

Patent Cooperation Treaty (PCT) Working Group

Ninth Session
Geneva, May 17 to 20, 2016

**PROPOSAL ON PCT FEE POLICY TO STIMULATE PATENT FILING BY
UNIVERSITIES AND PUBLIC FUNDED RESEARCH INSTITUTIONS 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 and public funded research institutions from certain countries, notably developing and least developed countries. The proposal aims at: (i) stimulating the use of the PCT System by universities and public research institutions, 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 (PRO) 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 million Swiss francs (see Table 4 of document PCT/WG/8/11).

4. The Chair, in his summary, stated that, “there was support by many delegations for PCT fee reductions for universities and government research institutes. (...) In any case, without a significant rise in the number of filings, any reductions would result in a loss in revenue to WIPO. The issue therefore needed to be considered in a holistic manner, also addressing the issue of how to compensate for any losses. 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).

5. During the twenty-fourth session of the Program and Budget Committee in September 2015, the Secretariat informed members that a hypothetical fee discount of 50 per cent for university applicants from developing and developed countries would imply foregone income of 1.02 million Swiss francs and 6.92 million Swiss francs, respectively, for 2016, and 1.05 million Swiss francs and 7.08 million Swiss francs, respectively, for 2017 (see A28 on page 14 of document WO/PBC/24/Q & A).

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

7. In this context, the possible loss of revenue in the 2016/17 biennium would represent a small fraction of the projected surplus with concrete and positive effects for filings by universities and public funded research institutions.

PROPOSAL

8. Responding to the invitation by the Chair of the eight session of the Working Group to present proposals that deal with the issue of foregone income in relation to new fee policies (see paragraph 4, above), we propose a tiered approach.

9. In the first phase, the approval of a fee reduction of at least 50 per cent for universities and public research institutions 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.

10. 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 public funded research institutions and decide on whether to increase the discount fee and/or extend it to universities and public research organizations from developed countries.

11. The Working Group is invited to consider the proposal set out in the present document.

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