

WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

WIPO COORDINATION COMMITTEE

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Geneva, September 22 to October 1, 1997

**APPROVAL OF AN AGREEMENT BETWEEN THE WORLD INTELLECTUAL
PROPERTY ORGANIZATION (WIPO) AND THE EURASIAN PATENT
ORGANIZATION (EAPO)**

Memorandum by the Director General

1. The Director General of WIPO and the President of the Eurasian Patent Office have negotiated the text of a working agreement between the World Intellectual Property Organization (WIPO) and the Eurasian Patent Organization (EAPO). The text of the proposed agreement is reproduced in the Annex to this document. The text of the Agreement has already been approved by the Administrative Council of EAPO at its fourth session, held in Moscow on January 23 and 24, 1997. In the present memorandum, the approval of the Agreement on behalf of WIPO is sought. According to Article 13(1) of the Convention Establishing the World Intellectual Property Organization (WIPO Convention), the matter belongs, as far as WIPO is concerned, in the jurisdiction of the WIPO Coordination Committee.

2. EAPO has been established by the Eurasian Patent Convention, which had been prepared with the assistance and advice of WIPO and was signed at Moscow on September 9, 1994, by the Governments of 10 States party to the Paris Convention for the Protection of Industrial Property and to the Patent Cooperation Treaty (PCT) (Armenia, Azerbaijan, Belarus, Georgia, Kazakstan, Kyrgyzstan, Republic of Moldova, Russian Federation, Tajikistan, Ukraine). The Convention constitutes a special agreement within the meaning of Article 19 of the Paris Convention for the Protection of Industrial Property and a regional patent agreement within the meaning of Article 45(1) of the Patent Cooperation Treaty and is open to any member State of the United Nations that is bound by these two treaties.
3. The Eurasian Patent Convention entered into force on August 12, 1995, and the operations under the Convention started as from January 1, 1996, when the Eurasian Patent Office started receiving its first patent applications. Also from January 1, 1996, it has become possible to seek a Eurasian patent in international applications filed under the PCT.
4. The objectives of EAPO are to strengthen cooperation, among member States, in the field of the protection of inventions and to establish an interstate system for obtaining such protection on the basis of a common patent granted for the territory of all member States.
5. EAPO has its headquarters in Moscow, Russian Federation, and its official language is Russian.
6. The organs of EAPO are the Administrative Council and the Eurasian Patent Office. The Administrative Council is composed of representatives of all members States. It is the governing body of EAPO: it elects the Chairman of the Administrative Council, appoints the President of the Eurasian Patent Office, approves agreements with States and international organizations and adopts regulations under the Eurasian Patent Convention; it establishes the yearly budget, examines the yearly report and approves the yearly accounts of EAPO; it may also take any other action aimed at performing the tasks of EAPO.
7. In accordance with Article 3(4) of the Eurasian Patent Convention, WIPO is represented at the meetings of the Administrative Council “in an advisory capacity in conformity with the provisions of an agreement concluded between the [Eurasian Patent] Organization and WIPO.”
8. The Eurasian Patent Office is the secretariat and carries out all administrative tasks of EAPO. It is headed by the President who represents EAPO and is its chief executive.
9. On July 31, 1997, the following nine States were members of EAPO: Armenia, Azerbaijan, Belarus, Kazakstan, Kyrgyzstan, Republic of Moldova, Russian Federation, Tajikistan and Turkmenistan.
10. Pending the conclusion of a working agreement between WIPO and EAPO, the Governing Bodies of WIPO granted observer status to EAPO at their sessions in September-October 1995 (see document AB/XXVI/10 and document AB/XXVI/19, paragraph 259).

11. Upon its establishment, EAPO became entitled to the status of special observer in the Assembly of the PCT (Patent Cooperation Treaty) Union by virtue of Rule 2 of the Rules of Procedure of the PCT Union Assembly (document AB/XXV/INF/2, page 14) as well as to the status of special observer in the Assembly of the Budapest Union by virtue of Article 10(1)(c) of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure. In addition, EAPO was given the same status as the European Patent Organisation in the Committee of Experts of the International Patent Classification (IPC) Union and in the sub-committees and working groups established by that Committee (see document IPC/CE/XXIV/10, paragraph 8 and Annex III). EAPO has also been invited to participate as an observer in the meetings of the WIPO Permanent Committee on Industrial Property Information (PCIPI) and its bodies in accordance with Rule 3(2) of the PCIPI Organizational Rules.

12. The provisions of the Agreement between WIPO and EAPO seem to be self-explanatory.

13. The Coordination Committee is invited to approve the Agreement between WIPO and EAPO the text of which appears in the Annex.

[Annex follows]

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Between the World Intellectual Property Organization
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Preamble

The World Intellectual Property Organization (WIPO) and the Eurasian Patent Organization (EAPO),

Desiring to facilitate, through close cooperation and consultation, the attainment of the objectives set forth in their respective constituent instruments,

Noting that Article 13(1) of the Convention Establishing the World Intellectual Property Organization provides for WIPO to establish working relations and cooperate with other intergovernmental organizations, where appropriate,

Recalling that Article 3(4) of the Eurasian Patent Convention provides for an agreement to be concluded between WIPO and EAPO,

Agree as follows:

Article 1

*Participation of EAPO in Meetings of WIPO
and Unions Administered by WIPO*

(1) [*Special Observer at PCT Meetings and at Meetings of the Budapest Union Assembly*] EAPO shall be invited to be represented as a special observer at meetings of:

- (i) the Assembly of the International Patent Cooperation Union (PCT Union);
- (ii) the PCT Committee for Technical Cooperation (PCT/CTC);
- (iii) the PCT Committee for Administrative and Legal Matters (PCT/CAL); and
- (iv) the Assembly of the Union for the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (Budapest Union).

(2) [*Observer Capacity at Meetings of Certain Established Bodies*] EAPO shall be invited to be represented in an observer capacity at meetings for the discussion of matters concerning the protection of inventions, patent information and documentation, patent classification, patent office automation or related subjects of:

- (i) the WIPO General Assembly and the WIPO Conference, it being understood that attendance may be restricted at times to the Member States of WIPO for the discussion of certain items on the agenda;
- (ii) the Assembly of the Paris Union for the Protection of Industrial Property (Paris Union); and
- (iii) the Assembly and the Committee of Experts of the Special Union for the International Patent Classification (IPC Union).

(3) [*Observer Capacity for Matters of Special and Direct Interest at Meetings of Certain Established Bodies*] EAPO shall be invited to be represented in an observer capacity for the discussion of any item on the agenda which is of special and direct interest to EAPO at meetings of:

(i) the WIPO Coordination Committee; and

(ii) the Executive Committee of the Paris Union for the Protection of Industrial Property (Paris Union).

(4) [*Observer Capacity at Meetings of Ad Hoc Bodies*] EAPO shall be invited to be represented in an observer capacity at any ad hoc committee or working group dealing with matters concerning the protection of inventions, patent information and documentation, patent classification, patent office automation or related subjects which is convened under the auspices of WIPO or of any Union administered by WIPO and to which any Member State of EAPO or the industrial property office thereof is invited.

(5) [*Status at Diplomatic Conferences*] EAPO shall be included in any proposed list of intergovernmental organizations to be invited to any diplomatic conference held under the auspices of WIPO that deals with the protection of inventions, patent information and documentation, patent classification, patent office automation or related subjects, it being understood that the final decision on such invitations and the status of participation may only be taken by the preparatory meeting of the diplomatic conference or by the diplomatic conference itself.

(6) [*Membership in PCIPI*] WIPO shall take steps to amend Article 2(1)(b) of the Organizational Rules of the Permanent Committee on Industrial Property Information (PCIPI) to include EAPO as a member of the Permanent Committee, provided that it shall not have the right to vote.

(7) [*Meaning of “Special Observer” and “Observer Capacity”*] Without prejudice to any more extensive rights resulting from the applicable constituent instrument, the decision concerning the composition of the body concerned, or the latter’s rules of procedure,

(i) the phrase “represented as a special observer” as used in this Article shall be construed to refer to participation in the discussions of the body concerned with the same rights as States members of the body, except the right to vote, and

(ii) the phrase “represented in an observer capacity” as used in this Article shall be construed to refer to participation in the discussions of the body concerned, without the right to vote.

Article 2

Participation of WIPO in Meetings of EAPO

(1) [*Advisory Capacity at Meetings of Certain Established Bodies*] WIPO shall be invited to be represented in an advisory capacity at the sessions of:

(i) the Administrative Council of EAPO, it being understood that attendance may be restricted at times to the Member States of EAPO for the discussion of certain items of the agenda; and

(ii) bodies established by the Administrative Council of EAPO.

(2) [*Advisory Capacity at Meetings of Ad Hoc Bodies*] WIPO shall be invited to be represented in an advisory capacity at the sessions of any ad hoc committee of experts or working group which is convened under the auspices of EAPO.

(3) [*Advisory Capacity at Diplomatic Conferences*] WIPO shall be invited in an advisory capacity at any diplomatic conference concerning the tasks of EAPO or the revision of the Eurasian Patent Convention.

(4) [*Meaning of “Advisory Capacity”*] Without prejudice to any more extensive rights resulting from the applicable constituent instrument, the decision concerning the composition of the body concerned, or the latter’s rules of procedure, the phrase “represented in an advisory capacity” as used in this Article shall be construed to refer to participation in the discussions of the body concerned with the same rights as States members of the body and, at the discretion of the chairman of the body concerned, with the right to give preliminary or additional information, explanations, interpretation or advice in the course of the discussions, but without the right to vote.

Article 3

Cooperative Activities

(1) [*Cooperation in the Organization of Meetings*] In appropriate cases, WIPO and EAPO shall cooperate in the organization of seminars, symposiums or other ad hoc meetings dealing with matters of interest to both WIPO and EAPO.

(2) [*Technical Assistance*] (a) WIPO and EAPO shall cooperate, in appropriate cases and as permitted by their respective programs and budgets, in providing to the Member States of EAPO, upon request, technical assistance relevant to the implementation of the Eurasian Patent Convention.

(b) WIPO shall provide, in appropriate cases and as permitted by its program and budget, technical assistance that EAPO may request relating to the protection of inventions, patent information and documentation, patent classification, patent office automation or related subjects, including but not limited to the training of specialists, the loaning of experts, and the supply of patent documentation.

(3) [*Cooperation Concerning Settlement of Disputes Under Article 24 of the Eurasian Patent Convention*] For the purposes of Article 24 of the Eurasian Patent Convention, WIPO shall be ready to provide, free of charge, upon request of the parties, meetings rooms, interpretation and secretarial assistance.

Article 4

Exchange of Information, Documents and Publications

(1) [*Information Concerning Activities of the Depositary*] WIPO shall promptly inform EAPO of any instruments or notifications received, any notifications sent, or any other actions taken, by the Director General of WIPO in his capacity as depositary under Article 28 of the Eurasian Patent Convention.

(2) [*Information Concerning Mediation*] WIPO shall promptly inform EAPO of any requests for mediation received and any actions taken by the Director General of WIPO in his capacity as mediator under Article 24 of the Eurasian Patent Convention.

(3) [*Exchange of Documents Relating to Meetings*] WIPO and EAPO shall furnish to each other free-of-charge copies of the documents relating to their respective meetings in which they have special observer, observer or advisory capacity, as the case may be.

(4) [*Exchange of Periodicals and Other Publications*] WIPO and EAPO shall furnish to each other free-of-charge copies of their respective periodicals and other publications concerning the protection of inventions, patent information and documentation, patent classification, patent office automation or related subjects.

(5) [*Exchange of Information, Statistics and Documentation Relating to the Eurasian-PCT Procedure*] WIPO and EAPO shall furnish to each other full information, statistics and documentation relating to the Eurasian-PCT procedure which may be needed to improve the implementation of that procedure or to make that procedure more efficient.

(6) [*Confidential Character of Certain Information*] The provisions of this Article are subject to such arrangements as may be considered necessary by the Director General of WIPO or the President of the Eurasian Patent Office for safeguarding the confidential character of certain information.

Article 5
Final Provisions

(1) [*Entry into Force of the Agreement*] This Agreement shall enter into force on the later of the dates on which this Agreement has been approved by the WIPO Coordination Committee and by the Administrative Council of EAPO.

(2) [*Amendment of the Agreement*] This Agreement may be amended by common agreement of WIPO and EAPO. Any such amendment shall enter into force in the same manner as this Agreement.

(3) [*Termination of the Agreement*] If one of the parties to this Agreement gives the other party written notice to terminate this Agreement, this Agreement shall terminate six months after receipt of the notice by the other party, unless a longer period is specified in the notice or unless both parties agree on a longer or a shorter period.

Done at [Geneva] on _____, 199_, in two originals in the English and Russian languages.

For the
World Intellectual Property Organization
(signed)

For the
Eurasian Patent Organization
(signed)

Arpad Bogsch
Director General

Viktor Blinnikov
President of the Eurasian Patent Office

[End of Annex and of document]

