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WORLD INTELLECTUAL PROPERTY ORGANIZATION  
UNITED INTERNATIONAL BUREAUX FOR THE PROTECTION OF INTELLECTUAL PROPERTY  
GENEVA

## PATENT COOPERATION TREATY

### INTERIM ADVISORY COMMITTEE FOR ADMINISTRATIVE QUESTIONS

Third Session: Geneva, October 4 to 9, 1972

#### REPORT

prepared by the International Bureau

#### INTRODUCTION

1. The "PCT Interim Advisory Committee for Administrative Questions" (hereinafter referred to as "the Interim Committee") held its third session in Geneva from October 4 to 9, 1972.
2. The members of the Interim Committee are those States--37 in number-- which have signed, or acceded to, the PCT, and, pursuant to a recent decision of the Executive Committee of the Paris Union, any other country which pledges a special contribution to the PCT budget. There is one State, Australia, which so far has qualified under the latter criterion. The following 28 States were represented: Algeria, Argentina, Australia, Austria, Belgium, Brazil, Canada, Denmark, Egypt, Finland, France, Germany (Federal Republic), Hungary, Iran, Ireland, Israel, Italy, Japan, Monaco, Netherlands, Norway, Romania, Senegal, Sweden, Switzerland, Union of Soviet Socialist Republics, United Kingdom, United States of America. The following 10 were not represented: Central African Republic, Holy See, Ivory Coast, Luxembourg, Madagascar, Malawi, Philippines, Syria, Togo, Yugoslavia.
3. The following three intergovernmental organizations were represented by observers: United Nations Conference on Trade and Development (UNCTAD), Intergovernmental Conference for the Setting up of a European System for the Grant of Patents, International Patent Institute (IIB).
4. The following six non-governmental organizations were represented by observers: Council of European Industrial Federations (CEIF), Federation Européenne des Mandataires de l'Industrie en Propriété Industrielle (FEMIPPI), International Association for the Protection of Industrial Property (IAPIP), International Chamber of Commerce (ICC), International Federation of Inventors Associations (IFIA), International Federation of Patent Agents (FICPI).
5. The number of participants was over 70. The list of participants is annexed to this report.

6. The Interim Committee unanimously elected Dr. H. Mast (Germany (Federal Republic)) as Chairman, and Mr. E.I. Artemiev (Soviet Union) and Mr. B. Niang (Senegal) as Vice-Chairmen.

7. Mr. Klaus Pfanner, Senior Counsellor, Head of the Industrial Property Division, WIPO, acted as Secretary of the Interim Committee.

#### AGENDA

8. The Interim Committee adopted its agenda as contained in document PCT/AAQ/III/1.Rev.

#### CONSIDERATION OF DEVELOPMENTS SINCE THE LAST SESSION OF THE INTERIM COMMITTEE

9. Discussions were based on document PCT/AAQ/III/4.

10. With respect to the draft forms to be employed by the international authorities under Chapter I of the PCT and the explanatory memorandum on the utilization of the forms, referred to in document PCT/AAQ/III/4, paragraph 6, and contained in documents PCT/TCO/SS/III/2 and 3, the Secretariat informed the Interim Committee that the said documents had been first submitted to the third session of the Standing Subcommittee of the Interim Committee for Technical Cooperation as they were of particular interest to the members of the Standing Subcommittee in their capacity not only as prospective Receiving Offices but also as prospective International Searching and International Preliminary Examining Authorities. The Standing Subcommittee proposed a number of amendments to the forms and the flow charts. The members of the Standing Subcommittee were invited to present further observations, if any, on both documents in writing. On the basis of these amendments and observations, the International Bureau would undertake a revision of the draft forms and the explanatory memorandum thereto. The said forms and memorandum would be submitted to the Interim Committee at a subsequent session.

11. The Interim Committee noted this information.

#### ADMINISTRATIVE INSTRUCTIONS

12. Discussions were based on document PCT/AAQ/III/2.

#### General Comments

13. The Delegation of the Soviet Union proposed that the Administrative Instructions should oblige the PCT authorities to carry out correspondence on the forms included in the said Instructions. The Instructions should specify who would supply the forms. The languages to be used for the forms should be specified. The same should be done as far as any correspondence under the PCT is concerned which is not already regulated in the PCT or the PCT Regulations. Where the Receiving Office and the International Searching Authority (ISA) or the International Preliminary Examining Authority (IPEA) were one and the same body, correspondence between the competent departments of that body should not be subjected to the provisions of the Administrative Instructions. The Delegation of the Soviet Union furthermore announced that it would present written comments on the draft Administrative Instructions.

14. With respect to the language of correspondence from the Receiving Office to the International Bureau, for which Rule 92.2 did not contain any provision, the Secretariat pointed out that the working languages of the International Bureau, as determined by the General Assembly of WIPO according to Art. 6(2)(vii) of the WIPO Convention, would have to be used.

Discussion in Detail

15. The Interim Committee then considered the draft Administrative Instructions Section by Section. A number of Delegations made detailed comments. Although those of a mere drafting nature are not reproduced in this report, they were all recorded by the Secretariat and will serve as a basis for further revision of the Administrative Instructions. All Sections of the draft not referred to in the following paragraphs were approved by the Interim Committee without comment or subject to observations of a mere drafting nature only.

16. Section 102. The Delegations of Japan and the United Kingdom expressed preference for Alternative B. The indication of the month under Alternative A would require a translation. Alternative B represented the ICIREPAT standard and was more readily adaptable to machine processing.

17. The Delegation of the United States, supported by the observer of the International Chamber of Commerce, indicated its preference for Alternative A as Alternative B might create confusion in countries that expressed dates in the sequence month/day/year.

18. The Delegation of the Netherlands indicated that the new draft ISO standard for dates would be the sequence year/month/day.

19. The Interim Committee, following a suggestion of the Delegation of Switzerland, agreed to combine Alternatives A and B. Consequently, the Administrative Instructions should provide the expression of dates both in the form prescribed in Alternative A and, added in parenthesis, as prescribed in Alternative B. The indication of the date in parenthesis should be filled in by the Receiving Office or the International Bureau.

20. Section 103. The Delegation of France suggested to permit the use of the country code indications contained in Annex B instead of a designation of States by their full official name or the abbreviated version indicated in Annex A, since use of the country codes would reduce the space needed for designation.

21. Following a proposal of the Chairman, the Interim Committee agreed to permit a combination of the full official or abbreviated name with the country code added by the Receiving Office or the International Bureau in parenthesis.

22. Upon a question by the Delegation of Japan, it was noted that the names of States would appear in the request in the language of the international application.

23. Section 105. The Delegation of the United Kingdom, supported by the observer of the International Chamber of Commerce, suggested that the words "or assumed under the previous clause" should be added at the end in order to cover both the case of the indication of a wish to obtain a regional patent and the case of Art. 45(2).

24. The Interim Committee proposed to redraft the Section accordingly taking into account also the possibility of a combination of the two cases referred to above.

25. The Chairman suggested that, instead of the general indication "regional patent", the name of the specific regional patent system concerned should be used, this in order to avoid confusion in cases where States belonged to two regional systems.

26. Section 106. The Interim Committee, after a long discussion concerning the order and titles of the headings for the parts of the description, decided that the order should remain as proposed because it was the same as that appearing in Rule 5.1. In furthermore suggested that the Section be drafted as follows:

"The headings referred to in Rule 5.1(c) shall be as follows:

- (i) for the matter referred to in Rule 5.1(a)(i): "Technical Field"
- (ii) for the matter referred to in Rule 5.1(a)(ii): "Background Art"
- (iii) for the matter referred to in Rule 5.1(a)(iii): "Disclosure"
- (iv) for the matter referred to in Rule 5.1(a)(iv): "Brief Description of Drawings"
- (v) for the matter referred to in Rule 5.1(a)(v): "Best Mode for Carrying out the Claimed Invention"
- (vi) for the matter referred to in Rule 5.1(a)(vi): "Industrial Applicability".

27. Section 107. The Delegation of the United Kingdom raised the question of cancellation of an independent claim upon which another claim depended. This problem was so far not covered by Section 107. The Interim Committee noted that the International Bureau would study the matter further.

28. Section 201. The Interim Committee, following a proposal of the Delegations of Italy and the United Kingdom, expressed its preference for Alternative B.

29. Section 202. The Interim Committee, following a proposal of the Delegation of France to include the substance of this Section in the Regulations and not in the Administrative Instructions, decided to maintain Section 202 in the Administrative Instructions but to redraft its first sentence in order to avoid the impression that it contained a rule of substantive law.

30. Section 204. The Delegation of the United Kingdom suggested that this provision should also deal with corrections submitted before transmittal of the international application to the International Bureau and the International Searching Authority. The Interim Committee noted that the International Bureau would further study that question.

31. Section 205. The Delegation of the United States suggested that this Section should specify the place where the stamp should be impressed. The Interim Committee noted that this suggestion would be studied by the International Bureau.

32. Section 206. The Delegation of the United Kingdom observed that the Section did not contain provisions for the case where a change of address only had occurred. The Interim Committee proposed to amend Section 206 accordingly.

33. Section 207. The Delegation of Austria stated that the letters "IB" in the ICIREPAT code and Annex B mean "International Patent Institute" whereas in document PCT/TCO/SS/III/2 the code "IB" was used for "International Bureau."

34. The Secretariat suggested that the usage of "IB," as provided for in the ICIREPAT code, could lead to confusion and that the question whether another code could be found for the International Patent Institute should be further studied within the framework of ICIREPAT.

35. Following a proposal by the Delegation of Japan, the Interim Committee asked the International Bureau to study the problem whether Section 207 should not allow perforating rather than stamping. It was noted, however, that the use of perforations could make reproduction more difficult.

36. Section 209. The Delegation of the United Kingdom suggested that the contents of paragraph (b)(iii) should also appear under paragraph (a) which so far did not provide for the case where transmittals under Article 12(1) have not been made.

37. The Delegation of the Soviet Union suggested that the Administrative Instructions provide for a receipt to be given to the applicant immediately after the filing of the international application.
38. The Delegation of Switzerland suggested that where later submitted sheets were received after the time limit of 30 days, copies of such sheets should be sent also to the International Searching Authority, if transmittals under Article 12(1) had already been made, and that paragraph (b)(ii) should be amended accordingly.
39. The Interim Committee noted that the International Bureau would study these suggestions.
40. Section 210. The Delegation of Switzerland observed that with respect to the sending of copies of later submitted drawings, the same amendment as proposed for Section 209(b)(ii) would have to be made in Section 210(b)(ii).
41. Section 211. The Delegation of Norway suggested inserting a new provision after that Section which would define in more detail the term "reasonably uniform international publication" appearing in Rule 26.3.
42. The Interim Committee noted that this question would be considered together with that part of the Administrative Instructions which would deal with international publication and which would be submitted to a subsequent session of the Interim Committee.
43. Section 303. The Interim Committee decided to maintain the order of elements of citation as referred to in paragraph (a).
44. With respect to paragraph (b), the Interim Committee suggested citing first the name of the author and thereafter the title of the book, as proposed by the Delegation of Germany (Federal Republic). The same suggestion was made with respect to item (iv) of paragraph (c).
45. Upon a proposal of the Delegation of the United States to cite the date of the publication of a book as an element of identification under paragraph (b), the Interim Committee, after considerable discussion, expressed a preference for requiring the indication of the year of publication, with the right of the International Searching Authority to indicate also the day and month. It was noted that the International Bureau would study this question.
46. The Delegation of Japan suggested indicating the name of the publisher as an element to be cited in order to facilitate identification. The Interim Committee noted that the International Bureau would study this question, particularly with respect to the possible burden such a requirement might place on International Searching Authorities.
47. The Delegation of Germany (Federal Republic) suggested that a new paragraph (d) should be added to provide rules for the citation of abstracts. This proposal was adopted.
48. The Delegation of Egypt suggested that the Anglo-American Cataloguing Rules should be advocated as a basis for the rules covering bibliographic data.
49. Section 304. The Interim Committee deferred further consideration until an examination of the contents of form PCT/ISA/10 and other related forms.
50. Annex B. The Delegation of Israel suggested listing the States with their two letter codes not only in the alphabetical order of the codes but also in the alphabetical order of the States.
51. The Secretariat stated that this suggestion would be followed.

#### OPTIONS FOR NATIONAL LEGISLATIONS UNDER THE PCT

52. Discussions were based on document PCT/AAQ/III/3.

### General Comments

53. The Delegation of the Netherlands suggested reviewing the order in which the various questions were presented since, in its view, such order did not always follow a logical sequence.

54. The Delegation of the United Kingdom proposed that the part "Introduction" should also refer to the new headings V (Substantive Conditions of Patentability) and VI (Preservation of National Security and General Economic Interest).

55. The Delegation of Denmark remarked that the statement in paragraph 4 of the Introduction to the effect that, where no positive action was taken in connection with any of the options, the PCT still remained workable, was not quite correct in respect of the subject matter referred to in paragraph 14 and that paragraph 4 should contain a corresponding qualification.

56. The Delegation of the Soviet Union, referring to the preparation of the revision of its own legislation, asked that a final version of the document in question be established as soon as possible. It announced that it would submit written comments on the options contained in the said document.

57. The Interim Committee noted that the International Bureau would take these observations into account when revising the document under consideration.

58. On a question of the Delegation of the Soviet Union as to the legal value of the document under consideration the Secretariat stated that the document had no binding force and contained only advice.

59. The Delegation of Israel suggested that the International Bureau prepare a draft model law for the implementation of the PCT which would facilitate the adaptation of national laws to the PCT and thus accelerate its ratification.

60. The Secretariat replied that the drafting of such a model law would be particularly difficult in view of the great variety of national systems and the large number of options available to the national legislator. The International Bureau was, however, at the disposal of any State to give advice on adapting its national legislation to the PCT.

### Discussion in Detail

61. The Interim Committee then considered the options contained in the document under consideration paragraph by paragraph. A number of delegations made detailed comments. Although those of a mere drafting nature are not reproduced in this report, they were recorded by the Secretariat and will serve as a basis for establishing a revised text of the document. All paragraphs of the document not referred to in the following were approved by the Interim Committee without comment or subject to observations concerning mere questions of drafting.

62. The Delegation of the Netherlands expressed the view that paragraph 11 should precede paragraph 9, as the translation requirement, contained in paragraph 9, was based on the broader requirement for copy, translation, fee and data concerning the inventor, as contained in paragraph 11. It observed furthermore that the statement in paragraph 9 to the effect that no national law or regional treaty could require the applicant to furnish a translation in more than one language was unduly broad as it was possible to ask for additional translations in the national phase, once the time limit under Article 22 had expired.

63. The Secretariat replied that paragraph 9 had been placed before paragraph 11 since the designated Office had to indicate to the International Bureau the language in which it would require translations before the events in paragraph 11 could occur. Furthermore, it believed the statement in paragraph 9.2 to be correct since no national law or regional treaty could require, before granting the patent, that the applicant furnish translations of the international application (or any part, for example, the claims, thereof) in more than one language. The Interim Committee noted this statement with approval.

64. The Delegation of the Netherlands said, that in conformity with the views expressed by the preceding session of the Interim Committee, the part of the document dealing with Chapter I of the PCT should not also refer to provisions appearing in Chapter II of the PCT. This suggestion was not adopted.

65. The Delegation of the Netherlands suggested that the second sentence of paragraph 35.2 should appear also in paragraph 19.2. This suggestion was adopted.

66. Upon a suggestion of the Delegation of the Netherlands, the Interim Committee asked that the proper place of paragraph 28 in the document should be determined.

67. Upon a suggestion of the Delegation of the Netherlands, the word "completely" in paragraph 30.3 was deleted.

68. The Delegation of Sweden observed that the statement in paragraph 41.1 to the effect that a fee may be charged to the applicant for the publication of the additional copies was broader than permitted under Rule 21.1(c). That Rule established a right to charge a fee for the preparation of copies only in the case where the international application was filed in less than the number of copies required under Rule 11.1(b). The Interim Committee noted that the document should be amended accordingly.

#### FUTURE PROGRAM

69. The Delegation of the Soviet Union urged that the work on the Administrative Instructions should have high priority since the availability of a complete draft of the Administrative Instructions would constitute an important aid to countries in their effort to adapt their national legislation to the PCT.

70. The Interim Committee agreed that the continuation of the preparation of the draft Administrative Instructions and the preparation of a final edition of the document on options for national legislations under the PCT had high priority.

71. For the rest of the tasks of the Interim Committee, the former decisions should continue to apply.

72. The Interim Committee, noting with appreciation the invitation extended by the Japanese Government, agreed to have its next session from October 22 to 27, 1973, in Tokyo. In preparation for that session, the Standing Subcommittee of the PCT Interim Committee for Technical Cooperation, in its Spring 1973 session, would continue the consideration of the PCT forms, and the explanatory memorandum thereto. After that session of the Standing Subcommittee, the International Bureau would prepare a revised version of the PCT forms and the explanatory memorandum thereto and would submit it together with a revised and more complete draft of the Administrative Instructions to the 1973 session of the Interim Committee.

73. This Report was unanimously adopted by the Interim Committee in its closing meeting on October 9, 1972.

/Annex follows/

LISTE DES PARTICIPANTS/  
LIST OF PARTICIPANTS

I. ETATS MEMBRES/MEMBER STATES

ALGERIE/ALGERIA

- M. S. BOUZIDI, Directeur a.i. de l'Office national de la propriété industrielle, Alger
- M. A. BOUSSAÏD, Chargé de mission, Ministère de l'Industrie et de l'Energie, Alger
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- Mrs. R. VON SCHLEUSSNER, Regierungsdirektorin, German Patent Office, Munich
- Mr. U.C. HALLMANN, Regierungsdirektor, German Patent Office, Munich
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II. ORGANISATIONS INTERGOUVERNEMENTALES/INTERGOVERNMENTAL ORGANIZATIONS

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- Mr. Paul CLAUS, Conseiller technique/Technical Counsellor, Chef de la Section  
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