

WIPO



PCT/PRP/1/6

ORIGINAL: English

DATE: February 10, 1978

WORLD INTELLECTUAL PROPERTY ORGANIZATION

GENEVA

INTERNATIONAL PATENT COOPERATION UNION

(PCT UNION)

PREPARATORY COMMITTEE

First Session

Geneva, February 6 to 10, 1978

REPORT

adopted by the Preparatory Committee

INTRODUCTION

1. The PCT Preparatory Committee (hereinafter referred to as "the Committee"), which was convened by the Director General of WIPO to assist in the preparation of the first session of the Assembly of the PCT Union (hereinafter referred to as "the Assembly"), held its first session at Geneva from February 6 to 10, 1978.
2. Invitations to participate, as members, in the session were sent to those States, 17 in number, which had, prior to the session, ratified or acceded to the Patent Cooperation Treaty (PCT). Twelve such States were represented: Brazil, Cameroon, Central African Empire, France, Germany (Federal Republic of), Luxembourg, Madagascar, Senegal, Soviet Union, Switzerland, United Kingdom and United States of America. Malawi, Chad, Togo, Gabon and Congo were not represented. Invitations to be represented by observers were sent to those States, not having ratified or acceded to the PCT, which had been members of the PCT Interim Committees. Ten such States were represented: Austria, Canada, Egypt, Hungary, Japan, Netherlands, Norway, Romania, Spain and Sweden. Of the three intergovernmental organizations invited to participate, two such organizations, the European Patent Organisation (EPO) and the Interim Committee of the Community Patent Convention, were represented by observers; the third such organization, the African Intellectual Property Organization, was not represented. The following five international non-governmental organizations were represented by observers: Council of European Industrial Federations (CEIF), European Federation of Agents of Industry in Industrial Property (FEMIPI), International Federation of Inventors Associations (IFIA), International Federation of Patent Agents (FICPI) and Union of Industries of the European Community (UNICE).
3. The number of participants was about 40. The list of participants is contained in Annex I to this report.

OPENING OF THE SESSION

4. The session was opened by the Director General of WIPO, Dr. Arpad Bogsch, who, in welcoming the participants in the session, stressed the particular importance of this meeting in the history of PCT, since it was the first following the entry into force of the Treaty on January 24, 1978. The Committee had been convened to allow thorough preparation of the work of the first session of the Assembly to be held from April 10 to 14, 1978.

AGENDA

5. The Committee adopted its agenda as contained in document PCT/PREP/I/1.Rev.

OFFICERS

6. The Committee unanimously elected as Chairman Mr. P. Fressonnet (France) and as Vice-Chairmen Mr. E. Buryak (Soviet Union) and Mr. B. Yaya Garga (Cameroon).
7. Mr. E.M. Haddrick, Head, PCT Division, WIPO, acted as Secretary of the Committee.

PREPARATION OF THE FIRST SESSION OF THE ASSEMBLY

8. Discussions were based on a memorandum (document PCT/PREP/I/2.Rev.) prepared by the International Bureau (hereinafter referred to as the "memorandum"), concerning matters, listed in item 4 of the Committee's agenda, which had been included on the preliminary draft agenda for the first session of the Assembly, and on document PCT/PREP/I/4 prepared by the International Bureau and concerning the level of fees and sales prices.

Rules of Procedure of the Assembly

9. The Committee discussed this question on the basis of the draft Rules of Procedure of the Assembly contained in Annex I to the memorandum.
10. The Committee agreed to adopt Rules 1 and 2 without change.
11. In its discussion of Rule 3, the Committee agreed to replace in the English text the word "prepared" in the first line by the words "drawn up".
12. After a discussion as to the usefulness of maintaining Rule 4 in view of the fact that its contents are largely identical with the provisions contained in Rule 85.1 of the Regulations under the PCT, the Director General withdrew his proposals to include that Rule in the draft Rules of Procedure to be submitted to the Assembly. The Committee noted this amendment with approval.
13. The Committee agreed to adopt Rule 5 without any change concerning the text of that Rule, but subject to its being renumbered as Rule 4.
14. In conclusion, the Committee agreed to recommend to the Assembly that the latter adopt the draft Rules of Procedure of the Assembly of the International Patent Cooperation (PCT) Union as amended by the Committee and as set out in Annex II of this report.

Admission of Observers

15. The Committee was informed that, in view of its ratification of the PCT on January 9, 1978, Brazil would participate in the first session of the Assembly as a member of the PCT Union and should therefore be deleted from the list of special observers set out in paragraph 3(a)(i) of the memorandum.
16. Subject to this change, the Committee agreed to recommend to the Assembly that the latter should decide to admit, as special observers or as observers, the States, intergovernmental organizations and international non-governmental organizations listed in those categories in paragraph 3 of the memorandum. Furthermore, it was agreed on a proposal by the Delegation of the United Kingdom that the Institute of Professional Representatives before the European Patent Office could qualify for the category of interested international non-governmental organizations recommended to be given observer status by the Assembly and that it should be included in the list of such organizations submitted to the Assembly by the Director General in the event of his receiving from that Institute a request to that effect before the first session of the Assembly. The request would have to contain the necessary indications as to the character of the Institute as an international non-governmental organization, together with relevant supporting documents, in particular a copy of the instrument establishing the Institute (by-laws, etc.).

Dates from which international applications may be filed and demands for international preliminary examination may be submitted

17. Notwithstanding the wish expressed by the Delegation of the United States of America that full use be made of the six-month time limit provided for in Article 65(2) of the PCT (so as to give more time to the United States Patent and Trademark Office to promulgate the implementing rules regarding the PCT), the Committee agreed to recommend to the Assembly that the latter fix, under Article 65(2) of the PCT, June 1, 1978, as the date from which international applications may be filed and demands for international preliminary examination may be submitted. In agreeing on this recommendation, the Committee, noting the fact that applications under the European Patent Convention may be filed as of June 1, 1978, took into account the general and practical advantages of a solution according to which the date to be fixed under Article 65(2) was the same as that from which applications might be filed under the European Patent Convention, a solution which would allow the two new systems to operate from the same date.

18. The Committee also noted the possibility afforded under Article 65(1) of the PCT for the Assembly to apply transitional measures in the event that the agreements to be concluded with International Searching and Preliminary Examining Authorities would require some limitation in relation to the acceptance of international applications or demands for preliminary examination. Where, in the light of the drafts of such agreements to be submitted for approval at the first session of the Assembly, such transitional measures appeared to become necessary, appropriate proposals to that effect would be submitted to the Assembly for consideration at its first session.

19. In response to a question by the Delegation of Switzerland, the Director General said that it was the opinion of the International Bureau that the receiving Offices could, if they so desired, establish procedures enabling applicants to submit international applications prior to June 1, 1978, so long as it was understood that those applications would, under those procedures, be deemed to have been received by such Offices, for the purposes of filing under the PCT, as of June 1, 1978. This opinion took into account the fact that a similar possibility of earlier submission of applications was offered within the framework of the European Patent Convention.

20. In the course of its discussion of paragraph 5 of the memorandum, the Committee gave consideration to the conclusion stated in that paragraph that Chapter II of the PCT became applicable on March 29, 1978 rather than on January 24, 1978, the date of initial entry into force of the Treaty. The Committee was informed by the Director General that the overriding legal consideration which had led to the conclusion that Chapter II became applicable on that date, rather than on the date of entry into force of the PCT, was that Chapter II could only become applicable as from the date at which the State whose ratification of the PCT gave rise to that effect, namely the Soviet Union, became bound by the Treaty. The question, however, was one of theoretical legal interest only since, in any event, Chapter II would become applicable before the date to be fixed under Article 65(2) for the filing of international applications and for the submission of demands.

Amendment of the PCT Regulations

Rules 4.10(d), 11.6(a) and (b) and 11.13(a)

21. The Committee agreed to adopt the draft amendments to these Rules as set out in Annex II of the memorandum.

Rule 32bis: Withdrawal of the Priority Claim

22. The Committee agreed to adopt a proposal for a new Rule 32bis relating to the withdrawal of the priority claim on the basis of the draft proposal set out in Annex II of the memorandum. In the discussion, a number of amendments to the said draft proposal were made for the reasons indicated in the following paragraphs.

23. In its adoption of the wording of paragraph (a) of Rule 32bis.1, the Committee agreed that there was no necessity to make any express provision for the case where national processing or examination has already started in a designated State at the time the priority claim is withdrawn. The Committee noted that this situation would occur only because the applicant had specially requested an early start of national processing or examination in that State and that the effect of the withdrawal in that State would depend on the applicable national law.

24. The Committee adopted the text of paragraph (c) of Rule 32bis.1 upon the understanding that, in the case where withdrawal of the priority claim was effected at such a late stage that the International Bureau was no longer in a position to prevent the publication of the international application and of the corresponding notification in the Gazette 18 months after the original priority date, a separate notice of the withdrawal of the priority claim would be published in a subsequent issue of the Gazette.

25. Upon a question raised by the Delegation of the United States of America, the International Bureau indicated that, if the letter code "P" was used in the international search report published with the international application to indicate a category of cited documents, the subsequent notice in the Gazette would serve to inform the public that such indication would have to be considered in the light of the withdrawal of the priority claim and that this indication would, therefore, no longer be applicable.

26. It was also understood that the International Bureau would publish a general notification in the Gazette to the effect that the technical preparations for publication of an international application would be terminated 15 days before the end of the period of 18 months from the priority date. The International Bureau would withdraw an international application from publication in the event of a change in the priority date resulting from a withdrawal of a priority claim even during the said period of 15 days should this still be possible. The Committee noted that the publication of notices and information of the kind contemplated would be permissible even though not specifically provided for in the Administrative Instructions since the relevant provisions of the Regulations and the Administrative Instructions did not contain an exhaustive enumeration of the items to be published in the Gazette.

27. In response to a question by the Delegation of Japan as to the legal effect, under Article 29, of the publication of the international application in the case where a priority claim was withdrawn prior to publication but the publication took place on the basis of the time limit computed according to the original priority date, it was explained that Article 29 would be applicable in each case of international publication whether or not that publication took place shortly after the withdrawal of a priority claim made during the 15 days preceding the expiration of the time limit of 18 months.

Rule 74bis: Notification of Withdrawal under Rule 32

28. The Committee, noting that under Rule 32.1(d), applicable *mutatis mutandis* also for withdrawals of the priority claim, provision was made for a notification of the withdrawal of the international application to the International Searching Authority, but not to the International Preliminary Examining Authority, adopted a proposal to insert a new Rule 74bis into the Regulations, providing, where applicable, for a notification of the withdrawal to the International Preliminary Examining Authority. The Committee furthermore amended Rule 32bis.1(d) so as to include a reference to the new Rule 74bis in order to ensure notification of the withdrawal of the priority claim to the International Preliminary Examining Authority.

Rules 48.2(a)(v) and 48.3(c)

29. The Committee agreed to adopt the draft amendments to these Rules as set out in Annex II of the memorandum.

30. Upon a question raised by the Delegation of the United States of America, it was noted that, when the international application would be published in a language other than English, in addition to the publication of the abstract in English translation, the title of the claimed invention would also be published in English translation.

Amendments relating to fees (Rules 15.2 and 57.2)

31. The Committee considered, on the basis of the amendments to these Rules set out in Annex II of the memorandum, both the general level at which the fees should be set in the Regulations and, in relation to Rule 15.2(b), whether a differential fee should be fixed according to whether or not a designated State, or a group of designated States, require the furnishing of a copy of the international application under Article 13. Since the discussion relating to the level of fees dealt also with matters not related to the amendments of these Rules, the Committee's discussion concerning the level of fees is dealt with separately in paragraphs 35 to 58 of this report.

32. In relation to Rule 15.2(b), the Committee agreed to adopt an amendment of that Rule which would provide a single designation fee irrespective of whether or not a copy under Article 13 was required, by deletion of item (ii) of that Rule and a corresponding amendment in item (i). In this connection, the Committee noted that France, Germany (Federal Republic of), Sweden, Switzerland, United Kingdom and the United States of America as well as the EPO have declared (either at this meeting or earlier) that they would make no use of the possibility offered to them by Article 13(1) of the PCT and that, so far, only one country, namely Brazil, has declared that it may make use of the said possibility.

Rules 86.3 and 86.4 The Gazette - Frequency: Sale

33. The Committee agreed to adopt a proposal for the amendment of these Rules on the basis of the draft proposal set out in Annex II of the memorandum.

Conclusions

34. In conclusion, the Committee agreed to recommend to the Assembly that the latter adopt the amendments of the Rules referred to above, as approved by the Committee (see Annex III to this report).

Rules concerning fees; Prices of PCT publications

35. In a general discussion of the level of fees and prices under the PCT in connection with the consideration of the proposed amendments to Rules 15.2 and 57.2, the Director General stated that the fees corresponded to the amounts adopted by the PCT Working Group on Budgetary Questions and had been endorsed by the PCT Interim Advisory Committee for Administrative Questions.

36. The Delegation of the United States of America expressed its grave concern over the high amounts of the fees proposed, which could very adversely affect the level of filing through the PCT. It favored lowering the fees by 50% and hoped the Committee would look into the matter again at this occasion. It added that, for practical and political reasons, it would be highly desirable that, as in the present text of the Regulations, the fees be expressed both in US dollars and Swiss francs.

37. The Delegation of the Soviet Union recalled its long standing position in favor of lower fees that would ensure the attractiveness of the PCT procedure for applicants in comparison to the traditional route. Although having agreed with the conclusions of the PCT Working Group on Budgetary Questions, it was hoped that in time the International Bureau could prepare further information on the influence of fees on the whole financial aspects of PCT operations. Notwithstanding this wish, the Delegation was in favor of starting at a lower level of fees so long as ultimately the reaching of the break-even point was not affected.

38. The Delegation of Switzerland stated that it accepted the fees as they were presented in the document under consideration. It was less pessimistic than the others and recalled that the fees were only a fraction of all costs involved in filing and prosecuting patent applications, as for instance fees for translations, agents, etc.

39. The Delegations of Brazil, Egypt and Romania expressed themselves in favor of starting with lower fees and raising them later on, if necessary.

40. The Delegation of the United Kingdom recalled the need of rendering the PCT self-supporting as soon as possible. If the fees were lowered, this could increase the financial contributions of the Contracting States. The United Kingdom contribution had been cleared for 1978-1979 on the basis of the unanimously agreed budget figures and seven principles that resulted from the session of the PCT Working Group on Budgetary Questions. Consequently, its Delegation could not agree to any lowering of the fees in the present session which, however, did not mean that it was unwilling to reexamine the matter with the competent financial authorities.

41. In view of the prevailing view that the possibility of lowering of the fees, for an initial limited period and on a trial basis, should be examined, the Committee invited the International Bureau to submit to it in writing an exposé on the financial consequences which a lowering of the fees by approximately 30% would represent. This invitation was made on February 6 and the discussion was interrupted in expectation of the International Bureau's memorandum. That memorandum was then prepared and placed before the Committee on the subsequent day (document PCT/PREP/I/4).
42. When discussion on the memorandum was opened, the Delegation of the United States of America, in view of the minimal effect of a 30% reduction of fees, reiterated its proposal for a 50% reduction. The Delegation of Brazil supported the reduction by 50%.
43. The Delegations of the United Kingdom, Switzerland, France, Japan, Germany (Federal Republic of) and the Soviet Union first proposed to submit to the Assembly a schedule of lower fees as an alternative to the fees appearing in document PCT/PREP/I/2. The Delegation of Switzerland declared that the lower fees should in no case be lower than the original fees fixed in Swiss francs in 1970 augmented by the inflation factor in Switzerland since that year. Furthermore, the above-mentioned Delegations felt that, since all the discussions with the financial authorities in the Contracting States were based on the conclusions of the PCT Working Group on Budgetary Questions, the seven principles stated in the report of that Working Group and the schedule of fees prepared with the aim to reach a break-even point for the PCT budget after three years, it would hardly be possible to present to the Assembly only a lower schedule.
44. The Delegation of the United Kingdom added that the reduction of fees would not seem to be of great importance for users in Europe since, in view of the cost of the search of the European Patent Office, the international fees under the PCT had only a marginal effect.
45. The Delegation of France added that, while supporting the proposal of submitting an alternative, it maintained its preference for the fees indicated in Annex II of the memorandum.
46. The Delegation of Japan added that it favored the presenting of an alternative and preferred the lowest possible fees compatible with the budgetary requirements.
47. The Delegation of the United States of America stated that it would be preferable to submit to the Assembly only one set of fees which the Assembly could then modify, if so desired. The set of fees submitted should be the one making the PCT route the most attractive in the first operational year of the PCT.
48. In response to a request by the Delegation of the Soviet Union for more detailed information so that the Assembly could decide unanimously on the appropriate level of fees, the Director General said that hardly anything could be added to what is stated in document PCT/PREP/I/4 since the main source of uncertainty--namely, the number of the international applications and the number of the PCT publications sold--remained in any case.
49. The Delegations of Egypt and Romania expressed themselves in favor of a preferential treatment for developing countries with respect to PCT fees. Developing countries should not be exposed to prohibitive fees which would have a deterrent effect on the implementation of the PCT in those countries.
50. The Director General said that it would be difficult to consider that proposal in the framework of the PCT before a similar proposal in the framework of the revision of the Paris Convention was resolved. He recalled that he had proposed, in the meetings of that revision, a reduction of fees for nationals of developing countries.

51. The Director General indicated that--at least according to one set of statistics--the cost of living had risen in Switzerland by 50.5% between June 1970 and December 1977. Applying this percentage to the basic fee part of the international fee which, in 1970, was fixed at 194 Swiss francs, the new amount would be 292 Swiss francs. This amount was practically the same as that which would result from a reduction by 40% of the amount of the same fee (500 Swiss francs in document PCT/PREP/I/2), since such reduction would yield 300 Swiss francs.

52. The Delegation of the United States of America stated that

- (i) lower fees were necessary, or at least very desirable,
- (ii) there seemed to be no sense in presenting the highest fees again,
- (iii) the level of 300 Swiss francs for the basic fee should be adopted ad referendum by the Committee and proposed for adoption, with corresponding amendments of the other fees, by the Assembly,
- (iv) only one set of fees should be submitted to the Assembly,
- (v) the fees should also be expressed in United States dollars.

53. The Delegation of Brazil expressed its full support for the position of the United States of America and as well for an indication of the fees in the United States dollars.

54. The Delegations of Austria and the United Kingdom said that the new level of fees, as contained in Annex II to the memorandum, should be one of the alternatives whereas the other alternative would be the level resulting from the application of the Swiss inflation rate since 1970 which should amount to a 40% reduction instead of the 30% reduction considered an acceptable alternative so far by the majority of delegations. This could constitute an acceptable compromise solution. A single proposal referring only to substantially lower amounts, considered for the first time, would hardly be acceptable.

55. The Chairman recalled that the estimations of the PCT Working Group on Budgetary Questions were based on the following fees:

basic fee	500 Swiss francs
designation fee	135 Swiss francs (no Article 13 copy)
price of copy of pamphlet	10 Swiss francs
yearly subscription price of the Gazette	500 Swiss francs

He furthermore recalled that the report of the said PCT Working Group on Budgetary Questions stated that "it was suggested that the International Bureau should 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 very significant budgetary implications. Lower fees could contribute in an important way to a more rapid growth of the number of international applications filed." (document PCT/WG/BUD/I/6, paragraph 29).

56. In conclusion, the Committee decided that the amounts of the fees and prices referred to in the preceding paragraph, and the fact that they were the basis of the calculations of the PCT Working Group on Budgetary Questions, should be called to the attention of the PCT Assembly together with the statement quoted in that paragraph. Furthermore, the Assembly should be informed that the majority of the Committee were of the opinion that, for an initial period of one year, the fees and prices should be fixed at a level approximately 40% below the amounts referred to in the said paragraph. It was noted that such a level would, in the case of the basic fee part of the international fee, correspond to an increase of approximately 50% of the amount of that fee in the 1970 text (that is, the original text of the Regulations under the PCT approved by the Diplomatic Conference of 1970) when expressed in Swiss francs and that that increase corresponds to the increase of the cost of living in Switzerland since 1970. The corresponding new fees would (taking 2:1 as the exchange rate between Swiss francs and US dollars) then be the following:

basic fee	300 Swiss francs, or 150 US dollars
designation fee	80 Swiss francs, or 40 US dollars
price of copy of pamphlet	6 Swiss francs, or 3 US dollars
yearly subscription price (Gazette)	300 Swiss francs, or 150 US dollars.

The Rules reflecting the said fees appear in Annex III of this report.

57. Several delegations reserved their position saying that they would first have to submit the matter to their competent authorities.

58. Finally, the Committee requested that Annex IV to this report be submitted (subject to any editorial changes) to the first session of the Assembly.

Obligation to carry out international preliminary examination of an international application (or part of such application) not covered by the international search report

59. The Committee also discussed this question on which the International Bureau had indicated in the memorandum its intention not to propose any amendment for the reasons set out in document PCT/PREP/I/2, Annex III thereto.

60. The Delegation of the United Kingdom said that it generally agreed with the conclusion reached by the International Bureau in Annex III of the memorandum. However, it questioned whether an International Preliminary Examining Authority could be obliged to carry out an international search on subject matter not covered by the international search report.

61. The International Bureau pointed out that, while there was no requirement in the PCT that the International Preliminary Examining Authority should carry out the international search, it did clearly require the Authority to carry out international preliminary examination even if there was no international search report. If the International Preliminary Examining Authority was not at the same time an International Searching Authority and could not carry out any required search, another solution should be found, for example, through bilateral arrangements with an International Searching Authority which could then carry out the search. In such a case, the International Preliminary Examining Authority could establish a fee structure which would enable it to cover the costs of such search.

62. In the ensuing discussion, the Chairman concluded that the International Preliminary Examining Authority was not required to carry out an international search which had not yet been performed, but that, on the other hand, the said Authority was required to carry out the international preliminary examination even in cases where there was no international search report. Moreover, under Rule 58, it was the sole responsibility of the International Preliminary Examining Authority to fix the amount of the preliminary examination fee payable to it and the said Authority could charge a differential fee for the work performed or subcontracted by it, depending on whether or not an international search not performed earlier had to be carried out at this stage of the procedure.

63. The Representative of the EPO questioned this interpretation of Rule 58. He felt that the wording used in this Rule, namely, that the International Preliminary Examining Authority might require a fee for its own benefit for carrying out the international preliminary examination, would not permit the Authority to collect an extra search fee because such a fee would clearly be to the benefit of another Authority and, moreover, would not be for carrying out the examination. He favored an amendment of the Regulations establishing that, in the case under discussion, the International Preliminary Examining Authority would not be required to perform an examination. This would be a simpler and clearer solution than the one envisaged by the International Bureau.

64. The Delegation of the Netherlands supported the point of view of the Representative of the EPO and pointed out that the case of lack of unity of invention was quite distinct from the case where the International Searching Authority had issued a declaration under Article 17(2)(a), the case which was used as an argument in Annex III of the memorandum. Here, the applicant had been offered the possibility to have a search carried out on all the inventions present in his international application. If he had voluntarily not made use of this opportunity by not paying the additional fees, then no second possibility should be offered to him in the examination phase.

65. The International Bureau, in reply to these observations, referred to the arguments advanced in Annex III of the memorandum and confirmed the opinion expressed therein. In cases where the applicant honestly disagreed with the International Searching Authority in the interpretation of the requirement of unity of invention and as to the amounts of additional fees to be paid and where perhaps the International Preliminary Examining Authority also disagreed with the concept of unity of invention developed by the International Searching Authority, one could hardly say that the applicant had a full opportunity which

he voluntarily decided not to use. Moreover, if the Treaty provided for an obligation to carry out international preliminary examination even in a situation where, instead of a search report, a declaration under Article 17(2)(a) was issued, in other words, in a situation where there was no search at all, that obligation existed a fortiori in cases where, due to a dispute over the requirement of unity of invention, only part of the international application was searched. It was an inherent principle of the Treaty that the possibility of obtaining international preliminary examination was not dependent upon the fact whether, or the extent to which, the application was searched under Chapter I of the Treaty. The system offered by the Treaty and in particular by its Chapter II would become too unattractive if the mere fact that, due to a, possibly erroneous, decision of the International Searching Authority, that Authority did not search the entire application or part of it, would exclude the applicant from the access to the international preliminary examination for his application, or part of his application. For the same reason, the Treaty provided in a situation where, instead of international preliminary examination, continuation of the procedure before the designated Office was chosen, that the designated Office had to examine the application irrespective of the extent to which it was subjected to international search with the proviso that it could ask for a special fee to be paid by the applicant or otherwise consider unsearched parts of the application as withdrawn.

66. The Chairman, referring to his earlier conclusion and to the fact that no delegation other than the two referred to above had stated disagreement with that conclusion, suggested to terminate the discussion of this question on the understanding that the matter could, naturally, be reconsidered, if so desired, at a later stage by the PCT Committee for Administrative and Legal Matters (PCT/CAL). This was agreed.

PCT Committee for Technical Assistance (PCT/CTA)

67. The Committee agreed to recommend to the Assembly that the latter adopt the proposed decisions set out in paragraphs 12 and 13 of the memorandum, including the endorsing of the measures referred to in paragraph 18 thereof. The text of the draft decisions is contained in Annex V of this report.

68. The Committee, in adopting the draft contained in Annex V of the memorandum, agreed to recommend to the Assembly that the latter adopt the Rules of Procedure of the PCT Committee for Technical Assistance (PCT/CTA) as set forth in Annex VI of this report.

69. In this context, the Committee noted that the decision set out in paragraph 12 of the memorandum contemplated the possibility that, once the number of States parties to the PCT Union reaches 30, the Assembly, in reconsidering the composition of the PCT Committee for Technical Assistance, might decide either to maintain that Committee as a Committee of the whole of the membership of the PCT Union or might limit its composition so as to exclude certain members of the PCT Union. While the present understanding was that all members of the PCT Union should have the possibility of participating in the work of the PCT Committee for Technical Assistance, it was recognized that, in the event that the Assembly should in the future decide to limit the membership of that Committee, the Assembly would reconsider, at the same time, Rule 2 of the Rules of Procedure of the PCT Committee for Technical Assistance which gave certain States not members of the PCT Union the status of special observers in that Committee.

PCT Committee for Technical Cooperation (PCT/CTC)

70. The Committee agreed to recommend to the Assembly that the latter adopt the proposed decisions set out in paragraphs 19 and 20 of the memorandum, including the endorsing of the measures referred to in paragraph 24 thereof. The text of the draft decisions is contained in Annex VII of this report.

71. The Committee, in adopting the draft contained in Annex V of the memorandum, agreed to recommend to the Assembly that the latter adopt the Rules of Procedure of the PCT Committee for Technical Cooperation (PCT/CTC) as set forth in Annex VIII of this report.

72. In approving the decision set forth in paragraph 19 of the memorandum, the Committee took into account the same considerations as it had in relation to the comparable decision relating to the composition of the PCT Committee for Technical Assistance (PCT/CTA) (see paragraph 69 of this report).

PCT Committee for Administrative and Legal Matters (PCT/CAL)

73. The Delegation of the United Kingdom said that, in principle, it was against any proliferation of regular Committees, but accepted the necessity for the establishment of the PCT Committee for Administrative and Legal Matters in view of the decisions which had been taken regarding joint meetings of the Permanent Committee on Patent Information and the PCT Committee for Technical Cooperation (PCT/CTC) which might otherwise have performed many of the functions of PCT/CAL.

74. The Delegation of Switzerland said that it shared the concern expressed by the Delegation of the United Kingdom regarding proliferation of Committees but added that there were many matters which would not fall within the functions of PCT/CTC even if the functions of that Committee were widely interpreted. Taking however into account the decisions made by the Governing Bodies of WIPO regarding the need for PCT/CTC to have in future joint sessions with the Permanent Committee on Patent Information (PCPI), the mandate of PCT/CTC would have to be interpreted in a stricter sense, fitting into the framework of the general mandate of PCPI. This meant, for instance, in matters such as the PCT Guidelines for international search and for international preliminary examination that the latter would now come solely within the responsibility of PCT/CAL while the former could be dealt with by the PCT/CTC and the PCPI only as far as it related to documentation and patent information; beyond that, the Guidelines did not involve matters of interest to the PCT/CTC and PCPI.

75. The Delegations of Austria, France, Germany (Federal Republic of), Japan, the United States of America and Norway supported the views expressed by the Delegation of Switzerland. The Delegation of Austria added that, even if the possibility for separate meetings of PCT/CTC would exist, it would not be practical to deal with technical as well as legal and administrative matters within the same Committee. The consequence would be that different sessions with different composition of delegations would be needed. It would seem to be simpler and not more costly for the Governments to entrust these matters to a Committee specializing in legal and administrative matters. Article 53 gives the necessary freedom to the Assembly to establish the PCT/CAL as a Committee having full competence in all matters of implementation of the PCT of a legal and administrative nature, whereas the PCT/CTC, in view of its virtual incorporation in the framework of the PCPI, would be limited to matters of patent information and documentation. The Delegation of the Federal Republic of Germany added that there were a lot of important legal and administrative matters to be solved for the implementation of the PCT in the future which required meetings of experts in those fields from the Offices of the Contracting States. For that purpose, the establishment of a special Committee dealing with such matters appeared indispensable and would also lead to a better preparation of the sessions of the Assembly. The Delegation of Japan added that careful preparatory work in administrative and legal matters was essential for the successful operation of the PCT. The Delegation of the United States of America added that administrative and legal matters should not be dealt with by the PCT/CTC, even if this were feasible under the present structure, since the delegates participating in these meetings were patent information specialists and could not effectively deal with administrative and legal matters.

76. After the ensuing discussion, the Chairman stated general agreement with the views expressed by the Delegations of Switzerland and Austria and supported by a number of other delegations provided, however, that the Delegation of the Netherlands said that it did not entirely share the said views and reserved its position.

77. The Delegations of Austria, Switzerland, France, Germany (Federal Republic of), Japan, the United States of America, Sweden, the Soviet Union, Norway and Brazil supported the proposal contained in paragraph 26 of the memorandum that the Committee recommend to the Assembly that the latter establish the PCT Committee for Administrative and Legal Matters (PCT/CAL). The Delegation of Sweden said that the continuation of PCT/CAL should be reviewed after two or three years.

78. In conclusion, the Committee agreed to recommend to the Assembly that the latter establish the PCT/CAL as proposed in the memorandum. The text of the necessary draft decision establishing that Committee is contained in Annex IX of this report.

79. The Committee approved the proposed Rules of Procedure of the PCT Committee for Administrative and Legal Matters (PCT/CAL) subject to the changes and interpretations set forth in the following paragraphs.

80. The Committee agreed that a reference to elected Offices be included in items (i) to (iii) of Rule 2. In relation to item (ii), it was agreed, furthermore, that the reference to matters concerning the relationship between the applicant and the Offices was to be understood as reference to the international phase of the procedure only. On the other hand, matters concerning the applicants' relationship with the International Searching and Preliminary Examining Authorities fell within the competence of PCT/CAL and should therefore be included in item (ii).

81. With respect to Rule 5, it was agreed to refer only to "interested organizations" without distinguishing between intergovernmental and non-governmental organizations.

82. With respect to Rule 6, it was agreed to insert in the first line after the words "the Committee may" the words ", with the approval of the Assembly,".

83. In conclusion, the Committee agreed to recommend to the Assembly that the latter adopt the Rules of Procedure as amended by the Committee and as set out in Annex X of this report.

Preliminary draft agenda of the first session of the Assembly of the PCT Union

84. In response to the invitation contained in paragraph 28 of the memorandum, the Committee raised a number of questions concerning the preliminary draft agenda for the first session of the Assembly as set out in Annex VII to the memorandum.

85. In response to a question by the Delegation of the Netherlands, it was indicated by the Director General that the Guidelines for the carrying out of international search and international preliminary examination did not need to be submitted to the Assembly for its approval. When, at a later stage, revision of those Guidelines became necessary, it would be carried out by the International Bureau which would seek the advice of the competent PCT Committee.

86. In the course of a general discussion of item 12 of the preliminary draft agenda relating to the implementation of Article 50 of the PCT, it was indicated by the International Bureau that the reason for the inclusion of this item on the agenda was to provide an opportunity for a general exchange of views concerning the implementation of Article 50 and for the establishment of a procedure in that regard but that the International Bureau did not have any specific proposal to make on these matters at this stage. In the absence of an indication from any delegation that it wished the item to be maintained on the preliminary draft agenda, it was agreed that the item would be deleted.

87. Upon a question from the Delegation of the United Kingdom as to the necessity under Article 53(2)(vii) to adopt financial regulations of the PCT Union at the first session, the Director General said that such regulations should be adopted at the September 1978 session of the Assembly, at which there would be the possibility for consultation, through the WIPO Coordination Committee, with the other Unions administered by WIPO, in the event that this should be necessary. In fact, the various Unions had essentially the same financial regulations and the maintenance of comparable provisions was highly desirable. In the meantime, the Financial Regulations of WIPO would be applied. The Committee noted these declarations.

88. In response to questions from the Delegations of Hungary and the United Kingdom, it was indicated that item 9 of the preliminary draft agenda, relating to the consideration of matters concerning relations between the International Bureau and prospective receiving, designated and elected Offices, had been included having regard to the need to reach understandings with such Offices on a number of questions relating to the operation of the PCT system. If, at the time of the session, there were points of principle which needed to be resolved, the Director General would raise them under this item and would prepare a document to that effect. Time permitting, that document would be distributed before the first session of the Assembly. In the event that no question of principle remained unresolved at the time of the first session, the Director General would propose the deletion of this item at the beginning of the session.

89. In response to a question from the Delegation of the United Kingdom, the International Bureau said that the approval of the Administrative Instructions by the Assembly was not required under Article 58(4) and Rule 89. The Director General would formally promulgate the Administrative Instructions following the first session of the Assembly and after any necessary further consultations on the occasion of that session in accordance with Rule 89.2(a).

90. In conclusion, the Committee approved the draft agenda of the first session of the Assembly set forth in Annex XI of this report.

PROGRESS REPORTS BY THE DIRECTOR GENERAL

Contacts with Offices expected to be receiving Offices, designated and elected Offices and/or International Searching and Preliminary Examining Authorities

91. The Director General reported on the contacts which had been established by him with the Offices of Contracting States and the EPO by way of questionnaires seeking to establish the essential information and arrangements necessary for the operation of the PCT in relation to such Offices in their capacities as receiving, designated and elected Offices under the PCT. Not all Offices replied to the questionnaires or to all the questions contained in them, but it was hoped that they would soon do so.

92. The Director General also reported on progress achieved in negotiations in respect of agreements to be reached for the purposes of the appointment of International Searching and Preliminary Examining Authorities. Such negotiations had reached a very advanced stage with the European Patent Office, the Patent Office of the United Kingdom, and the State Committee for Inventions and Discoveries of the USSR Council of Ministers. It was expected that draft Agreements with these Offices could be initialled in a short time. In the case of the United States Patent and Trademark Office, there had been an exchange of drafts, but some delay in the commencement of negotiations. As far as the Offices of States were concerned which had not yet ratified the PCT, it was noted that negotiations with the Austrian Patent Office and the Swedish Patent Office had resulted in agreement on provisional drafts and that the initialling of draft Agreements was expected to take place as soon as progress with ratification permitted to do so. In the case of the Japanese Patent Office, there had been preliminary conversations which would soon be followed by detailed negotiations. It was expected that the initialling of a draft Agreement with that Office could take place as soon as further progress had been made towards the ratification of the PCT by Japan.

Preparations for printing certain documents and publications

93. The Director General informed the Committee that he had chosen a Swiss printing concern for the printing of the PCT Gazette. This printer had been deemed the most advantageous, taking into account considerations of cost and facility and security of communication. Since international applications would not begin to be published until 1979 and there were more difficulties in relation to the tenders made for the printing of the pamphlet, no decision had been taken or needed to be taken in the near future, in relation to a printer for the PCT pamphlet. That decision would be made in due course and after further study of the tenders.

94. In response to a question from the Delegation of the United Kingdom, the Director General confirmed that the basis for the selection of the printer had been a specification prepared for the purpose of obtaining quotations from a number of nominated printing concerns and that the printer concerned had, except for one possible but rather remote hypothesis, where his price was very slightly higher than the cheapest offer, made the most economical bid.

95. In response to a question from the representative of UNICE, the Director General said that, in the event which he did not, however, expect to occur, that a request was made for early publication of an international application in the period before a contract was concluded for the printing of the PCT pamphlet, the printing could, in such an exceptional case, be done by the International Bureau using its own facilities.

Dissemination of information about the PCT

96. The Director General informed the Committee of the intention of the International Bureau to issue an updated and modified information brochure for the user of the PCT based on the Guidelines for Applicants. The first edition of the information brochure, containing such detailed information of interest to PCT applicants as was then available with respect to the initial group of Contracting States was expected to be issued in March.

97. The Committee was also informed of arrangements made by the International Bureau with national Authorities and interested private circles for the holding of PCT seminars in London, Paris, Munich, Washington and Chicago in April and May 1978. Lectures would be given by representatives of Patent Offices, the private sector, including practicing professional representatives, and WIPO staff members. In the case of the seminar in Munich, the European Patent Office would be co-sponsoring the seminar as well.

Conclusions

98. The Committee noted with approval the progress reported in paragraphs 91 to 97 of this report.

FURTHER PROCEDURE

99. Having regard to the fact that the Committee had virtually completed its tasks, it found that no further session of the Committee was necessary. Consequently, it was decided not to hold the second session of the Committee originally envisaged for the week preceding the first session of the Assembly.

100. In view of the decision not to convene a second session of the Committee, it was agreed that consideration by the Assembly of the question of the copyright protection of PCT publications would take place on the basis of a document prepared and issued by the International Bureau prior to the session of the Assembly. This document would be essentially the same as the document considered by the Interim Advisory Committee for Administrative Questions at its eighth (October 1977) session (document PCT/AAQ/VIII/4), would refer to Article 57(3)(ii) of the PCT speaking about royalties on the publications of the International Bureau concerning the PCT, and would show the results of the survey of the copying of patent documents by patent Office libraries carried out by the International Bureau in accordance with the decision taken at that session.

101. The Committee unanimously adopted this report at its closing meeting.

[Annexes follow]

LIST OF PARTICIPANTS/
LISTE DES PARTICIPANTS

I. STATES/ETATS

AUSTRIA/AUTRICHE

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

BRAZIL/BRESIL

Mr. G. R. COARACY, Director, Technological Documentation and Information Center,
Instituto Nacional da Propriedade Industrial, Rio de Janeiro

CAMEROON/CAMEROUN

M. B. YAYA GARGA, Premier secrétaire, Mission permanente, Bruxelles, Belgique

CANADA

Mr. B. GILLIES, Third Secretary, Permanent Mission, Geneva

CENTRAL AFRICAN EMPIRE/EMPIRE CENTRAFRICAIN

M. E.-L. BAYANGHA, Représentant permanent, Représentation permanente, Berne

EGYPT/EGYPTE

Mr. F. EL IBRASHI, Minister Plenipotentiary, Permanent Mission, Geneva

Mr. T. DINANA, Second Secretary, Permanent Mission, Geneva

Mr. A. A. OMAR, Director General, Patent Office, Cairo

FRANCE

M. P. FRESSONNET, Directeur-adjoint, Institut national de la propriété
industrielle, Paris

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

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

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

HUNGARY/HONGRIE

Ms. E. PARRAGH, Counsellor, National Office of Inventions, Budapest

JAPAN/JAPON

- Mr. K. HOSHIKAWA, Counsellor for PCT Affairs, Japanese Patent Office, Tokyo
- Mr. K. HATAKAWA, Director, Japan Trade Center, Düsseldorf, Germany (Federal Republic of)

LUXEMBOURG

- M. F. SCHLESSER, Adjoint au Chef de Service, Service de la Propriété Industrielle, Luxembourg

MADAGASCAR

- M. S. RABEARIVELO, Conseiller, Mission permanente, Genève

NETHERLANDS/PAYS-BAS

- Mr. S. de VRIES, Deputy Member, Netherlands Patent Office, Rijswijk (Z.H.)

NORWAY/NORVEGE

- Mr. O. OS, Overingeniør, Norwegian Patent Office, Oslo

ROMANIA/ROUMANIE

- M. V. TUDOR, Conseiller, Mission permanente, Genève

SENEGAL

- M. P. CRESPIAN, Conseiller, Mission permanente, Genève

SOVIET UNION/UNION SOVIETIQUE

- Mr. E. BURYAK, Head, International Patent Cooperation Division, All-Union Research Institute of the State Patent Examination, Moscow.

SPAIN/ESPAGNE

- Sr. A. C. ORTEGA LECHUGA, Jefe, Sección de Explotación y Licencias, Delegación Permanente, Ginebra

SWEDEN/SUEDE

- Mr. J.-E. BODIN, Head of Section, Royal Patent and Registration Office, Stockholm
- Ms. B. SANDBERG, Legal Counsel, Royal Patent and Registration Office, Stockholm

SWITZERLAND/SUISSE

- 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

UNITED KINGDOM/ROYAUME UNI

Mr. R. BOWEN, Assistant Comptroller, The Patent Office, London

Mr. E. F. BLAKE, Senior Examiner, The Patent Office, London

UNITED STATES OF AMERICA/ETATS-UNIS D'AMERIQUE

Mr. H. D. HOINKES, International Patent Specialist, Office of Legislation and International Affairs, United States Patent and Trademark Office, Washington, D.C.

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

II. INTERGOVERNMENTAL ORGANIZATIONS
ORGANISATIONS INTERGOUVERNEMENTALES

EUROPEAN PATENT ORGANISATION/ORGANISATION EUROPEENNE DES BREVETS

Mr. J. C. A. STAEHELIN, Vice-President, Directorate General 5, European Patent Office, Munich

Mr. J. A. H. van VOORTHUIZEN, Director, Directorate General 1, European Patent Office, Munich

INTERIM COMMITTEE OF THE COMMUNITY PATENT/COMITE INTERIMAIRE POUR LE BREVET COMMUNAUTAIRE

M. O. PETERSEN, Administrateur, Secrétariat Général du Conseil des Ministres des Communautés européennes, Bruxelles

III. NON-GOVERNMENTAL ORGANIZATIONS
ORGANISATIONS NON-GOUVERNEMENTALES

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

Mr. M. van DAM, Patent Agent, Eindhoven, Netherlands

EUROPEAN FEDERATION OF AGENTS OF INDUSTRY IN INDUSTRIAL PROPERTY/FEDERATION EUROPEENNE DES MANDATAIRES DE L'INDUSTRIE EN PROPRIETE INDUSTRIELLE (FEMIP)

Mr. J. d'HAEMER, Patentabteilung, Sandoz A.G., Bâle, Suisse

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

Mr. P. FELDMANN, Engineer, Opfikon, Switzerland

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

M. M. P. MICHELI, Conseil en propriété industrielle, Michel P. Micheli et Cie, Genève, Suisse

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

Mr. R. KOCKLÄUNER, Patent Department, Hoechst AG, Wiesbaden, Germany (Fed. Rep. of)

IV. OFFICERS/BUREAU

Chairman/Président: M. P. FRESSONNET (France)
Vice-Chairmen/Vice-présidents: Mr. E. BURYAK (Soviet Union/Union Soviétique)
M. B. YAYA GARGA (Cameroon/Cameroun)
Secretary/Secrétaire: Mr. E. M. HADDRICK (WIPO/OMPI)

V. INTERNATIONAL BUREAU OF WIPO
BUREAU INTERNATIONAL DE L'OMPI

Dr. A. BOGSCH, Director General
Mr. K. PFANNER, Deputy Director General
Mr. F. A. SVIRIDOV, Deputy Director General
Mr. E. M. HADDRICK, Head, PCT Division
Mr. J. FRANKLIN, Head, PCT Administrative Section
Mr. N. SCHERRER, Counsellor, PCT Division
Mr. D. BOUCHEZ, Technical Counsellor, PCT Division
Mr. Y. GYRDYMOV, Technical Counsellor, PCT Division
Mr. A. OKAWA, Consultant, PCT Division

[Annex II follows]

ANNEX II

DRAFT RULES OF PROCEDURE OF THE ASSEMBLY OF THE
INTERNATIONAL PATENT COOPERATION (PCT) UNION

Rule 1: Application of the General Rules of Procedure

The Rules of Procedure of the Assembly of the International Patent Cooperation (PCT) Union shall consist of the General Rules of Procedure of WIPO, supplemented and amended by the provisions set forth hereinafter.

Rule 2: Special Observers

(1) The following shall be invited as "special observers" to all sessions of the Assembly:

(i) States not members of the PCT Union which contribute to the budget of the PCT Union,

(ii) intergovernmental authorities having the power to grant patents effective in one or more States members of the PCT Union.

(2) Special observers shall have the same rights in the sessions of the Assembly as States members of the Assembly, except the right to vote.

Rule 3: Draft Agenda

The draft agenda of each session shall be drawn up by the Director General. In the case of ordinary sessions, such draft shall follow the instructions of the Executive Committee once the Executive Committee is established (see PCT, Articles 53(9) and 54(6)(a)). In the case of extraordinary sessions, the said draft shall include the item or items mentioned in the request referred to in Article 53(11)(c) of the Patent Cooperation Treaty.

Rule 4: Publication of the Report

The report of the work of each session, or a summary drawn up by the International Bureau, shall be published in the Gazette of the PCT Union and in the reviews La Propriété industrielle and Industrial Property of the World Intellectual Property Organization.

[Annex III follows]

ANNEX III

DRAFT AMENDMENTS TO THE REGULATIONS UNDER THE PCT

Rule 4.10(d) (first sentence)

(d) If the filing date of the earlier application as indicated in the request does not fall within the period of one year preceding the international filing date, the receiving Office, or, if the receiving Office has failed to do so, the International Bureau, shall invite the applicant to ask either for the cancellation of the declaration made under Article 8(1) or, if the date of the earlier application was indicated erroneously, for the correction of the date so indicated.

Rule 11.6(a) and (b)

11.6 Margins

(a) The minimum margins of the sheets containing the request, the description, the claims, and the abstract shall be as follows:

- top: 2 cm
- left side: 2.5 cm
- right side: 2 cm
- bottom: 2 cm

(b) The recommended maximum, for the margins provided for in paragraph (a), is as follows:

- top: 4 cm
- left side: 4 cm
- right side: 3 cm
- bottom: 3 cm

Rule 11.13(a)

11.13 Special Requirements for Drawings

(a) Drawings shall be executed in durable, black, sufficiently dense and dark, uniformly thick and well-defined, lines and strokes without colorings.

Rule 15.2

15.2 Amounts*

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

(i) if the international application contains not more than 30 sheets:
US \$150 or 300 Swiss francs,

(ii) if the international application contains more than 30 sheets:
US \$150 or 300 Swiss francs plus US \$3 or 6 Swiss francs per sheet in excess of 30 sheets.

(b) The amount of the designation fee shall be for each designated State or each group of designated States for which the same regional patent is sought:
US \$40 or 80 Swiss francs.

* As to the reservation of some of the Delegations in respect of the amounts, see paragraph 57 of the Report.

Rule 32bis

Withdrawal of the Priority Claim

Rule 32bis.1 Withdrawals

(a) The applicant may withdraw the priority claim made in the international application under Article 8(1) until the international publication of the international application.

(b) Where the international application contains more than one priority claim, the applicant may exercise the right provided for in paragraph (a) in respect of one, more or all of them.

(c) Where the withdrawal of the priority claim or, in the case of more than one such claim, the withdrawal of any of them, causes a change in the priority date of the international application, any time limit which is computed from the original priority date and which has not already expired, shall be computed from the priority date as resulting from the change. In the case of the time limit of 18 months referred to in Article 21(2)(a), the International Bureau may, nevertheless, proceed with the international publication on the basis of the said time limit as computed from the original priority date if the withdrawal is effected during the period of 15 days preceding the expiration of that time limit.

(d) For any withdrawal under paragraph (a), the provisions of Rule 32.1(c) and (d) and Rule 74bis.1 apply mutatis mutandis.

Rules 48.2(a)(v) and 48.3(c)

Rule 48.2 Contents

(a) ...

(v) subject to paragraph (g), the international search report or the declaration under Article 17(2)(a); the publication of the international search report in the pamphlet shall, however, not be required to include the part of the international search report which contains only matter referred to in Rule 43 already appearing on the front page of the pamphlet,

...

Rule 48.3 Language

...

(c) If the international application is published in a language other than English, the international search report to the extent it is published under Rule 48.2(a)(v), or the declaration referred to in Article 17(2)(a), and the abstract shall be published both in that language and in English. The translations shall be prepared under the responsibility of the International Bureau.

...

Rule 57.2

57.2 Amount*

(a) The amount of the handling fee shall be US \$48 or 96 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 US \$48 or 96 Swiss francs for each additional language.

Rule 74bis Notification of Withdrawal under Rule 32

Rule 74bis.1 Notification of the International Preliminary Examining Authority

If, at the time of the withdrawal of the international application or of the designation of all designated States under Rule 32.1, a demand for international preliminary examination has

* As to the reservation of some of the Delegations in respect of the amounts, see paragraph 57 of the Report.

Rule 74bis.1 (continued)

already been submitted and the international preliminary examination report has not yet issued, the International Bureau shall promptly notify the fact of withdrawal, together with the date of receipt of the notice effecting withdrawal, to the International Preliminary Examining Authority.

Rule 86.3 and 86.4

Rule 86.3 Frequency

(a) Subject to paragraph (b), the Gazette shall be published once a week.

(b) For a transitional period after the entry into force of the Treaty terminating upon a date fixed by the Assembly, the Gazette may be published at such times as the Director General considers appropriate having regard to the numbers of international applications and the amount of other material required to be published.

Rule 86.4 Sale

(a) Subject to paragraph (b), the subscription and other sale prices of the Gazette shall be fixed in the Administrative Instructions.

(b) For a transitional period after the entry into force of the Treaty terminating upon a date fixed by the Assembly, the Gazette may be distributed on such terms as the Director General considers appropriate having due regard to the number of international applications and the amount of other material published therein.

ANNEX IV

LEVEL OF FEES AND SALES PRICES

1. The Report of the Working Group on Budgetary Questions of the Patent Cooperation Treaty (hereinafter referred to as "the Budget Working Group"), adopted on March 4, 1977, states that "it was suggested that the International Bureau should 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 very significant budgetary implications. Lower fees could contribute in an important way to a more rapid growth of the number of international applications filed." (document PCT/WG/BUD/I/6, paragraph 29).
2. In the following, the said "initial period" is considered as one year: seven months (from June 1) in 1978 and five months (until the end of May) in 1979.
3. According to the estimates on which the Budget Working Group based its considerations, the PCT would have become operational on July 1, 1978, rather than June 1, 1978. On that assumption, and on the basis of the level of fees and prices referred to in document PCT/PREP/I/2, the income (for six months) in 1978 would have been 502,000 Swiss francs and in 1979 (for 12 months) 1,560,000 Swiss francs. Taking 7/6 of the first amount (to cover seven months in 1978) and 5/12 of the second amount (to cover five months in 1979), the income would, for the first operational year, be 1,240,000 Swiss francs.
4. For the same period of the first year, the estimated expenditure, on the same basis would be (7/6 of 1,831,000 + 5/12 of 3,808,000 =) 3,723,000 Swiss francs, reduced by 180,000 Swiss francs (i.e., one third of the reduction in expenditure of 537,000 Swiss francs over the three-year period 1978-1980--see document PCT/WG/BUD/I/6, paragraph 52(ii)). Total expenditure would therefore be 3,543,000 Swiss francs. Thus the deficit would be (3,543,000 - 1,240,000 =) 2,303,000 Swiss francs.
5. If now the fees and prices were, for the first year, to be lowered by approximately 40%, the income would be (60% of 1,240,000 =) 744,000 Swiss francs. Consequently, the deficit would be (3,543,000 - 744,000 =) 2,799,000 Swiss francs. In other words, the deficit would increase by (1,240,000 - 744,000 =) 496,000 Swiss francs or by approximately 14% of the expected expenditure. (The said 496,000 Swiss francs represent 8% of the triennial (1978 to 1980) budget of the PCT.) Naturally, if the reduction of the fees and prices causes a substantial increase in the number of international applications filed and the number of copies of PCT publications sold, the deficit may be less.
6. Thus the change, in the financial situation of the PCT Union, caused by a lowering of 40% of the fees and prices during the first year of operations would be, both in absolute figures and in percentages, marginal.
7. The increased deficit, should it really materialize, would be carried forward on the accounts of the subsequent year or years.
8. In the case of the lowering of the fees by 40% for the first operational year, the International Bureau would not ask for an increase of the contributions either for 1978 or for 1979.
9. The first session of the Assembly may wish to decide that it be convened in extraordinary session towards the end of the one-year period, and modify the fees, if desirable, in the light of the trend in the number of international applications filed and other factors which only experience will allow to discern.

ANNEX V

DRAFT DECISIONS CONCERNING PCT COMMITTEE FOR
TECHNICAL ASSISTANCE (PCT/CTA)

The Assembly of the PCT Union, at its first session held from April 10 to 14, 1978, adopts the following decisions:

1. With reference to PCT, Article 51(1) and (2)(a), the Assembly hereby establishes the PCT Committee for Technical Assistance (PCT/CTA) and elects all States members of the PCT Union as members of the said Committee, it being understood that the election of any State which will become member of the PCT Union in the future shall take effect on the date on which such State becomes member of the PCT Union. Finally, the Assembly decides that once the number of the States members of the PCT Union reaches 30, it will, in its session following such an event, reconsider the question of the composition of the said Committee.
2. With reference to PCT, Article 51(5), the Assembly decides that it will itself establish and, where necessary in the future, amend the Rules of Procedure of the PCT Committee for Technical Assistance (PCT/CTA).
3. With reference to its decision under PCT, Article 51(5), the Assembly hereby establishes the Rules of Procedure of the PCT Committee for Technical Assistance as set out in Annex VI.
4. With reference to the decision taken by the Executive Committee of the Paris Union and the WIPO Coordination Committee in their September 1977 session, when establishing the WIPO Permanent Committee on Patent Information (WIPO/PCPI), in which it was agreed, inter alia, that the meetings of PCT/CTA "shall be joint" with those of the WIPO Permanent Committee for Development Cooperation Related to Industrial Property, "it being understood that the activities of the said Committees will be coordinated and it being further understood that, where decisions are made by [PCT/CTA]..., only the members of [PCT/CTA]... should vote" (AB/VIII/16, Annex B, Decision, paragraph 4), and recommending that the Assembly of the PCT Union "endorse the above measures," the Assembly decides to endorse the measures in question.

[Annex VI follows]

ANNEX VI

DRAFT RULES OF PROCEDURE OF THE PCT COMMITTEE
FOR TECHNICAL ASSISTANCE (PCT/CTA)

Rule 1: Application of the General Rules of Procedure

The PCT Committee for Technical Assistance (PCT/CTA; hereinafter referred to as "the Committee"), being, within the meaning of Rule 12 of the General Rules of Procedure of WIPO, a subsidiary body of the PCT Assembly, the provisions of the said General Rules of Procedure shall be the Rules of Procedure of the Committee, as supplemented and amended by the provisions set forth hereafter.

Rule 2: Special Observers

(1) States which are not members of the Committee which have the status of special observer in the PCT Assembly, as well as intergovernmental authorities which have such a status, shall be invited as "special observers" to all sessions of the Committee.

(2) Special observers shall have the same rights in the sessions of the Committee as member of the Committee, except the right to vote.

Rule 3: Observers

The Director General shall, on his own initiative or at the request of the Committee, invite representatives of interested international non-governmental organizations to attend the sessions of the Committee in an observer capacity.

Rule 4: Joint Meetings with the WIPO Permanent Committee for Development Cooperation Related to Industrial Property

The meetings of the Committee shall be joint with those of the WIPO Permanent Committee for Development Cooperation Related to Industrial Property, it being understood that the activities of the two Committees shall be coordinated and that, where decisions are made by the Committee, only the members of the Committee shall vote.

[Annex VII follows]

ANNEX VII

DRAFT DECISIONS CONCERNING PCT COMMITTEE FOR
TECHNICAL COOPERATION (PCT/CTC)

The Assembly of the PCT Union, at its first session held from April 10 to 14, 1978, adopts the following decisions:

1. With reference to PCT, Article 56(1) and (2), the Assembly hereby establishes the PCT Committee for Technical Cooperation (PCT/CTC) and appoints, in addition to the ex officio members according to PCT, Article 56(2)(b), all States, members of the PCT Union, as members of the said Committee, it being understood that the appointment of any State which will become a member of the PCT Union in the future shall take effect on the date on which such State becomes member of the PCT Union. Finally, the Assembly decides that once the number of the States members of the PCT Union reaches 30, it will, in its session following such an event, reconsider the question of the composition of the said Committee.
2. With reference to PCT, Article 56(8), the Assembly decides that it will itself establish and, where necessary in the future, amend the Rules of Procedure of the PCT Committee for Technical Cooperation (PCT/CTC).
3. With reference to its decision under PCT, Article 56(8), the Assembly hereby establishes the Rules of Procedure of the PCT Committee for Technical Cooperation as set out in Annex VIII.
4. With reference to the decision taken by the Executive Committee of the Paris Union and the WIPO Coordination Committee in their September 1977 session, establishing the WIPO Permanent Committee on Patent Information (WIPO/PCPI), and agreeing, inter alia, that the meetings of PCT/CTC "shall be joint" with those of WIPO/PCPI, "it being understood that the activities of the said Committees will be coordinated and it being further understood that, where decisions are made by [PCT/CTC]..., only the members of [PCT/CTC]...should vote" (AB/VIII/16, Annex B, Decision, paragraph 4), and recommending that the Assembly of the PCT Union "endorse the above measures", the Assembly decides to endorse the measures in question.

[Annex VIII follows]

ANNEX VIII

DRAFT RULES OF PROCEDURE OF THE PCT COMMITTEE
FOR TECHNICAL COOPERATION (PCT/CTC)

Rule 1: Application of the General Rules of Procedure

The PCT Committee for Technical Cooperation (PCT/CTC; hereinafter referred to as "the Committee"), being, within the meaning of Rule 12 of the General Rules of Procedure of WIPO, a subsidiary body of the PCT Assembly, the provisions of the said General Rules of Procedure shall be the Rules of Procedure of the Committee, as supplemented and amended by the provisions set forth hereafter.

Rule 2: Special Observers

(1) States and intergovernmental authorities which are not members of the Committee which have the status of special observer in the PCT Assembly shall be invited as "special observers" to all sessions of the Committee.

(2) Special observers shall have the same rights in the sessions of the Committee as members of the Committee, except the right to vote.

Rule 3: Joint Meetings with the WIPO Permanent Committee on Patent Information

The meetings of the Committee shall be joint with those of the WIPO Permanent Committee on Patent Information, it being understood that the activities of the two Committees shall be coordinated and that, where decisions are made by the Committee, only the members of the Committee shall vote.

[Annex IX follows]

ANNEX IX

DRAFT DECISIONS CONCERNING PCT COMMITTEE FOR
ADMINISTRATIVE AND LEGAL MATTERS (PCT/CAL)

The Assembly of the PCT Union, at its first session held from April 10 to 14, 1978, adopts the following decisions:

1. With reference to PCT Article 53(2)(a)(viii) the Assembly hereby establishes the PCT Committee for Administrative and Legal Matters (PCT/CAL) and appoints all States members of the PCT Union and the International Searching and Preliminary Examining Authorities as members, it being understood that where any such Authority is the national Office of a State member of the PCT Union, that State shall not be additionally represented on the Committee. It is also understood that the appointment of any State which will become a member in the future shall take effect on the date on which such State becomes a member of the PCT Union.
2. The Assembly decides that it will itself establish and, where necessary in the future, amend the Rules of Procedure of the PCT Committee for Administrative and Legal Matters (PCT/CAL).
3. With reference to its decision concerning the establishment and amendment of the Rules of Procedure of the PCT Committee for Administrative and Legal Matters, the Assembly hereby establishes those Rules of Procedure as set out in Annex X.

[Annex X follows]

ANNEX X

DRAFT RULES OF PROCEDURE OF THE PCT COMMITTEE FOR
ADMINISTRATIVE AND LEGAL MATTERS (PCT/CAL)

Rule 1: Composition

The PCT Committee for Administrative and Legal Matters (PCT/CAL; hereinafter referred to as "the Committee") shall have as members the States members of the PCT Union and the International Searching and Preliminary Examining Authorities, it being understood that where any such Authority is the national Office of a State member of the PCT Union, that State shall not be additionally represented on the Committee.

Rule 2: Terms of Reference

The Committee shall deal with matters concerning

(i) the relationship between the International Bureau on the one hand and the applicants, the receiving Offices, the designated Offices, the elected Offices, the International Searching Authorities and the International Preliminary Examining Authorities on the other hand,

(ii) the relationship between the applicants on the one hand and the receiving Offices, the designated Offices, the elected Offices, the International Searching Authorities and the International Preliminary Examining Authorities on the other hand,

(iii) the relationship between the receiving Offices, the designated Offices and the elected Offices on the one hand and the International Searching Authorities and the International Preliminary Examining Authorities on the other hand,

(iv) fees, forms, procedures and publications under the PCT,

(v) other administrative and legal questions concerning the application of the PCT.

Rule 3: Application of the General Rules of Procedure

The Committee, being, within the meaning of Rule 12 of the General Rules of Procedure of WIPO, a subsidiary body of the PCT Assembly, the provisions of the said General Rules of Procedure shall be the Rules of Procedure of the Committee, as supplemented and amended by the provisions set forth below.

Rule 4: Special Observers

(1) States which are not members of the Committee which have the status of special observer in the PCT Assembly, as well as intergovernmental authorities which have such a status and which are not members of the Committee, shall be invited as "special observers" to all sessions of the Committee.

(2) Special observers shall have the same rights in the sessions of the Committee as members of the Committee, except the right to vote.

Rule 5: Observers

The Director General shall, on his own initiative or at the request of the Committee, invite representatives of interested organizations to attend the sessions of the Committee in an observer capacity.

Rule 6: Working Groups

The Committee may, with the approval of the Assembly, set up working groups for the purposes of dealing with specific questions. It shall decide their composition, terms of reference, duration and rules of procedure.

ANNEX XI

DRAFT AGENDA OF THE FIRST SESSION OF THE
PCT ASSEMBLY

Prepared by the Director General

1. Opening of the session by the Director General
2. Adoption of the rules of procedure of the Assembly (see PCT, Article 53(12))
3. Election of a Chairman and of two Vice-Chairmen (see WIPO General Rules of Procedure, Rule 9)
4. Adoption of the agenda (see the present document)
5. Admission of observers (see PCT, Article 53(2) (a) (ix))
6. Appointment of International Searching Authorities and International Preliminary Examining Authorities and approval of the agreements between those Authorities and the International Bureau (see PCT, Articles 16(3) and 32(3))
7. Fixing of the date from which international applications may be filed and of the date from which demands for international preliminary examination may be submitted (see PCT, Article 65(2))
8. Amendment of the PCT Regulations (see PCT, Article 58(2))
9. Consideration of matters concerning the relations between the International Bureau and prospective receiving, designated and elected Offices (see PCT, Article 53(2) (a) (i)).
10. Establishment of the Committee for Technical Cooperation; appointment of its members; adoption of its rules of procedure (see PCT, Article 56(1), (2) (a) and (c), (8))
11. Establishment of the Committee for Technical Assistance; election of its members; adoption of its rules of procedure (see PCT, Article 51(1), (2) (a), (5))
12. Establishment of Committees and Working Groups (see PCT, Article 53(2) (a) (viii))
13. Recommendations concerning the copyright protection of certain PCT publications (see PCT, Article 53(2) (a) (i))
14. Adoption of the report of the session
15. Closing of the session by the Chairman

[End of the Annexes and
end of the document]