

Meeting of International Authorities under the Patent Cooperation Treaty (PCT)

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REVIEW OF PCT IMPROVEMENT PLANS

Document prepared by the United States Patent and Trademark Office

BACKGROUND

1. Since the introduction of the International Bureau's PCT Roadmap in 2009, the United Kingdom (UK) and the United States of America (US) jointly, the European Patent Office (EPO), the Japan Patent Office (JPO), and the Korean Intellectual Property Office (KIPO) have worked on and introduced their own proposals focusing on improving the PCT system and making it easier to use.
2. At the IP5 Working Group 3 Meeting in Beijing in October 2014, the United States Patent and Trademark Office (USPTO) presented a paper which provided a brief overview of those proposals, their implementation status, and identified some proposals that may warrant further discussion. That paper is attached as an Annex to this document.
3. The document identified five proposals/issues that seemed ripe for further discussion based on common support from the aforementioned PCT improvement plans and which had not yet been implemented. See paragraph 40 of the document.
4. The discussions amongst the IP5 Offices at the WG3 meeting were brief and did not result in any clear direction to be pursued in relation to any of the five proposals/issues.
5. Therefore, it seems prudent to present this document to the entire body of International Authorities.

6. *The Authorities are invited to review the Annex to this document and to specifically comment on the proposals/issues set out in items (A) - (E) in paragraph 40 of the Annex.*

[Annex follows]

REVIEW OF PCT IMPROVEMENT PLANS

(reproduced from paper presented to October 2014 meeting of the IP5 Working Group 3)

1. Since the introduction of the International Bureau's PCT Roadmap in 2009, the United Kingdom (UK) and the United States of America (US) jointly, European Patent Office (EPO), the Japan Patent Office (JPO), and the Korean Intellectual Property Office (KIPO) have worked on and introduced their own proposals focusing on improving the PCT system and making it easier to use. This document provides a brief overview of these proposals, their implementation status, and identifies some proposals that may warrant further discussion.

BACKGROUND

INTERNATIONAL BUREAU – PCT ROADMAP (PROPOSED IN 2009):

2. The International Bureau (IB) presented the PCT Roadmap in 2009 that included a number of specific proposals to improve the PCT system. These are summarized below:

3. Compliance and Consistency. The proposal recommends streamlining the PCT process by having the work performed by International Authorities during the international phase not be repeated by the same Office acting as a designated Office in the national phase. That is, each ISA should, to the greatest extent possible, do the work only once, during the international phase, and fully integrate that completed work into its national granting procedure when the same application later enters the national phase before the same Office acting as a designated Office. The proposal also emphasizes that the international application needs to have a consistent effect in all Contracting States by identifying reservations, notifications and declarations of incompatibility in force relating to various PCT Articles, Rules and Administrative Instructions and attempting to remove those which are unnecessary. Thus, Contracting States and Offices should seek to streamline their respective processes by eliminating these inconsistencies.

4. Making the International Examination More Complete, Relevant and Useful. The proposal notes that there has been work going on for some time in the Meeting of International Authorities relating to establishing quality management systems. Work has also been done on other matters such as review of the PCT minimum documentation, national and international efforts to improve the international patent classification system and its use, and the Patent Prosecution Highway. Further, written opinions and international preliminary reports of patentability should be useful to designated Offices. The proposal recommends enhancing the benefits of Chapter II to encourage applicants to achieve a positive international preliminary report on patentability before entering the national phase and reporting any outstanding defects in a way that best assists national examination. In addition, the proposal recommends issuing at least one written opinion in Chapter II proceedings prior to issuing a negative international preliminary report on patentability, particularly in cases where the applicant has provided amendments or another form of substantive response to the written opinion of the International Searching Authority.

(a) The proposal also referred to a third party observation system which allows third parties to make observations through ePCT public services on pending PCT applications by providing prior art that may be relevant for the determination of novelty and inventive step. This system was implemented by WIPO on July 2, 2012.

(b) In addition, the proposal referred to the inclusion of "top up" searches to find "secret prior art" in the international preliminary examination. This was adopted on July, 1 2014 as new Rule 66.1 *ter* and amended Rule 70.2(f) PCT. Pursuant to these provisions, an

IPEA will conduct a “top-up” search to find prior art that was published or became available to the Authority after the date on which the international search report was established

5. Eliminating Unnecessary Processing. Processes need to be examined to see whether they serve any useful purpose, either in general or because the system is used in particular ways by applicants to overcome perceived difficulties.
6. Collaborative International Search and Preliminary Examination. The proposal recommends conducting the international search and preliminary examination by examiners from several offices in different regions working collaboratively. Two Collaborative Search and Examination pilot projects have been carried out jointly by EPO, KIPO and USPTO examiners working together on PCT applications to create International Search Reports (ISRs) and Written Opinions of ISA (WOISA). The EPO is taking the lead on developing a proposed framework for phase 3 of the pilot project.
7. Fees and Other National Measures. The proposal recommends identifying and adopting measures that encourage use of the PCT system in an efficient and beneficial manner for all users and ensures appropriateness of procedures and fee structures to support such encouragement. In addition to fees, other incentives, such as accelerated or simplified national processing for international applications with a positive international preliminary report on patentability might be considered to encourage applicants to amend the application in the international phase to overcome defects, instead of doing it many times before different national Offices.

UNITED KINGDOM AND THE UNITED STATES - PCT 20/20 (JOINTLY PROPOSED 2012):

8. The USPTO, in conjunction with UK Intellectual Property Office, presented their "PCT 20/20" proposal in 2012, which contained 12 proposals for further improvement of the PCT system. These are briefly summarized below:
9. Self-Service Changes (Rule 92bis priority claims). This proposal recommends using WIPO's ePCT system with its various features so as to eliminate much of the manual review and action required by IB personnel and the establishment of an Empowered eOwner user level so as to make immediate changes in the application without the need of the IB intervention. This proposal has been referred to the IB for incorporation into the ePCT system in the future.
10. Limited Chapter I Amendments. This proposal recommends amending Rules 20 and 91 to provide for: (1) replacement of entire sets of description, claims, or drawings, and (2) for the renumbering of claims which were obviously misnumbered upon filing. With respect to the proposal to amend Rule 20, the proposal is directly related to an ongoing issue raised by the European Patent Office (EPO) concerning incorporation by reference of an entire specification. Given the relationship between the two proposals, it is USPTO's position at this time that an agreement should be reached on the interpretation of the rules regarding incorporation before any further consideration. Once an agreement is reached, USPTO will again present this proposal to the Working Group for consideration.
11. Simplify Withdrawal of International Application (IAs). This proposal recommends allowing withdrawal of an international application without the signature of applicants in certain very restrictive situations. This proposal received mixed reviews because of concerns about adequate safeguards. The United States made changes to its law under the America Invents Act regarding who can be the applicant for the United States (i.e., applicant for the United States no longer needs to be the inventor(s)). This change has addressed this issue because most applications are now being filed naming only the assignee as applicant. Therefore, only a single signature is necessary to execute a withdrawal. USPTO will monitor the situation to see if further relaxation of the requirements still seems necessary.

12. Standardizing Fee Reductions for National Stage Applications. This proposal recommends amending Rule 49 to provide a 50 per cent national phase fee reduction for national phase applications which are presented with only claims indicated as meeting the criteria of PCT Article 33 (2) to (4) by an ISA or IPEA. These recommendations received very limited support because of revenue concerns and the position that national phase fees should be left entirely to the purview of the national Offices. The United Kingdom and United States do not intend to pursue this further at this time.

13. International Small/Micro-Entity Reduction. This proposal recommends a new Rule 16*ter* to provide a 50 per cent and 75 per cent fee reduction in the international phase for small and micro entities, respectively. The specific proposal received very limited support. The most consistent concern expressed by the Member States and the Authorities was the fact that it would be extremely difficult to find definitions and levels of reduction which would be acceptable to all Offices concerned. The United States encourages that all Authorities consider implementing this proposal unilaterally and that the International Bureau (IB) consider providing an appropriate reduction in the international filing fee for universities.

14. Integrate National/International Phase: Use a National First Action on The Merits for PCT Search Report, Selection of an ISA deemed National Phase Entry and a Response to Negative Comments at The National Phase. The proposal recommends that if a national first office action on the merits has been issued by an ISA in its capacity as a national office, then that ISA adopts the same search and findings for the ISR and WOISA. Additionally, national/regional offices would be encouraged to require a complete response to any outstanding negative indications made of the ISA/IPEA at the time of national phase entry.

(a) After consideration of the responses of the Member States and the Authorities, the only type of integration that was ripe for further consideration was the requirement for a complete response to any outstanding negative indications made by the ISA/IPEA.

(b) At the twenty-first Session of the MIA, held in Tel Aviv from February 11 to 13, 2014, the USPTO indicated that the provision was drafted in such a way that, while it was mandatory for applicants to submit a response, it was up to each Office to determine what, if any.

15. Mandatory Recordation of Search History. The proposal recommends that the International Search and Preliminary Examination Guidelines be modified to provide that, when the ISA transmits the ISR to the IB, it shall also transmit a copy of the search history relied upon to perform the international search in whatever format the search history is currently recorded by the ISA. After discussions on this matter, the Working Group recommended “that the Quality Subgroup of the Meeting of International Authorities under the PCT should continue to review this subject, focusing in the first instance on developing a consistent format, and that International Authorities should share information on search history reporting formats to help move the work forward as quickly as possible.

16. Collaborative Searching (2+ Offices). The USPTO, EPO and KIPO have been participating in a Collaborative Search and Examination Pilot involving PCT applications. The report on Phase II of the pilot was presented to the PCT Working Group in document PCT/WG/6/22. The EPO is taking the lead on developing a proposed framework for phase 3 of the pilot project.

17. Mandatory Top-up Searches. The proposal included a specific recommendation to amend the PCT Regulations, Administrative Instructions and International Search and Preliminary Examination Guidelines to make top-up searches a mandatory part of the Chapter II examination process. This recommendation was adopted by the PCT Assembly at its forty-fourth session in September-October 2013 (see paragraphs 25 to 30 of document PCT/A/44/5). The inclusion of “top up” searches to find “secret prior art” in the international preliminary

examination was adopted on July 1, 2014 as new Rule 66.1 *ter* and amended Rule 70.2(f). The IPEA now indicates on Form PCT/IPEA/409 whether or not a top-up search has been performed and if any relevant document has been discovered.

18. Development and Implementation of the Global Dossier and Incorporation of said System into the PCT. Under this recommended system, applicants would file a single application regardless of the number of national patent applications ultimately sought so as to minimize duplication. Applicants would be able to file the application once because cross filing would be facilitated in this system. However, currently the Global Dossier development is being pursued outside the framework of the PCT.

19. Formal Integration of the Patent Prosecution Highway into the PCT, Fast Track of National Phase Applications, Improve the Re-use of PCT work at the National Phase. The specific proposal for formal integration of the PPH into the PCT was first presented in 2012 as part of the PCT 20/20 proposals (PCT/WG/5/18). It has been further discussed in the sixth session of Working Group held in Geneva, May 2013, twenty-first session of the MIA (PCT/MIA/21/9) held in Tel Aviv in February 2014, and seventh session of Working Group (PCT/WG/7/21) held in Geneva, June 2014.

20. Making the Written Opinion of the International Searching Authority Available to The Public after International Publication. The proposal included a specific recommendation to amend the PCT Regulations to make the written opinion of the ISA (WOISA) available promptly following international publication. The proposal was approved by the Working Group and adopted by the PCT Assembly at its forty-fourth session in September-October 2013 (see paragraphs 25 to 30 of document PCT/A/44/5). Effective July 1, 2014, the WOISA is available on PATENTSCOPE after publication of the international application.

EUROPEAN PATENT OFFICE- PROPOSALS FOR FURTHER IMPROVEMENT OF PCT SERVICES AND PRODUCTS (PROPOSED IN 2012):

21. The European Patent Office presented a proposal entitled "Proposals for Further Improvement of PCT Services and Products," containing proposals for further improvement of the PCT system. These are briefly summarized below:

22. Offering New or Better Services and Products to Users. This proposal recommends the following:

- (a) Providing more services under Chapter II, such as by finding relevant prior art published after the international search report was conducted. Related to this recommendation the inclusion of "top up" searches to find "secret prior art" in the international preliminary examination was adopted July 1, 2014 as new Rule 66.1 *ter* and amended Rule 70.2(f).
- (b) Developing an equal service level principle for PCT work. This principle aims to improve efficiency and equal treatment of applications by Authorities irrespective of the procedure chosen (Paris or PCT route).
- (c) Improving timeliness with respect to International Search Reports. This principle aims to improve the timeliness of international search reports relative to international publication. It proposes that receiving Offices take steps to process and transmit search copies promptly to avoid delays, and that the time period for establishment of international search reports be revised so as to give ISAs flexibility in managing their work and to ensure completion of the international search prior publication.

(d) Contemplating Collaborative Search & Examination under Chapter I. This is based on the joint pilot on collaborative search & examination among the EPO, USPTO and KIPO. The EPO is taking the lead on developing a proposed framework for phase 3 of the pilot project.

23. Make the System More Efficient for Offices and More Attractive for Users. This proposal recommends the following:

(a) Transferring search fees and transmitting search copies to the ISA via the IB. The receiving Office would transmit the record copy to the International Bureau which would in turn prepare and transmit the search copy to the ISA on behalf of the receiving Office. A similar process could be implemented for search fees which would be transferred by the receiving Office in its currency to the International Bureau, then converted by the International Bureau into the ISA currency, and transferred to the ISA. The USPTO, EPO and the IB are participating in a pilot program for the transfer of search fees by the USPTO as receiving Office to the EPO as ISA via the IB. Also, the USPTO will use the IB's eSearchCopy system starting October 1, 2014 between RO/US and ISA/IL.

(b) Recognize own PCT Work Products in the National Phase. This principle is based on Offices acting as International Authorities ensuring that the quality of their own PCT work products are at least of a similar quality as their national work products.

(c) Extend PPH-PCT Concept to PCT Work Products from all PCT Authorities. This principle is based on EPO's belief that all PCT work products should benefit from the acceleration scheme and other advantages provided under PPH bilateral agreements irrespective of the PCT Authority that actually established these work products.

(d) Make Mandatory the Reply to the WOISA when entering the National Phase. This principle is based on the EPO's practice since 2010, where the applicant is required to respond to negative opinions in a WOISA, IPER or SISR, within a prescribed time limit upon regional phase entry at the EPO. The EPO is of the view that this procedure could be implemented by other designated Offices to enhance efficiency in the processing of PCT applications in the national phase.

(e) Introduce Quality Metrics in Chapter 21 of the ISPE Guidelines. The proposal is based on the concept that one essential element of the PCT is the quality of search and preliminary examination work products. The EPO recommends that quality metrics be considered under Chapter 21 of the International Search and Preliminary Guidelines.

24. PCT is Set as a Priority at The EPO. The EPO is committed to further enhance the quality of its products and services under the PCT. To that effect, the EPO launched a series of measures with a view to improve its online services to its PCT users. Also, the principle of equal service level will be implemented at all levels of the procedure to ensure equal treatment of applicants under both the PCT and the EPC.

JAPAN - PCT KAIZEN (PROPOSED 2013)

25. Japan presented its PCT Kaizen proposal in 2013. The basic concept is to maximize the benefits of the PCT system based on the idea of total optimization. The concept of the proposal was effective implementation of the Plan-Do-Check-Act (PCDA) cycle in order to further improve the PCT system. PCT Kaizen presents five specific proposals as briefly summarized below:

26. Improve Quality of Search/Examination at The International Phase. This proposal recommends improving the quality of international search/examination by providing feedback based on the search/examination results of designated Offices (DOs). The recommendation recognizes the importance of developing the following two frameworks: (1) ISA analysis and

utilization of feedback on written opinions of the ISA from DOs that conducted First Actions, and (2) sharing the results of analysis conducted by ISA with the DOs, as well as with other Offices when appropriate.

27. Promote Linkage Between The International Phase And The National Phase. This proposal recommends measures to strengthen the linkage between the international phase and the national phase by eliminating unnecessary duplication of work by Authorities and DO. Japan proposed the following measures to strengthen the linkage of the ISA and DO:

(a) Sharing and Analyzing Measures by the ISA. The measures to be taken are: (1) to utilize relevant examination results of national applications, and (2) prepare work products that will be easily utilized at the subsequent national phase.

(b) Sharing and Analyzing Measures by the DO. The measures to be taken by the DO are: (1) to voluntarily utilize the work products of the international phase as much as possible; and (2) to promote the users' voluntary actions in accordance with the search/examination results of the international phase.

28. Refine Collaborative Search and Examination. This proposal recommends evaluating the advantages and disadvantages of the results of the pilot projects (the collaboration pilots of the USPTO, KIPO and EPO) by providing the Contracting States with information: (1) whether the present Collaborative Search and Examination is appropriate as an option to be provided under the PCT system, and (2) if it is not appropriate, whether it is possible to refine the system to make it more suitable. The EPO is taking the lead on developing a proposed framework for phase 3 of the pilot project.

29. Creating Intelligence Designed For Analyzing and Improving The PCT Process. This proposal recommends conducting a business-like analysis of PCT operations based on various items of information available and analyzing the PCT system using a corporate management approach. The proposal also recommends building a mechanism under which intelligence is routinely formulated and utilized by the Contracting States. By utilizing ePCT, it may be possible to manage and technically sort intelligence offered into it for the benefit of both applicants and IP Offices

30. Creating an IT Infrastructure that is conducive to PCT Kaizen (Development of the Global Dossier). It is Japan's view that in order to achieve PCT Kaizen, it is necessary to create an IT infrastructure that enables IP Offices in the world to easily share application and examination information (dossier information). Therefore, Japan proposes cooperation between the PCT system and the Global Dossier that the Five IP Offices (IP5) and WIPO are considering.

KIPO – PCT 3.0 (PROPOSED IN 2014):

31. KIPO has proposed in 2014 its PCT 3.0 plan at the twenty-first session of the MIA. The proposal is to provide focus on PCT improvement on work sharing, disclosure of information and other national entry requirements. The proposals are as follows:

32. Opportunities for Applicant comments on the Written Opinion. KIPO's proposal recommends amending PCT regulation to ensure the applicant has an opportunity to officially comment on the Written Opinion of the International Searching Authority. Currently, applicant may provide informal comments to the International Bureau which are in turn forwarded to the designated Offices and made publicly available. With this proposal, applicant has the option to formally respond to the search result and written opinion, and the response is forwarded to the ISA to enhance their quality in the future.

At the MIA, several Authorities indicated that the informal comments were rarely used. A need for more formal regulations on the subject as such would add more complexity to the Treaty without little expected benefit. Instead, a system that requires responses to be filed in each

Office when national/regional phase entry occurs is recommended. The International Bureau confirmed that it can automatically send the informal comments to the ISA and the ISA can transmit any informal comment (erroneous sent to the ISA) to the IB via ePCT.

33. Standard Image Formats for PCT Applications. KIPO recommends amending Annex F of the Administrative Instructions to allow applicants to electronically file the drawings, illustrations or scanned documents in both Tagged Image File Format (TIFF) and JPEG File Interchange Format (JFIF). Currently, an RO can select between the TIFF and JFIF when filing. While TIFF shows good results in some image quality and file size, it is problematic in other areas where JFIF is a better alternative. When TIFF is the only option additional efforts have to be made to convert JPEG images into TIFF.

At the MIA, several Authorities were supportive of the suggestions, but would require lead time to make the change. The USPTO is currently evaluating formats for use in future systems and may use .PNG as an option.

34. Facilitation of work sharing among Offices. KIPO recommends conducting work sharing between the RO and the ISA. Specifically, KIPO requests that the RO transmit a copy of search or examination results of the priority application to the ISA when transmitting the search copy of the International application.

At the MIA, the Authorities raised confidentiality concerns imposed by the various national laws. The national law of those countries would not allow sharing of the existing national application results with the ISA. In the USPTO, such results would not be available in most cases to be transmitted to the ISA. It was recognized that with applicant's consent, the search result may possibly be forwarded to the ISA.

It should also be noted that PCT Rules 4.12 and 12*bis* already provide a mechanism by which applicants may request the results of an earlier search be taken into account by the ISA. The prior search may have been done by the same or different ISA or a national office.

35. Collaborative Search. KIPO recommends considering the official introduction of a collaborative search into the PCT system. Currently, the pilot program conducted among KIPO, USPTO and EPO showed that the quality of the PCT search has improved significantly through work sharing.

The Authorities recognize the results obtained from the pilot and the value it could provide in the PCT system. However, most felt it is premature to officially incorporate the collaborative search program into PCT at this time. Further studies are required as to the availability and use of a collaboration tool and the actual costs of collaboration.

36. Collaboration to enhance quality of patent classification. KIPO recommends establishing a mechanism to share the IPC code between the ISA and ROs to enhance efficiency and accuracy in PCT classification. The ISA currently is not receiving IPC or classification information accorded by the RO on applications the priority of which was claimed in the international application. The proposal is for the RO to transmit the classification of the priority application to the ISA at the time the search copy is forwarded.

At the MIA, several Authorities supported the issue and found it valuable. However, the USPTO expressed concerns that confidentiality requirements imposed by its national law may preclude the furnishing of information such as classification of an unpublished application. In addition, the prior applications are often provisional applications and are not classified at the USPTO. Therefore, no classification would be available.

37. Recommendations on Non-Patent Literature Citations. KIPO recommends initiating discussion on how to cite non-patent literature in languages other than the language of an international search report. Currently, ST. 14 contains no recommendations on how to cite documents in languages other than the language of the search report in which they are cited.

Discussions at the MIA lead to no clear results. However, the IB did note that consistency in translations was a challenge where a report established in a non-English language contained an NPL citation in a different non-English language. The Authorities noted that their IT systems had language constraints for the NPL citations.

38. Table 1 shows a set of common proposals put forth by the various to improve the PCT system.

Proposals	IB Roadmap	US & UK Joint 20/20	EPO	JPO	KIPO	Status
Incorporate PPH into PCT	X	X	X	X		On-Going Discussions
Collaborative Search and Examination	X	X	X	X	X	EPO is planning Phase 3 of pilot project
Top-Up Searches	X	X	X			It has become effective as of July 2014
Recognition of PCT Work Product	X	X	X	X		On-Going Discussions
Mandatory Response to negative written opinion by the ISA/IPEA at time of filing National Stage		X	X			On-Going Discussion

Table 1 : Shows common proposals put forth by the various Offices.

FUTURE DISCUSSION

39. The implementation of some of these proposals into the PCT system has improved the system but further work is required to continue improving the PCT system. The USPTO has identified several of the above proposals for further consideration and discussion as listed below:

(a) Transfer of Search Fees and Search Copy via the IB.

The USPTO, EPO and IB are participating in a pilot program whereby the search fees are transferred from the RO/US to ISA/EP via the IB. The goal of the pilot program is to minimize errors and losses due to currency exchange. It will also reduce the administrative work between Offices acting as RO and ISAs. In addition, the IB has offered to transmit the search copy to an ISA on behalf of a RO under its eSearchCopy program.

(b) Mandatory Replies.

The USPTO and EPO have proposed that the applicant provide a complete response to any outstanding negative indications made by the ISA/IPEA at the time of national stage entry. At the MIA, the following concerns were raised: (1) Whether the proposal was in line with PCT Article 27(5) and could impose a sanction, (2) How to handle a generic response from the

applicant, and (3) Should it be extended to cover not only PCT Article 33(2), (3) or (4), but also issues such as clarity of the claims. Because the USPTO believes that the implementation would result in efficiency gains and a reduction in duplicate work, the USPTO is exploring the unilateral implementation of the proposal on a pilot basis.

(c) Incorporation of PPH into the PCT.

The USPTO proposed amendments to the Regulations and Administrative Instruction to incorporate PPH into the PCT system. Under PPH, an application which meets the requirements would be advanced out of turn for examination.

(d) Review and Identify Reservations.

The elimination of inconsistencies in processing of an international application due to reservations or notices of incompatibility with certain Articles, Rules and Administrative Instructions by States and Offices reduces complications and substantive differences for both applicants and Offices.

CONCLUSION

40. Finally, the USPTO invites the IP5 Offices to provide comments on the following issues based on the above proposals:

(a) Transfer of Search Fees and Search Copies via the IB.

The USPTO requests comments on whether Offices are currently participating in the transfer of search fees and/or search copies via the IB or are planning to participate in the near future.

(b) Mandatory Replies.

The USPTO requests comments on whether it is desirable to continue to pursue in the PCT Working Group the proposal that the applicant provide a complete response to any outstanding negative indications made by the ISA/IPEA at the time of national stage entry, or should Offices consider unilaterally implementation of this proposal. Alternatively, Offices could consider a pilot program to test the proposal.

(c) Formal Incorporation of PPH into the PCT.

The USPTO requests comments on whether it is it is desirable to pursue formal integration of PPH into PCT at this time in view of the substantial resistance from some member States because of their opinion that this may lead to harmonization and is ultra vires to the Treaty. Alternatively, it may be appropriate to strongly encourage offices to join the Global PPH program.

(d) Review and Identify Reservations.

The USPTO requests that the Offices review and identify reservations, notifications and declarations of incompatibility in force relating to various PCT Articles, Rules and Administrative Instructions and provide comments on their current status.

(e) Mandatory Written Opinion in Chapter II.

The USPTO requests comments from the IP5 Offices on whether or not they routinely issue a written opinion in Chapter II when the IPER would otherwise be negative and the applicant makes an attempt to advance prosecution. Specifically, the USPTO requests that Offices comment on the benefits achieved of issuing at least one written opinion in Chapter II prior to issuing the IPER. Further, the USPTO requests that Offices share any data they have on the efficiency gains in the national or regional phase.

[End of Annex and of document]