

WIPO



PCT/A/XII/4

ORIGINAL: English/French

DATE: October 2, 1984

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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

INTERNATIONAL PATENT COOPERATION UNION (PCT UNION)

ASSEMBLY

**Twelfth Session (8th Extraordinary)
Geneva, September 24 to 28, 1984**

REPORT

Adopted by the Assembly

INTRODUCTION

1. The Assembly was concerned with the following items of the Consolidated Agenda (document AB/XV/1.Rev.Rev.): 1, 2, 8, 9, 10, 12 and 13.
2. The report on the said items, with the exception of items 8, 9 and 10, is contained in the General Report (document AB/XV/8).
3. The report on items 8, 9 and 10 is contained in this document.
4. The session, as far as items 8, 9 and 10 are concerned, was chaired by Mr. G. Borggård (Sweden), Vice-Chairman of the Assembly. The meeting adopting the present report was chaired by Mr. C. Fernandez Ballesteros (Uruguay) as ad hoc Chairman in his capacity as Chairman of the WIPO Coordination Committee.

ITEM 8 OF THE CONSOLIDATED AGENDA FIXATION OF FEES UNDER THE PATENT COOPERATION TREATY (PCT)

5. Discussions were based on document PCT/A/XII/1.

6. The Assembly amended, with effect as of January 1, 1985, the Schedule of Fees annexed to the PCT Regulations by increasing the fees specified therein by 5%, as set out in the Annex to document PCT/A/XII/1, with the modification suggested in paragraph 13 of that document. The amended Schedule of Fees is set out in Annex I to this report.

7. The Assembly noted the table of equivalent amounts in currencies other than Swiss francs which was distributed to the interested delegations on September 24, 1984.

8. In the course of the discussion on the fee increase, the need for the PCT system to become self-supporting as soon as possible was stressed. A number of delegations, while not objecting to the 5% increase, said that they would have preferred an increase by 10% which would allow that objective to be reached sooner since they did not believe that the level of the fee increase would have a significant impact on the use of the PCT system. Other delegations, however, expressed their preference for an increase of only 5% since they were convinced that a higher increase might have an adverse effect on the number of international applications and of designations and would therefore be counterproductive to the manifold efforts to make the PCT system self-supporting in the near future.

9. A number of delegations agreed with the view expressed by the International Bureau that a more intensive use of the PCT and consequently an improvement of the financial situation of the PCT Union were expected to result from the important amendments to the PCT system adopted by the Assembly during its eleventh session in February 1984 as well as from the withdrawal, under preparation or consideration in several countries, of reservations excluding Chapter II of the PCT. Furthermore, it was stressed that the territorial extension of the PCT Union was an important factor for making the PCT more attractive. In this context, it was emphasized that early participation of Italy and Canada in the PCT system was of particular importance, and the hope was expressed that the ongoing preparations for ratification by those two countries would soon lead to a positive result. Moreover, an appeal was made to all States not yet party to the Treaty to adhere to the PCT as soon as possible.

10. The Delegations of Brazil and Romania reiterated proposals, made to the Assembly at earlier sessions, aiming at providing in future preferential treatment in favor of nationals of developing countries by lowering the fees specified in the Schedule of Fees in their favor.

11. In connection with the modification of the structure of the designation fee, referred to in paragraph 13 of document PCT/A/XII/1, several delegations doubted that such a measure would lead to an improvement of the financial situation of the PCT Union, but it was agreed to adopt that measure on a trial basis and to review it, in the light of experience, on the occasion of the next reconsideration of the level of the fees.

12. In the course of the discussion on savings, the Assembly noted with appreciation the efforts made by the International Bureau in making savings and in identifying possibilities for additional savings.

13. As to the possibility, referred to in paragraph 7 of document PCT/A/XII/1, to publish in future only one, largely bilingual version of the PCT Gazette which would, however, not contain a French version of the abstracts and of the text matter pertaining to the drawings, the Assembly decided not to implement that solution in view of the arguments of a political and of a technical nature invoked against it by the Delegations of France, the Ivory Coast and Congo and the representative of the African Intellectual Property Organization (OAPI).

However, the International Bureau was requested to study the question whether it would not be possible to produce a completely bilingual edition of the Gazette in a way which would yield savings of sufficient importance.

14. As to the possibility, referred to in paragraph 8 of document PCT/A/XII/1, to change the format of PCT pamphlets, including the suggestion not to mark every sheet with the international publication number, the Assembly decided to refer the matter to the PCT Committee for Technical Cooperation for consideration and to take a final decision on the basis of the advice of that Committee. In this context, several delegations saw serious problems of a technical nature with such a change of format.

15. In reply to a suggestion made by the Delegation of the United Kingdom that the sales price of the PCT pamphlets should be increased by an amount not exceeding two Swiss francs in order to compensate for the additional deficit resulting from the increase of the PCT fees by only 5%, it was agreed that the International Bureau would study the usefulness and feasibility of such solution, including its possible implications on the number of pamphlets sold.

ITEM 9 OF THE CONSOLIDATED AGENDA
AMENDMENT OF THE AGREEMENT UNDER THE PATENT COOPERATION
TREATY (PCT) BETWEEN THE INTERNATIONAL BUREAU OF WIPO AND THE
EUROPEAN PATENT ORGANISATION (EPO)

16. The Assembly approved the amendment to Article 3 of the Agreement concluded between the International Bureau and the European Patent Organisation as shown in paragraph 5 of document PCT/A/XII/2. The text of the amended Article 3 is contained in Annex II to this report.

ITEM 10 OF THE CONSOLIDATED AGENDA
FILING BY TELECOPIER OF INTERNATIONAL APPLICATIONS UNDER THE
PATENT COOPERATION TREATY (PCT)

17. Discussions were based on document PCT/A/XII/3.

18. In conclusion, the Assembly agreed that an international application which is received by telecopier by the receiving Office is to be accorded an international filing date if all the requirements listed in items (i) to (iii) of Article 11(1) are complied with and that any formal defect, such as the lack of signature or of fitness for reproduction, may be corrected upon an invitation issued by the receiving Office under Article 14(1). It was understood, however, that no receiving Office would be obliged to make telecopier facilities available to applicants. The Delegation of Brazil, while accepting the conclusion of the Assembly, said that it needed more time to study the legal implications resulting from the requirement of signature of the international application. The Delegation of Senegal expressed doubts on the question whether an international application could be considered to be filed before the day of receipt of the original signature and was of the opinion that the matter should be considered on the basis of the evolution of legal systems and the level of technological development of each country. In that context, it was, however, pointed out that, according to the conclusion referred to above, an international application which was not signed was to be accorded an

international filing date and that the lack of signature was a correctable defect under Article 14(1) of the Treaty.

19. The Assembly unanimously adopted this report on September 28, 1984.

[Annexes follow]

ANNEX I

SCHEDULE OF FEES

<u>Fees</u>	<u>Amounts</u>
1. Basic Fee: (Rule 15.2(a))	
if the international application contains not more than 30 sheets	654 Swiss francs
if the international application contains more than 30 sheets	654 Swiss francs plus 13 Swiss francs for each sheet in excess of 30 sheets
2. Designation Fee: (Rule 15.2(a))	158 Swiss francs per designation for which the fee is due, with a maximum of 1,580 Swiss francs, any such designation in excess of 10 being free of charge
3. Handling Fee: (Rule 57.2(a))	200 Swiss francs
4. Supplement to the Handling Fee: (Rule 57.2(b))	200 Swiss francs
<u>Surcharges</u>	
5. Surcharge for late payment: (Rule 16 <i>bis</i> .2(a))	Minimum: 248 Swiss francs Maximum: 624 Swiss francs

ANNEX II

TEXT OF THE AMENDED PROVISIONS OF THE AGREEMENT
UNDER THE PATENT COOPERATION TREATY (PCT)
BETWEEN THE INTERNATIONAL BUREAU OF WIPO AND
THE EUROPEAN PATENT ORGANISATION

Article 3

Competence of Authority

(1) [No change]

(2) Subject to paragraph (3), the Authority undertakes to act as an International Preliminary Examining Authority, provided that the receiving Office specifies the Authority for that purpose, for all international applications which are filed with the receiving Offices of, or acting for, all Contracting States and with respect to which the Authority, the Royal Patent and Registration Office of Sweden or the Austrian Patent Office acts or has acted as an International Searching Authority.

(3) [No change]

[End of the Annexes and of the document]