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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

PATENT COOPERATION TREATY

INTERIM COMMITTEE FOR TECHNICAL COOPERATION

Sixth Session

Geneva, November 3 to 8, 1976

REPORT

INTRODUCTION

1. The PCT Interim Committee for Technical Cooperation (hereinafter referred to as "the Interim Committee") held its sixth session in Geneva from November 3 to 8, 1976.
2. The members of the Interim Committee are those States--43 in number--which have signed, or acceded to, the PCT, and, pursuant to a decision of the Executive Committee of the Paris Union, any other State which pledges a special contribution to the PCT budget. There are three States, Australia, Cuba and Spain which so far have qualified under the latter criterion. The following 26 States were represented: Algeria, Argentina, Austria, Brazil, Cameroon, Canada, Cuba, Denmark, Egypt, Finland, France, Germany (Federal Republic of), Hungary, Iran, Ivory Coast, Japan, Luxembourg, Netherlands, Norway, Romania, Soviet Union, Spain, Sweden, Switzerland, United Kingdom and United States of America. The following 17 States were not represented: Australia, Belgium, Central African Republic, Chad, Gabon, Holy See, Israel, Ireland, Italy, Monaco, Madagascar, Malawi, Philippines, Senegal, Syrian Arab Republic, Togo and Yugoslavia.
3. Three intergovernmental organizations, the United Nations Development Programme (UNDP), the European Patent Organisation (EPO) and the International Patent Institute (IIB), were represented by observers.
4. The following seven non-governmental organizations were represented by observers: International Association for the Protection of Industrial Property (AIPPI), Council of European Industrial Federations (CEIF), European Federation of Industrial Property Representatives of Industry (FEMIPPI), International Federation of Patent Agents (FICPI), International Federation of Inventors' Associations (IFIA), Union of Industries of the European Community (UNICE) and Union of European Professional Patent Representatives (UNION).
5. The number of participants was 69. The list of participants is annexed to this report (Annex B).

OPENING OF SESSION

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

OFFICERS OF THE INTERIM COMMITTEE

7. The Interim Committee unanimously elected Mr. D. G. Gay (United Kingdom) as Chairman and Mr. V. Bakastov (Soviet Union) and Mr. K. Hoshikawa (Japan) as Vice-Chairmen.

8. Mr. J. Franklin, Counsellor, PCT Division of WIPO, acted as Secretary of the Interim Committee.

AGENDA

9. The Interim Committee adopted the agenda as contained in document PCT/TCO/VI/1.Rev.

PCT MINIMUM DOCUMENTATION: NON-PATENT LITERATURE

Minimum List of Non-Patent Literature under PCT Rule 34.1(b) (iii)

10. Discussions were based on document PCT/TCO/VI/2.

11. The Interim Committee noted the report contained in document PCT/TCO/VI/2 to the effect that the International Bureau had published and distributed the PCT Minimum List of Non-Patent Literature as document PCT/INT/1.

12. The Interim Committee noted, furthermore, that, in accordance with the information conveyed by the Delegation of Japan, the journal entitled "Chemical Engineering, Japan" (Kagaku Kogaku) and listed under Serial Number 30 in the Annex to document PCT/INT/1 should be deleted from the PCT Minimum List of Non-Patent Literature.

13. The International Bureau stated that this information would be reflected in the on-going work of keeping the PCT Minimum List of Non-Patent Literature up to date, as indicated in paragraph 19 of document PCT/INT/1.

Progress report on the "PAL" System

14. Discussions were based on documents PCT/TCO/VI/3 and 14.

15. The first document contains a progress report prepared by the International Bureau on the PAL System of INSPEC and an analysis made by the IIB of PAL material received during the period between March 1, 1975 and February 29, 1976 (the second year of PAL Services). The second document contains the proposals of INSPEC for the fourth year of PAL Services.

16. The representative of INSPEC recalled that, during the first year of PAL Services (March 1, 1974 to February 28, 1975), INSPEC had implemented, on the basis of contracts signed with the Patent Offices of Brazil, Germany (Federal Republic of), Japan and the United States of America, all the basic features of the PAL System, including journal and subject coverage, selection criteria and classification, in accordance with its contractual obligations, and that, in accordance with these obligations, a refund of 5,250 US dollars of the subscription price of 35,000 US dollars had been made to the subscribers because the number of abstracts fell short of the minimum number of 10,500. During the second year of PAL Services (March 1, 1975 to February 29, 1976), as stated by the representative of INSPEC, the services of the first year had been continued - at the same subscription price of 35,000 US dollars - for five subscribers, namely, the Patent Offices of Brazil, Germany (Federal Republic of), Japan, the United States of America and the IIB, and an attempt to gradually cover all of the 168 journals in the PCT Minimum List of Non-Patent Literature (except "Chemical Abstracts") (see document PCT/INT/1) had been made. In that second year, more than 10,500 articles were selected and delivered.

17. The representative of INSPEC further said that, under the current third year of service, specifications as outlined at the fifth session of the Interim Committee (see paragraph 6 of document PCT/TCO/VI/2) had been adhered to in providing the PAL Full-Text Copy Service to the Patent Offices of Japan and the United States of America and the Composite Service to the IIB. He added that, following discussions

between the IIB and INSPEC early this year, a certain number of improvements had been introduced into the PAL Services, such as:

- (a) deliveries twice a month instead of monthly;
- (b) the age of the selected items in the deliveries had been reduced from an average of 7.3 weeks to an average of 5.2 weeks;
- (c) the overlap of the selections made from the periodicals by the IIB and by INSPEC, which had been 37% according to the analysis undertaken by the IIB, had now been brought to 77%;
- (d) the quality of the IPC symbols allotment had been improved and was still being improved.

The representative expressed his gratitude to the IIB for its valuable contribution in monitoring the PAL service so adequately.

18. The representative of INSPEC said that the proposals of his Organization for the fourth year of PAL Services (March 1, 1977 to February 28, 1978) were contained in document PCT/TCO/VI/14 and that INSPEC was able to offer the Full-Text Copy Service and the Composite Service for the same subscription prices as in the third year, these being 45,000 US dollars and 38,000 US dollars, respectively. He said that INSPEC had sent PAL test tapes to the Patent Offices of the Soviet Union and the United States of America and that INSPEC officials would visit the Japanese Patent Office in April next year. He suggested that early next year a PAL users and prospective users meeting be organized by WIPO either in Geneva or London and finally expressed the hope that the present subscribers would continue their subscriptions for 1977/78 and that other prospective International Searching Authorities would join as subscribers.

19. The Chairman stressed the great usefulness of the PAL System in economizing time and expense in searching and examination procedures and in the harmonization of the basis for searching non-patent literature under the PCT. He, therefore, urged the prospective International Searching Authorities, which so far had not been subscribers to PAL Services, to consider, in the spirit of international co-operation, becoming subscribers to PAL Services.

20. The Delegation of Japan said that it regretted that, for the third year of services, it had been decided to cover only those journals in the PCT Minimum List of Non-Patent Literature which appeared also in the INSPEC 1976 acquisition list (a total of 102 journals out of 169, according to INSPEC). It therefore urged INSPEC to consider again the inclusion of the 168 periodicals of the PCT minimum list (169 minus "Chemical Abstracts") in the PAL Services. If this should not be the case, the Japanese Patent Office would have difficulties in prolonging its subscription for the fourth year.

21. The representative of the IIB stated that his Organization, in subscribing to the PAL Services, had, for a certain test period, considered them as an additional means for selecting useful articles for inclusion in the search files, the primary means being, and continuing to be, their operational system for selecting and collecting non-patent literature. He recognized that, thanks to the regular exchange of views with INSPEC and the monitoring by the IIB, the quality of the PAL Services had been greatly improved. He drew attention to the fact that the figure of 37% overlap for the second year, as quoted by the representative of INSPEC, did not include the "IBM Disclosure Bulletin" and that the figure of 77% was only with respect to a sample of material dispatched during two months. The representative of the IIB stressed that the continuation of the IIB subscription to the PAL Composite Service was subject to approval by the Administrative Council of the IIB next December, and that, in view of the present financial difficulties of the IIB, it was doubtful whether the subscription to the PAL Composite Service would be kept on the IIB budget for 1977.

22. The Delegation of Switzerland noted the improvements made in the PAL Services during the last months and the fact that INSPEC had not increased its price for the fourth subscription year. The Delegation further noted the value of the PAL System in economizing time and expense, and in providing a harmonized form of searching non-patent literature. It further stated that, in view of these facts Switzerland would support, at the next IIB Administrative Council meeting, the continuation of the IIB subscription to the PAL Composite Service.

23. The Delegation of the Netherlands said that it would also support at the Administrative Council of the IIB the continuation of the IIB subscription to the PAL Composite Service. It added that the PAL System had been envisaged by Working Group II of the Interim Committee of the EPO for inclusion in the search documentation of the future European Patent Office (see, in this respect, document CI/GT II/90(76), paragraph 3, and document CI/GT III/103(76), paragraph 30).

24. The Delegation of the United States of America declared that, so far, it was fully satisfied with the PAL Services and that it would continue its subscription. It regretted very much that, in the year before the entry into force of the PCT, the PAL System might have to be discontinued if the minimum number of prospective International Searching Authorities subscribing to it should not be found.

25. The Delegation of Sweden said that the Swedish Patent Office was still considering the value of the PAL System to replace in part its operational system for selecting and collecting non-patent literature for its search files. It said that the PAL Magnetic Tape Service implemented in June 1976 might be a worthwhile alternative for the Swedish Patent Office to the PAL Full-Text Copy Service or the PAL Composite Service.

26. The Interim Committee invited INSPEC

(a) to prepare a list of the 102 periodicals from the PCT Minimum List which will be covered in the PAL Services during the fourth subscription year;

(b) to quote the price for covering additionally the remaining 66 periodicals of the PCT Minimum List in the PAL System;

(c) to organize, under the auspices of WIPO, a meeting of users and prospective users of the PAL System, in good time before the end of the present subscription year (end of February 1977).

27. The Interim Committee, in view of the usefulness of the PAL System in providing a harmonized form of access to non-patent literature, reiterated its views expressed at its fifth session that, if INSPEC guaranteed to scan within the PAL Service a specified number of periodicals of the PCT Minimum List, prospective International Searching Authorities subscribing to the PAL Full-Text Copy Service would not be obliged to subscribe to those periodicals separately, as long as they remained subscribers to that Service, and as long as those periodicals were, in fact, covered by that Service.

PCT MINIMUM DOCUMENTATION: PATENT DOCUMENTS

Report on the state of completeness of the search files of the prospective International Searching Authorities in respect of the national patent documents to be included in the minimum documentation under PCT Rule 34.1(c) (i) to (v) and (e)

28. Discussions were based on document PCT/TCO/VI/4.

29. The Delegation of the United Kingdom expressed the hope that where an indication of "no substantial gaps" appeared in the columns of Annex J, which indicated documents missing from the search files of the prospective International Searching Authorities, the missing documents concerned would be obtained in time for the prospective Authorities to meet the requirements of Rule 34.1(c) when the PCT comes into force.

30. In response to indications from the Delegations of Japan and Sweden and the representative of the IIB, the Interim Committee agreed to amend Annex J to document PCT/TCO/VI/4 as follows:

(i) on page 1, in the column relating to the Japanese Patent Office, the number of missing French patent documents (patents of invention) should read 1746;

(ii) on page 3, in the column relating to the IIB and concerning the patents issued by Switzerland, the following should be inserted in the sub-column entitled "Documents available, but not in systematic documentation": "about 120,000 documents within the range of numbers from 71,331 to 200,499 stored in numerical order";

(iii) on page 4, in the column relating to the Japanese Patent Office, the document number 1,424,739, referring to missing patent documents of the United States of America should read 1,439,739;

(iv) on page 4, in the column relating to the Swedish Patent Office and concerning the complete specifications of the United Kingdom, the reference to the footnote signalled by three asterisks should appear in the sub-column entitled "Documents available, but not in systematic documentation."

31. Upon an intervention by the Delegation of France with respect to the procedure to be utilized to complete the gaps in the documentation of the prospective International Searching Authorities in respect of the PCT minimum documentation, the Interim Committee expressed the opinion that the burden of filling these gaps fell upon those prospective International Searching Authorities concerned by means of bilateral arrangements among themselves and/or with other members of the Interim Committee, or by other appropriate means.

32. The Delegation of Switzerland stressed that the question of the updating of the existing survey of the state of completeness of search files of the prospective International Searching Authorities in respect of the national patent documents to be included in the PCT minimum documentation was intimately linked with the agreements to be negotiated between the International Searching Authorities and the International Bureau. In the opinion of this Delegation, each of the individual agreements should be accompanied by an inventory of the existing documentation and information as to the organization thereof within the International Searching Authority concerned. Since the PCT might enter into force in 1977, there was a need to prepare updated inventories so that complete information on the state of the documentation of the International Searching Authorities concerned could be made available.

33. The Interim Committee adopted the views expressed by the Delegation of Switzerland and entrusted the International Bureau with the task of updating the inventory on the state of completeness of the documentation of the prospective International Searching Authorities in respect of the national patent documents to be included in the PCT minimum documentation by June 1977.

34. It was decided that, when carrying out this task, the International Bureau should proceed as follows:

(i) invite the PCT minimum documentation countries to submit a complete listing of their patent documents issued from July 1, 1971 to December 31, 1976 (any unused numbers being indicated);

(ii) communicate to the prospective International Searching Authorities the information received, draw their attention to the urgency in filling gaps, if any, and invite such Authorities to submit updated information on the completeness of their patent documentation with respect to the national patent documents of the PCT minimum documentation countries issued for the period 1920 to 1976.

Report on the survey of publication dates of the patent documents pertaining to the PCT minimum documentation under PCT Rule 34.1(c) (i) to (vi)

35. Discussions were based upon document PCT/TCO/VI/5.

36. The Interim Committee noted that the implementation of Section 503(a) (iv) of the Administrative Instructions, which provides for the indication in the international search report of the date of publication of a cited patent document for identification purposes, involved considerable complexity.

37. The Interim Committee first discussed the different types of publication dates generally indicated on patent documents according to various national laws and practices, namely, the date on which a document is published in a printed form and the date on which a document is laid open for public inspection. Taking into account these two different types of publication dates, the Interim Committee further discussed the value of indicating these dates for the purposes of identifying patent documents cited in the international search report, as well as for the purposes of determining relevant prior art for the international search under PCT Rule 33.1.

38. Following a detailed discussion, the Interim Committee agreed with the proposal by the International Bureau that the indication of the publication date of a cited patent document was a useful element for the identification of a cited patent document, but that it was neither necessary nor useful to try to reach any conclusion regarding the indication of publication dates from the point of view of the citation of the relevant prior art having regard, in particular, to the fact that the question of publication dates had arisen in the context of Section 503(a) (iv) of the Administrative Instructions.

39. It was accordingly decided to restrict consideration of the indication of the publication date of a patent document cited in the international search report to identification purposes only and to reflect this decision in the Guidelines for the International Searches to be carried out under the PCT.

40. In relation to the indication of publication dates for the purpose of identifying patent documents, the Interim Committee agreed that no problem arose in relation to Section 503(a) (iv) where the patent document did not bear a date of publication; in this case clearly no date of publication would be indicated. The Interim Committee decided, furthermore, that, whenever several dates of publication were indicated on the cited patent document, only one of these dates should be indicated in the international search report, namely, the date of publication of the patent document itself (no earlier publication date of the subject matter of the patent document concerned should be indicated).

41. In the light of the decisions taken, the Interim Committee agreed to suggest to the PCT Interim Advisory Committee for Administrative Questions the amendment of Section 503(a) (iv) of the Administrative Instructions to read as follows:

"Identification of any document cited in the international search report referred to in Rule 43.5(b) shall be made by indicating the following elements in the order in which they are listed:

(a) In the case of any patent document

(iv) the date of publication of the cited patent document as indicated thereon."

42. It was further agreed to suggest to the PCT Interim Advisory Committee for Administrative Questions that, if the proposed amendment should be adopted by that Committee, it should indicate in its final report that the amended version of Section 503(a) (iv) was adopted for identification purposes only.

Report on the sorted collections of patent documents of Australia, Austria and Canada under PCT Rule 34.1(c) (vi)

43. Discussions were based on documents PCT/TCO/VI/6 and 11.

44. The Delegation of Austria requested a correction on page 2 of the Annex of document PCT/TCO/VI/11 in order to indicate that the reason for which the Australian sorted collection was not needed by the Austrian Patent Office was that this collection had been acquired under an exchange agreement.

45. The Delegation of Canada explained that the Canadian Patent Office had just installed a publication system under which its granted patents (being the only patent documents published in Canada) would be microfilmed (microfiche). The microfiches and paper copies printed from the microfiches were at the disposal of the public. The Delegation asked whether such microfiches, as part of a sorted collection, would meet the requirements of Rule 34.1(c) (vi).

46. It was suggested in reply that the answer depended on the possibilities that existed in relation to the authorities to which the sorted collections would be offered, since it was doubtful under PCT Rule 34.1(c) (vi) that anything other than the patent documents as such would have to be accepted by an International Searching Authority.

47. In the course of a general discussion, the majority of Delegations expressed the view that paper copies of patent documents were the preferred form for search purposes.

48. In response to an invitation from the Chairman to the prospective International Searching Authorities present to indicate whether they wished to have sorted collection as paper copies or microforms, the Delegations of Austria and the United States of America and the representative of the IIB indicated that their respective Offices required paper copies of patent documents. The Delegation of Japan expressed the desire of its Office to receive microforms with the understanding that paper copies of the patent documents would be prepared from the microforms for search purposes. The Delegation of the Soviet Union expressed the view that, although paper copies would be preferable, microforms could be accepted whenever a small number of documents was offered in this form.

49. The Delegation of Canada stated that the Canadian Patent Office preferred to supply its patent documents in microfiche form but would give consideration, in offering a sorted collection, to supplying documents in paper form where this was required.

50. The International Bureau felt that any Office, offering a sorted collection of its patent documents and desiring that its documents be part of the minimum documentation under PCT Rule 34.1(c) (vi), had the burden of insuring that the documents concerned reached each International Searching Authority. The Interim Committee adopted the view expressed by the International Bureau.

51. In response to an intervention by the Delegation of Sweden inquiring whether the sorted collections of patent documents had to be classified according to the International Patent Classification before they could be regarded as being "at the disposal" of an International Searching Authority, the Interim Committee agreed that the provisions of PCT Rule 34.1(c) (vi) requiring sorted collections to be placed at the disposal of the International Searching Authorities did not include such an obligation. It was suggested by the International Bureau that, where documents in sorted collections were not classified according to the International Patent Classification, the work of the International Searching Authorities could be reduced if they shared the work of classifying the documents.

Report on the survey to establish present coverage and to achieve complete future coverage of English language abstracts of the patent documents of Japan and the Soviet Union

52. Discussions were based upon document PCT/TCO/VI/7.

53. A general discussion took place on the interpretation of the expression "generally available" contained in PCT Rule 34.1(e).

54. The Delegation of the United Kingdom was of the opinion that the expression "generally available" should be construed in accordance with its normal meaning in the English language. This meaning implied that what is generally available can be acquired by a member of the public either free of charge or for a fee. Within the context of PCT Rule 34.1(e), it suggested that if there existed evidence, provided by the International Searching Authorities, that the price of English language abstracts of the patent documents of Japan and the Soviet Union was so high that sales were not taking place on a commercial scale, such evidence would have to be considered by the Assembly for the determination of whether the said abstracts were to be regarded as generally available or not.

55. The Delegation of Sweden stated that the words "generally available," as applied to the English language abstracts of the patent documents of Japan and the Soviet Union, could not be interpreted in isolation but must be interpreted within the context of PCT Rule 34.1(e) as meaning that such abstracts are generally available as publications which are for sale to the general public at a reasonable cost and, as such, available for inclusion in the search documentation of an International Searching Authority.

56. The Delegation of Switzerland, supported by the representative of the IIB, stated that, within the context of the PCT, English language abstracts should be part of the search documentation of an International Searching Authority so that such abstracts may be cited in the international search report and copies thereof communicated to applicants and designated Offices, which would imply the right to reproduce copies without copyright restrictions within the limits of the PCT. For these reasons, it was furthermore stressed that the question of copyright was highly germane to the interpretation of the term "generally available" as contained in PCT Rule 34.1(e).

57. The Delegation of Austria stressed that English language abstracts must be generally available as a condition of the inclusion of the relevant documents in PCT minimum documentation. This meant that the English language abstracts must be available to the public.

58. The Delegation of the United States of America brought to the attention of the Interim Committee an extract from a telex received by the United States Patent and Trademark Office from Derwent Publications Limited. The telex contained information which the Delegation was communicating to the Interim Committee in the hope that such information could contribute to solving the problems associated with acquisition of English language abstracts of the patent documents of Japan and the Soviet Union.

59. At the request of the Delegations of the United States of America and the United Kingdom, a copy of the extract of the telex is annexed to this report (Annex A).

60. The Interim Committee noted with interest that no restrictions upon the use of Derwent material by examiners would be imposed and that Derwent would in fact allow copies of its abstracts to be supplied to applicants in answer to patent office searches. This information would provide a basis for possible negotiations which could enable the Derwent English language abstracts to be obtained by prospective International Searching Authorities on terms permitting the use of such abstracts in accordance with their obligations under the PCT.

61. The Delegation of the Soviet Union informed the Interim Committee that the State Committee for Inventions and Discoveries of the USSR Council of Ministers, as a prospective International Searching Authority, would use all the PCT minimum documentation, including English language abstracts of the patent documents of Japan. In the opinion of the Delegation, an international search of high quality would be impossible without the use of the patent documents of Japan and the Soviet Union. Non-use of such patent documents for the purposes of international searches under the PCT would result in a situation where the search reports prepared by different International Searching Authorities would be of different quality and would result in different costs in the carrying out of the search.

62. The USSR State Committee for Inventions and Discoveries had, as a result of its own considerable efforts, at its disposal Russian language abstracts of many patent documents of Japan for the past 22 years. It could be seen, from the table in Annex L of the document to be discussed, that the majority of International Searching Authorities had already obtained English language abstracts of the Soviet Union patent documents since 1960. The problem therefore existed only in respect of the backlog. In this respect, the proposal of Derwent provided a solution for the time being.

63. The Delegation added that the USSR State Committee had been, and still was, ready to study the question of possible publication of English language abstracts of the patent documents of the Soviet Union, provided it received indications from prospective subscribers as to their possible needs for such abstracts.

64. With reference to the statements by several Delegations concerning the term "generally available", the Delegation of the Soviet Union considered that further discussion on this subject was superfluous since the prospective International Searching Authorities either already had English language abstracts of the patent documents of Japan and the Soviet Union or could obtain them from Derwent.

65. The Delegation of Japan stated, with reference to the telex from Derwent distributed by the Delegation of the United States of America, that it had not been informed of any official contacts between the Japanese Patent Office and Derwent regarding the publication of English language abstracts of the Japanese patent documents. Therefore, the Delegation was not in a position to comment on the information contained in the telex, particularly the second paragraph of the second page of the telex.

66. On the basis of the information supplied by the Delegation of the United States of America, the Interim Committee agreed to suggest that each prospective International Searching Authority wishing to acquire Derwent abstracts should initiate bilateral negotiations with that firm. It was also suggested that the good offices of the International Bureau might be utilized to the extent that the International Bureau considered it could play a role in relation to these bilateral negotiations.

67. The Interim Committee took note of the inventory of English language abstracts within the documentation of the prospective International Searching Authorities as summarized in Annex J of the document under discussion (PCT/TCO/VI/7) indicating the present coverage of English language abstracts of the patent documents of Japan and the Soviet Union.

68. The Delegation of Japan confirmed that, starting from 1977, the Japanese Patent Office intends to publish English language abstracts of Japanese unexamined patent applications issued as from 1977. It was further explained that no English language abstracts of unexamined applications published before 1977 could be published due to financial considerations. The Japanese Patent Office was contemplating the supply of such abstracts either for a fee, as a general principle, or free of charge on a mutual exchange basis which could be bilaterally negotiated. Moreover, the Delegation of Japan expressed the conviction that the abstracts, to be published from 1977 onwards, will fulfill the requirements of PCT Rule 34.1(e) with respect to the words "generally available" contained therein. This Delegation also expressed the interest of the Japanese Patent Office in acquiring English language abstracts of the patent documents of the Soviet Union to be published in the future for inclusion in its search documentation.

69. The Interim Committee noted with appreciation the information given by the Delegations of Japan and the Soviet Union as well as the information supplied by the Delegation of the United States of America on Derwent abstracts and generally agreed that this information might help to provide a solution to the future coverage of English language abstracts.

70. Following an intervention of the Delegation of the Netherlands, the Interim Committee invited the prospective International Searching Authorities to include the patent documents of Japan and the Soviet Union, for which English language abstracts were available, into their documentation, properly arranged for search purposes, and expressed a certain degree of urgency to do so.

SEARCHING UNDER THE PCT

Draft Guidelines for the International Searches to be carried out under the PCT

71. Discussions were based upon documents PCT/TCO/VI/8 and 13.

Procedure for further Processing of the Guidelines

72. The Interim Committee decided to establish a PCT Working Group on Guidelines for International Searches and for International Preliminary Examination and that its first session be held from February 14 to 18, 1977, for the purposes of assisting in the establishment of the PCT Guidelines for International Searches and for International Preliminary Examination. Concerning the composition of the Working Group, it was decided that it will be open to all States members of the Interim Committee, as well as all observer organizations. Those States and Organizations will be considered members which by December 1, 1976, express this wish in a communication addressed to the International Bureau.

73. In order to ensure maximum efficiency of the Working Group, it was decided that all member States of the Interim Committee as well as observer Organizations should submit to the International Bureau their written comments on the draft Guidelines contained in document PCT/TCO/VI/8 by December 24, 1976. Such comments would be compiled by the International Bureau and submitted to the Working Group for its consideration.

General comments

74. The Delegation of the Netherlands noted that the origin of the draft Guidelines for the International Searches under the PCT was the Guidelines for Searches to be Carried Out Under the European Patent Convention and expressed its concern over the deletion of certain parts of the latter Guidelines in view of the fact that the requirements for searches under the PCT and the EPO are substantially identical or at least compatible.

75. The Interim Committee agreed, upon the suggestion of the International Bureau, that since the PCT Guidelines had been prepared on the basis of a marked-up copy of draft EPO Guidelines without explanation as to the basis of the omissions, it would be desirable to have reasons for the omissions provided in the comments submitted to the International Bureau for the attention of the Working Group.

76. The Delegation of Switzerland, supported by the representative of FEMIP, referred to paragraph 4 of the Introduction to the draft Guidelines and raised the question of whether the Guidelines for the International Searches under the PCT should have a binding character or not. It was emphasized, in this context, that the manner in which such Guidelines would be applied by the International Searching Authorities would have a direct bearing on the acceptability of international search reports and that the Guidelines for the International Searches under the PCT having a binding character would increase uniformity of the results of international searches and would promote their worldwide acceptance.

77. Upon a proposal by the Delegation of Switzerland, the Interim Committee agreed to suggest to the Working Group established by the Director General of WIPO, consideration of an amendment to paragraph 4 of the Introduction to the draft Guidelines contained in document PCT/TCO/VI/8, possibly by indicating that the International Searching Authorities had accepted to adhere to the Guidelines in order to ensure uniform practice. Such an amendment, if elaborated, would require the agreement of the prospective International Searching Authorities.

78. In this context, the representative of the IIB expressed the view that the Guidelines for Searches to be Carried Out Under the European Patent Convention had a binding character. For this reason the PCT and EPO Guidelines should be harmonized as far as possible so that the EPO search examiners adopted the same approach to PCT and EPO searches; otherwise there might be a lack of uniformity in carrying out searches.

79. The Delegation of the United Kingdom, referring to the general structure of the draft Guidelines contained in document PCT/TCO/VI/8, questioned whether such a structure, which was similar to the EPO Guidelines for Searches, was suitable for all International Searching Authorities and designated States. In the opinion of this Delegation, the sharp division made between novelty and inventive step should have been avoided.

Inclusion, in the search files, and citation in the international search report, of members of a patent family

80. In compliance with the decision of the Interim Committee at its last session, the problems connected with the building-up of search files and the citation of patent family members in search reports were separately discussed.

Inclusion of patent family members in search files

81. The Interim Committee unanimously agreed that the question of which member or members of a patent family should be included in the search file should be left to the discretion of each International Searching Authority, so long as systematic access to other members of the patent family is provided.

82. The Interim Committee, in this context, invited the prospective International Searching Authorities to indicate which systems they had in use to insure systematic access to the members of the patent family not included in the search files.

83. In response to this invitation, the following statements were made in respect to the various systems in use in the following Offices:

- (i) Japanese Patent Office--use of the Patent Family Service of INPADOC (PFS);
- (ii) State Committee for Inventions and Discoveries of the USSR Council of Ministers--all members of the patent family retained in the search files, with future use of the PFS of INPADOC;
- (iii) Swedish Patent Office--all members of the patent family retained in the search files with future use of INPADOC services (PFS);
- (iv) International Patent Institute (IIB)--for the patent documents included in the search files from 1969 onwards, direct access to other patent family members is administered by computer; for patent documents included in the search files prior to 1969, access to other members of the patent family is administered by noting the other members of the patent family on the patent document retained in the search files, this noting also being progressively taken up in the computerized system.

Citation of patent family members in the international search reports

84. The Interim Committee unanimously decided that the question of which member or members of a patent family are to be cited in the international search report should be left to the judgement and good sense of each International Searching Authority taking into account the language convenience.

DRAFT GUIDELINES FOR INTERNATIONAL PRELIMINARY EXAMINATION TO BE CARRIED OUT UNDER THE PCT

85. The discussion was based upon document PCT/TCO/VI/9.

86. The Interim Committee agreed that the draft Guidelines for International Preliminary Examination should be referred to the Working Group mentioned in paragraph 72, above.

REPORT ON PRELIMINARY SURVEY OF THE DATES OF PUBLICATION OF PATENT DOCUMENTS CITED IN THE COURSE OF ASCERTAINING PRIOR ART

87. Discussion was based on documents PCT/TCO/VI/10 and 12.

88. The Interim Committee generally agreed that no study should be undertaken concerning the most appropriate date or dates from which the search documentation that would constitute the minimum documentation under the PCT should commence, since it was felt that time was not ripe for amending PCT Rule 34.1(c). It was, however, understood that such a study might prove to be useful in the future, taking into account the increasing volume of patent documentation throughout the world.

PROGRAM OF THE INTERIM COMMITTEE FOR 1977

89. It was decided that, in view of the program which had been previously adopted for the work of the Interim Committee and in the light of the work already completed and in progress, the program of the Interim Committee for 1977 should include the following items:

Activities Relating to TCO

(i) continuation of the search for solutions to establish present coverage and to achieve complete future coverage of English language abstracts of patent documents of Japan and the Soviet Union;

(ii) continuation and possible finalization, with the assistance of the PCT Working Group on Guidelines for International Searches and for International Preliminary Examination, of the work on Guidelines for International Searches, taking into account the results of the discussions of the Interim Committee;

(iii) continuation and possible finalization, with the assistance of the said Working Group, of the work on Guidelines for International Preliminary Examination, taking into account the results of the discussions of the Interim Committee;

(iv) a study of the steps of the procedure before the prospective International Searching Authorities and International Preliminary Examining Authorities in connection with the use of the PCT forms, in order to provide appropriate annexes to the Guidelines for the International Searches and for International Preliminary Examination;

(v) continuation of the work on the state of completeness of the search files of the prospective PCT Authorities with respect to the national patent documents referred to in PCT Rule 34, taking into account the results of the discussion of the Interim Committee;

(vi) continuation of the testing of the PCT procedure through simulated PCT procedures, as far as International Searching and Preliminary Examining Authorities are concerned;

(vii) continuation of the work on the INSPEC Patent Associated Literature (PAL) project;

Activities Relating to both TCO and AAQ

(i) listing of the time limits under the PCT as a possible supplement to PCT Guidelines;

(ii) preparatory work prior to the first meeting of the Assembly of the PCT Union relating particularly to bodies to be established by the Assembly, any necessary revision of the Regulations, the appointment of International Searching and Preliminary Examining Authorities, as well as general organizational matters relating to the PCT Union;

(iii) public information activities including, in particular, the producing of informative material and participation in information meetings.

Tribute to Chairman

90. It having been drawn to the notice of the Interim Committee that the Chairman, Mr. D. G. Gay, would retire from the civil service of his country prior to date scheduled for the next session of the Interim Committee, the Interim Committee expressed its deep appreciation to Mr. Gay for his contributions to the work of the Interim Committee over a substantial period and, in particular, for his excellent chairmanship of several recent sessions of the Interim Committee which had aided it in making such substantial progress in its work.

91. This report was unanimously adopted by the Interim Committee at its closing meeting on November 8, 1976.

[Annexes follow]

PCT/TCO/VI/16
ANNEXE A/ANNEX A

ATTN : AL MARMOR, ADMINISTRATOR FOR DOCUMENTATION,
U.S. PATENT AND TRADEMARK OFFICE

WE HAVE IN OUR POSSESSION BOUND VOLUMES CONTAINING HARD COPY ENGLISH ABSTRACTS OF EVERY SOVIET INVENTION FROM AUGUST 1959 TO DATE. THE ABSTRACTS HAVE BEEN PREPARED FROM THE COMPLETE SPECIFICATIONS, AND THEREFORE ARE NOT IN STRICTLY NUMERICAL ORDER, BUT ARE IN PUBLICATION DATE ORDER. THEY TOTAL 130,000 SIDES, AND COULD BE PROVIDED AS XEROX COPIES FOR 6500 DOLLARS PER SET. ALTERNATIVELY, THE ABSTRACTS COULD BE PROVIDED AS MICROFILM, THERE BEING 60 X 100 FT. REELS AT 7.50 DOLLARS PER REEL, PROVIDED THAT THERE WERE NOT LESS THAN FIVE SETS OF THE FILMS REQUIRED.

AS AN ON-GOING BASIS, WE PLACE NO RESTRICTION UPON THE USE OF OUR MATERIAL BY EXAMINERS AND WOULD IN FACT ALLOW COPIES OF OUR ABSTRACTS TO BE SUPPLIED TO APPLICANTS IN ANSWER TO PATENT OFFICE SEARCHES. ACCORDINGLY, SOVIET INVENTIONS ILLUSTRATED COULD BE SUBSCRIBED TO BY ANY OF THE PATENT OFFICES FOR UNRESTRICTED USE AS INDICATED ABOVE AT 500 DOLLARS PER ANNUM, PER SET, WITH A SUBSTANTIAL REDUCTION FOR MULTIPLE COPIES.

ABSTRACTS OF EXAMINED JAPANESE CHEMICAL PATENTS (ABOUT 35 PER CENT OF THE TOTAL) ARE AVAILABLE FROM DECEMBER 1962 AND COMPRISE 60,000 SIDES IN ALL. THE COST OF HARD COPY OR MICROFILM VERSIONS OF THIS BACKLOG WOULD BE ABOUT ONE HALF THAT QUOTED FOR SOVIET. ONCE AGAIN THERE WOULD BE NO RESTRICTIONS ON USE WITHIN PATENT OFFICES, OR FOR COMMUNICATION TO INVENTORS WHOSE MATERIAL WAS BEING SEARCHED. AS AN ON-GOING BASIS THE ABSTRACTS ARE AVAILABLE AT 370 DOLLARS PER ANNUM EXCLUDING POSTAGE, WITH A REDUCTION FOR MULTIPLE COPIES.

ABSTRACTS OF UNEXAMINED CHEMICAL JAPANESE APPLICATIONS ARE AVAILABLE RIGHT FROM THE START AND AMOUNT TO 10,000 SIDES OR 8 X 100 FT. REELS OF MICROFILM. COSTS FOR THESE WOULD BE PROPORTIONAL TO THOSE MENTIONED ABOVE. AS AN ON-GOING BASIS, THE ABSTRACTS ARE AVAILABLE AT 550 DOLLARS PER ANNUM EXCLUSIVE OF AIRMAIL POSTAGE, WITH A REDUCTION FOR QUANTITIES.

WE DO NOT PRESENTLY ENVISAGE THE PRODUCTION OF ENGLISH ABSTRACTS OF ELECTRICAL AND MECHANICAL JAPANESE PATENTS, BUT HAVE SHOWN OUR WILLINGNESS TO CO-OPERATE WITH THE JAPANESE PATENT OFFICE IN THIS VENTURE. WE HAVE SUGGESTED TO THE JAPANESE PATENT OFFICE THAT IF THEY WERE TO MAKE AVAILABLE TO US THEIR ABSTRACTS IN JAPANESE ON A TIMELY BASIS, THEN WE WOULD, IN CO-OPERATION WITH OUR AGENTS IN JAPAN, AGREE TO PRODUCE ENGLISH TRANSLATIONS AND MARKET THESE - WITH ROYALTIES ACCRUING TO THE JAPANESE PATENT OFFICE, AND WITHOUT RESTRICTION AS TO USAGE BY THE PATENT OFFICES FOR EXAMINATION PURPOSES.

INCIDENTALLY, I NOTE THAT THE PATENT OFFICES APPEAR TO BE INTERESTED IN OBTAINING ENGLISH LANGUAGE ABSTRACTS OF SOVIET AND JAPANESE PATENTS SINCE 1920 UP TO THE BEGINNING OF THE DERWENT SERVICES. IT IS OUR OPINION THAT DERWENT WOULD PROVIDE THESE MORE EFFICIENTLY AND ECONOMICALLY THAN ANY OTHER SOURCE, AND WE WOULD BE PREPARED TO CARRY OUT THIS WORK ON THE BASIS OF PROVIDING THE PATENT OFFICES WITH A MASTER COPY OF APPROXIMATELY 100 WORD ABSTRACTS AT 3.50 DOLLARS PER ABSTRACT FOR RUSSIAN PATENTS, AND 6.00 DOLLARS FOR JAPANESE PATENTS. THUS, IF THERE WERE FIVE PATENT OFFICES INVOLVED, FOR EXAMPLE, THE COST TO EACH WOULD BE AS LITTLE AS 0.70 DOLLARS AND 1.20 DOLLARS PER ABSTRACT RESPECTIVELY.

PLEASE KINDLY ACKNOWLEDGE RECEIPT OF THIS TELEX, SINCE I UNDERSTAND FROM MR. BROOKS THAT THE INFORMATION GIVEN TO YOU IS NEEDED URGENTLY.

DERWENTINF LDN

M. HYAMS

[L'Annexe B suit/Annex B follows]

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