

# WIPO



PCT/AAQ/VIII/7

ORIGINAL: English

DATE: August 12, 1977

## WORLD INTELLECTUAL PROPERTY ORGANIZATION GENEVA

### PATENT COOPERATION TREATY

#### INTERIM ADVISORY COMMITTEE FOR ADMINISTRATIVE QUESTIONS

Eighth Session

Geneva, October 10 to 18, 1977

#### LEVEL OF FEES UNDER THE PCT

Study prepared by the International Bureau

#### BACKGROUND

1. At its seventh session, held in Geneva, from November 1 to 8, 1976, the Interim Advisory Committee for Administrative Questions (hereinafter referred to as "the Interim Committee") adopted as part of its program for the ensuing year a study relating to a review of the level of fees fixed by the Regulations under the PCT and the handling of the fees under the PCT (see the report of the said session, document PCT/AAQ/VII/19, paragraph 170 (viii)).
2. The International Bureau prepared, for the February/March 1977 session of the Working Group established by the Interim Committee to assist in the consideration of PCT budgetary questions ("Working Group on Budgetary Questions"), a memorandum entitled "Budgetary Requirements of the International Bureau" (document PCT/WG/BUD/I/2). This memorandum contained, in its Annex I, budget estimates in which income was calculated on the basis of various assumptions as to the amounts of the most important revenue-producing items in the budget for the initial period of operation of the PCT, namely, the basic fee, the designation fee, the price of the pamphlet and the yearly subscription fee of the Gazette. The amounts of the basic fee and the designation fee are fixed in the Regulations under the PCT (Rules 15.2(a) and (b)). The amounts in respect of the pamphlet and Gazette will be fixed by the Director General upon the advice of the competent PCT bodies (as to the fixing of the amounts in respect of the Gazette, see PCT Rule 86.4 and Section 407(d) of the Administrative Instructions).

#### THE PRESENT DOCUMENT

3. This document contains the study relating to the review of the level of fees referred to in paragraph 1 above. Although its title indicates that it deals with "fees," the present document covers not only the fees (basic and designation fees) and the other important revenue-producing items (prices and subscription fees for the pamphlet and Gazette) dealt with in the said memorandum but also other fees and costs payable to, or for the benefit of, the International Bureau for which provision is made in the PCT as well as the currency in which such fees and costs should be fixed. Furthermore, this document deals with the amendments to the Regulations under the PCT which the Assembly of the PCT Union would be invited to make if the proposals contained in this document are adopted by the Interim Committee.

LEVEL OF FEES

4. The assumption as to fees on which income was calculated in Annex I of document PCT/WG/BUD/I/2 were as follows:

(i) Basic Fee	500 Swiss francs
(ii) Designation Fee	135 Swiss francs
(iii) Pamphlet (single copy)	10 Swiss francs
(iv) Gazette (yearly subscription fee)	500 Swiss francs

5. The Working Group approved item (iv) in the preceding paragraph and agreed to accept for budgetary purposes but subject to possible later review by the Assembly of the PCT Union, items (i) to (iii) of that paragraph (see the report of the said session of the Working Group, Annex to document PCT/AAQ/VIII/6, paragraphs 34 and 35). Moreover, the Working Group agreed with estimates of income for the years 1978, 1979 and 1980 based on the said assumptions (see paragraph 54 of the said report). The said estimates have been reflected, as regards the year 1978, in the Draft Program and Budget of WIPO for the year 1978, as contained in document AB/VIII/2.

6. The Working Group accepted the maintenance, in the said assumptions, of a similar relationship between the amounts of the basic fee and the designation fee as existed under the PCT Regulations as adopted by the Washington Diplomatic Conference (see the report of the said session of the Working Group, Annex to document PCT/AAQ/VIII/6, paragraph 28). In so far as fees are already indicated in the PCT Regulations, the present document proposes, for all such fees, levels that would, subject only to slight variation to reach rounded off figures, maintain the relationship existing between those fees as adopted by the Washington Diplomatic Conference.

7. The memorandum for the Working Group prepared by the International Bureau specifies certain fees (basic, designation and handling fees) in Swiss francs. A major change in the world currency exchange situation which has taken place in the seven years since the PCT was established--the fact that there is no longer a fixed rate of exchange between the US dollar and the Swiss franc--together with the fact that the budget of WIPO is established in Swiss francs (the major part of the expenses of WIPO in relation to the PCT will also be incurred in Swiss francs) makes it unavoidable that the PCT fees and the prices and costs of the International Bureau should be fixed only in Swiss francs.

8. Annex A to this document contains a complete listing of all fees, prices and costs to be paid, and costs to be reimbursed, to the International Bureau, including the fees and prices already referred to, in order to present an overall picture of the level of fees, prices and costs proposed for the initial operational period of the PCT. Any fees and costs which could not be fixed directly on the basis of the principles indicated above have been proposed where appropriate on a comparable basis or otherwise having regard to the relevant costs to be incurred by the International Bureau. As has been noted already (see paragraph 2 above), the price of the pamphlet is not required to be fixed by the Regulations or the Administrative Instructions. The amount indicated in Annex A is thus the amount which will be indicated on each pamphlet as its selling price.

9. Annex B to this document contains amended texts of the relevant Rules of the Regulations under the PCT which the Assembly of the PCT Union would, upon the recommendation of the Interim Committee, be invited to adopt, once the PCT enters into force, if the proposals referred to in paragraphs 7 and 8 of this document are adopted.

OTHER RELATED QUESTIONS

10. The Working Group suggested that the International Bureau study the possibility of fixing the basic and designation fees at a specially low level for the initial period of the PCT in order to increase the attractiveness of the system for the users, at least during that period, provided lower fees would not have very significant budgetary implications (see the report of the said session, Annex to document PCT/AAQ/VIII/6, paragraph 29). In absolute terms, the budgetary implications

would, however, depend upon the number of applications filed so that it would be difficult to anticipate, with any degree of precision, the implications of such a lowering of the fees. Since any adverse budgetary implications would, in any event, have some consequence on the financing of the expected deficit in the initial period of operation of the PCT, no such lowering of the fees is proposed in the present document. Moreover, there are two other factors which would seem to have a much greater influence on the attractiveness of the PCT than a reduction of, say, 100 or even 200 francs of the basic fee (and, correspondingly, of the designation fee), namely:

(i) whether applicants from non-member States of the European Patent Organisation will have to pay during the so-called initial period an additional search fee (that fee is expected to be phased out gradually) when desiring to obtain a European patent (this additional search fee at present would amount to Swiss francs 1,700);

(ii) whether the PCT offers a wide international non-European spectrum of Contracting States in which filing of patent applications is carried out at present (of particular importance here is the participation of Japan).

For the above considerations, a reduction of the basic and designation fees at this stage does not seem to be either possible from the budgetary point of view or likely to be of much practical value. A lowering of the fees, if at all possible, should only be considered by the Assembly of the PCT Union after the PCT has become operational and at a time where the development of system both with respect to membership and number of applications is such that a lowering of the fees would not adversely affect the PCT budget and the financing of the expected initial deficit.

11. The Working Group felt that the price proposed for the pamphlet was generally higher than the prices for comparable publications of national Patent Offices and that the price could only be maintained if, by means of copyright protection, commercial copying and sale of the pamphlet could be prevented. The International Bureau was therefore asked to study the question of the copyright protection existing in those countries which could be expected to be most interested in PCT publications. The results of the said study are contained in document PCT/AAQ/VIII/4.

12. The Interim Committee is invited to consider the level of fees and prices to be paid and costs to be reimbursed to the International Bureau as indicated in Annex A to this document as well as the amended texts of the Rules indicated in Annex B to this document.

[Annex A follows]

## ANNEX A

Level of Fees and Prices to be paid and Costs to be reimbursed  
to the International Bureau

I	II	III	IV
Relevant Articles, Rules and Sections	Kind of Fee, Cost or Price	Amounts at present	Amounts proposed
Rule 15.1(i) Rule 15.2(a)(i)	<u>Basic Fee:</u> if international application contains not more than 30 sheets	US\$45 or Sw. Frs.194	Sw. Frs.500 <sup>(1)</sup> (1)
Rule 15.2(a)(ii)	if international application contains more than 30 sheets	US\$45 or Sw. Frs.194 plus US\$1 or Sw. Frs. 4.30 per sheet in excess of 30	(2) Sw. Frs.500 plus Sw. Frs.10 per sheet in excess of 30
Rule 15.1(ii) Rule 15.2(b)(i)	<u>Designation Fee:</u> when Art. 13 copy not required	US\$12 or Sw. Frs.52	Sw. Frs.135 (3)
Rule 15.2(b)(ii)	when Art. 13 copy required	US\$14 or Sw. Frs.60	Sw. Frs.160 (4)
Rules 57.1 and 57.2(a)	<u>Handling Fee</u>	US\$14 or Sw. Frs.60	Sw. Frs.160 (5)
Rule 57.2(b)	<u>Supplement to Handling Fee</u>	US\$14 or Sw. Frs.60	Sw. Frs.160 (6)
Art. 13.2(b) Rule 31.1(b)	Fee covering the <u>cost</u> of preparing and mailing an Art. 13 copy on request of the applicant	-	Sw. Frs.45 (7)
Rule 48.4(a) Section 405	<u>Special publication fee</u> on request of the applicant	Sw. Frs.200	Sw. Frs.200 (8)
Rule 94.1	<u>Cost</u> of furnishing copies of any document in the file	-	Sw. Fr.1 per page <sup>(9)</sup> plus Sw. Frs.5 surface mail or Sw. Frs.15 airmail (10)
Rule 95.1(b)	<u>Cost</u> of furnishing copies of translations of the international application	-	Sw. Fr.1 per page <sup>(11)</sup> plus Sw. Frs.5 surface mail or Sw. Frs.15 airmail (12)
Rule 86.4 Section 407(d)	<u>Gazette sale price:</u> subscription per year per single copy	Sw. Frs.500 Sw. Frs.15	Sw. Frs.500 (13) Sw. Frs.15
(Art. 57(3)(ii)) (Rule 48)	<u>Pamphlet sale price:</u> per single copy	-	Sw. Frs.10 (14)

Columns:

I- Relevant Articles, Rules and Sections of the Treaty, Regulations and Administrative Instructions.

II- Kind of Fee, Cost or Price: only short identification given; see cited Articles, Rules and Sections for precise details.

III- Amounts at present: as to cited Articles and Rules, the amounts indicated in the existing texts of the Treaty and the Regulations. As to Sections, the amounts indicated in Administrative Instructions under the Patent Cooperation Treaty, document PCT/INT/2 published June 23, 1977.

IV- Amounts proposed: the amounts as agreed or provisionally agreed by the PCT Working Group on Budgetary Questions, and, furthermore, the amounts proposed for the other fees, prices and costs for the benefit of the International Bureau. See specific notes on each single amount for more detail which appear on the following pages.

Notes to Annex

1. The amount of Swiss francs 500.-- for the basic fee was accepted by the Budget Working Group for budgetary purposes but subject to possible later review by the PCT Assembly. In addition, the Working Group expressed the wish that the International Bureau "study the possibility of fixing the fees for the initial period of the PCT at a specially low level in order to increase the attractiveness of the system for the users, at least during that period, provided lower fees would not have significant budgetary implications," (see Annex to document PCT/AAQ/VIII/6, paragraph 29). See in this connection paragraph 10 of this document.

2. Swiss francs 10.-- per sheet of the international application in excess of 30 sheets, is 1.09 francs less than the same proportion of rise for the basic fee in comparison to the original figure ( $500/194 = 2.58$  and  $2.58 \times 4.3 = 11.09$  francs). However, 10 francs per sheet seems to be a round figure easier to handle and no significant loss is expected to derive from thus lower value, since the average application has less than 30 sheets.

3. The amount of Swiss francs 135.-- for the designation fee was accepted by the Budget Working Group subject to possible later review by the PCT Assembly and with the same wish as indicated under footnote 1. Consequently, the same observations as under footnote 1 are applicable here as well.

4. The original proportion of increase of the designation fee when an Article 13 copy was required was US dollars  $14/12 = 1.17$ . Multiplying this factor by Swiss francs 135.-- (see note 3) the result is Swiss francs 157.95. A round figure of Swiss francs 160.-- is proposed for designation of States, or groups of States requiring the furnishing of an Article 13 copy.

5. Since for the handling fee (Chapter II) the original amount is equal to that for designations of States requiring Article 13 copies, the same new amount is proposed for consistency reasons as under note 4, above.

6. For the supplement to the handling fee in case of later election, the amount of Swiss francs 160.-- is proposed under the same considerations as under note 5, above.

7. For the fee for preparing and mailing an Article 13 copy on request of the applicant, it was assumed that perhaps up to 30 sheets would have to be copied, costing 1 franc per sheet, to which a lump sum of 15 francs for airmailing and handling would be added. Since it is estimated that the average application will contain only about 20 sheets, the proposed amount would provide for a certain reserve to cover cost in the case of more bulky applications.

8. The amount of Swiss francs 200.-- for the special publication fee under Rule 48.4(a) is fixed in Section 405 of the Administrative Instructions (document PCT/INT/2).

9-12. For the cost of furnishing copies, round figures are proposed for ease of handling. The amounts proposed are sufficient to cover costs under present conditions.

13 and 14. The price for the yearly subscription for the Gazette in the amount of Swiss francs 500.-- was approved by the Budget Working Group (see paragraph 5 of this document) and consequently included in Section 407(d) of the Administrative Instructions (document PCT/INT/2). The price for the pamphlet was approved by the Budget Working Group with the same proviso as the basic fee (see footnote 1 and the further considerations thereunder).

[Annex B follows]



ANNEX B

AMENDMENTS PROPOSED TO THE RULES RELATING  
TO THE LEVEL OF CERTAIN FEES

Rule 15: The International Fee

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15.2 Amounts

(a) The amount of the basic fee shall be:

(i) if the international application contains not more than 30 sheets:  
500 Swiss francs,

(ii) if the international application contains more than 30 sheets:  
500 Swiss francs plus 10 Swiss francs per sheet in excess of 30 sheets.

(b) The amount of the designation fee shall be:

(i) for each designated State or each group of designated States for which the same regional patent is sought which does not require the furnishing of a copy under Article 13: 135 Swiss francs,

(ii) for each designated State or each group of designated States for which the same regional patent is sought which requires the furnishing of a copy under Article 13: 160 Swiss francs.

Rule 57: The Handling Fee

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57.2 Amounts

(a) "The amount of the handling fee shall be 160 Swiss francs augmented by as many times the same amount as the number of languages into which the international preliminary examination report must, in application of Article 36(2), be translated by the International Bureau."

(b) "Where, because of a later election or elections, the international preliminary examination report must, in application of Article 36(2), be translated by the International Bureau into one or more additional languages, a supplement to the handling fee shall be payable and shall amount to 160 Swiss francs for each additional language."

[End of document]