

# WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION  
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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

REPORT

*adopted by the Committee*

## INTRODUCTION

1. The PCT Committee for Technical Cooperation (“the Committee”) held its 23rd session in Geneva from September 24 to October 3, 2007, during the same period as the 36th (16th ordinary) session of the Assembly of the PCT Union (“the Assembly”), held in the context of the 43rd series of meetings of the Assemblies of the Member States of WIPO. The list of participants in those meetings is contained in document A/43/INF/3, noting that all States members of the Assembly of the PCT Union and all International Searching and Preliminary Examining Authorities (“International Authorities”) are members of the Committee.

## OPENING OF THE SESSION

2. Mr. Francis Gurry, Deputy Director General, opened the session and welcomed the participants on behalf of the Director General.

## ELECTION OF A CHAIR AND TWO VICE-CHAIRS

3. Ms. Ásta Valdimarsdóttir (Iceland) was elected Chair of the Committee; Mr. Matti Päts (Estonia) and Mr. Yin Xintian (China) were elected Vice-Chairs.

## ADOPTION OF THE AGENDA

4. The Committee unanimously adopted the draft agenda set out in document PCT/CTC/23/1 Rev.

## ADVICE TO THE PCT ASSEMBLY ON THE EXTENSION OF THE APPOINTMENTS OF THE INTERNATIONAL AUTHORITIES

5. The Secretariat noted that the Assembly was being invited both to extend the appointments of the International Authorities and to approve new draft agreements between the International Bureau and the International Authorities as set out in the Appendix to document PCT/A/36/4. The Secretariat informed the Committee of certain minor changes that were proposed to the draft agreements as set out in that document, as follows:

(a) In the draft agreement with the Government of Australia: in the preamble (English text only), the word “Authorization” should read “Authority”; in Annex A, item (i), the words “by arrangement,” should be inserted before the words “the States regarded as developing countries”.

(b) In the draft agreement with the Chinese Patent Office: all references to “the Chinese Patent Office” should be replaced by references to “the State Intellectual Property Office of the People’s Republic of China”.

(c) In the draft agreement with the Spanish Patent and Trademark Office: in Annex C, footnote 1, the words “or a legal entity” should be inserted after “is a natural person”, meaning that the fee reduction would apply equally to natural persons and legal entities who meet the specified conditions.

(d) In the draft agreement with the Korean Intellectual Property Office: in Annex A, item (i), the words “any country that the Authority will specify” should be replaced by “Indonesia, Malaysia, Mongolia, New Zealand, Philippines, Singapore, United States of America, Vietnam”; in Annex C, the following new item should be added: “Late payment fee for preliminary examination ... [amount as set in Rule 58*bis*]”.

(e) In the draft agreement with the United States Patent and Trademark Office: in Annex A, items (i) and (ii), the Dominican Republic should be added to the lists of States for which the Authority acts as an International Authority.

(f) In the draft agreement with the Nordic Patent Institute: in Annex A, item(i)(b), the words “Denmark and Iceland” should be changed to “Denmark, Iceland and Norway”, reflecting Norway’s ratification of the European Patent Convention.

(g) A number of further corrections were proposed to the French texts only of certain of the agreements.

6. The Delegation of the Russian Federation observed that it would be pleased to sign the draft agreement relating to the functioning of Federal Service for Intellectual Property, Patents and Trademarks as an International Authority in the form which is shown in document PCT/A/36/4, but that it might be necessary to make permitted amendments to the Annexes of the agreement in the near future as a result of changes to Russian legislation.

7. The Committee unanimously recommended to the PCT Assembly that the appointment of all of the International Searching and Preliminary Examining Authorities be extended by a period of 10 years, until December 31, 2017.

## ADVICE TO THE PCT ASSEMBLY ON THE APPOINTMENT OF NEW INTERNATIONAL AUTHORITIES

### Appointment of the Brazilian National Institute of Industrial Property

8. The Delegation of Brazil introduced the request for appointment of the Brazilian National Institute of Industrial Property (INPI) as an International Authority, noting that this was a major step in modernization of INPI. Brazil had decided to present the candidacy in order to make it easier for Brazilian citizens to participate in the PCT system. The Delegation felt that the number of international patent applications that Brazil filed each year was too low compared to the number of national filings. It had been a major goal of the Brazilian Government to encourage Brazilian companies to participate more intensively in the international intellectual property system. The appointment of INPI as an international Authority was considered to be an important step in this process. Brazil had made major efforts in order to prepare INPI to be an International Authority. In the previous three years, INPI had made investments in hiring a large number of examiners and training them to a high standard, with the help of many of the present International Authorities. INPI had also been equipped and had been able to meet all the required conditions to be appointed as an International Authority. One of the main factors had been to establish a serious and complete system for managing the quality of examination procedures. This system was already in place and it would be fully functional by the end of this year. The Delegation stated that INPI intended to be in operation as an International Authority by March 2008 and that this would be confirmed, if the PCT Assembly approved the appointment, through a letter to be sent by the Brazilian government to WIPO stating that the quality management system was fully operating. The Delegation considered that this was sufficient in order to request appointment and invited the Committee to recommend that INPI be appointed as an International Authority.

9. The Delegations of Australia, Germany, Algeria (on behalf of the African Group), South Africa, India, Portugal, the Russian Federation, Egypt, Ghana, Malaysia and Chad expressed their support for the appointment of INPI as an International Authority.

10. In expressing its support, the Delegation of Australia expressed its pleasure that the President of INPI was conscious of the need for quality management systems to ensure that INPI's work as an International Authority would be carried out to the appropriate standard and that the functioning of the Brazilian quality system would be notified before commencing operation. The Delegation cautioned that, in the experience of IP Australia, attempting to recruit and train a large number of examiners at the same time as introducing a quality management system was a difficult task, and the Delegation hoped that the target date of March 2008 would not be taken as an absolute at the expense of putting an effective quality management system in place. The Delegation of Germany associated itself with the comment of Australia. The Delegation of Algeria, speaking on behalf of the African Group, stated its pride that a developing country was able to stand shoulder to shoulder with developed countries in this way. The Delegation of South Africa expressed its confidence that the quality management system would be up and running and of a high quality. The Delegation of India expressed its confidence that INPI fulfilled all the basic requirements for appointment.

11. The Committee unanimously recommended to the PCT Assembly that the Brazilian National Institute of Industrial Property be appointed as an International Searching Authority and an International Preliminary Examining Authority under the PCT.

#### Appointment of the Indian Patent Office

12. The Delegation of India explained the salient features of India's endeavors to modernize its intellectual property regime. The Indian Government had followed a four-pronged strategy. The first and foremost matter had been to meet India's international obligations with respect to intellectual property. While doing so, India had taken due care to ensure that the creation of a vibrant and strong intellectual property regime was complementary to public interest concerns. India had also undertaken a major effort to modernize its intellectual property administration. Alongside that, it had launched a massive awareness and sensitization program on intellectual property issues. Its objective was to create an intellectual property regime which was efficient, transparent and user friendly. As a first step, India had embarked on a process of rationalization of its IP legislative framework in order to meet both its international and domestic obligations. Thereafter, it launched a well-thought-out modernization program: a program which emphasized the creation of world class infrastructure and extensive use of IT in its activities. This first phase, implemented at a cost of 30 million United States dollars, was now complete, and India was on the verge of launching the second phase of the modernization process. The second phase was far more ambitious, both in financial terms, as well as in the context of capacity building and human resources development. It was intended to increase the strength of the Indian Patent Office's personnel, particularly patent examiners, four-fold. It was hoped to attract highly qualified personnel. A detailed road map had been worked out for training, sensitization and exposure to some of the best practices and systems in the world. The focus would also include the digitization of records, enhancement and strengthening of databases, and the introduction of the most modern search engines. In addition, India had initiated the establishment of a National Institute of Intellectual Property Management, with standards comparable to the best in the world. This Institute would become functional in the near future. It would address, in a holistic manner, major issues relating to training, education and research, and would, above all, function as an IP think-tank. In close collaboration with its private sector, including top-level industry associations, India had launched a nationwide awareness and sensitization program. All these activities would cater to the emerging needs and requirement of IP personnel and other stakeholders, such as policy-makers, industry, the judiciary and patent attorneys, as well as establishing effective linkages with other centers of excellence in the field of education and learning. The Delegation stated that India, which had witnessed an IT revolution in the past few decades, was now on the threshold of an IP revolution. The gains from the first wave of modernization of India's IP regime were self-evident. The number of patent applications had gone up seven-fold in the last six years. More importantly, patent grants had kept pace and had gone up significantly. Moreover, the Indian Patent Office had recently launched a facility for electronic filing of patent applications. The revenues generated by the Indian Patent Office had gone up 16-fold in the same period, touching a record high of 42 million United States dollars last year. Against this backdrop, there was a great expectation of success with the second phase of modernization. A WIPO delegation comprising a number of experts had visited the Indian Patent Office earlier in the year and had observed, "The Indian Patent Office has been dramatically transformed in recent years. New buildings, an effective and well-supported new IT system and an enthusiastic and

well-qualified staff provide the essential base for a high quality examining Office.” The Delegation requested the Committee to give favorable recommendation on the proposal for the appointment of the Indian Patent Office as an International Authority.

13. The Delegations of Brazil, Australia, Algeria, the Republic of Korea (on behalf of the Asian Group), Germany, Egypt, South Africa, Malaysia, Ghana and the Russian Federation expressed their support for the appointment of the Indian Patent Office as an International Authority.

14. In expressing its support, the Delegation of Brazil stated its intention of cooperating with the Indian Patent Office in the commencement of their functions as International Authorities by the Offices of two developing countries. The Delegation of Algeria again stated its pride in another developing country reaching a level where its Office was able to act as an International Authority. The Delegations of Australia and Germany made comments similar to those set out in paragraph 10, above, in connection with the proposed appointment of INPI. The Delegation of South Africa considered that the presentation by the Delegation of India was clearly encouraging because the request was underpinned by the key principles of modernized IP administration; it also commended the planned cooperation between the Indian Patent Office and INPI.

15. The Committee unanimously recommended to the PCT Assembly that the Indian Patent Office be appointed as an International Searching Authority and an International Preliminary Examining Authority under the PCT.

16. The Secretariat stated that, following the positive advice by the Committee in respect of both the extension of the appointments of the existing International Authorities and of the appointment of the Brazilian National Institute of Industrial Property and the Indian Patent Office as International Authorities, it wished to put on record the gratitude of the International Bureau to the International Authorities, which were the central point of the network that is established under the PCT and without which the PCT system could not operate. Furthermore, the Secretariat wished to place on record its great pleasure at seeing the Brazilian National Institute of Industrial Property and the Indian Patent Office joining the community of International Authorities, and stated that it looked forward to cooperating closely with both new Authorities.

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