

# WIPO



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**WORLD INTELLECTUAL PROPERTY ORGANIZATION**  
GENEVA

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

**ASSEMBLY**

**Eleventh Session (7<sup>th</sup> Extraordinary)<sup>+</sup>**  
**Geneva, January 30 to February 3, 1984**

AMENDMENT OF THE AGREEMENTS  
CONCLUDED BETWEEN CERTAIN INTERNATIONAL SEARCHING AUTHORITIES  
AND THE INTERNATIONAL BUREAU

*Memorandum by the International Bureau*

1. At its fifth session, held in Geneva from June 9 to 16, 1980, the Assembly of the PCT Union adopted an amendment to Rule 41.1 of the PCT Regulations. This Rule deals with the obligation placed upon the International Searching Authority (hereinafter referred to as the "Authority") to use, to the extent possible, the results of an earlier search and to refund the search fee, to the extent and under the conditions provided for in the agreement concluded in application of Article 16(3) (b) of the PCT between the Authority and the International Bureau, if the international search report could wholly or partly be based on the results of that earlier search. The amendment adopted in 1980 has meant that this obligation has become applicable not only where the earlier search is an international-type search, as was the case before the amendment, but also where the earlier search is a search other than an international search (Rule 16.3 applies to the use of results of an international search) or an international-type search.

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\* Document PCT/A/XI/7 has been revised in order to take into account the decision of the Administrative Council of the European Patent Organisation taken at its 17<sup>th</sup> meeting (December 5 to 9, 1983) by which that Council approved the amendment to Article 8(2) of the Agreement between the European Patent Organisation and the International Bureau.

+ *Editor's Note:* This electronic document has been created from the paper original and may contain errors. Please bring any such errors to the attention of the PCT Legal Division by e-mail at [pct.legal@wipo.int](mailto:pct.legal@wipo.int)

2. The agreements concluded between six of the seven Authorities and the International Bureau do not, as yet, reflect this extension of the scope of Rule 41.1.\* The current Article 7(2) of the majority of the agreements has the following wording (in the Agreements concluded by the International Bureau with the Australian Patent Office, the Federal Ministry for Trade, Commerce and Industry of Austria, the Royal Patent and Registration Office of Sweden and the USSR State Committee for Inventions and Discoveries):

“The Authority shall, to the extent and under the conditions set out in Annex C of this Agreement, refund the whole or part of the search fee paid where a search report can be wholly or partially based on the results of an earlier international or international-type search made by the Authority (Rules 16.3 and 41.1).”

The corresponding provision in the Agreement between the Japanese Patent Office and the International Bureau (Article 8(2)) is worded as follows:

“The Authority shall, to the extent and under the conditions set out in Annex D of this Agreement, refund the whole or part of the search fee paid where a search report can be wholly or partially based on the results of an earlier international search made by the Authority (Rule 16.3).”

The corresponding provision in the Agreement between the European Patent Organisation and the International Bureau (Article 8(2)) is worded as follows:

“The Authority shall, to the extent and under the conditions set out in Annex B of this Agreement, refund the whole or part of the international search fee paid where an international search report can be wholly or partially based on the results of an earlier international or international-type search made by the Authority.”

3. The International Bureau and the six Authorities referred to in the preceding paragraph agreed by exchange of letters to amend the wording of their Agreements. It was thus agreed that Article 7(2) of the Agreements between the Australian Patent Office,\*\* the Federal Ministry for Trade, Commerce and Industry of Austria, the Royal Patent and Registration Office of Sweden and the USSR State Committee for Inventions and Discoveries, on the one hand, and the International Bureau, on the other, would be worded as follows:

“The Authority shall, to the extent and under the conditions set out in Annex C of this Agreement, refund the whole or part of the search fee paid where a search report can be wholly or partially based on the results of an earlier search made by the Authority (Rules 16.3 and 41.1).”

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\* The Agreement between the seventh Authority, the United States Patent and Trademark Office, and the International Bureau is drafted in such a way on this matter that it is not affected by the amendment to Rule 41.1.

\*\* For reasons of domestic Australian law, the amendment to the Agreement between the Australian Patent Office and the International Bureau still needs the approval of the Australian Government, which had not yet been obtained on the date this document was drafted (December 15, 1983).

In the case of Article 8 (2) of the Agreement between the Japanese Patent Office and the International Bureau, it was agreed that it would be worded as follows:

“The Authority shall, to the extent and under the conditions set out in Annex D of this Agreement, refund the whole or part of the search fee paid where a search report can be wholly or partially based on the results of an earlier search made by the Authority (Rules 16.3 and 41.1).”

In the case of Article 8 (2) of the Agreement between the European Patent Organisation and the International Bureau, it was agreed, and approved by the Administrative Council of the European Patent Organisation on December 9, 1983, that it would be worded as follows:

“The Authority shall, to the extent and under the conditions set out in Annex B of this Agreement, refund the whole or part of the international search fee paid where an international search report can be wholly or partially based on the results of an earlier search made by the Authority.”

*4. The Assembly is invited to approve the above-mentioned amendments to the Agreements concluded by the International Bureau with the Australian Patent Office (subject to approval by the Australian Government), the Federal Ministry for Trade, Commerce and Industry of Austria, the Royal Patent and Registration Office of Sweden, the USSR State Committee for Inventions and Discoveries, the Japanese Patent Office and the European Patent Organisation.*

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