000 francs as the number of international applications filed by residents of that State in the preceding year is to the total number of international applications filed in that (that is, the said preceding ) year.

6. Taking the statistics of 1982 as an example, the share of each State member of the PCT Union in an amount of 500,000 francs is indicated in Annex I. Although of on relevance in computing that share, for purposes of comparison, the last column indicates the amount (if any) that each State has to pay in deficit-covering contributions in 1983.

7. The amount of 3,000,000 francs is 50% higher than the amount of the working capital fund (2,000,000 francs) of the Madrid Union. Today, both Unions has a yearly turnover of approximately 10,000,000 francs but, by 1990 (the year which would follow the completion of the constitution of the working capital fund of the PCT Union), the PCT Union will have a turnover of at least 15,000,000 francs so that an amount 50% higher than that of the Madrid Union seems to be reasonable: both Unions would have a working capital fund roughly corresponding to 20% of their yearly turnover.

8. Naturally, the actual percentage applicable to each member State will be computable only on the basis of the statistics of each relevant year. However, the percentages and amounts given in the example set forth in the preceding paragraph will probably not change very substantially during the years to come. In any case, the risk of the impact of the changes is limited because of the limited (500, 000 francs) amount of each yearly total installment.

9. Paragraphs 1 to 8 of this document and Annex I thereof were laid before the WIPO Budget Committee when it met from April 20 to 22, 1983. The relevant passages of the report of that Committee, and the comments of the Director General on those passages, appear in Annex II of the document.

*10. The Assembly of the PCT Union is invited to adopt the proposals contained in paragraph 5, above.*

[The Annexes follow]

## ANNEX I

## APPROXIMATE AMOUNTS OF CONTRIBUTIONS TO THE WORKING CAPITAL FUND OF THE PCT UNION

| Contracting State           | Number of international applications filed* by residents of the State in 1982 | Percentage in the total number of international applications filed* in 1982 | Share in 500,000 francs | Amount of deficit-covering contributions in 1983 |
|-----------------------------|---|---|-------------------------|--|
| Australia                   | 219   | 4.69  | 23,450                  | 63,300   |
| Austria                     | 46  | 0.98  | 4,900                   | 27,150   |
| Belgium                     | 28  | 0.60  | 3,000                   | 31,650   |
| Brazil                      | 20  | 0.43  | 2,150                   | 29,100   |
| Cameroun                    | -   | -   | -                       | -  |
| Central African Republic    | -   | -   | -                       | -  |
| Chad                        | -   | -   | -                       | -  |
| Congo                       | -   | -   | -                       | -  |
| Dem. People's Rep. of Korea | -   | -   | -                       | -  |
| Denmark                     | 117   | 2.50  | 12,500                  | 36,300   |
| Finland                     | 66  | 1.41  | 7,050                   | 26,250   |
| France                      | 233   | 4.98  | 24,900                  | 100,050  |
| Gabon                       | -   | -   | -                       | -  |
| Germany (Fed. Rep. of)      | 425   | 9.09  | 45,450                  | 149,850  |
| Hungary                     | 68  | 1.45  | 7,250                   | 19,650   |
| Japan                       | 497   | 10.63   | 53,150                  | 181,200  |
| Liechtenstein               | 13  | 0.28  | 1,400                   | -**  |
| Luxembourg                  | 4   | 0.09  | 450                     | -  |
| Madagascar                  | -   | -   | -                       | -  |
| Malawi                      | -   | -   | -                       | -  |
| Mauritania                  | -   | -   | -                       | -  |
| Monaco                      | -   | -   | -                       | -  |
| Netherlands                 | 68  | 1.46  | 7,300                   | 43,050   |
| Norway                      | 61  | 1.30  | 6,500                   | 25,950   |
| Romania                     | 8   | 0.17  | 850                     | -  |
| Senegal                     | -   | -   | -                       | -  |
| Soviet Union                | 41  | 0.88  | 4,400                   | 80,850   |
| Sri Lanka                   | -   | -   | -                       | -  |
| Sweden                      | 454   | 9.71  | 48,550                  | 104,100  |
| Switzerland                 | 158   | 3.38  | 16,900                  | 60,000   |
| Togo                        | -   | -   | -                       | -  |
| United Kingdom              | 352   | 7.53  | 37,650                  | 124,950  |
| United States of America    | 1797  | 38.44   | 192,200                 | 396,600  |
|                             | <u>4675</u>   | <u>100.00</u>   | <u>500.000</u>          | <u>1,500.000</u>                                 |

\* Number of record copies received by the International Bureau.

\*\* Liechtenstein has agreed to pay a contribution of 2500 francs.

[Annex II follows]

REPORT OF THE WIPO BUDGET COMMITTEE ON ITS SIXTH SESSION  
AND  
COMMENTS OF THE DIRECTOR GENERAL OF THAT REPORT

The present Annex reproduces, in passages appearing under the title "Report of the Budget Committee", paragraphs 23 to 27 (devoted to the Working Capital Fund of the PCT Union) of the text of the report of the sixth session of the WIPO Budget Committee held from April 20 to 22, 1983 (document WO/BC/VI/6) and contains, in passages appearing under the title "Comments of the Director General", the comments of the Director General concerning each of those paragraphs. The other passages of the said report do not concern the working capital fund of the PCT Union and are reproduced in Annex W of document AB/XIV/2, and in Annex II of document P/A/VIII/1-P/CR/X/1, respectively.

It is to be noted that the Budget Committee, as such, made no suggestions in respect of the proposals of the Director General and that the paragraphs of the report quoted below reflect the views of individual delegations expressed in the Budget Committee.

A. Report of the Budget Committee

"23. Discussions were based on document WO/BC/VI/4".

AA. Comments of the Director General

Paragraphs 1 to 8, and Annex I, of the present document are identical with what was document WO/BC/VI/4 submitted to the Budget Committee.

B. Report of the Budget Committee

"24. The Delegation of the Soviet Union expressed its support for the establishment of the working capital fund of the PCT Union under the conditions proposed in paragraph 5 of document WO/BC/VI/4".

BB. Comments of the Director General

No comments.

C. Report of the Budget Committee

"25. The Delegations of Japan, the Federal Republic of Germany, France and the United States of America expressed satisfaction that deficit-covering contributions were not being proposed for 1984 or 1985 in the PCT Union, but noted that the PCT Union was now operating very well without a working capital fund and raised the question whether the PCT Union could not continue to operate without such a fund. Those Delegations and the Delegation of Switzerland stated that more information was required to justify the establishment of the working capital fund at the proposed level of 3,000,000 Swiss francs. The Delegation of the United States of America wondered whether the working capital fund could not be established from the revenues of the PCT Union. That Delegation expressed its

concern over the projection that the United States of America would be assessed 38% of the proposed working capital fund contributions”.

CC. Comments of the Director General

The fact that the PCT Union “was now operating very well without a working capital fund” is due to the fact that liquidity problems are covered by loans or deficit-covering contributions. The PCT Union could continue to operate without a working capital fund under the same conditions. The proposed amount of the working capital fund is indicated in paragraph 7 of the present document. Furthermore, it has to be borne in mind that the main revenue of the International Bureau consists of fees that are collected not by it but by the national Offices and reach the International Bureau only some time after the papers to which the fees relate and on which the work of the International Bureau starts upon receipt (and not upon receipt of the corresponding fees). The working capital fund of the PCT Union could not be established from revenues of that Union since the expected surpluses, if they materialize, will, for several years, be needed to reimburse the debts of the PCT Union. No country would be “assessed” by any percentage fixed in advance or in the sense the term “assessed” is used in connection with contributions in the United Nations system of organizations. The computation of the share of each country is, as prescribed in the PCT, going to be based on the number of the international applications emanating from it (see PCT, Article 57; the relevant provisions are quoted in paragraph 1 of the present document). The reasoning behind such computation presumably is that the burden of each government should be proportional to the advantages derived by its nationals from filing international applications.

D. Report of the Budget Committee

“26. The Delegation of Czechoslovakia stated that the operations of the PCT Union should be self-supporting and resort should not be made, as in the past, to the borrowing of funds from other Unions. That Delegation proposed that further convincing reasons be given for the establishment of a working capital fund of the PCT Union”.

DD. Comments of the Director General

Efforts for making the operations of the PCT Union self-supporting will continue and if those efforts are successful there will be no borrowings from other Unions. As to further arguments, see CC, above.

E. Report of the Budget Committee

“27. The Delegation of Switzerland said that what it had stated in connection with the working capital of the Paris Union (see paragraph 22, above) should apply also in respect of the working capital fund of the PCT Union if such a fund were to be created”.

[NB: Paragraph 22 of the report of the Budget Committee reads as follows: “The Delegation of Switzerland stated that, if the working capital fund of the Paris Union were to be reconstituted, then the International Bureau should present in writing to each session of the Budget Committee the status of the use of that fund as of the end of the year preceding the year in which that session takes place or, if that were not possible, then as of the end of the last year .for which this information can be provided”.]

EE. Comments of the Director General

The state of each working capital fund is reported upon when the accounts are closed, together with any comments of the external auditors. This practice will be maintained also in respect of the working capital fund of the PCT Union.

[End of Annex]  
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