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PATENT COOPERATION TREATY

INTERIM ADVISORY COMMITTEE FOR ADMINISTRATIVE QUESTIONS

Sixth Session

Geneva, October 27 to November 3, 1975

REPORT

INTRODUCTION

1. The PCT Interim Advisory Committee for Administrative Questions (hereinafter referred to as "the Interim Committee") held its sixth session in Geneva from October 27 to November 3, 1975.
2. The members of the Interim Committee are those States--42 in number--which have signed or acceded to the PCT, and, pursuant to a decision of the Executive Committee of the Paris Union, any other country which pledges a special contribution to the PCT budget. There are two States, Australia and Cuba, which so far have qualified under the latter criterion. The following 22 States were represented: Algeria, Austria, Brazil, Denmark, Egypt, Finland, France, Germany (Federal Republic of), Hungary, Ireland, Ivory Coast, Japan, Luxembourg, Netherlands, Norway, Philippines, Romania, Soviet Union, Sweden, Switzerland, United Kingdom and United States of America. The following 20 States were not represented: Argentina, Australia, Belgium, Cameroon, Canada, Central African Republic, Chad, Cuba, Gabon, Holy See, Iran, Israel, Italy, Madagascar, Malawi, Monaco, Senegal, Syrian Arab Republic, Togo and Yugoslavia.
3. Two intergovernmental organizations, the International Patent Institute (IIB) and the Organization of American States (OAS), were represented by observers.
4. The following seven non-governmental organizations were represented by observers: International Association for the Protection of Industrial Property (AIPPI), Council of European Industrial Federations (CEIF), European Federation of Industrial Property Representatives of Industry (FEMIPI), International Federation of Patent Agents (FICPI), International Federation of Inventors' Associations (IFIA), Union of Industries of the European Community (UNICE), Union of European Professional Patent Representatives (UNION).
5. The number of participants was approximately 50. The list of participants is annexed to this report.

OPENING STATEMENTS

6. The session was opened by Mr. K. Pfanner, Deputy Director General of WIPO, who welcomed the participants on behalf of the Director General.

PROGRESS OF PCT IMPLEMENTING LEGISLATION IN THE UNITED STATES OF AMERICA

7. The Delegation of the United States of America informed the Interim Committee that the US Senate had previously given its consent to the ratification of the PCT by the United States of America. However, the instrument of ratification had not yet been deposited with the Director General of WIPO, since implementing legislation was required to permit the United States Patent and Trademark Office to operate under the present US patent statute and carry out its duties under the PCT. This implementing legislation had been passed by the US Senate in June 1975. Following this approval by the US Senate, the Courts, Civil Liberties and Administration of Justice Subcommittee of the US House of Representatives, had unanimously approved the PCT implementing legislation and reported it to the Committee on the Judiciary of that House. The Committee on the Judiciary had unanimously approved the PCT implementing legislation on October 28, 1975. The Delegation of the United States of America finally said that the PCT implementing legislation would be scheduled for a vote before the US House of Representatives in the near future and it was anticipated that an affirmative vote would be taken by that House and that President Ford would sign the legislation into law within the next few weeks. It was therefore expected that the United States of America would deposit its instrument of ratification of the PCT before the end of 1975.*

OFFICERS OF THE SESSION

8. The Interim Committee unanimously elected Mr. J. Dekker (Netherlands) as Chairman and Mr. L.E. Komarov (Soviet Union) and Mr. T. Shiroshita (Japan) as Vice-Chairmen.

9. Mr. J. Franklin, Counsellor, Head of the PCT Section, WIPO, acted as Secretary of the Interim Committee.

AGENDA

10. The Interim Committee adopted the agenda as contained in document PCT/AAQ/VI/1/Rev.2.

ADMINISTRATIVE INSTRUCTIONS

11. Discussions were based on documents PCT/AAQ/VI/2, 13 and 19, containing the third revised draft of the Administrative Instructions and proposals for amendment thereto.

12. The Interim Committee considered the draft of the Administrative Instructions section by section. All sections of the draft not referred to in the following paragraphs were approved by the Interim Committee without comment. Proposals for amendment which, after discussion, were not retained are not reproduced here. In this report, references to Articles are to the Patent Cooperation Treaty, references to Rules are to the Regulations under the Treaty and references to Sections are to the Administrative Instructions under the Treaty.

Section 102

13. The Delegation of the Soviet Union proposed that the use of the forms relating to the payment of fees in correspondence between an Office and applicants of the country of that Office should not be mandatory. The Interim Committee agreed that a decision on the question which forms should be mandatory and which forms should be optional should not be taken until the forms were final.

* On November 3, 1975, the US House of Representatives approved the PCT implementing legislation by an overwhelming majority.

Section 103

14. The Delegation of the Soviet Union expressed the opinion that in respect of the language of the forms the receiving Office should have the right to use any language or languages other than that of the international application in the forms for communications which are sent only to the applicant.

15. The Delegation of Switzerland was of the opinion that with respect to the use of the language of correspondence the applicant should have freedom of choice. However, once the choice of language had been exercised, such choice determined the language for all correspondence and the language to be used by the Office.

16. The Delegation of Austria, supported by the Delegation of the Soviet Union, proposed that, where the language of the forms was not that of the receiving Office, the forms could include a translation, prepared under the responsibility of the receiving Office, of the printed text matter into the language of that Office.

17. The International Bureau remarked that this question was linked with that raised in the footnote to Section 103 and that all the language questions raised required further study.

18. The Interim Committee, agreeing with a suggestion by the Delegation of the United Kingdom, decided that, since some of the language questions raised affected the contents of the forms and required further study, a decision on the said questions should be deferred until the mandatory or optional character of the forms was finally decided and the further study made.

19. The Delegation of the Soviet Union proposed to amend Section 103(d) by adding at the end of its last sentence the phrase "which should be expressed on the request form." The International Bureau replied that, while the proposed wording would, contrary to Rule 4.17, introduce additional matter, the need for the possibility for the applicant to express such a wish at the time of filing would be further studied. The applicant should, however, retain the right under any such provision to change this decision later.

Section 106

20. The Delegation of Norway raised the question whether this Section provided for the situation where several applicants had different agents.

21. The Delegation of the United States of America proposed that the following new paragraph be added to this Section: "Where all applicants do not name the same agent, Rule 4.8(b) shall apply."

22. The International Bureau replied that the question was amply covered by Rule 4.8(b), but that the possibility of an appropriate reference to that Rule would be further studied.

Section 107

23. The Delegation of the United Kingdom asked the International Bureau why the use of two-letter codes for the International Authorities such as "SA" instead of "ISA" to indicate the International Searching Authority and "EA" instead of "IPEA" to indicate the International Preliminary Examining Authority had not been adopted in this Section.

24. The International Bureau explained that the two-letter code was not utilized, since the three-letter and four-letter codes provided a better identification of the Authorities involved and avoided confusion with the two-letter country codes.

Section 108

25. On a proposal by the Representative of FEMIPPI, supported by the Representatives of CEIF and AIPPI, the Interim Committee decided that, in any correspondence from an International Authority intended for the applicant or his agent, the file number of the applicant or agent should be quoted, if available, as an additional means of identification. The question of the appropriate place for such provision and of the space to be allotted on the forms for such indication (not more than 10 digits) will be further studied.

26. The Representative of the IIB remarked that PCT Rules 4.17 and 43.9 prohibited the inclusion of the internal file number of the applicant in the request form and the international search report form. The International Bureau stated in this context that, in view of PCT Rule 4.17, the indication of the applicant's file number at the time of filing would have to be made outside the request form, unless Rule 4 were amended accordingly.

27. The Representative of CEIF suggested providing space in the request form for the indication of a special address for correspondence intended for the applicant which was different from the official address of the applicant. The Interim Committee decided that the International Bureau should study whether the request form could be so amended.

Section 201

28. It was decided to maintain at least for the time being the double indication of dates as provided in this Section for reasons of clarity and security.

Section 204

29. On a proposal by the Delegation of the Soviet Union, it was agreed to replace in item (i), lines 2 and 3, the phrase "the International Bureau shall treat the international application" by "the international application shall be treated" in order to extend that obligation in particular also to the receiving Office.

Section 206

30. On a proposal by the Delegation of Switzerland, the Interim Committee decided that the phrase "provided that language is French, German, Japanese or Russian" should be deleted in paragraph (a) (i) and (ii) and in paragraph (b).

Section 207

31. The Delegation of Japan, supported by the Delegation of the Soviet Union, proposed to indicate the common representative on the front page and not on the supplemental sheet of the request form. It was agreed to study this question further in connection with the next revision of the request form.

Section 301

32. Following a suggestion by the Representative of FEMIP, it was agreed to insert, after "Section 307(a)" in line 4, the phrase "and the applicant's file number, if available" now appearing at the end of the sentence.

Section 305

33. On a proposal by the Delegation of the Soviet Union, it was decided that the wording of paragraph (a) of this Section should be clarified in order to ensure that, when the international application is filed in one copy only, the receiving Office will first prepare the necessary copies and then mark such copies with the words "RECORD COPY," "SEARCH COPY" and "HOME COPY."

Section 307

34. The Delegation of the United States of America asked the International Bureau whether a distinction between the provisional file number and the international application number was necessary or whether the notation "PCT" should be used in all instances.

35. It was decided that it was preferable to retain the provisional file number and the international application number with a distinction as to the addition of the notation PCT in order to avoid confusion between the two. It was also felt that, in view of the existence of other (regional) treaties, the addition "PCT" in the international application number was extremely useful in order to identify clearly the treaty under which the application originated.

Section 310

36. On a proposal by the Delegation of the Soviet Union, it was decided to insert in paragraph (c)(ii) and (iii), line 3, after "such drawings" the phrase "and any reference to such drawings."

Sections 311 and 315

37. It was decided that the possibility of redrafting these Sections should be studied, taking into account the proposals in document PCT/AAQ/VI/13 (pages 6, 7 and 9) submitted by the Delegation of the Soviet Union. The Delegations of Switzerland and the United Kingdom remarked with respect to the said proposals that, in the case of paragraph (b)(i), the total number of sheets should be indicated as well and that the form of numbering of new sheets, indicated in paragraph (b)(iii), should be simplified.

Section 313

38. On a proposal by the Delegation of the Soviet Union, it was decided to replace the word "preceded" in the last line of this Section by "identified."

Section 403

39. It was decided to insert after "where" in line 1 the phrase ", under Rules 40.2(c) or 68.3(c),". In addition, it was decided that the phrase "to any designated or elected Office," now contained in line 4, should be inserted at the end of line 1 after the word "forward."

Section 404

40. The Delegation of the Philippines suggested that the international application number and the international publication number should be identical and only distinguished by the letter "A" for the former and the letter "P" for the latter. In the discussion, it was indicated that a separate international publication number, being part of a sequential series, ensured that a numerical collection of documents could easily be verified as to its completeness. On a proposal by the Delegation of the United States of America, it was decided to request that the competent body of ICIREPAT should study the question further, particularly since that body was already carrying out a study concerning the numbering of patent applications and patent documents.

Section 406

41. It was decided that, before taking any final decision in respect of the form and content of the front page of the pamphlet, the results of the study being carried out at present in this field by the Technical Committee for Standardization of ICIREPAT should be awaited.

Section 408

42. The Delegation of Sweden raised the question whether the phrase "UNTIMELY FURNISHED ON" and "NOT FURNISHED AT TIME OF THIS PUBLICATION" should be in a language other than English. It was decided to study whether the aforementioned phrases should be in English when the international application was published in English, and in English and the language of publication of the international application when that language was one of the other languages referred to in Rule 48.3(a).

43. The Delegation of the United Kingdom indicated that the term "UNTIMELY" was unclear. It was agreed to study whether that term could be changed in such a way as to clarify that filing after the expiration of the time limit was meant.

Section 503

44. The Delegation of Japan pointed out that the citation of a Japanese patent document must always include a reference to the year of the reign of the Emperor before the citation of the patent publication number.

45. Upon a proposal by the Delegation of Switzerland, it was agreed to change paragraph (b) (iii) to read as follows:

"(iii) the year of publication (when this coincides with the year of the international application or of the priority claim, the International Searching Authority shall endeavor to determine the month and, if necessary, the day of publication and to indicate these data in the international search report)."

46. Upon a proposal by the Representative of the IIB, it was agreed that paragraphs (b) (v) and (c) (iii) should be amended by inserting "as far as available" at the beginning of each of the two provisions.

47. The Delegation of the United States of America offered to submit at a later date observations on paragraph (d) as regards minimum requirements in respect of the identification of documents containing abstracts.

Section 504

48. Upon a proposal by the Delegation of the United Kingdom, it was agreed to study whether the words in lines 1 and 2 of paragraph (a) "must be provided with different classification symbols" could not be replaced by "is such that classification thereof requires more than one classification symbol" or words to that effect.

49. It was agreed to insert in paragraph (c), line 3, the words "wherever possible," after the word "shall."

Section 505

50. It was agreed to add at the end of the second line the word "letter."

Section 506

51. It was agreed to delete the "latter's" in paragraph (a), line 2, and to change the word "translation" in the same line to "translations."

Section 508

52. It was agreed, in respect of paragraph (c), to substitute the letter "A" for the letter "G" in order to denote documents defining the general state of the art in such a way as to accommodate the needs of the Cyrillic alphabet.

53. Upon a suggestion by the International Bureau, a new paragraph (e), as contained in document PCT/AAQ/VI/19, was adopted, subject to using the letter "T" instead of the letter "L" suggested in the said document for the reason indicated in the preceding paragraph.

54. The Chairman, in the name of the Interim Committee, asked the International Bureau to suggest to the competent bodies of the Interim Committee of the European Patent Organisation the adoption of the changes of letters referred to under the two preceding paragraphs also for the purposes of that Organisation.

Section 509

55. It was decided that the first four words of this Section should be deleted.

Section 602

56. It was decided to study whether the title of this Section, "MARKING OF REPLACEMENT SHEETS," should be changed to read "MARKING AND NUMBERING OF REPLACEMENT SHEETS," and whether the changes to be considered for Section 311 would apply here mutatis mutandis.

Annex D

57. The Interim Committee agreed that consideration of the question of the format of the front page of the pamphlet should not be decided until a final recommendation on this matter was received from ICIREPAT. The International Bureau indicated that such recommendation was expected by April/May 1976.

58. The Delegation of Switzerland stated that the use of the symbols of the International Patent Classification appearing in Annex D should be changed to conform with the requirements of the second edition of that Classification.

59. The Delegation of Sweden expressed the opinion that the drawing in the Annex contained shading which was not required under the PCT. The Delegation was invited to submit a proposal for a new sample drawing.

60. The Delegation of the Netherlands suggested that the title in the Annex should be preferably of bolder type and should be placed in the middle of the front page.

61. The Delegation of the United States of America proposed that the international publication number should appear in larger and/or bolder characters or that it be underlined.

FORMS

62. Discussions were based on document PCT/AAQ/VI/3, containing the draft Receiving Office and International Searching Authority Forms, on document PCT/AAQ/VI/4, containing the draft International Bureau and International Preliminary Examining Authority Forms, on document PCT/AAQ/VI/5, containing the draft Forms concerning the Request (PCT/RO/101) and the Fee Calculation Sheet, the International Search Report (PCT/ISA/210), the Demand (PCT/IPEA/401) and the International Preliminary Examination Report (PCT/IPEA/409), and on documents PCT/AAQ/VI/14 and 18 submitted by the Soviet Union and the United States of America, respectively, and containing comments on some of the forms. Only documents PCT/AAQ/VI/5 and, to the extent that they related to that document, documents 14 and 18 were discussed in more detail.

PCT/RO/101 (Request)

63. In respect of the Request Form, the Delegation of Japan submitted a revised sample of the first two pages. This revised sample provided more space on the form by eliminating the empty spaces between the various boxes on the form. The Delegation of Japan was of the opinion that such revision would provide additional space needed for transliteration into English, for the name and address of the applicant, for the address of the inventor and agent, for the title of the invention, for the signature and for the indication of the priority country for a regional application. The Delegation of Japan also confirmed its wish that this form should provide for the indication of a common representative on the first page rather than on the supplemental sheet. The Interim Committee noted that the International Bureau would use the revised sample form submitted by the Delegation of Japan as material when studying further the question of increasing the space available on the form on the occasion of the next revision of the form.

64. The Interim Committee agreed with the proposal of the Delegation of Switzerland, supported by the Delegation of the United States of America, that boxes VII, IX and X on the second page of the form should be transferred to the supplemental sheet to provide additional space.

65. It was agreed to provide a column in box V (Designation of States) in order to permit entry of the two-letter country code preceding the information. With respect to certain kinds of protection, it would be desirable to provide a special place to enter the kinds of protection sought.

66. As regards the title of the third page of the form, it was agreed that "continuation" should be changed to "supplemental."

PCT/ISA/210 (International Search Report)

67. In the course of the examination of this form as to contents and layout, the delegations made numerous proposals and comments. Some of these proposals were discussed extensively. Particular emphasis was placed by the Delegations of France and the Netherlands and by the Representative of the IIB on the problems involved in the publication of the international search report as regards duplication of bibliographical data and material in the search report and on the front page of the pamphlet. The Delegation of the Netherlands suggested that the front page of the search report coincide with the front page of the specification by transferring the "Fields Searched" box to the reverse of the front page; it suggested that this would also ease the problem of separate publication of the search report and abstract and of the translation thereof into English; it suggested that the Regulations be modified to allow this. It was agreed that, until the problems connected with publication of the international application including the international search report were finally resolved, and until it became clear in this context that the proposed changes would prove to be economical and practical, the International Search Report Form as now established should not be substantially changed.

68. The Interim Committee agreed with the proposal of the Delegation of Switzerland and the Representative of the IIB that the third sheet of the form (observations on the title and abstract) should preferably be on a separate sheet since in that case such sheet need not be reproduced when publishing the search report by offset.

69. In respect of box II (Fields Searched), the Delegation of the United States of America asked how periodicals searched but not part of the minimum documentation were to be indicated on the form. It was agreed that the word "Patent" in the lower sub-box should be deleted to eliminate the problem. Upon a suggestion by the Delegation of the Netherlands, it was finally agreed that the title of the lower sub-box II should read as follows: "Documentation Searched Other than Minimum Documentation to the Extent that Such Documents are Included in the Fields Searched⁵." The Representative of the IIB drew attention to the fact that the PCT Guidelines for Searches or Administrative Instructions would have to provide some instructions to the International Searching Authority as to how the box should, in practice, be filled in.

70. It was understood that the International Bureau would, in due course, study further the question how the International Search Report Form could be revised as to layout to provide more space.

Further Procedure with Respect to Forms

71. At this stage of the discussions, the Interim Committee decided not to continue the detailed consideration of the documents relating to the forms during this session, partly because of lack of time for the necessary thorough examination and partly since it was felt that it would be preferable to defer a detailed examination and revision of the forms until after completion of the envisaged simulated test program, during which the forms would be thoroughly tested and subjected to practical experience by several Offices.

72. With respect to further procedure concerning the forms, the Interim Committee decided that, at the latest, upon completion of the envisaged simulated test program and preferably no later than by April 30, 1976, the interested Offices should submit observations on the forms, in writing, to the International Bureau. The International Bureau should then analyze the observations and estimate the extent of revision of the forms needed in the light of the results of the discussions of this session and of the observations received. Thereafter, the Director General of WIPO would either himself establish a final version of the forms, or convene a Working Group on Forms with the task of establishing such a final version. The Working Group on Forms, if convened, should consist of experts of the Offices taking part in the simulated test program. In any event, whether the final version of the forms would be established by the Director General or by the Working Group on Forms, that version of the forms would be considered final by the Interim

Committee and would no longer be examined by it in detail. The only question which the Interim Committee reserved for its final decision was that of the mandatory or optional character of each form. That decision would be taken on the basis of the proposals submitted by the Director General, based on the results of the work of the Working Group on Forms, if any. The Director General would decide, in the light of the progress made with the preparation of the final version of the forms, for which of the future sessions of the Interim Committee the question of considering the mandatory or optional character of the forms should be placed on the agenda, it being understood that preferably this matter should be decided before the end of 1976.

DRAFT GUIDELINE FOR APPLICANTS FILING UNDER THE PATENT COOPERATION TREATY (PCT)

73. Discussions were based on document PCT/AAQ/VI/6.

General Comments

74. The Delegations of Austria, France, Germany (Federal Republic of), Hungary, the Philippines, the Soviet Union, Sweden, Switzerland, the United Kingdom and the United States of America, as well as the Representatives of the IIB and IFIA, made general comments on the first draft of the Guideline for Applicants and commended the International Bureau for its work in preparing that draft.

75. The Delegations of Switzerland, the United Kingdom and the United States of America felt that the Guideline, as well as the introduction thereto, were too comprehensive and complicated to be easily read and digested, in particular by an individual applicant. They expressed the view that use of the Guideline would be facilitated by simplifying the text or language as much as possible and by placing any reference to Articles and Regulations of the PCT in the margin. A further simplification could be achieved by using abbreviated expressions (for instance, a shorter term for International Preliminary Examining Authority).

76. The Delegations of Austria, France, Germany (Federal Republic of), Hungary, the Philippines, the Soviet Union and Sweden expressed the fear that too much simplification and brevity in respect of the content of the Guideline might lead to eliminating essential subject matter necessary for the understanding of the PCT procedure by applicants. The Guideline should contain sufficient indications to permit the applicant to handle, as far as possible, the PCT procedure himself. Instead of shortening and generalizing the Guideline, it should be preceded by a rather elementary general introduction. Otherwise the Guideline was appropriate in its present version both as to subject matter and as to size and should essentially remain as it was.

77. The Delegation of the Soviet Union, supported by the Delegations of Austria and Germany (Federal Republic of), suggested in addition that the text of the Guideline should be supplemented with practical examples extracted from any pending or future test programs of simulated PCT applications.

78. The Delegation of the United States of America suggested that the Guideline should be generalized in the sense that it should not be burdened with information relevant only for particular receiving Offices or countries. It would be preferable to supplement the generally applicable Guideline by individual guidelines drawn up by each receiving Office for the purpose of its applicants.

79. The Delegation of Hungary suggested that the provisions of the Treaty and the Regulations referred to in the Guideline should be annexed.

80. The Representative of IFIA felt that the Guideline in its present form was too complicated to be used by the individual inventor. Its use could be facilitated if references to all forms were added and if the forms referred to were attached.

81. The Delegations of Sweden and the Netherlands, supported by other Delegations, were of the opinion that the Guideline should state at an appropriate place that it could not replace the services of a professional representative.

82. At the conclusion of the general discussion, the Interim Committee agreed that the present form and content of the Guideline should, in principle, be maintained, that the Guideline should be prefaced by a general introduction on the purpose and principles of the Treaty, and that references relevant for particular countries and receiving Offices should be eliminated from the Guideline. The Guideline should be supplemented by additional guidelines to be established by each receiving Office and reflecting the relevant information with respect to the country of that Office. Furthermore, the Guideline should state that further information could be obtained from receiving Offices. The Guideline should contain a reference that it was not meant to replace the valuable assistance of professional representatives. An annex containing extracts of the relevant provisions of the Treaty and the Regulations and the forms should not be provided for, since it would make the Guideline too voluminous. Moreover, it could be assumed that the Guideline would be used together with the full text of the Treaty and the Regulations.

Detailed Comments by the Delegations

83. With respect to paragraph 11 of the Guideline, the Delegation of the Netherlands felt that regional protection was not sufficiently covered.

84. With respect to paragraph 13, it was agreed to replace the second sentence by the following text:

"However, any Contracting State may make a reservation excluding the application of the Chapter of the Treaty providing for international preliminary examination. Even where that Chapter is applicable, any applicant can decide for himself whether he wants to take advantage of international preliminary examination."

85. The Delegation of the United Kingdom suggested amending paragraph 14 to read as follows:

"By a single act of filing an international application under the Treaty, it is possible to secure the same effect as, without the Treaty, would require as many acts of filing a separate application as there are countries in which the applicant seeks protection."

86. For paragraphs 21 to 23 inclusive, amendments were suggested with a view to clarifying that the question whether a search report was favorable or unfavorable was at this stage only decided by the applicant himself, since the search report itself did not contain any such conclusion.

87. With respect to paragraph 23, it was furthermore agreed to insert "international" before "search report" in line 1 and to add "and if a national search report cannot be obtained sufficiently early in the priority year" at the end of this paragraph.

88. With respect to paragraph 32, it was agreed that the words "if any" should be inserted in line 4 after "drawings," and that in the penultimate line "must clearly" should be replaced by "shall preferably."

89. It was agreed that the last sentence of paragraph 34 should be replaced by the following text: "This would help to ensure a better understanding of the invention."

90. The Delegation of the Netherlands suggested that paragraph 36 should reflect the requirement of sequential numbering of sheets of the international application.

91. As regards paragraph 37, it was agreed to delete in lines 5 to 8 the part of the second sentence after the words "physical requirements."

92. As regards paragraph 40, the Delegation of Norway was concerned with the effect of a fluctuation in the exchange rate on the payment of fees within the prescribed time limit by the applicant. The International Bureau referred to the relevant provisions, in particular to Rule 15.4, which in due course would have to be supplemented by regulations concerning payment of fees issued by the competent receiving Office. The risk that only an insufficient amount would be paid within the prescribed time limit was to be borne by the applicant.

93. The Delegation of the United States of America, referring to the lack of any reference to designation fees in paragraph 40(iii), suggested explaining the composition of the international fee in this paragraph. The Delegation of the Netherlands proposed that the tasks of the International Bureau in this same paragraph should be defined in a manner similar to the definition of the task of the International Searching Authority in paragraph 40(ii).

94. The Delegation of Hungary indicated that paragraph 42 should include the consequence of not filing a priority document in accordance with PCT Rule 17.1(b).

95. The Delegation of France proposed that paragraphs 56 to 58 should be more explicit and reflect the regional systems in force at the time the PCT would be in force by making express reference to the European Patent Organisation and to the African and Malagasy Industrial Property Office.

96. The Representative of the IIB indicated that paragraph 68 should be amended in such a way that the applicant could ask for the "record copy" or a "certified copy" based on the "home copy" in accordance with PCT Rule 22.1(b).

97. In paragraph 81, international-type search should either be defined or reference should be made to Article 15(5)(a).

98. It was noted that paragraph 92 should include a reference to Article 27(4) with respect to the possibility for a designated Office to apply more favorable formality requirements.

GUIDELINES FOR RECEIVING OFFICES UNDER THE PCT

99. Discussions were based on document PCT/AAQ/VI/7.

100. The Delegations of Austria, France, Germany (Federal Republic of), Hungary, the Netherlands, the Soviet Union, Sweden, Switzerland, the United Kingdom and the United States of America, as well as the Representative of the IIB, made general comments on the Guidelines for Receiving Offices and commended the International Bureau for its work in drafting that Guideline.

General Comments by the Delegations

101. It was generally felt that the Guidelines would be extremely useful to permit receiving Offices to adjust to PCT procedures. They would, in particular, serve as valuable material for testing and training purposes.

102. It was stressed that the proposals for organizational units in Part B of the Annex of the Guidelines should only be considered as a model since the needs differed considerably from Office to Office.

103. It was agreed that the optional nature of the Guidelines, especially as far as the organizational proposals were concerned, should be emphasized on page 2, paragraph 2, of the Annex, and that Part B (Organizational Units) of the Guideline should be dissociated from the procedural part of the document by placing it at the end of the document. Furthermore, the question should be examined whether the procedural part required amendment in order to serve at the same time as Guidelines for the examination of formalities. Several delegations stressed, however, that the document in its present content and structure was fully satisfactory and that changes should be avoided as far as possible.

Detailed Comments by the Delegations

104. It was agreed that the specific task of time monitoring should be included in paragraph 13 of the Annex of the Guidelines.

105. The Delegation of the United States of America expressed the opinion that the Payment Control Unit in paragraphs 49 to 52 was not the unit that should be concerned with formality matters such as Rule 4.10 priority claim checks. It was suggested that these paragraphs should be rewritten to the effect that, should any questions in determining the due date of designation fees arise because of unsettled priority indications, the Formalities Handling Unit would determine the issue.

106. The Delegation of Switzerland pointed out that in the Appendix, Part I, item RO/3, reference to the requirement that the international applications must contain "a part that appears to be a description" must be included.

107. It was noted that item RO/3.3 should be corrected by deleting "as if a positive Article 11(1) determination had been made."

108. It was pointed out that the reference to "Section 307" in RO/3.7 should read "Section 107."

DRAFT MODEL AGREEMENT

109. Discussions were based on document PCT/AAQ/VI/8.

General Comments by the Delegations

110. The Delegations of Sweden, Switzerland and the United States of America and the Representative of the IIB expressed the opinion that the document provided an excellent basis for the negotiations which would have to take place between the International Bureau and the prospective International Authorities. All essential points to be considered for such negotiations were mentioned. While the character of the document as a draft model agreement left enough flexibility to adjust to the particular situation of each International Searching Authority, the desire was expressed that all agreements should be as similar as possible.

Detailed Comments by Delegations

111. It was agreed that Article 1 should be redrafted to provide for separate definitions of the terms "Treaty," "Regulations" and "Administrative Instructions" for reasons of consistency with the terminology used elsewhere in the framework of the PCT. The Delegation of the Philippines stated that the parties to such Agreement should be countries and not Offices. The International Bureau replied that, according to Article 16(3) of the PCT, the agreements had to be concluded with the Offices or organizations referred to therein.

112. With respect to Article 2, it was agreed to replace in line 4 "in" by "with the provisions of."

113. The Delegations of Austria, the Netherlands and the Soviet Union proposed that Article 2 should also include a similar commitment on the part of the International Bureau. The International Bureau replied that the basic obligation of the International Bureau was clearly spelled out in the Treaty and that no reason was apparent to restate such obligation. The Delegation of Austria furthermore expressed the opinion that the basic commitment of the International Searching Authority could be better described as an obligation to "carry out searches in accordance with the Treaty"

114. With respect to Article 3, the Delegations of the Philippines and the Soviet Union and the Representative of the IIB expressed doubts as to whether an International Searching Authority could restrict its competence for international search to particular receiving Offices, since no such possibility for restriction appeared in the Treaty. Furthermore, the Delegation of the Soviet Union proposed that the International Bureau study the legal aspects of that question.

115. The International Bureau expressed the opinion that PCT Article 16(2) and (3) allowed such restriction. Restrictions of that nature were a practical necessity for several prospective International Searching Authorities. This view was shared by the Delegations of Japan, the Netherlands, Sweden, the United Kingdom and the United States of America.

116. The International Bureau proposed the following amendment to Article 3(i):

"with the receiving Offices of, or acting for, all States, or of, or acting for, the States specified in the Annex, and." The reason for this proposal was that, while each International Searching Authority had the right under Article 16(2) of the PCT to restrict applications for searches accepted by it to certain receiving Offices, it could also agree to accept such applications from all receiving Offices.

117. The Interim Committee decided that the International Bureau should study the question of availability of International Searching Authorities further, so as to ensure that all Contracting States would have at least one International Searching Authority prepared to accept their applications for search when the PCT finally came into force.

118. It was decided to amend the penultimate line of Article 3 by inserting "or deleting" after "adding" and deleting "further" in the last line.

119. It was decided that Article 4 should be divided into two separate paragraphs, in order to meet the two different requirements of PCT Rules 36.1(i) and (iii).

120. The Representative of the IIB questioned the need for Article 5(1), since there would appear to be no need to enforce the maintaining of documentation outside PCT Rule 34. It was agreed, however, to maintain this paragraph, since it would facilitate international harmonization of documentation and appropriate information to the users of the system. However, it was understood that, if such documentation outside PCT Rule 34 were included, no significant changes should be made without informing the International Bureau.

121. The Delegations of Sweden and the United Kingdom raised the question whether the wording of Article 5(2) takes away the desirable flexibility of the International Searching Authority in restricting its choice under PCT Rule 34.1(d) to one kind of document. The conclusion was reached that the Article under discussions would be retained to achieve some level of standardization and to provide a basis for discussion in the individual negotiations between competent Authorities, but that provision should be made to allow substitution by another kind of document in application of PCT Rule 34.1(d).

122. Upon a proposal by the Delegations of Sweden and the United Kingdom, paragraph (3) of Article 8 was amended as follows:

"(3) The Authority shall charge a fee, as prescribed in Annex C to this Agreement, for the translation of the international application, according to Rule 48.3(b), whenever such application is filed in a language other than one of those prescribed for the publication of the international application in Rule 48.3(a)."

123. With respect to Article 11, it was suggested that it be mentioned in a footnote that such indication of symbols of another classification system was the exception.

124. With respect to Article 12 and the listing of States in the Annexes, the Delegation of the Soviet Union was of the opinion that the considerations referred to under Article 3 would apply here as well.

125. The Interim Committee asked the International Bureau to revise the draft Model Agreement in the light of the comments made.

126. The Delegations of Switzerland and the United Kingdom proposed that the present text of the draft Model Agreement and an extract of the Report on this matter should be sent as soon as possible for comments to the Interim Committee of the European Patent Organisation.

127. The International Bureau stated that such a communication could only be envisaged after a thorough revision of the draft Model Agreement.

128. The Interim Committee noted that the International Bureau would, once the revision of the draft was completed, send a revised version of the draft Model Agreement to all prospective International Searching Authorities and to the Interim Committee of the European Patent Organisation. When transmitting the draft, the International Bureau would ask the said Authorities and the Interim Committee of the European Patent Organisation to comment and, to the extent possible, furnish all indications necessary for the preparation of drafts of individual agreements for each of the prospective Authorities.

TEST OF CERTAIN ASPECTS OF PCT PROCEDURES THROUGH SIMULATED PCT PROCEDURES

129. Discussions were based on documents PCT/AAQ/VI/9, 11 and 12.

130. A detailed discussion of these documents was considered to be premature, since the program referred to in the documents had so far not progressed beyond the initial stage.

131. The Interim Committee, noting with appreciation the initiative of the Soviet Union in this matter, was of the opinion that the test program was of considerable importance and should be actively continued. In this connection, the Delegations of Austria, Sweden, Switzerland, the United Kingdom, the United States of America and Japan (despite the great numbers of pending applications), as well as the Representative of the IIB, indicated their intention to participate in the test program in addition to the Federal Republic of Germany and the Soviet Union. The International Bureau confirmed its readiness to contribute to the test program by assuming its role under the Treaty and by acting as an intermediary for the promotion of the test program.

132. The Delegation of the United States of America offered to exchange file wrappers or dossiers with other prospective International Searching Authorities with reference to document PCT/AAQ/VI/12, page 10 of the Annex.

Compatibility of the PCT and EPO

133. Discussions were based on document PCT/AAQ/VI/10.

134. The Interim Committee, in expressing its gratitude to the International Bureau for the preparation of the document, noted the considerable usefulness of the valuable information contained in the document and its Annex and concluded that there was no need to continue the study.

PROGRAM OF THE INTERIM COMMITTEE FOR 1976

135. It was decided that, in view of the program which had been previously adopted for the work of the Interim Committee and in the light of the work in progress or already completed, the program of the Interim Committee for 1976 should include the following items:

(i) further elaboration of the draft Administrative Instructions under the PCT in the light of the recommendations of the Interim Committee;

(ii) further revision of the draft PCT forms in the light of the recommendations of the Interim Committee and, if necessary, with the help of a Working Party;

(iii) continuation of work on the draft Guidelines for receiving Offices under the PCT in the light of the recommendations of the Interim Committee;

(iv) continuation of work on the draft Guideline for Applicants in the light of the recommendations of the Interim Committee;

(v) continuation of the elaboration of a Draft Model Agreement between the International Bureau and the International Searching Authority in the light of the recommendations of the Interim Committee;

(vi) testing the Draft Administrative Instructions, including the PCT forms, for their compliance with practical requirements, through simulation of PCT procedures;

(vii) preliminary study of the staff and equipment requirements of the International Bureau during the year before the entry into force of the PCT and during the first year of its effective operation;

(viii) preparation of a draft Guideline on Publication for the PCT reflecting the form, style and layout of publications which the International Bureau will be required to issue under the PCT.

136. This report was unanimously adopted by the Interim Committee at its closing meeting on November 3, 1975.

LISTE DES PARTICIPANTS/
LIST OF PARTICIPANTS

I. ETATS/STATES

ALGERIE/ALGERIA

Mrs. G. SELLALI
Conseiller
Mission permanente de la République Algérienne
Genève

ALLEMAGNE (REPUBLIQUE FEDERALE D')/GERMANY (FEDERAL REPUBLIC OF)

Mr. U. C. HALLMANN
Regierungsdirektor
German Patent Office
Munich

Mr. W. MASSALSKI
Oberregierungsrat
German Patent Office
Berlin Branch

AUTRICHE/AUSTRIA

Mr. G. GALL
Head of Division
Federal Ministry for Trade, Commerce and Industry
Section for Industrial Property
Vienna

BRESIL/BRAZIL

Mr. A. G. De ALENCAR
Counsellor
Permanent Delegation of Brazil
Geneva

COTE D'IVOIRE/IVORY COAST

Mrs. L. M-L. BOA
Deuxième Secrétaire
Représentation permanente de la République de Côte d'Ivoire
Genève

DANEMARK/DENMARK

Mr. J. J. P. IRGENS
Head of Section
Ministry of Commerce
Copenhagen

Mr. O. P. CALLESEN
Deputy Head of Section
Danish Patent Office
Copenhagen

EGYPTE (REPUBLIQUE ARABE D')/EGYPT (ARAB REPUBLIC OF)

M. S. A. ABOU-ALI
Premier Secrétaire
Mission permanente de la République Arabe d'Egypte
Genève

ETATS-UNIS D'AMERIQUE/UNITED STATES OF AMERICA

Mr. A. C. MARMOR
Administrator for Documentation
United States Patent and Trademark Office
Washington, D.C.

Mr. L. O. MAASSEL
Patent Procedure Specialist
United States Patent and Trademark Office
Washington, D.C.

Miss M. E. TUROWSKI
Management Analyst
United States Patent and Trademark Office
Washington, D.C.

FINLANDE/FINLAND

Mr. P. SALMI
Head of Section
Patent and Registration Board
Helsinki

Mr. E. FRIMAN
Advisory Engineer
Patent and Registration Board
Helsinki

FRANCE

M. P. GUERIN
Attaché de direction
Institut national de la propriété industrielle
Paris

HONGRIE/HUNGARY

Mrs. E. PARRAGH
Deputy Head of Section
National Office of Inventions
Budapest

IRLANDE/IRELAND

Mr. P. SLAVIN
Principal Examiner
Patents Office
Dublin

JAPON/JAPAN

Mr. T. SHIROSHITA
Director General
Department of Appeals
Patent Office
Tokyo

Mr. T. YOSHIDA
Direktor der Patentabteilung (JETRO)
Düsseldorf
Germany (Federal Republic of)

LUXEMBOURG

M. F. SCHLESSER
Adjoint au Chef du Service de la propriété industrielle
Luxembourg

NORVEGE/NORWAY

Mr. O. OS
Overingeniør
Norwegian Patent Office
Oslo

PAYS-BAS/NETHERLANDS

Mr. J. Dekker
Vice President
Patent Office
Rijswijk (Z.H.)

PHILIPPINES

Mr. E. BAUTISTA
Assistant Head
Division of Research and Law Reform
University of the Philippines Law Center
Quezon City

ROUMANIE/ROMANIA

Mr. V. TUDOR
Conseiller
Mission permanente de la République socialiste de Roumanie
Genève

ROYAUME-UNI/UNITED KINGDOM

Mr. D. G. GAY (Head of Delegation for TCO)
Superintending Examiner
The Patent Office
London

Mr. A. F. C. MILLER (Head of Delegation for AAQ and TAS)
Principal Examiner
The Patent Office
London

Mr. R. W. HEININK
Higher Executive Officer
The Patent Office
London

SUEDE/SWEDEN

Mr. S. LEWIN
Deputy Director General
Royal Patent and Registration Office
Stockholm

Mrs. B. SANDBERG
Legal Adviser
Royal Patent and Registration Office
Stockholm

Mr. L. TÖRNROTH
Primary Examiner
Royal Patent and Registration Office
Stockholm

SUISSE/SWITZERLAND

- M. J.-L. COMTE
Directeur adjoint
Bureau fédéral de la propriété intellectuelle
Berne
- M. R. KÄMPF
Chef de Section
Bureau fédéral de la propriété intellectuelle
Berne
- M. M. LEUTHOLD
Chef de Section
Bureau fédéral de la propriété intellectuelle
Berne
- M. J. MIRIMANOFF-CHILIKINE
Juriste
Bureau fédéral de la propriété intellectuelle
Berne

UNION SOVIETIQUE/SOVIET UNION

- Mr. L. KOMAROV
Deputy Chairman
State Committee for Inventions and Discoveries
of the USSR Council of Ministers
Moscow
- Mr. E. BURYAK
Head, International Patent Cooperation Division
All-Union Research Institute of State Patent
Examination
Moscow

II. ORGANISATIONS INTERGOUVERNEMENTALES/INTERGOVERNMENTAL ORGANIZATIONS

INSTITUT INTERNATIONAL DES BREVETS (IIB)/INTERNATIONAL PATENT INSTITUTE

- Mr. J. A. H. Van VOORTHUIZEN
Deputy Technical Director
Rijswijk (Z.H.)
- M. A. VANDECASTEELE
Conseiller au Service Technique
Rijswijk (Z.H.)

ORGANISATION DES ETATS AMERICAINS (OEA)/ORGANIZATION OF AMERICAN STATES

- Mr. G. J. SCHAMIS
Director
Representative of OEA in Europe
Geneva

III. ORGANISATIONS NON-GOUVERNEMENTALES/NON-GOVERNMENTAL ORGANIZATIONS

ASSOCIATION INTERNATIONALE POUR LA PROTECTION DE LA PROPRIETE INDUSTRIELLE (AIPPI)/
INTERNATIONAL ASSOCIATION FOR THE PROTECTION OF INDUSTRIAL PROPERTY (IAPIP)

Dr. M. MATHEZ
Directeur
F. Hoffmann-La Roche & Co. Ltd.
Basle

CONSEIL DES FEDERATIONS INDUSTRIELLES D'EUROPE/COUNCIL OF EUROPEAN INDUSTRIAL
FEDERATIONS (CEIF)

Dr. R. KOCKLÄUNER
Hoechst AG Werk Albert
Wiesbaden-Biebrich

FEDERATION EUROPEENNE DES MANDATAIRES DE L'INDUSTRIE EN PROPRIETE INDUSTRIELLE (FEMIFI)

Dr. F. A. JENNY
Patent Abteilung
Ciba-Geigy AG
Basle

Mr. B. DOUSSE
Battelle Memorial Institute
Geneva

FEDERATION INTERNATIONALE DES INGENIEURS-CONSEILS EN PROPRIETE INDUSTRIELLE (FICPI)/
INTERNATIONAL FEDERATION OF PATENT AGENTS

Dr. H. BRÜHWILER
Zurich

Mr. G. E. KIRKER
Conseil en propriété industrielle
Genève

FEDERATION INTERNATIONALE DES ASSOCIATIONS D'INVENTEURS/INTERNATIONAL FEDERATION
OF INVENTORS ASSOCIATIONS (IFIA)

Mr. S.-E. ANGERT
Stockholm

Mr. P. FELDMANN
Opsikon-Glattbrugg
Switzerland.

UNION DES INDUSTRIES DE LA COMMUNAUTE EUROPEENNE (UNICE)
UNION OF INDUSTRIES OF THE EUROPEAN COMMUNITY

Mr. M. G. E. MEUNIER
Chef du Service des Brevets
ACEC
Charleroi

UNION DES MANDATAIRES AGREES EUROPEENS EN BREVETS/
UNION OF EUROPEAN PROFESSIONAL PATENT REPRESENTATIVES (UNION)

Mr. G. E. KIRKER
Patentanwalt
Geneva

IV. ORGANISATIONS OBSERVATEURS/OBSERVER ORGANIZATIONS

CENTRE INTERNATIONAL DE DOCUMENTATION EN MATIERE DE BREVETS/INTERNATIONAL
PATENT DOCUMENTATION CENTER (INPADOC)

Mr. G. QUARDA
Deputy Technical Director
Vienna

THE INSTITUTION OF ELECTRICAL ENGINEERS (INSPEC)

Mr. D. BARLOW
Director
London

Mr. R. B. COX
Manager
Product Development
Hitchin
United Kingdom

V. ORGANISATION MONDIALE DE LA PROPRIETE INTELLECTUELLE (OMPI)/WORLD
INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

Mr. K. PFANNER, Vice-Directeur général/Deputy Director General

Mr. P. CLAUS, Conseiller technique/Technical Counsellor, Chef de Section/Head of
Section, Division de la Propriété industrielle/Industrial Property
Division

Mr. J. FRANKLIN, Conseiller/Counsellor, Chef de la Section PCT/Head, PCT Section,
Division de la Propriété industrielle/Industrial Property Division

Mr. N. SCHERRER, Conseiller/Counsellor, Section PCT/PCT Section, Division de la
Propriété industrielle/Industrial Property Division

Mr. Y. GYRDYMOV, Assistant technique/Technical Officer, Section PCT/PCT Section,
Division de la Propriété industrielle/Industrial Property Division

Mr. B. BARTELS, Consultant, Section PCT/PCT Section, Division de la Propriété
industrielle/Industrial Property Division

Mr. T. OGIUE, Consultant, Section PCT/PCT Section, Division de la Propriété
industrielle/Industrial Property Division

Mr. J. SHEEHAN, Consultant, Division de la Propriété industrielle/Industrial
Property Division