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WORKING GROUP ON REFORM
OF THE PATENT COOPERATION TREATY (PCT)

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PROPOSED AMENDMENT OF RULE 26bis.3(d)

Proposal submitted by the United States of America

SUMMARY

1. The Annex to this document contains a proposal to amend Rule 26bis.3(d) which would give receiving Offices the authority to extend the time period for applicant to pay the fee for requesting restoration of the right of priority.

BACKGROUND

2. On April 1, 2007, amendments to the Regulations under the PCT entered into force which provided for, *inter alia*, the restoration of the right to priority in certain situations and upon the satisfaction of certain requirements. One of the requirements is that applicant submit any required fee for requesting restoration within the time limit provided in Rule 26bis.3(e), that is two months from the date on which the priority period expired.

3. It is conceivable that there may be instances when an applicant inadvertently submits an insufficient amount or omits the fee entirely. However, at present there is no provision which would allow the receiving Office to notify applicant of the deficiency and accept the payment of the fee at a later date in such situations.

4. In that the fee in question is solely for the benefit of the receiving Office and in that the payment thereof has no effect on the presence of the priority claim in the international application, it is proposed to amend Rule 26*bis*.3(d) to give receiving Offices, at their option, the authority to extend the time period to pay the fee.

5. *The Working Group is invited to consider the proposal contained in the Annex.*

[Annex follows]

ANNEX

PROPOSED AMENDMENTS OF THE PCT REGULATIONS:¹

PROPOSED AMENDMENT OF RULE 26bis.3(d)

TABLE OF CONTENTS

Rule 26bis Correction or Addition of Priority Claim.....	2
26bis.1 and 26bis.2 [No change]	2
26bis.3 <i>Restoration of Right of Priority by Receiving Office</i>	2

¹ Proposed additions and deletions are indicated, respectively, by underlining and striking through the text concerned. Certain provisions that are not proposed to be amended may be included for ease of reference.

Rule 26bis

Correction or Addition of Priority Claim

26bis.1 and 26bis.2 [No change]

26bis.3 *Restoration of Right of Priority by Receiving Office*

(a) to (c) [No change]

(d) The submission of a request under paragraph (a) may be subjected by the receiving Office to the payment to it, for its own benefit, of a fee for requesting restoration, payable within the time limit applicable under paragraph (e). [The time limit for payment of the fee may be extended at the option of the receiving Office.](#) The amount of that fee, if any, shall be fixed by the receiving Office.

(e) to (j) [No change]

[End of Annex and of document]