

International Patent Cooperation Union (PCT Union)

Assembly

Forty-Ninth (21st Ordinary) Session
Geneva, October 2 to 11, 2017

REPORT

adopted by the Assembly

1. The Assembly was concerned with the following items of the Consolidated Agenda (document A/57/1): 1 to 6, 10(ii), 12, 21, 30 and 31.
2. The report on the said items, with the exception of item 21, is contained in the General Report (document A/57/12).
3. The report on item 21 is contained in the present document.
4. Mr. Sandris Laganovskis (Latvia) was elected Chair of the Assembly; Mr. He Zhimin (China) and Mr. Lamin Ka Mbaye (Senegal) were elected Vice-Chairs..

ITEM 21 OF THE CONSOLIDATED AGENDA

PCT SYSTEM

5. The Chair welcomed all delegations, especially the Delegation of Jordan, which had acceded to the PCT since the previous session of the Assembly in October 2016.

Report on the PCT Working Group

6. Discussions were based on document PCT/A/49/1.

7. The Secretariat introduced the document, which set out a report of the tenth session of the PCT Working Group. The session had a full agenda, with 25 agenda items and 23 working documents. This demonstrated the continued interest in the development of the PCT System as the central pillar of the international patent system to bring about further improvements for the benefit of Offices and users. A separate document (document PCT/A/49/4), setting out changes to the PCT Regulations approved by the Working Group, had been submitted to the Assembly for decision. An overview of all items discussed during the session was provided in the Summary by the Chair attached to the document.

8. The Delegation of Costa Rica, speaking on behalf of the Group of Latin America and the Caribbean (GRULAC), stated its support for the approval and rapid implementation of the proposal by Brazil set out in document PCT/WG/10/18, which proposed fee reductions for universities in developing countries.

9. The Delegation of Chile expressed support for the statement by the Delegation of Costa Rica on behalf of GRULAC. Since the National Industrial Property Institute of Chile had been appointed as an International Searching and Preliminary Examining Authority under the PCT, it had made important improvements to be at the forefront of patenting and had been playing an important role in Latin American and the Caribbean region. As a country, Chile wished to continue to contribute to the improvement of patent systems, providing a quality service not only for Latin American countries but also for the countries of the Caribbean if they so required. For this reason, the Delegation hoped for the extension of the appointment of the National Industrial Property Institute of Chile as an International Searching and Preliminary Examining Authority under the PCT during this session. The Delegation concluded by reiterating its support for the proposal by Brazil set out in document PCT/WG/10/18 for fee reductions for universities in developing countries and hoped that discussions could continue about facilitating the participation of universities in the international patent system and providing incentives for innovation.

10. The Delegation of China, speaking on behalf of Brazil, Russian Federation, India, China and South Africa (BRICS), reiterated its support for the proposal by Brazil set out in document PCT/WG/10/18 for fee reductions for universities in developing countries, which would adjust the fee reduction policy in the right direction for the development of the PCT System. It would not only give greater encouragement to university innovation and creativity, but also further promote technology dissemination and expand accessibility and the influence of the PCT System through extending the scope of fee reductions to universities, especially those in developing countries. As indicated in the proposal, the reductions would also give potential applicants from universities the opportunity to file more PCT applications, which may, to a great part, balance the revenue loss from WIPO in this field. The proposed fee reduction for universities would be a real assistance by WIPO for developing countries in enhancing innovative activities, as a valuable supplement to training and education programs carried out by the Organization.

11. The Delegation of Brazil supported the statements made by the Delegation of Costa Rica on behalf GRULAC and the Delegation of China on behalf of BRICS. A basic element of the

international intellectual property system was to stimulate technological innovation and creativity by fostering cooperation between Member States. This was reflected in the major relevant international treaties, such as the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) as well as the PCT. In the preamble of the PCT it stated “that cooperation among nations will greatly facilitate the attainment of these aims”; these aims included “to make a contribution to the progress of science and technology” and also “to facilitate and accelerate access by the public to the technical information contained in documents describing new inventions”. However, challenges remained with regard to the need to increase the use of WIPO’s global registration systems by developing countries. There was a clear and concrete necessity of action by WIPO and its Member States to address this issue, in particular in the PCT. A very effective way for doing so was through fees. As stated by the International Bureau during the PCT Working Group, fees in essence served two distinct functions: first, to recover costs, and second, to serve as a regulatory tool to influence filing behavior. The proposal for fee reductions for universities in developing countries aimed at making full use of PCT fees as a regulatory tool by positively influencing the filing behavior of universities, but without substantially affecting the cost recovery function of those fees. The targeted fee reductions would generate concrete improvements by bringing about a 7 per cent increase in PCT applications from developing countries, advancing innovation and stimulating activity. It would also be in line with several of the strategic goals of WIPO, such as strategic goals 2, 3, 5 and 7, as well as the stated goal of WIPO of ensuring a more widespread use of services provided by WIPO’s global registration systems. At the tenth session of the PCT Working Group, the proposal had received the support of delegations speaking on behalf of a total of 108 countries, representing more than two thirds of all PCT Member States. There was an urgent need of providing a response to the legitimate demand of those countries, which came from different regions and had different levels of development. Furthermore, as proposed in document PCT/WG/10/18, Brazil understood that a fee reduction for universities from developed countries could also be discussed, taking into account estimations regarding the financial impact made by the WIPO Chief Economist. The implementation of such a fee policy would enable the use of a large pool of scientific and technological talent in these universities. There was a genuine need to tap this knowledge source and to create additional incentives to enable the production of innovative products and services. The proposed fee reduction would encourage the use of the PCT System and increase the diversity in the geographical composition of applications, generating additional demand in the medium term for PCT services. In conclusion, the Delegation called on all Member States to support and approve the discussion of this proposal, that, when implemented, would create a small fee reduction for the benefit of the international community, promote the use of the patent system and take a first concrete step following the discussions related to PCT fee elasticity.

12. The Delegation of the Russian Federation expressed its support for the statement made by the Delegation of China on behalf of BRICS and other delegations that had spoken on the subject of reduced fees for universities, which would be an additional stimulus for the development of the PCT System.

13. The Delegation of the United States of America stated that it looked forward to continuing to discuss the proposal from Brazil for a fee reduction for universities and related issues in the PCT Working Group.

14. The Delegation of Greece expressed satisfaction with the performance of the PCT System, noting that increased PCT filings had contributed to the positive financial result of WIPO in 2016. The PCT System was robust, thanks to the tireless efforts and commitment of the staff at the International Bureau. For a system to remain robust, continuous improvement needed to take place to respond to new challenges and to the changing needs of users. At the same time, it needed to be conducive to innovation and provide incentives to ensure accessibility to any interested user, especially those with limited financial resources. In the past two years, reductions in the international filing fee for eligible natural persons had enabled Greek applicants to file international applications and pursue the protection of innovative

products worldwide. University-driven innovation also needed to be stimulated through lowering the entry costs, so it was necessary to explore fee reductions for university applicants, on the understanding that the impact to the PCT revenue would be minimal. The Delegation welcomed the discussions initiated in the PCT Working Group and looked forward to a positive outcome.

15. The Delegation of Egypt supported the proposal from Brazil for a fee reduction for universities, as this would incentivize the increase of applications, especially in developing countries.

16. The Delegation of India aligned itself with the statement made by the Delegation of China on behalf of BRICS.

17. The Delegation of South Africa associated itself with the statement made by the Delegation of China on behalf of BRICS.

18. The Assembly of the PCT Union:

(i) took note of the "Report on the PCT Working Group" (document PCT/A/49/1); and

(ii) approved the convening of a session of the PCT Working Group, as set out in paragraph 4 of that document.

Proposed Amendments to the PCT Regulations

19. Discussions were based on document PCT/A/49/4.

20. The Secretariat introduced the document, which set out proposed amendments of the PCT Regulations and an Understanding to be adopted by the Assembly. The amendments had been discussed by the PCT Working Group, which had unanimously agreed to recommend that this Assembly should adopt the amendments as proposed. The proposed amendments in Annex I to the document related to the following: correction of references in Rules 4.1(b)(ii) and 41.2(b) to properly reflect changes in numbering, consequential to the amendments to Rules 12*bis* and 23*bis* adopted by the Assembly at its forty-seventh (held in October 2015) and forty-eighth sessions (held in October 2016), respectively; and amendment to the Schedule of Fees to make clear that the 90 per cent fee reductions in item 5 were intended only for persons filing an international application in their own right and not for those filing an international application on behalf of a person or entity which was not eligible for the reduction, such as a director or employee of a company filing an international application on behalf of a company in order to obtain the reduction in item 5(a). In addition to the proposed amendment of the Schedule of Fees, the document also invited the Assembly to adopt an Understanding that the fee reductions in item 5 were intended to apply only in cases where the applicants were the sole and true owners of the application, and not under obligation to assign, grant, convey or license the rights in the invention to another party which was not eligible for the fee reduction. This Understanding had been approved by the PCT Working Group and was set out in paragraph 3 of the document.

21. The Delegation of the United States of America stated that it was in favor of adopting the proposed amendments to the Regulations under the PCT set out in the document, along with the proposed decisions relating to entry into force and transitional arrangements. The Delegation also supported adoption of the Understanding set out in paragraph 3 of the document as a step towards clarifying the applicability of the 90 per cent fee reduction intended for national person applicants from certain countries with a goal of reducing the incidence of improperly claimed fee reductions.

22. The Assembly of the PCT Union:

(i) adopted the proposed amendments to the Regulations under the PCT set out in Annex I to document PCT/A/49/4, and the proposed decision set out in paragraph 6 of document PCT/A/49/4 relating to entry into force and transitional arrangements; and

(ii) adopted the Understanding set out in paragraph 3 of document PCT/A/49/4 with effect from October 11, 2017.

23. For ease of reference, Annex I to this report contains a “clean” version of the PCT Regulations as amended by the decision set out in paragraph 22(i), above; Annex II to this report contains the decision relating to the entry into force and transitional arrangements referred to in paragraph 22(i), above, and the Understanding referred to in paragraph 22(ii), above.

Appointment of the Intellectual Property Office of the Philippines as an International Searching and Preliminary Examining Authority under the PCT

24. Discussions were based on document PCT/A/49/3.

25. The Chair referred to the thirtieth session of the PCT Committee for Technical Cooperation in May 2017, which had unanimously agreed to recommend to the Assembly that the Intellectual Property Office of the Philippines (IPOP HL) be appointed as an International Searching and Preliminary Examining Authority under the PCT, as stated in paragraph 4 of the document.

26. The Delegation of the Philippines presented the application of IPOP HL for appointment as an International Searching and Preliminary Examining Authority under the PCT, as had been endorsed by the PCT Committee for Technical Cooperation at its thirtieth session in May 2017. The Delegation stated that the Philippines was strategically located at the gateway of Asia and had a highly literate population of 104 million, whose capabilities and competences were recognized over the entire spectrum of professions. The country was home to 2,180 colleges and universities and top multinational corporations conducting robust research and development activities. The appointment of IPOP HL as an International Searching and Preliminary Examining Authority complemented government policy of mainstreaming science, technology and innovation platforms across national and local development agendas and would help to further foster research and development. It also fitted into the Philippine Development Plan 2017-2022 towards a global competitive knowledge economy. Currently, there were 152 PCT Contracting States and the membership was expected to increase in the years to come, which would present considerable demand in international work. Asia accounted for 43.5 per cent of PCT applications in 2015, and the South East Asia region had registered continuous growth in recent years, which translated to higher demand for international PCT work. With about 70 years of search and examination experience, IPOP HL was well-placed to assist the system in responding to this increasing demand. As the technical information of the application had been reviewed and considered by the PCT Committee for Technical Cooperation in May, the Delegation wished to briefly outline the institutional capacity to be designated as an International Searching Authority and International Preliminary Examining Authority pursuant to the PCT Regulations, which IPOP HL had achieved with utmost diligence for the past four years. First, IPOP HL had the sufficient technical and manpower to carry out search and examination in the required technical fields, pursuant to Rule 34 of the PCT Regulations. Second, the patent examiners at IPOP HL used comprehensive commercial and publicly accessible databases covering patent and non-patent science and engineering databases for search and examination, which collectively covered the PCT minimum documentation and more. Third, a comprehensive quality management system, namely in-process quality check, ISO 9001:008 and an internal patent quality review system (PQRS),

exceeded the common rules of international search and preliminary examination defined by Chapter 21 of the PCT International Search and Preliminary Examination Guidelines. And fourth, the recommendations by the Japan Patent Office (JPO) and IP Australia as existing International Searching and Preliminary Examination Authorities with regard to the appointment of IPOPHL, which had been made at the thirtieth session of the PCT Committee for Technical Cooperation. On this note, the Delegation expressed utmost gratitude for JPO and IP Australia for their support and guidance in its preparations for the appointment and was pleased that both Offices had expressed their willingness and interest in continuing to assist IPOPHL in the years ahead. In addition, the Delegation expressed appreciation for other bilateral partners, such as the United States Patent and Trademark Office (USPTO) and the Intellectual Property Office of Singapore (IPOS), for their support. It was this spirit of cooperation and partnership within the PCT Union that had encouraged the Philippines to take a larger role in the PCT System. In addition, the Delegation thanked the Secretariat for its assistance in the process. In sum, if appointed as an International Searching and Preliminary Examination Authority, IPOPHL would positively contribute to the PCT System as follows: first, by greatly helping to address the demand for PCT work, particularly the increasing volume of applications, by providing quality and timely services; second, by serving as a strategic partner of other International Searching and Preliminary Examining Authorities in the region, specifically the Intellectual Property Office of Singapore; third, by acting as a strategic link in the PCT System in the growing Asian market, by promoting the system in Asia, particularly to individual applicants, start-up companies and the new breed of innovators in the region, as well as by providing a platform to use the PCT System for the expanding network of 85 Technology and Innovation Support Centers in the region; and fourth, by laying down the necessary institutional structure in the region to pave the way for increasing the use of the IP system for developing and emerging economies.

27. The Delegation of Australia stated that IP Australia had a longstanding and constructive relationship with IPOPHL, which had been reinforced over recent years by collaboration on the Regional Patent Examiner Training Program. The Philippines had been a Contracting State of the PCT since 2001 and had considerable experience of the PCT. The Delegation noted that the application of IPOPHL for appointment as an International Searching and Preliminary Examination Authority underpinned policies aimed at the development of innovation and prosperity in the Philippines. This, in turn, could encourage increased use of the international patent system in the Asian region and potentially add value to the network of existing International Authorities. The Delegation noted that IPOPHL had further strengthened its operations recently by adding searching tools, such as the Scientific and Technical Information Network (STN) and by trialing the EPOQUE-Net query services, and the Delegation was confident that the search and examination carried out by IPOPHL as an International Search and Preliminary Examination Authority would be consistent with the ideals of the PCT. As part of the longstanding and cooperative relationship with the Philippines, IP Australia looked forward to providing further ongoing assistance to IPOPHL to help with the transition required to become an operational International Searching and Preliminary Examining Authority. IP Australia was pleased to have been involved in the journey with IPOPHL leading up to the appointment and the Delegation wished IPOPHL all the best in this endeavor going forward.

28. The Delegation of Japan stated that, as one of the International Authorities that had assessed the eligibility of IPOPHL to be appointed as an International Searching Authority and International Preliminary Examining Authority, it fully supported the appointment of IPOPHL. The close cooperation in the field of Intellectual Property between the JPO and IPOPHL went back a long time, and had involved a wide range of activities, such as development of human resources and automation of processes. As part of cooperation with IPOPHL in the PCT, the JPO had used not only the WIPO Japan Funds-in-Trust but had also signed a bilateral Memorandum of Cooperation with IPOPHL. The JPO had conducted an assessment of IPOPHL in an objective manner on various aspects to determine whether IPOPHL met the minimum requirements, in line with the PCT Rules 36.1 and 63.1. The result of this assessment had been included in Appendix 3 of the Annex to document PCT/CTC/30/2 Rev., which concluded that IPOPHL met the minimum requirements under the relevant PCT Rules on the

assumption that it would have examiners with sufficient capability to conduct searches and would have access to some non-patent document databases by the time the PCT Assembly was held in October 2017. IPOPHL had advised the JPO that this requirement had already been met. The Delegation concluded by congratulating IPOPHL on its effort to strengthen its capabilities as an International Searching and Preliminary Examining Authority and wished that the PCT System would develop further with the appointment of the IPOPHL as an International Searching and Preliminary Examining Authority. The JPO would continue to be committed to assisting IPOPHL in its operations as a competent International Searching and Preliminary Examining Authority.

29. The Delegation of the Republic of Korea stated that the PCT Committee for Technical Cooperation had reviewed the application for IPOPHL to be appointed as an International Searching Authority and International Preliminary Examining Authority and had determined that the minimum criteria for appointment had been sufficiently met. The Delegation therefore agreed with the appointment.

30. The Delegation of Oman stated that it supported the appointment of IPOPHL as an International Searching and Preliminary Examining Authority under the PCT. The Delegation considered that this was an important step forward to meet the growing number of PCT applications in Asia, which had witnessed a 43 per cent increase in recent times.

31. The Delegation of Singapore reiterated its support for the application of IPOPHL to become an International Searching Authority and International Preliminary Examining Authority under the PCT. Through close bilateral and regional cooperation with IPOPHL, the Delegation was confident that IPOPHL would be capable of discharging its duties as an International Searching and Preliminary Examining Authority. The Delegation believed that having another International Authority in the region would be synergistic with efforts to improve quality and efficiency of patents in the region. The Delegation therefore supported the application and looked forward to the continued contribution by IPOPHL to the PCT System.

32. The Delegation of Ukraine expressed its support for the appointment of IPOPHL as an International Searching Authority and International Preliminary Examining Authority under the PCT, wished it success in this work and also indicated its wish for further close cooperation.

33. The Delegation of the United States of America joined with the other delegations in their support for the appointment of IPOPHL as an International Searching Authority and International Preliminary Examining Authority under the PCT and looked forward to IPOPHL beginning operations in this capacity soon.

34. The Delegation of Brazil expressed its support for the appointment of IPOPHL as an International Searching Authority and International Preliminary Examining Authority under the PCT.

35. The Delegation of Austria joined with the other delegations in expressing support for the appointment of IPOPHL as an International Searching Authority and International Preliminary Examining Authority under the PCT. The Austrian Patent Office looked forward to cooperating with IPOPHL as a member of the family of PCT International Authorities.

36. The Delegation of Egypt expressed its support for the appointment of IPOPHL as an International Searching Authority and International Preliminary Examining Authority under the PCT.

37. The Delegation of Indonesia joined the other delegations in expressing support for the appointment of IPOPHL as an International Searching Authority and International Preliminary Examining Authority under the PCT.

38. The Assembly of the PCT Union, in accordance with Articles 16(3) and 32(3) of the PCT:

- (i) heard the Representative of the Intellectual Property Office of the Philippines and took into account the advice of the PCT Committee for Technical Cooperation set out in paragraph 4 of document PCT/A/49/3;
- (ii) approved the text of the draft Agreement between the Intellectual Property Office of the Philippines and the International Bureau set out in the Annex to document PCT/A/49/3; and
- (iii) appointed the Intellectual Property Office of the Philippines as an International Searching Authority and International Preliminary Examining Authority with effect from the entry into force of the Agreement until December 31, 2027.

39. The Delegation of the Philippines stated that it was honored and humbled by the decision of the Assembly to appoint IPOPHL as an International Searching and Preliminary Examining Authority. The journey to becoming an International Authority had been truly challenging and fulfilling. IPOPHL had been diligently working on necessary institutional and organizational preparations to ensure that it had met, and in certain aspects exceeded, the minimum requirements for designation. The appointment was a significant milestone, not only for IPOPHL, but for the Philippines as well. The Philippines National Development Plan aimed to transform the Philippines into a knowledge-driven and innovative society, and the appointment by the Assembly would complement research and innovation activities in the country, and in the South East Asian region. The Delegation expressed extreme gratitude and profound appreciation to its partner Offices, IP Australia and the JPO, for their invaluable assistance and collaboration, providing guidance and support in the process. The generosity of both Offices in sharing their wealth of experience, efficient practices and policies had greatly benefited IPOPHL during the whole process. IPOPHL was also greatly inspired by their positive and constructive engagement to further enhance capacity and competence in the future, and it was reassuring to know that both Offices had committed to continue working with IPOPHL in benchmarking international operations and building of capacities and competencies as an International Searching and Preliminary Examining Authority. The Delegation also thanked the USPTO for its support, assistance and helpful insights, and conveyed its gratitude to IPOS for its statement of support and encouragement. As the first International Searching and Preliminary Examining Authority in the South East Asian region, support from Singapore had been of utmost importance. The Delegation also thanked the Delegations from the Republic of Korea, Oman, Ukraine, Brazil, Austria, Egypt and Indonesia for their statements of support. In addition, the Delegation conveyed its appreciation to the Secretariat at the International Bureau for its valuable assistance and support, and to the Chair of the PCT Working Group and PCT Committee for Technical Cooperation. In closing, the Delegation looked forward to working with other International Searching and Preliminary Examining Authorities and all PCT Contracting States in ensuring an efficient patent system.

40. The Director General, on behalf of the International Bureau, congratulated the Delegation of the Philippines on the appointment of IPOPHL as an International Searching and Preliminary Examining Authority under the PCT, and looked forward to the commencement of operations and working with IPOPHL in its new capacity.

Extension of Appointment of the International Searching and Preliminary Examining Authorities

41. Discussions were based on documents PCT/A/49/2 and PCT/A/49/2 Corr.

42. The Chair referred to the thirtieth session of the PCT Committee for Technical Cooperation in May 2017, which had unanimously agreed to recommend to the Assembly the extension of the appointment of all national Offices and intergovernmental organizations

currently acting as International Searching and Preliminary Examining Authorities under the PCT, as stated in paragraph 4 of the document. The Chair explained that the Australian Patent Office and the Canadian Commissioner of Patents had informed the International Bureau that they would be unable to complete their respective national processes for approval of their new agreements with the International Bureau in relation to their operation as an International Searching and Preliminary Examining Authority before the expiry of their existing agreements on December 31, 2017. Consequently, the document proposed that, in addition to approving the extension of appointment of these two Authorities until December 31, 2027, also to approve the extension of the existing agreements of both Authorities for a period of up to one year, pending ratification of the new agreements. The Chair concluded by stating that all International Authorities had presented a detailed application for their extension of appointment, which had been considered by the PCT Committee for Technical Cooperation when giving its favorable advice to the Assembly. The Chair therefore suggested that the statements made by the International Authorities during the thirtieth session of the PCT Committee for Technical Cooperation should be considered as having already been “heard” by the Assembly in accordance with the procedures for extension of appointment as an International Searching Authority and International Preliminary Examining Authority under PCT Articles 16(3)(e) and 32(3), respectively.

43. The Assembly of the PCT Union, in accordance with Articles 16(3) and 32(3) of the PCT:

- (i) heard the Representatives of the International Authorities and took into account the advice of the PCT Committee for Technical Cooperation set out in paragraph 4 of document PCT/A/49/2;
- (ii) approved the text of the draft agreements between the International Authorities and the International Bureau set out in Annexes I to XXII of document PCT/A/49/2 (as modified by document PCT/A/49/2 Corr.); and
- (iii) extended the appointment of the present International Searching and Preliminary Examining Authorities until December 31, 2027.

[Annexes follow]

AMENDMENTS TO THE PCT REGULATIONS
TO ENTER INTO FORCE ON JULY 1, 2018

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Rule 4

The Request (Contents)

4.1 *Mandatory and Optional Contents; Signature*

(a) [No change]

(b) The request shall, where applicable, contain:

(i) a priority claim, or

(ii) indications relating to an earlier search as provided in Rules 4.12(i) and 12*bis*.1(b)

and (d),

(iii) a reference to a parent application or parent patent,

(iv) an indication of the applicant's choice of competent International Searching Authority.

(c) and (d) [No change]

4.2 to 4.19 *[No change]*

Rule 41

Taking into Account Results of Earlier Search and Classification

41.1 *[No change]*

41.2 *Taking into Account Results of Earlier Search and Classification in Other Cases*

(a) *[No change]*

(b) Where the receiving Office has transmitted to the International Searching Authority a copy of the results of any earlier search or of any earlier classification under Rule 23*bis*.2(a) or (c), or where such a copy is available to the International Searching Authority in a form and manner acceptable to it, for example, from a digital library, the International Searching Authority may take those results into account in carrying out the international search.

SCHEDULE OF FEES

Fees

Amounts

1. to 3. [No change]

Reductions

4. [No change]

5. 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 90% if the international application is filed by:

- (a) [No change] an applicant who is a natural person and who is a national of and resides in a State that is listed as being a State whose per capita gross domestic product is below US\$ 25,000 (according to the most recent 10-year average per capita gross domestic product figures at constant 2005 US\$ values published by the United Nations), and whose nationals and residents who are natural persons have filed less than 10 international applications per year (per million population) or less than 50 international applications per year (in absolute numbers) according to the most recent five-year average yearly filing figures published by the International Bureau; or
- (b) [No change] an applicant, whether a natural person or not, who is a national of and resides in a State that is listed as being classified by the United Nations as a least developed country;

provided that, at the time of filing of the international application, there are no beneficial owners of the international application who would not satisfy the criteria in sub-item (a) or (b) and provided that, if there are several applicants, each must satisfy the criteria set out in either sub-item (a) or (b). The lists of States referred to in sub-items (a) and (b)¹ shall be updated by the Director General at least every five years according to directives given by the Assembly. The criteria set out in sub-items (a) and (b) shall be reviewed by the Assembly at least every five years.

[Annex II follows]

¹ *Editor's Note:* The first lists of States were published in the Gazette of February 12, 2015, page 32 (see www.wipo.int/pct/en/official_notices/index.html).

DECISIONS RELATING TO THE ENTRY INTO FORCE OF THE AMENDMENTS IN ANNEX I

“The amendment of Rules 4.1(b)(ii) and 41.2(b) and of the Schedule of Fees shall enter into force on July 1, 2018, and shall apply to any international application the international filing date of which is on or after that date.”

UNDERSTANDING RELATING TO ITEM 5 OF THE SCHEDULE OF FEES

“It is the understanding of the PCT Assembly that the fee reduction in item 5 of the Schedule of Fees is intended to apply only in the case where the applicants indicated in the request are the sole and true owners of the application and under no obligation to assign, grant, convey or license the rights in the invention to another party which is not eligible for the fee reduction.”

[End of Annex II and of document]