

# WIPO



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INTERNATIONAL PATENT COOPERATION UNION  
(PCT UNION)

PCT COMMITTEE FOR TECHNICAL COOPERATION

Twenty-Third Session  
Geneva, September 24 to October 3, 2007

APPOINTMENT OF THE BRAZILIAN NATIONAL INSTITUTE OF INDUSTRIAL  
PROPERTY AS AN INTERNATIONAL SEARCHING AND PRELIMINARY  
EXAMINING AUTHORITY UNDER THE PCT

*Document prepared by the International Bureau*

1. The appointment of International Searching Authorities (ISAs) and International Preliminary Examining Authorities (IPEAs) under the Patent Cooperation Treaty (PCT) is a matter for the Assembly of the PCT Union and is governed by Articles 16(3) and 32(3) of the PCT. The detailed requirements which must be satisfied by an Office in order to be appointed as an International Authority are described in paragraphs 4 and 5 of document PCT/CTC/23/2.

2. In a letter dated July 31, 2007, the text of which appears in the Annex, the Government of Brazil requested that the Brazilian National Institute of Industrial Property be appointed as an ISA and IPEA and supplied supporting documentation: Appendix I contains general background to the request and Appendix II contains a report on the current state of the Institute's quality management system, following the format of the template used by the existing International Authorities.

3. Articles 16(3)(e) and 32(3) of the PCT require that, before the Assembly makes a decision on such an appointment, it shall seek the advice of the PCT Committee for Technical Cooperation. The Committee's advice, which is sought by the present document, will be submitted to the Assembly during its 36th session, which is being held during the same period as the session of the Committee.

4. *The Committee is invited to give its advice on this matter.*

[Annex follows]

ANNEX

LETTER FROM THE GOVERNMENT OF BRAZIL TO THE DIRECTOR GENERAL



*Permanent Mission of Brazil in Geneva*

71, Avenue Louis-Casaï - Case Postale 165  
1216 Cointrin Geneva - Switzerland

Geneva, July 31, 2007

Nº. 600/2007

Excellency,

I have the honor to submit documentation regarding the appointment of the Brazilian National Institute of Industrial Property (INPI) as International Searching Authority (ISA) and International Preliminary Examining Authority (IPEA) under the Patent Cooperation Treaty (PCT).

2. Preparatory work was carried out by INPI in consultation with Deputy Director-General Francis Gurry and his team in the PCT International Cooperation Division, which, upon request, undertook a technical mission to Brazil on this subject in the last month of June.

3. The documentation is presented on Behalf of the Brazilian Government for consideration of the PCT Union Assembly, during its 16<sup>th</sup> Ordinary Session, from September 24, 2007 to October 3, 2007.

4. I take this opportunity to thank you, Mr. Gurry and the International Bureau for the assistance provided, and I would very much appreciate your good offices in ensuring the timely and most adequate presentation to the 16<sup>th</sup> PCT Union Assembly of INPI's candidacy for appointment as ISA and IPEA.

Please accept, Mr. Director-General, the assurances of my highest consideration.

[signed]

Clodoaldo Huguency  
Ambassador, Permanent Representative

[Appendix I follows]

APPENDIX I

BACKGROUND TO APPLICATION

**Appointment of the National Institute of Industrial Property – Brazil  
as an International Searching Authority (ISA) and  
International Preliminary Examining Authority (IPEA)  
under the Patent Cooperation Treaty**

**Background**

Innovation and Intellectual Property are key concepts for the 21<sup>st</sup> century, the mastering of which better equip countries to develop their economy, technologies and society at large. Modernizing the National Institute of Industrial Property – Brazil (INPI-Br) is therefore a priority for the Brazilian Government. Several activities with this objective have already started, mainly during the biennium of 2003/2004, and are being further consolidated within the broader context of Brazil's industrial policies<sup>1</sup>. These policies recognize the strategic role of intellectual property, and have paved the way for the adoption of an Innovation Law (nº 10.973/2004)<sup>2</sup>, which strives to bridge important gaps in the way the academic circles, the public research centers and industry interact with each other.

INPI-Br is a Federal Autonomous Entity created in 1970, linked to the Ministry of Development, Industry and Foreign Trade. Supported by the Industrial Property Law number 9.279/96, INPI has as main purpose to execute within Brazil the norms that regulate the industrial property, taking into account its social, economical, juridical and technical functions. It is a function of INPI to evaluate the costs and benefits of developing and ratifying conventions and treaties linked with industrial property matters.

Within the new legal context explained in the first paragraph above, INPI-Br was viewed by society as one of the main stakeholders of the so-called Brazilian System of Innovation. Several institutions started to make contact to learn more about intellectual property tools and how to use them to improve their participation in the system<sup>3</sup>.

This kind of challenge emerged in parallel with another operational ones: we had to fight, vigorously, against our two backlogs: the bigger one, in trademarks area, and the smaller one, in the patents area. Two central actions were developed since them: a) to increase the number of examiners; and b) to create internal electronic systems to accelerate the examinations. Regarding trademarks the INPI-Br now has more than doubled the number of

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<sup>1</sup> For more details about the Brazilian industrial policy, known as “Política Industrial, Tecnológica e de Comércio Exterior – PITCE” see  
<http://www.desenvolvimento.gov.br/sitio/ascom/ascom/polindteccomexterior.php> .

<sup>2</sup> For a full Portuguese version of the Brazilian Innovation Law see  
[http://www.planalto.gov.br/CCIVIL\\_03/\\_Ato2004-2006/2004/Lei/L10.973.htm](http://www.planalto.gov.br/CCIVIL_03/_Ato2004-2006/2004/Lei/L10.973.htm) .

<sup>3</sup> This kind of thing can be envisaged by the goal established by the Central Government for INPI-Br: to be in society by realizing more than 150 (one hundred and fifty) events per year, which means more than 3 (three) events per week into Brazil.

examiners that existed in that moment, and has built a modern electronic system that made the Institute more capable of receiving and of speeding up the internal flow of applications, which resulted in a decrease in the backlog of more than 20% in less than 6 (six) months<sup>4</sup>.

By the end of 2008, the area of patents expects to have 360 (three hundred and sixty) examiners, with at least a Master degree, all of them with a high level of knowledge in one foreign language – mainly English. This number represents more than three times that which the Institute had in 2003. The example of the electronic system installed in the trademark area served as the basis for starting a similar project in the patent area at the end of last year. It is important to point out that our backlog is estimated at between 130,000 and 150,000 (one hundred and thirty thousand and one hundred and fifty thousand) applications, covering all technological areas. The increase on the number of patent examiners and the forthcoming new electronic system mentioned above will certainly have a positive impact on production and, consequently, will solve this problem within a short period of time. The total number of applications per year is nearly 20,000 (twenty thousand), of which around 54% come through the PCT System.

Currently, INPI-Br has patent examiners with capacity to process around 20,000 (twenty thousand) applications a year. Regarding that the examining staff will increase by the end of 2008, this capacity will achieve a mark of 30,000(thirty thousand) applications a year. As INPI-Br intends to begin operations as ISA/IPEA acting only for applications from Brazil or where the application is in Portuguese, the amount of international applications received would not be sufficient to affect INPI-Br operations. Therefore, INPI-Br would be able to deal with ISA/IPEA work without seriously prejudicing the ability to reduce the backlog of national applications.

Many reasons can be highlighted to explain this level of utilization of the PCT System here in Brazil. We believe the main one is the rising knowledge of its utility by the national technology based enterprises, a situation that can be exemplified by the new legal structure and commitments mentioned above. One good example of that is the University of Campinas (UNICAMP). One of the best research and academic centers of Brazil, UNICAMP, through its Innovation Office (named INOVA<sup>5</sup>) became the leading applicant, bypassing Petrobrás<sup>6</sup>, the famous Brazilian governmental (oil) enterprise. Those institutions which deal with technology development are always present in our activities over all the regions of Brazil. An appointment as ISA/IPEA will help to project this scenario to a higher level, with many more Brazilian PCT applicants per year.

### **Pursuit of Excellence in Service Delivery**

In the context of its mission to help accelerate Brazilian economic development, INPI-Br built a new section to work directly with these technology developing institutions, named Directorate of Institutional Partnerships and Technological Information (DART). This

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<sup>4</sup> From a backlog estimated in 600,000 (six hundred thousand) applications (september/2006) to 470,000 (four hundred and seventy thousand) applications in february/2007.

<sup>5</sup> See [www.inova.unicamp.br](http://www.inova.unicamp.br) for more details.

<sup>6</sup> See [www.petrobras.com.br](http://www.petrobras.com.br) or [http://www2.petrobras.com.br/ingles/ads/ads\\_Tecnologia.html](http://www2.petrobras.com.br/ingles/ads/ads_Tecnologia.html) for more details.

Directorate has worked for the last 3 (three) years in a fruitful partnership with the most important stakeholders of the Brazilian Innovation System and with the biggest national intellectual property offices of the world.

As part of its strategy for moving forward on these priorities, INPI-Br reinforced existing institutional agreements and signed new ones, constructing a positive scenario of international partnerships to assist in developing the Office towards a capacity to act as ISA/IPEA, and providing its technical staff with the best training, knowledge and up-to-date systems for patent searches. The main activities include the following:

- European Patent Office (EPO) – several missions were realized during last years to learn how to conduct an examination with a (higher) quality level. One of those fact-finding missions served to start a joint project to establish an internal system, similar to that existing in the EPO, to guarantee the quality control on procedures and guidelines for search and examination. In 2005 INPI-Br was the first institution outside of Europe to sign a contract to have access to EPOQUE Database system, which is used by all the Brazilian examiners for searching purposes. In the beginning of 2007 INPI-Br signed a Memorandum of Understanding with EPO to consolidate this existing partnership, pointing to another future joint projects – including seminars, courses, and so on;
- United States Patent and Trademark Office (USPTO) – working within a Bilateral Mechanism for cooperation between the Brazilian Ministry of Development, Industry and Foreign Commerce and the United States Secretary of Commerce, the INPI-Br and USPTO began several joint activities to improve the Brazilian internal operational procedures. This includes some missions to United States, as well some courses in which Brazilian examiners were introduced to another international context, possibilities of interaction with modern infrastructure and exchanging best practice information;
- Instituto Nacional de Propriedade Industrial (INPI-Portugal) – the construction of a service called Lusophony Intellectual Property Portal was planned and built into the bilateral cooperation with INPI-Portugal established through a Memorandum of Understanding signed in the end of 2005. This project enables the two institutions to share Portuguese patent documents, not only from their own countries, but from all the other Portuguese speaking countries around the world, mainly African ones. This is a new tool that facilitates access to patent documents which were not easily available before;
- German Patent and Trademark Office (DPMA) – through a Memorandum of Understanding signed in October/2005, INPI-Br and DPMA initiated a collaboration to improve the training of new teams of patent examiners who have joined the Brazilian Institute last few years. One fact-finding mission was conducted, and 4 (four) technical missions have followed. Each mission has improved the knowledge of the current and the future contexts in which these examiners work;
- French National Institute of Industrial Property (INPI-Fr) – recently, a Memorandum of Understanding between the institutes was signed, envisaging possible increasing in technical seminars and courses available to the Brazilian staff. The best known is the

CEIPI Program<sup>7</sup>, which will be very useful for improving the quality of the Brazilian examiners;

- South American Cooperation – the INPI-Br is conducting a major work, jointly with another nine countries<sup>8</sup> in South America, to build a called South American Intellectual Property Portal. The first prototype of this new on-line tool is prospected for 2007, enabling those offices to share information in real time about exams and final decisions regarding patent applications. This project was agreed in an official meeting which occurred in beginning of March 2007;
- INPI-WIPO Project – a cooperation project which began in 1997, it was the main tool to modernize the electronic structure of the Brazilian Office. Through this agreement INPI-Br utilized around US\$ 10,000,000 (ten million American dollars) to upgrade its technological infrastructure to be ready for the future challenges of search requirements.

These projects cited above, and another ones at national level, with special emphasis on access to the CAPES<sup>9</sup> Portal, a famous documents database related to non-patent literature, shows serious commitment of INPI-Br with the quality of its patent searches and exams. This commitment will:

- facilitate the prosecution of PCT international applications for Brazilian applicants, enabling them to be more productive and competitive in the knowledge-based economy;
- enhance its international reputation as a mid-sized IP office by assuming a portion of the international workload burden, especially in the South American region;
- reinforce its commitment to a continuing search for excellence in the areas of client relations and service delivery; and
- strengthen the quality of Brazilian national search and examination through increased exposure to the PCT system and access to additional search tools.

Furthermore, INPI-Br is currently planning the establishment and implementation of a quality management system (QMS) based on the most appropriate patterns available and in compliance with Chapter 21 of the PCT International Search and Preliminary Examination Guidelines. More details about QMS are available in the Quality Report (annexed) [see Appendix II].

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<sup>7</sup> The International Research Centre for Intellectual Property (CEIPI) is a traditional institution located at Strasbourg, France. See [www.ceipi.edu](http://www.ceipi.edu) for more details.

<sup>8</sup> Argentina, Bolivia, Chile, Colombia, Ecuador, Paraguay, Perú, Surinam and Uruguay.

<sup>9</sup> CAPES – Coordination of Improving Actions for the University Degree – see [www.capes.gov.br](http://www.capes.gov.br) for more details.

## **Human Resources**

In response to the increased demand for IP rights, INPI-Br has taken advantage of the favorable national conditions to construct a continuing program to hire new examiners in recent years, and a continuing prospect for the next ones.

There are currently 255 (two hundred and fifty five) full-time patent examiners employed by INPI-Br, all of whom have the sufficient technical qualifications to carry out international searches and examinations. A large number of examiners are able to perform work in both English and Spanish in addition to Portuguese. Also, many of them have practical skills in additional foreign languages. Furthermore, INPI-Br has a continuous program for capacity building on foreign languages for its employees. In respect of academic qualifications, apart from the fact that all patent examiners must possess at least a Master's Degree, around 30% of examiners possess a PhD.

While INPI-Br's patent examination staff has grown extensively in recent years, the continued influx of patent applications and INPI-Br's ongoing commitment to maintaining and improving service levels has demanded an aggressive recruitment of additional staff. INPI plans to hire more 80 new examiners in 2007. A total of 360 examiners is expected by the end of 2008.

One of the limitations placed on an organization's ability to hire new recruits is its capacity to provide proper training without incurring a substantial loss of production. INPI-Br's current training regime for patent examiners consists of a two-year apprenticeship augmented by formal training in a variety of patent law and examination subjects, such as the main national and international legislation, jurisprudence, advanced patent prosecution and patentable subject matter. In an effort to alleviate the dependency on senior, productive examiners, INPI-Br is currently reviewing its training program within a special task-force created for the purpose, evaluating alternative training tools, and exchanging best practice information with other patent offices. This will certainly strengthen the quality of search and examination and enable INPI-Br to recruit additional examiners while minimizing impact on production.

Training efforts are not restricted to the education of new examiners. Experienced examiners are encouraged to keep abreast of technology developments in their field of specialty, by reviewing technical periodicals, attending conferences, and taking part in technical events organized by DART.

## **Technological Information**

Towards the end of the 1990s, INPI-Br began efforts to modernize its patent office by developing information technology solutions to address the requirements of the patent process in Brazil, in order to improve access to its wealth of patent data and to achieve greater efficiency gains in the delivery of patent products and services, as indicated above, referring to the goals of INPI-WIPO Project.

One of the main tools acquired during this period was the EPOQUE database system. INPI-Br was the first non-European institution to gain access to this system and, through this, Brazilian examiners have access to more than 100(one hundred) million patent documents as well as a large volume of non-patent literature.



To support these systems, INPI-Br uses Pentium workstations which have a CD/DVD-ROM drive and Internet access through a high-speed connection. This permits access to the EPOQUE Database system, and provides patent examiners with the necessary facilities to conduct their search and examination functions.

### **Budget Prospects**

INPI-Br expects a continuing increase in its budget. Three years ago this amount was around US\$ 40 million (forty million US dollars). The prospect is to achieve a budget – directly connected with the increasing of the payment of registration and maintenance fees – of up to US\$ 100 million (one hundred million dollars) until the end of 2008<sup>10</sup>.

### **Minimum Documentation**

INPI-Br has access to documents related to non-patent literature through CAPES Portal and DIALOG database system, in use since 1986.

The table below sets out the patent documents which INPI-Br has access to, in addition to those accessible through the EPOQUE database system.

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<sup>10</sup> It is important to note the Trademark area received per year around of 100,000 applications. With the improvements related here the expectation is to increase that number and its direct connected fees.

TYPE OF FILE □	SEARCH <sup>1</sup>	NUMERICAL	MICROFORM	CD-ROM <sup>2</sup>
	PERIOD	PERIOD	PERIOD	PERIOD
AUSTRALIA	since 1980	---	---	---
BRAZIL		since 1982	1924 - 1974	---
CANADA	since 1980	---	---	---
SPAIN	---	---	since 1984 <sup>3</sup>	since 1990
UNITED STATES	since 1969	1911 - 1966	1950 - 1982	since 1969
FRANCE	since 1972	1910 - 1948	1947 - 1972 1988 - 1994	since 1994
UNITED KINGDOM	since 1939	1950 - 1967	1936 - 1955	---
NETHERLANDS <sup>4</sup>	1982 - 1988	---	---	---
JAPAN <sup>5</sup>	---	---	---	since 1976
AIPO(a)	---	---	---	1994
EPO (a)	since 1978	---	---	since 1978
WIPO(PCT)(a)	1978 – 1994	---	---	since 1978
GERMANY	since 1972	---	1969 - 1972	---
SWEDEN	1961 – 1989	1920 - 1969	1988 - 1994	1992
SOVIET UNION	---	---	1957 - 1964 1990	---
EASTERN GERMANY	1966 - 1974	---	---	---
DOPALES(a)	---	---	---	1990 - 1991
<b>TOTAL</b>	<b>9 400 000</b>	<b>3 400 000</b>	<b>4 500 000</b>	<b>7 600 000</b>

(a) AIPO - African Intellectual Property Organization - updated 12/31/1997

EPO - European Patent Office

PCT - Patent Cooperation Treaty

WIPO - World Intellectual Property Organization

DOPALES - Front page of Iberian American documents

1. Search in paper in accordance with the IPC (International Patent Classification).
2. Research discs included.
3. In microfiches for the IPC.
4. Applicable only to documents without priority.
5. Abstract in English.

## Conclusion

INPI-Br has demonstrated that it meets the requirements to function as an ISA/IPEA under the PCT on the basis of the following attributes:

- a highly qualified, competent and growing corps of patent examiners in all disciplines, possessing bilingual, sometimes multilingual capabilities;
- a project for a modern and efficient automated patent processing system, supported by a forward-thinking and comprehensive IT infrastructure;
- a vast collection of patent documents and on-line resources which will permit INPI-Br to meet the minimum documentation requirements;
- an organizational commitment to the pursuit of excellence in client relations and service delivery; and
- an examination capacity to manage the anticipated international workload and which may, eventually, be in a position to offer its services to applicants filing through other receiving Offices.

This entire situation is linked with a future international scenario which points for the increasing number of ISAs/IPEAs. Under the current circumstances, a de-centralized system consisting of multiple ISAs can be regarded as more suitable effectively utilizing the search resources in various parts of the world, in addition with a kind of representation which will have a relevant importance on strengthening the PCT system on a regional basis. The INPI-Br wants to participate in the future of the Intellectual Property System, and it believes that it is prepared for that.

[Appendix II follows]

APPENDIX II

REPORT ON QUALITY MANAGEMENT SYSTEMS

**Common Quality Framework for  
International Search and Preliminary Examination**

**Report Under Paragraph 21.17 of the  
PCT International Search and Preliminary Examination Guidelines**

**by: NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY  
(INPI-BR)**

**on: September 2007**

Documents referred to in this report:

*[list any documents which appended to the report for information or publicly available documents which are referred to]*

INTRODUCTION (PARAGRAPHS 21.01–21.02)

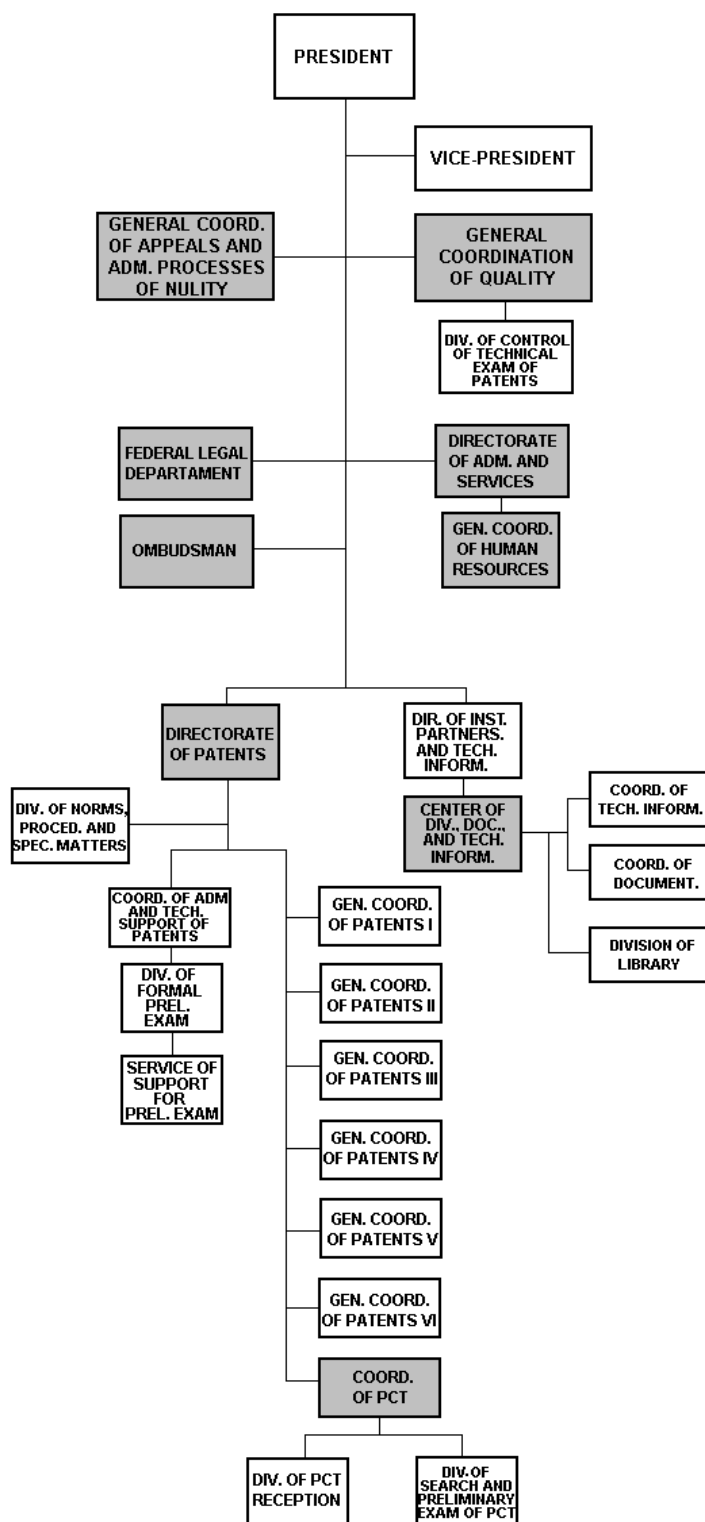
*The Authority should provide general background information relevant to the quality management system (QMS). The following may be included, if applicable:*

- Recognised normative reference or basis for quality management system besides Chapter 21, e.g. ISO 9000.*
- An organigram showing at least the organisational units responsible for implementation of the Authority's QMS. It could be referred to in the rest of the report, as necessary.*

The National Institute of Industrial Property (INPI-Br) is a Federal Autonomous Entity within the Brazilian Federal Government. Created in 1970, INPI-Br is linked to the Ministry of Development, Industry, and Foreign Trade with the purpose of executing the norms that regulate the industrial property, considering its social, economic, legal, and technical functions.

In its almost four decades of existence, INPI-Br staff has constructed a high level of consciousness and responsibility regarding the service rendered to its users. Under these circumstances, the demand for better examination and management procedures increased significantly. First attempts to establish a pro-quality culture took place between 1993 and 1994 with the creation of a Total Quality Management Program. INPI-Br's Administration has long recognized the ISO 9001:2000 standard as an internationally recognized and accepted set of guidelines and requirements. Apart from being adopted as a normative reference by many other Offices, it has been revealed as the most appropriate model to be followed indeed.

To all intents and purposes, it shall be clarified that the establishment of an INPI-Br QMS is still in progress in this reporting year. Furthermore, the new proposed organigram, which was sent to the Ministry of Development, Industry and Foreign Trade for evaluation, contemplating the areas related the QMS follows below.



General-Coordination of Quality:

Plans, coordinates and executes the quality policies of administrative services and activities of INPI-Br's technical fields. Its *Division of Control of Technical Exam of Patents* is responsible for giving opinions about the directives and operational procedures that orient these activities, promoting and coordinating the certification for patents of all INPI-BR activities according to the norms and standards. It also accomplishes controls to verify the quality policies application, of elaborating reports which contains proposals of measures to sanitize detected dysfunctions, divulging norms and procedures, and giving technical orientation to the involved unities.

General-Coordination of Appeals and Administrative Processes of Nullity:

Gives technical instructions concerning appeals and nullity processes administratively invoked. This is the area in charge of processing the appeals and nullity requests, of controlling the deadlines related to appeals and nullity and of proposing the improvement of directives of examination procedures related to these matters.

Federal Legal Department:

Exercises the legal and paralegal representation of INPI-Br, acting in the processes of which the Autarchy is invoked.

Directorate of Administration and Services:

Plans, coordinates, directs, supervises, promotes, accompanies and evaluates execution of human resources activities, including supplying and allocation of employees of general services, informatics, information and financial administration. Responsible for administrative modernization and organization, among others.

General Coordination of Human Resources:

Plans, coordinates and supervises the execution of activities related to personal administration and INPI-Br human resources development, including training and capacity building.

Ombudsman:

Analyses and treats the requests, information, praises, complaints and suggestions that arrive from our users; creates reports with indicative and qualitative analysis, identifying critical points and contributing on the search of solutions.

Directorate of Patents:

Coordinates, supervises, accompanies and promotes the application of projects, agreements and treaties that concern patents; analyses, decides and grants patentary privileges according to the present legislation; and proposes the practical improvement and develops operational standards for patent analysis and concessions.

Coordination of PCT:

Exercises the inherent activities, in Brazil, as the receiver office of international requests. It is also responsible for activities related to Search and Preliminary Exam of PCT.

Center of Divulgation, Documentation and Technological Information:

Manages and updates patent information and other national or foreign publications; and promotes technological information divulgation and diffusion, generated and managed by INPI-Br, focusing on national development.

QUALITY MANAGEMENT SYSTEM (PARAGRAPHS 21.03–21.09)

Establishment and maintenance of QMS (Paragraph 21.03)  
*The Authority should show that it has established and is maintaining, or is establishing, a QMS which:*  
*(a) sets out basic requirements regarding resources, administrative procedures, feedback and communication channels required to underpin search and examination (S&E);*  
*(b) incorporates a quality assurance scheme for monitoring compliance with these basic requirements and with PCT/GL/ISPE.*

Challenges most recently faced in the international economic scenario especially in the last decade pushed intangible assets to occupy a central role in the global economy, dependent of increasingly efficient systems for its effectiveness and competitiveness.

Due to that, INPI-Br is currently planning the establishment and implementation of a QMS based on the most appropriate patterns available. Taking into consideration the commitments assumed by the administration, several meetings concerning the focused subject have been held.

The Administration understands as extremely beneficial the creation of a *Division of Norms, Procedures and Special Matters*, directly linked to the Directorate of Patents, designated to be officially in charge of harmonizing and updating all technical procedures, in accordance to PCT/GL/ISPE rules and related PCT documents.

Based on those contents, the criteria and parameters to be followed by internal audits will be carried out by the *Division of Control of Technical Exam of Patents* within the *General Coordination of Quality* (hereinafter referred to as GCQ). This is an independent body linked directly to the President (see organigram) with the responsibility of leading the quality internal process in the specific field of patents.

It is worth to mention that the involved staff will most certainly be composed by patent examiners, rotated from time to time, in views of guaranteeing that as many examiners as possible will learn the importance of quality standards and will take it to their daily examination practices.

Resources - infrastructure (Paragraph 21.05)

*Provide information about the infrastructure in place which ensures the following:*

- (a) Adequate quantity of search and examination (S&E) staff, including:*
  - (i) means for matching the quantity of S&E staff to the inflow of work;*
  - (ii) means for ensuring that recruited S&E staff have the necessary technical qualifications;*
  - (iii) means for ensuring that S&E staff have language skills, or have access to supporting translation arrangements, as necessary to meet Rule 34.*
- (b) Adequate quantity and skills of administrative staff to support S&E.*
- (c) Provision of appropriate equipment and facilities to support S&E.*
- (d) Provision of the minimum documentation supporting S&E, as referred to in Rule 34.*
- (e) Provision of up-to-date work manuals. These must include explanations of:*
  - (i) quality criteria and standards;*
  - (ii) descriptions of work procedures;*
  - (iii) instructions ensuring that the work procedures are adhered to.*
- (f) Provision of an effective training and development program for all staff involved in S&E, including means to ensure the acquisition and maintenance of the necessary experience, skills and familiarity with work manuals.*
- (g) Continuously monitoring and identifying resources, other than staff, required to deal with demand and comply with quality standards for S&E.*

In Brazil, all new public employees are hired under specific procedures. The number of vacancies must first be voted in National Congress and receive Presidential approval. A formal request is directed to the Ministry of Planning afterwards, containing several budgetary projections of expenses. Once authorized, INPI-Br follows with its own internal courses.

The General Coordination of Human Resources (hereinafter referred to as GCHR) prepares an internal planning that includes identification of the necessities of each area of the Institution to receive new employees (for instance: computers, furniture and office material). It is also responsible for describing the programmed contents of the required knowledge that will be requested in the public selection. Meetings with internal areas to define the desired professional profiles and to match the corresponding amount of examiners and administrative staff are also part of the GCHR duties. Later, and in accordance to Brazilian rules, an enterprise specialized in public selection is hired to advise INPI-Br in its recruitment.

In respect of academic qualifications, all patent examiners must possess, as a minimum requirement of public selection, a Master's Degree. Furthermore, around 30 percent of examiners already possess a PhD level.

INPI-Br's current training program for patent examiners consists of a two-year formal training with an on-the-job approach in a great variety of patent law and examination subjects, such as the main national and international legislation, jurisprudence, advanced patent prosecution and patentable subject matter.



Training efforts are not restricted to the education of new examiners. Experienced examiners, as well as the administrative staff, have also a continuous training and are encouraged to keep abreast of the most recent technology developments related to their field of specialty by several possible means: reviewing technical periodicals; evaluating electronic tools (for example: EPOQUE, DIALOG<sup>11</sup>); attending conferences; taking part in technical events; designing training programs; and exchanging best practice information with other Patent Offices. By the way, INPI-Br has established institutional agreements with many others offices and institutions to construct a positive scenario of international partnerships. Put simply, INPI-Br understands as necessary to provide its technical staff with the best knowledge available and necessary capabilities.

Likewise, INPI-Br has a large number of examiners that are able to adequately perform their work in both English and Spanish. Besides, English knowledge is a minimum requirement of the public selection. Many of them have practical skills in additional foreign languages. Also, INPI-Br established a continuous program for capacity building for its employees on foreign languages.

INPI-Br's Human Resources Department maintains a capacity-building program to all the careers by means of permanent education and continuous formation in and outside the country. Besides, this program aims to motivate employees and make good use of their abilities and acquaintances. From January/2007 to June/2007, around 500 employees had participated in a considerable number of activities regarding capacity building.

INPI-Br patent examiners use high standard databases in search and examination activities. There are both national databases (PORTAL CAPES<sup>12</sup>) as well as external ones (EPOQUE, DIALOG and others). All examiners have a permanent online access to the most current information through their own workstation.

Its facilities have personnel workstations with one PENTIUM computer per person, with a CD/DVD-ROM drive and Internet access through a high-speed connection. This permits access to the EPOQUE Database system, and provides patent examiners with the necessary facilities to conduct their search and examination functions.

INPI-Br is conducting projects in international level to build new on-line tools that will enable the involved offices to share information and to facilitate the access to patent documents. For instance, we may point out the project for construction of a Portuguese Speaking Countries Intellectual Property Portal, resultant from a bilateral cooperation with INPI-Portugal. This project enables both institutions to share Portuguese patent documents, which exists not only in both countries, but also includes all the other Portuguese Speaking Countries all over the world, mainly African ones. Moreover, INPI-Br is committed with the maintenance of the translation of the IPC 8<sup>th</sup> edition to Portuguese.

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<sup>11</sup> DIALOG is the world's online information retrieval system that provides online-based information services about Industrial Property in our case.

<sup>12</sup> CAPES Portal is a famous database of documents, article and scientific texts related to non-patent literature. It is administered by the Coordination of Improving Actions for the University Degree (CAPES). For more information and details, see [www.capes.gov.br](http://www.capes.gov.br) and [www.periodicos.capes.gov.br](http://www.periodicos.capes.gov.br).

Another on-line tool, called South American Intellectual Property Portal, is being built jointly with other nine countries<sup>13</sup> in South America. The first draft of this new Portal is prospected for 2007, enabling those Offices to share information in real time about exams and final decisions regarding patent applications.

These plans cited above, as well as other ones in national level show serious commitment of INPI-Br with the quality of its patent searches and exams. INPI-Br has made a great effort in order to increase the number of digitized Brazilian language patent documentation up to the oldest documents in our archive. Also, these records have been sent to EPO to be integrated and shared in the EPOQUE system.

All patent examiners have been provided with detailed information on PCT procedures through training. They are provided with up-to-date legal texts, Manual of Procedures for the Preliminary Formal Examination, Search and Examination Guidelines and work instructions and have access to the WIPO site, which also contains all PCT information. INPI-Br is always reviewing these procedures and work instructions and new instructions are continuously transmitted to all patent examiners.

Besides, INPI-Br is now in the process of developing practical and detailed work manuals for patent examiners, which will contain work procedures and guidelines as to how to elaborate technical reports, and how to search and exam under certain quality criteria and standards. *A Division of Norms, Procedures and Specific Matters* will be the area responsible for compiling, updating and disseminating work instructions for all staff. Also, it will keep work manuals for examining staff up-to-date and ensure their effective distribution. Moreover, all staff is instructed to adhere to the work procedures described in internal instructions.

Administration - procedures (Paragraphs 21.06(a) and (b))

*Provide information on those administrative procedures and control mechanisms which ensure the following:*

*(a) Timeliness of S&E and related functions, to quality standards in accordance with PCT/GL/ISPE.*

*(b) Coping with fluctuations in demand and backlog management.*

All Heads and Managers make use of an INPI-Br Electronic Device System (SINPI) for Follow-up of Applications and for Monitoring purposes.

Fluctuations in demand and backlog management are addressed during Manager Meetings. If necessary, Working Groups are created in order to discuss on strategies and/or possible solutions.

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<sup>13</sup> Argentina, Bolivia, Chile, Colombia, Ecuador, Paraguay, Perú, Surinam and Uruguay.

Quality Assurance Procedures (Paragraph 21.07)

*Provide information on procedures which ensure that S&E reports of a quality standard in accordance with PCT/GL/ISPE are issued. In particular, provide information on:*

- (a) Activities related to verification, validation and monitoring; as carried out in order to assess compliance of S&E work with PCT/GL/ISPE.*
- (b) Processes for measuring, recording, monitoring and analysing performance of the QMS to assess its conformity with the requirements of Chapter 21 and, if applicable, any other normative reference for the QMS.*
- (c) Activities related to verifying the effectiveness of actions taken to deal with deficiencies, including:*
  - (i) those actions taken to eliminate, correct or authorise release of deficient S&E work which does not comply with the quality standards;*
  - (ii) those actions taken to eliminate the causes of deficient S&E work and prevent the deficiencies from recurring.*
- (d) Activities ensuring the continuous improvement of established processes underpinning the issue of S&E reports.*

All activities related to verification, validation and monitoring in regards to INPI-Br's quality standards are issued in due accordance to those terms as specified in the PCT/GL/ISPE, in particular Chapter 21.

In general terms, each Directorate is responsible for quality concerning its own area. This process starts with the Head of the Examining Division responsible for carrying out Search and Examination, who distributes the applications to Examiners in accordance to their technical qualifications and attributes. At this stage, it is equally important for the Head to take into consideration whether or not an Examiner has competence of approval or denial for the concession of a patent.

This information is mainly relevant when considering new examiners. In Brazil, all public employees must go under a period of experience, which takes exact three years. As a rule, no Patent Examiner is considered experienced enough before an average of five years of sufficient training, tutoring and demonstration of necessary technical skills. Up to this point, non-experienced examiners may only issue reports outlining opinions or requesting for corrections. In doing so, the production of New Examiners is constantly monitored so as to correct deficiencies regarding S&E work and to guarantee its conformity with the various directives and regulations in force.

Other than that, Heads of Divisions may make use of sample-based studies to evaluate whether a considerable amount of Applications analyzed by a certain Examiner is object of appeals or nullities. At the same time, a periodical analysis shall be ordered for measuring purposes. And the methodology for comparing the number of applications with no history of objections and the total amount that either go under a process of appeal or nullity will be further refined. Nevertheless, all information collected will provide an efficient picture of INPI-Br's framework.

At this point, it is worth to mention that GCQ is conceived to play a strategic role in all INPI-Br's policies concerning quality practices. Once established, it will function as the formal area with the necessary expertise to spread a quality culture within INPI-Br.

By doing that, INPI-Br intends to guarantee that best practices concerning each area are disseminated. Also, GCQ will provide the necessary tools to better orient Heads and Managers in their continuous search for quality.

Feedback arrangements (Paragraph 21.08)

*Give information on arrangements to:*

*(a) Provide feedback to staff informing them of results of verification, validation and monitoring carried out in order to assess compliance of S&E work, so that:*

*(i) deficient S&E work is corrected;*

*(ii) corrective action, i.e. action necessary to prevent recurrence, is identified and implemented;*

*(ii) best practice is identified, disseminated and adopted.*

*(b) Accommodate prompt feedback from WIPO, designated and elected Offices; so that potential systemic issues, e.g. recurring deficiencies of S&E work, as identified by these bodies, are evaluated and addressed.*

All patent examiners whose work has been subject to verification are informed about the outcome and are asked to perform any necessary corrections. Director, Coordinator and Head of Divisions conduct the verification of Search and Examination work. Corrective and preventive actions will be taken after a problem is identified. Best practice, when identified, will be disseminated and adopted.

INPI-Br's PCT Coordination under Directorate of Patents is committed with maintaining prompt feedback from WIPO, designated and elected Offices to all divisions of Directorate of Patents.

Communication, Guidance and Responses to Users (Paragraphs 21.06(c), 21.09)

*Give information on arrangements to:*

*(a) Provide communication channels for dealing promptly with enquiries and enabling appropriate two-way communication between applicants and examiners.*

*(b) Provide concise and comprehensive guidance and information to users (particularly unrepresented applicants) on the S&E process using the website of your Authority, guidance literature, and other means.*

*(c) Monitor and react to user needs and feedback, including:*

*(i) measuring user satisfaction and perception;*

*(ii) handling complaints;*

*(iii) correcting deficiencies identified by users;*

*(iv) taking corrective action, i.e. action to eliminate the cause of deficiencies, in response to recurring or systematic deficiencies identified by users.*

*(v) taking preventive action, i.e. action to eliminate the cause of potential deficiencies, in response to potential deficiencies or problems identified by users;*

*(vi) ensuring needs and legitimate expectations of users are met.*

There are several communication channels available for a direct contact between examiners and applicants or their respective representatives, through telephone, personal interview, mail, fax, e-mail and/or Ombudsman.

Applicants and/or Legal Representatives may also apply for an interview or meeting with the Examiner, as long as it is requested with sufficient prior notice. All examiners are well trained and prepared to provide applicants/legal representatives the necessary consultancy regarding their queries.

In addition, Guidance to applicants on Intellectual Property, including information on the search and examination process is provided by various means, such as the INPI-Br website ([www.inpi.gov.br](http://www.inpi.gov.br)) and some training seminars organized in cooperation with WIPO. It is being developed by INPI-Br a User's Guideline to explain how to file patent applications through PCT system.

INPI-Br website is frequently upgraded to give information concerning notices, announcements, events, as well as courses and activities related to Intellectual Property. Also, all the important information related to the Institute is made available, including a session about most frequently asked questions (FAQ) related to different areas of INPI-Br, as well as all Brazilian laws and normative acts referred to Industrial Property.

Last year, INPI-Br created a modern electronic system, called "*e-marcas*", that made the Institute capable to receive and to speed up the internal application's flow. A link to "*e-marcas*" is available to INPI-Br website users. It is in development a similar system to the patent area in order to facilitate patent application filing.

Within the Center of Divuligation, Documentation and Technological information, a Section of Searches makes use of an evaluation handed out to our clients, as an important instrument of services improvement. Each received evaluation is treated individually and, in case of dissatisfaction, the problem is identified and fixed. Along with that, a further contact with the client is established by either e-mail or telephone for any necessary elucidations.

In 2004, INPI-Br's new internal structure included an Ombudsman *persona*, responsible for receiving questions, complaints and suggestions from our clients, both through the online electronic "System of the Ombudsman" and the "Contact Us" area, as a form of raising opinions from our clients, to improve INPI-Br's attendance and the content of exchanged information. Nonetheless, the Ombudsman department will most certainly undergo significant changes after the GCQ starts its activity so as to become increasingly aligned with internal QMS policies.

Meanwhile, an INPI-Br Academy of Intellectual Property and Innovation has turned out to be a very relevant instrument of dialogue with our external clients, mainly society and users of the Brazilian IP System as a whole. The production of papers and articles helps the Institution to better understand external demands and expectations and to use the knowledge debated for managerial intents.

## INTERNAL REVIEW (PARAGRAPHS 21.10–21.15)

*Paragraph 21.10 specifies that, in addition to a “quality assurance system for checking and ensuring compliance with the requirements set out in its QMS” [c.f. Paragraphs 21.03, 21.07], “each Authority should establish its own internal review arrangements to determine the extent to which it has established a QMS based on the above model”. This model is set out by Chapter 21 as a whole [c.f. Paragraph 21.02]. Since a QMS which does not contain this provision for internal review would not meet the requirements of Chapter 21, the report under 21.17 should contain at least the information on the extent to which arrangements for internal review required by 21.10 are in place. These are as below.*

### Required Arrangements for Internal Review (Paragraph 21.10)

*The Authority should show that arrangements are in place to ensure that:*

- (a) An internal review is carried out to determine:*
  - (i) the extent to which a QMS complying with the model of Chapter 21 has been established;*
  - (ii) the extent to which the Authority complies with the requirements of its QMS;*
  - (iii) the extent to which the Authority complies with PCT/GL/ISPE.*
- (b) The internal review demonstrates whether or not the requirements of the QMS and PCT/GL/ISPE are being applied consistently and effectively.*
- (c) The internal review takes place at least once a year.*

Although INPI-Br has not yet implemented a formal QMS, internal review activities are carried out in distinct levels for quite some time within the Board of Directors and with the President. In the course of the first semester of 2007, several meetings along with administrative and technical areas have taken place in order to discuss on the ISA/IPEA requirements for an internal QMS and to demonstrate in what extent the PCT/GL/ISPE are being applied consistently and effectively.

Nevertheless, appropriate correction and/or preventive measures will be adopted after the first official report by the GCQ identifying gaps is issued. Thus, internal reviews will be promoted once the QMS as presently envisioned is fully established. In a first phase, it is intended to take place every six months and at least once a year.

The Internal Review shall make use of reports prepared by the GCQ based on the results obtained from Internal Audit’s work concerning S&E activities. Furthermore, the full range of parameters of the PCT Search and Examination Guidelines, in particular Chapter 21, will be focus of analysis to guarantee conformity with the previous requirements or, whenever necessary, measures for improvement.

[End of Annex and of document]