

## **Patent Cooperation Treaty (PCT) Working Group**

**Tenth Session  
Geneva, May 8 to 12, 2017**

### **PROPOSAL ON PCT FEE POLICY TO STIMULATE PATENT FILING BY UNIVERSITIES FROM CERTAIN COUNTRIES, NOTABLY DEVELOPING AND LEAST DEVELOPED COUNTRIES**

*Document submitted by Brazil*

#### **SUMMARY**

1. The Working Group is invited to discuss and approve a 50 per cent PCT fee reduction for universities from certain countries, notably developing and least developed countries. The proposal aims at: (i) stimulating the use of the PCT System by universities, and (ii) increasing the diversity in the geographical composition of demands for patent protection and of PCT international application filing activities.

#### **BACKGROUND**

2. At the seventh session of the Working Group in 2014, the International Bureau presented a study entitled "Estimating a PCT Fee Elasticity" (document PCT/WG/7/6), which provided a first ever estimate of the overall fee elasticity of PCT applications, that is, how an applicant's choice on whether to use the PCT or the Paris route for filing patent applications abroad is affected by changes in the international filing fee. It showed that universities and public research organizations are more price sensitive than other applicants.

3. At the eighth session of the Working Group in 2015, the International Bureau confirmed the finding that universities and public funded research institutions from developing countries are most price sensitive (see document PCT/WG/8/11). The Secretariat estimated that a 50 per cent fee reduction would generate 139 additional filings per year with a decrease in revenue of 1,058,000 Swiss francs (see Table 4 of document PCT/WG/8/11). The Chair, in his summary, stated that, "there was support by many delegations for PCT fee reductions for universities and

government research institutes. (...) The Chair invited any Member State to come forward with proposals in this context for discussion at a future session of the Working Group" (see paragraph 19 of document PCT/WG/8/25).

4. Responding to the invitation by the Chair of the Working Group, at the ninth session, the Delegation of Brazil circulated a proposal regarding the fee reduction of at least 50 per cent for universities from certain countries (see document PCT/WG/9/25). The document received general support from potential beneficiary countries. Others suggested openness for discussing a broader fee reduction that included developed countries. Some delegations expressed concerns regarding the definition of "public research organization" and the financial impact of the fee reduction.

5. The ninth session of the Working Group also discussed a proposal from the Secretariat regarding fee reductions for certain applicants from certain countries (see document PCT/WG/9/10), with the aim of curtailing fee reduction claims by non-eligible applicants. It was agreed that the Secretariat would provide additional information on the potentially positive impact on PCT fee income should the proposed change be adopted (see paragraph 55 of document PCT/WG/9/27). This information is provided in document PCT/WG/10/8, dated April 4, 2017.

6. During the 2016 WIPO General Assemblies, the document PCT/WG/9/25 received broad support, in addition to those already expressed in the Working Group. In particular, Members of four Regional Groups declared their approval of the proposed fee reduction (see paragraphs 5, 8 and 106 of Annex II of document A/56/17 and paragraphs 8 to 15 of document PCT/A/48/5).

7. In February 2016, the Director General announced a surplus of 80 million Swiss francs for WIPO in the 2014/15 biennium.

8. The second supplement to "Estimating a PCT fee elasticity" study (document PCT/WG/10/2), circulated on January 11, 2017, provides new simulations of foregone income for various levels of discounts for universities. Estimates by the Secretariat indicate that total income loss of a general 50 per cent fee reduction for universities from developing countries would amount to 890,000 Swiss francs (see Table 3b of the document).

9. In this context, the possible loss of revenue would represent a small fraction of the projected surplus with concrete and positive effects for filings by universities.

## **PROPOSAL**

10. Following the discussions held during the ninth session of the Working Group, we propose a tiered approach.

11. In the first phase, the approval of an amendment to the Schedule of Fees establishing a fee reduction of at least 50 per cent for universities from certain countries, notably developing and least developed countries, taking advantage of the current country-based criteria used for fee reductions. During this phase, the economic impact would be reduced, when compared to a horizontal reduction for all Member States.

12. In a second phase, during a session of the Working Group, Member States would evaluate the results of the new fee policy to increase filings by universities and decide on whether to increase the discount fee and/or extend it to universities from developed countries. Future discussions could also decide to extend the benefit to public research organizations.

13. In order to accommodate concerns about the overall budgetary balance of the Organization, it is proposed that the fee reduction for universities be discussed in tandem with measures intended to reduce the number of fee reductions being claimed by applicants not intended to be eligible for the reduction, as contained in document PCT/WG/10/8.

14. *The Working Group is invited to consider the proposal set out in the present document and the amendment to the Schedule of Fees contained in the Annex.*

[Annex follows]

PROPOSED AMENDMENT TO THE PCT REGULATIONS

**SCHEDULE OF FEES**

**Fees**

**Amounts**

1. to 3. [No change]

**Reductions**

4. [No change]

5. [No change]

6. The international filing fee under item 1 (where applicable, as reduced under item 4), the supplementary search handling fee under item 2 and the handling fee under item 3 are reduced by 50% if the international application is filed by an applicant who is a university<sup>1</sup> from a State that is listed under item 5, provided that the applicant has filed less than 20 international applications in the year. The criteria set out in this item shall be reviewed by the Assembly at least every five years.

[End of Annex and of document]

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<sup>1</sup> For the purposes of this item, a university is understood as a higher education institution providing post-secondary education and research that is recognized by the competent authority of a Party as belonging to its system of higher education.