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PLT/A/1/2

ORIGINAL: English

DATE: July 20, 2005

WORLD INTELLECTUAL PROPERTY ORGANIZATION

GENEVA

PATENT LAW TREATY (PLT)

ASSEMBLY

**First (1st Ordinary) Session
Geneva, September 26 to October 5, 2005**

APPLICABILITY OF CERTAIN AMENDMENTS AND MODIFICATIONS OF THE
PATENT COOPERATION TREATY (PCT) TO THE PATENT LAW TREATY (PLT)

Document prepared by the International Bureau

I. INTRODUCTION

1. A number of provisions under the Patent Law Treaty (PLT) and the Regulations under the PLT incorporate by reference certain requirements provided for under the Patent Cooperation Treaty (PCT). Those PLT provisions are:

- (i) Article 3(1)(a)(i) [Applications];
- (ii) Article 6(1) [Form or Contents of Application];
- (iii) Article 6(2) [Request Form] and Rule 3(2) [Request Form Under Article 6(2)(b)];
- (iv) Article 6(4) [Fees] and Rule 6(3) [Time Limits Under Article 6(7) and (8) Relating to Payment of Application Fee in Accordance with the Patent Cooperation Treaty];
- (v) Rule 8(1)(c) [Communications Filed on Paper];

(vi) Rule 8(2)(a) [Communications Filed in Electronic Form or by Electronic Means of Transmittal];

(vii) Rule 8(3)(a) [Copies, Filed in Electronic Form or by Electronic Means of Transmittal, of Communications Filed on Paper];

(viii) Rule 9(5)(b) [Signature of Communications Filed in Electronic Form Not Resulting in Graphic Representation of Signature];

(ix) Rule 14(3) [Time Limit Under Article 13(1)(ii)].

2. According to Article 16 of the PLT, revisions, amendments and modifications to the PCT, including the Regulations under the PCT (PCT Regulations) and the Administrative Instructions Under the PCT, which have been made after June 2, 2000, do not automatically apply for the purposes of the PLT. PLT Article 16(1) states that any such revision, amendment or modification of the PCT, which is consistent with the Articles of the PLT, shall apply for the purposes of the PLT and its Regulations if the PLT Assembly so decides by three-fourths of the votes cast. Further, in accordance with PLT Article 16(2), a Contracting State or the Office of, or acting for, such a State is not permitted to apply existing PCT transitional provisions for the purposes of the PLT. However, pursuant to item 2(4) of the Agreed Statements by the Diplomatic Conference for the Adoption of the PLT (PLT Agreed Statements), the PLT Assembly may provide for transitional provisions under the PLT in the particular case when it decides, pursuant to PLT Article 16, that a revision, amendment or modification of the PCT shall apply for the purposes of the PLT.

3. Since the adoption of the PLT on June 1, 2000, a number of amendments and modifications have been made to the PCT, the PCT Regulations and the Administrative Instructions Under the PCT, some of which relate to the above PLT provisions that incorporate by reference or refer to certain PCT requirements. Pursuant to PLT Article 16 and the PLT Agreed Statements, the PLT Assembly has to decide on whether those (or part of those) amendments and modifications shall apply for the purposes of the PLT and provide any transitional provisions, if necessary.

4. In order to assist the PLT Assembly to make such decision, this document provides information regarding the amendments and modifications made under the PCT, between June 2, 2000 to May 27, 2005 and highlights those amendments and modifications which, in the view of the Secretariat, relate to the above PLT provisions. It further indicates the consequences of those PCT modifications and amendments for the PLT, and suggests, where appropriate, amendments of the Regulations under the PLT taking into account the specific requirements under national and regional patent systems.

II. MODIFICATION TO THE PCT

PCT Assembly, Thirtieth (13th Ordinary) Session, September 24 to October 3, 2001

5. The thirtieth (13th ordinary) session of the PCT Assembly, which was held in Geneva from September 24 to October 3, 2001, unanimously adopted the modifications of the time limits fixed in Article 22(1) of the PCT¹.

6. This modification to the PCT is not relevant to the PLT.

III. AMENDMENTS OF THE PCT REGULATIONS

PCT Assembly, Twenty-Ninth (17th Extraordinary) Session, September 25 to October 3, 2000

7. The Assembly of the PCT Union at its twenty-ninth (17th Extraordinary) session, which was held in Geneva from September 25 to October 3, 2000, unanimously adopted the amendment of the schedule of fees annexed to the PCT Regulations, and approved the rectification of the French text of Rule 26*bis*.2(c)².

8. These amendments of the PCT Regulations are not relevant to the PLT.

PCT Assembly, Thirtieth (13th Ordinary) Session, September 24 to October 3, 2001

9. The thirtieth (13th ordinary) session of the PCT Assembly, which was held in Geneva from September 24 to October 3, 2001, unanimously adopted the amendment of Rule 90*bis*, which is consequential to the modifications of the time limits fixed in Article 22(1) of the PCT³. Further, the PCT Assembly unanimously adopted the amendment of the schedule of fees⁴.

10. These amendments of the PCT Regulations are not relevant to the PLT.

PCT Assembly, Thirty-First (18th Extraordinary) Session, September 23 to October 1, 2002

11. The thirty-first (18th extraordinary) session of the PCT Assembly, which was held in Geneva from September 23 to October 1, 2002, unanimously adopted a number of amendments to the PCT Regulations relating to matters concerning: (i) enhanced international search and preliminary examination system; (ii) concept and operation of the designation system (automatic indication of all designations and all elections possible under the PCT; “flat” international filing fee; “communication on request” system); (iii) missed time limit for entering the national phase; and (iv) availability of priority documents from digital libraries⁵.

12. Among those changes, the following amendments of the PCT Regulations are relevant to the PLT:

(i) deletion of former PCT Rules 4.1(a)(iv) and 4.9(c) and amendments of PCT Rule 4.9(a)(i) and (b) [entry into force: January 1, 2004];

(ii) deletion of former PCT Rule 4.1(b)(iv) [entry into force: January 1, 2004];

(iii) deletion of former PCT Rules 4.1(b)(iii), 4.12, 4.13 and 4.14 and amendments of PCT Rules 4.9(a), 4.11 and 49*bis* [entry into force: January 1, 2004];

(iv) amendments of PCT Rules 15 and 16*bis* [entry into force: January 1, 2004];

(v) inclusion of PCT Rules 26.2*bis* and 51*bis*.1(a)(vi) and (vii) [entry into force: January 1, 2004].

13. The consequences of those amendments for the PLT as well as suggestions to amend the PLT Regulations are set out in Chapter V, below.

PCT Assembly, Thirty-Second (14th Ordinary) Session, September 22 to October 1, 2003

14. The thirty-second (14th ordinary) session of the PCT Assembly, which was held in Geneva from September 22 to October 1, 2003, unanimously adopted a number of amendments to the PCT Regulations relating to matters concerning: (i) corrigenda and consequential amendments further to the amendments adopted by the Assembly on October 1, 2002, and due to enter into force on January 1, 2004; (ii) computation of time limits which expire on an official holiday; (iii) inclusion of certain superseded or reversed replacement sheets of the international application in the annex to the international preliminary examination report; and (iv) the schedule of fees⁶.

15. Among those changes, the following amendments of the Regulations under the PCT are relevant to the PLT:

- (i) amendments of PCT Rule 4.11 [entry into force: January 1, 2004];
- (ii) amendments of PCT Rule 16*bis* [entry into force: January 1, 2004].

16. The consequences of those amendments for the PLT as well as suggestions to amend the PLT Regulations are set out in Chapter V, below.

PCT Assembly, Thirty-Third (19th Extraordinary) Session, September 27 to October 5, 2004

17. The thirty-third (19th extraordinary) session of the PCT Assembly, which was held in Geneva from September 27 to October 5, 2004, unanimously adopted a number of amendments of the PCT Regulations relating to matters concerning: (i) simplification of the protest procedure before both the International Searching Authority and the International Preliminary Examining Authority in case of non-unity of invention; (ii) furnishing of sequence listings for the purposes of search and examination; and (iii) corrigenda and consequential amendments further to the amendments adopted by the Assembly on October 1, 2002⁷.

18. Among those changes, the following amendments of the PCT Regulations are relevant to the PLT⁸:

- (i) amendments of PCT Rule 3.3(a)(ii) [entry into force: April 1, 2005];
- (ii) amendments of PCT Rule 16*bis*.1 [entry into force: April 1, 2005].

19. The consequences of those amendments for the PLT as well as suggestions to amend the PLT Regulations are set out in Chapter V, below.

IV. MODIFICATIONS TO THE ADMINISTRATIVE INSTRUCTIONS UNDER THE PCT

20. The texts of the modifications of the Administrative Instructions Under the PCT, which have been promulgated pursuant to PCT Rule 89.2(a) since June 2, 2000, are contained in the following documents:

- PCT/AI/1 Add.1*bis* [with effect from January 11, 2001];
- PCT/AI/1 Add.1*ter* Rev.1 [with effect from March 1, 2001];
- PCT/AI/1 Rev.1 Add.1 [with effect from July 1, 2002 and January 1, 2004];
- PCT/AI/1 Rev.1 Add.2 [with effect from January 7, 2002];
- PCT/AI/1 Rev.1 Add.3 [with effect from September 6, 2002];
- PCT/AI/1 Rev.1 Add.4 [with effect from October 17, 2002];
- PCT/AI/1 Rev.1 Add.5 [with effect from December 12, 2002];
- PCT/AI/1 Rev.1 Add.6 [with effect from January 1, 2003];
- PCT/AI/1 Rev.1 Add.7 [with effect from June 19, 2003];
- PCT/AI/1 Rev.1 Add.8 [with effect from June 19, 2003];
- PCT/AI/1 Rev.1 Add.9 [with effect from January 1, 2004];
- PCT/AI/1 Rev.1 Add.10 [with effect from January 1, 2004];
- PCT/AI/1 Rev.1 Add.11 [with effect from February 12, 2004];
- PCT/AI/1 Rev.1 Add.12 [with effect from February 12, 2004];
- PCT/AI/2 Rev.1 [with effect from April 1, 2005]
- PCT/AI/2 Rev.2 [with effect from April 1, 2005]
- PCT/AI/2 Rev.3 [with effect from April 1, 2005]
- PCT/AI/ANF/1 Rev.1 [with effect from January 1, 2005];
- PCT/AI/ANF/1 Rev.2 [with effect from January 1, 2005];
- PCT/AI/DTD/1 Rev.1 [with effect from January 1, 2005];
- PCT/AI/DTD/1 Rev.2 [with effect from January 1, 2005].

Further, with respect to the Request Form (PCT/RO/101) which is contained in Annex A of the Administrative Instructions Under the PCT, the latest version was promulgated on March 23, 2005 with effect from April 1, 2005.

21. Among those changes made to the Administrative Instructions Under the PCT, the following modifications are relevant to the PLT provisions incorporating certain PCT requirements:

- (i) modification of Section 110⁹;
- (ii) inclusion of Sections 211 to 215¹⁰;
- (iii) modifications of Sections 304 and 320¹¹;
- (iv) inclusion and modifications of Part 7 and Annex F¹²;
- (v) inclusion and modifications of Part 8 and addition of Annex C-*bis*¹³;
- (vi) modification of Annex B¹⁴;
- (vii) modifications of the Request Form (PCT/RO/101).

22. The consequences of those modifications for the PLT as well as suggested actions to be taken by the PLT Assembly are set out in Chapter V, below.

V. CONSEQUENCES OF THE AMENDMENTS AND MODIFICATIONS OF THE PCT FOR THE PLT AND SUGGESTIONS TO AMEND THE PLT REGULATIONS

23. As indicated above, a number of amendments and modifications to the PCT Regulations and the Administrative Instructions Under the PCT are relevant to the PLT provisions that incorporate certain PCT requirements. This Chapter sets out the consequences of the amendments and modifications of the PCT provisions for the PLT and, taking into account specific requirements which may be necessary under national and regional patent systems, suggests amendments to certain Regulations under the PLT.

(1) *Amendment of PCT Rule 3.3(a)(ii)*

24. PCT Rule 3.3(a)(ii) was amended so as to align the wording “computer readable form” with the wording “electronic form” which is used in Part 7 of the Administrative Instructions Under the PCT. Since this change aims at the consistent use of terminology, it does not affect the PLT Contracting Parties in substance.

(2) *Deletion of former PCT Rules 4.1(a)(iv) and 4.9(c) and amendments of Rule 4.9(a)(i) and (b)*

25. In the context of the introduction of the automatic designation of the PCT Contracting States at the time of filing, former PCT Rule 4.1(a)(iv) and 4.9(c) were deleted and PCT Rule 4.9(a)(i) and (b) were amended. Further, according to PCT Rule 4.18, the request shall contain no matter other than that specified in Rules 4.1 to 4.17 or permitted under PCT Rule 4.18(a) by the Administrative Instructions Under the PCT. Consequently, according to

PLT Article 6(2) and PLT Rule 3(1), a Contracting Party of the PLT may not require an indication of the designation of States in the request form, since such an indication is neither in the request of an international application under the PCT nor listed under PLT Rule 3(1).

26. Such a consequence under the PLT is not desirable for a Contracting Party of the PLT that is an Intergovernmental Organization under PLT Article 20(2) or a Regional Patent Organization under PLT Article 20(3). It should still be possible for any such Intergovernmental Organization or Regional Patent Organization to require that the designation of its Member States be indicated in the request form.

27. Although none of the current Contracting Parties to the PLT is an Intergovernmental Organization under PLT Article 20(2) or a Regional Patent Organization under PLT Article 20(3), in order to accommodate certain regional systems in the future, it is suggested that PLT Rule 3(1) be amended so that the indication of the designation of States constitutes one of the “further requirements” under PLT Article 6(1)(iii). According to PLT Article 6(2)(a), such an amendment to PLT Rule 3(1) would allow a Contracting Party, in particular Regional Patent Organizations and Regional Patent Offices, to continue to require the indication of designated States in the request form. The proposed text of new PLT Rule 3(1)(e)(ii) is contained in Annex I.

28. It should be noted that, according to PLT Rule 21(ii), any amendment of PLT Rule 3(1) requires unanimity.

(3) *Deletion of former PCT Rule 4.1(b)(iv)*

29. The deletion of former PCT Rule 4.1(b)(iv), “an indication that the applicant wishes to obtain a regional patent” would also appear to have significant effects on the Contracting Parties of the PLT. Since PCT Rule 4.18 does not allow the request containing matters other than that specified in PCT Rules 4.1 to 4.17 or permitted under the Administrative Instructions Under the PCT, as regards regional patent applications under the PLT, according to PLT Article 6(2) and PLT Rule 3(1), a Contracting Party to the PLT which is a Regional Patent Organization may not require that the request contain an indication that the applicant wishes to obtain a patent granted by the regional patent Office.

30. Such a consequence under the PLT is not desirable for a Contracting Party of the PLT that is an Intergovernmental Organization under PLT Article 20(2) or a Regional Patent Organization under PLT Article 20(3) which accept regional patent applications and grant regional patents. As stated above, although none of the current Contracting Parties to the PLT is an Intergovernmental Organization or a Regional Patent Organization, it may be appropriate to accommodate certain regional systems at this stage so that those Organizations can continue to require, in the request, the indication that the applicant wishes to obtain a regional patent. It is therefore suggested that PLT Rule 3(1) be amended so that the indication of the applicant’s wish to obtain a regional patent constitutes one of the “further requirements” under PLT Article 6(1)(iii). The proposed text of new PLT Rule 3(1)(e)(i) is contained in Annex I.

(4) *Deletion of former PCT Rules 4.1(b)(iii), 4.12, 4.13 and 4.14 and amendments of PCT Rules 4.9(a), 4.11 and 49bis*

31. Although amended PCT Rule 4.11(a) allows an applicant to include, in the request, an indication as to a specific kind of protection (patent of addition, certificate of addition,

inventor's certificate of addition or utility certificate of addition) or a particular kind of treatment, such as an application for a continuation or a continuation-in-part of an earlier application, such an indication included in the request does not have the effect that the State concerned is designated for such kind of protection or treatment, but is only an indication of the applicant's "intention" to make an indication under amended PCT Rule 49bis.1(a) or (b) of the wish that the application be treated, once it has entered the national phase, as an application for the particular kind of protection or treatment indicated. Although amended Rule 49bis appears to be incorporated by reference into the PLT through PLT Article 6(1)(i), and thus a Contracting Party to the PLT can require an indication regarding the applicant's wish to seek a certain kind of protection (in the context of the PLT, only patents of addition are relevant) or treatment in the application, it appears that the PLT Contracting Parties would not be allowed to require the applicant to indicate, in the request, the wish that the application be treated as an application for a patent of addition, or an application for a continuation or a continuation-in-part of an earlier application.

32. Since such a consequence does not appear to be desirable in the context of the PLT, it is suggested that PLT Rule 3(1) be amended so that a Contracting Party to the PLT may require the applicant to indicate, in the request, that he wishes the application to be treated as an application for a patent of addition or an application for a continuation or a continuation-in-part of an earlier application and necessary information regarding the parent application or the earlier application. The proposed texts for new Rule 3(1)(c) and (d) are contained in Annex I.

(5) *Amendments of PCT Rules 15 and 16bis*

33. PLT Article 6(4) and Rule 6(3) provide that a PLT Contracting Party may apply the provisions of the PCT relating to the payment of application fees. PCT Rules 15 and 16bis.1 were amended so as to introduce a flat "international filing fee" that replaced the concept of designation fees payable in addition to the basic fee. Further, PCT Rule 16bis.2 was amended in order to adjust the amount of the late payment fee.

34. Since the concept of the "basic fee component of the international fee" has been abolished, it is suggested that the phrase "basic fee component of the international fee" in PLT Rule 6(3) be replaced by the term "international filing fee". The proposed text of new PLT Rule 6(3) is contained in Annex II.

(6) *Inclusion of PCT Rules 26.2bis and 51bis.1(a)(vi) and (vii)*

35. According to new PCT Rule 26.2bis, where there is more than one applicant, it shall be sufficient that the request be signed by one of them and that the address and indications of nationality and residence of one of them be provided in the request. New PCT Rule 51bis.1(a)(vi) and (vii), however, provides that the national law applicable by the designated Office may require other applicants to furnish the missing signatures and the missing addresses or indications once the international application under the PCT enters the national phase. In view of PLT Article 6(2), according to which a Contracting Party may require any further contents of the request allowed under PLT Article 6(1)(ii), the changes made in those PCT Rules do not affect the PLT Contracting Parties.

(7) *Modification of Section 110 of the Administrative Instructions Under the PCT*

36. Following the modification of Section 110 of the Administrative Instructions Under the PCT, the number of the year should be indicated in four digits, instead of the last two digits of the year, in the international application or in any correspondence.

(8) *Inclusion of Sections 211 to 215 of the Administrative Instructions Under the PCT*

37. New Sections 211 to 215 of the Administrative Instructions Under the PCT are consequential to the modifications of PCT Rules 4.17 and 51*bis*.1(a) which were unanimously adopted by the twenty-eighth (16th extraordinary) session of the PCT Assembly, held in Geneva from March 13 to 17, 2000. These Sections contain a declaration as to the identity of the inventor referred to in PCT Rule 4.17(i), a declaration as to the applicant's entitlement to apply for and be granted a patent referred to in PCT Rule 4.17(ii), a declaration as to the applicant's entitlement to claim priority of earlier application referred to in PCT Rule 4.17(iii), a declaration of inventorship referred to in PCT Rule 4.17(iv) and a declaration as to non-prejudicial disclosures or exceptions to lack of novelty referred to in PCT Rule 4.17(v) (see document PCT/AI/1 Add.1*ter* Rev.1).

38. According to PLT Article 6(1)(ii), a Contracting Party may require compliance with the requirements relating to the form or contents of an application, which are not different or additional to the requirements relating to the form or contents of international applications under the PCT that can be required during the so-called national phase. Further, in accordance with PLT Article 6(2)(a), a Contracting Party may require that the contents which correspond to the contents of the request that are provided for in respect of international applications under the PCT as well as any contents allowed to be required under PLT Article 6(1)(ii) or prescribed in PLT Rule 3(1) be contained in the request. Consequently, a Contracting Party to the PLT may require, under the applicable law, the declarations that correspond to the declarations referred to in Sections 211 to 215 of the Administrative Instructions Under the PCT or any declarations that may be required in the national phase in accordance with PCT Rule 51*bis*.1 either as a part of the request Form or as a part of the application.

39. According to PLT Article 6(2)(b) and PLT Rule 3(2)(i), a Contracting Party to the PLT shall accept a model request Form, which is based on the PCT request Form with appropriate modifications. Since the texts of the declarations under Sections 211 to 215 of the Administrative Instructions Under the PCT expressly refer to an international application under the PCT, when establishing the model request Form under the PLT, the texts of the declarations to be included in such a model request Form have to be adapted to national and regional patent systems.

(9) *Modifications of Sections 304 and 320 of the Administrative Instructions Under the PCT*

40. Sections 304 and 320 of the Administrative Instructions Under the PCT were modified following the modifications of PCT Rules 15 and 16*bis* (see document PCT/AI/1 Rev.1 Add.9). As regards the consequences of the modifications of these Sections for the PLT Contracting Parties, reference is made to the consequences of the modifications of Rules 15 and 16*bis* (see paragraphs 33 and 34).

(10) Inclusion and modifications of Part 7 and Annex F of the Administrative Instructions Under the PCT

41. Pursuant to PCT Rule 89*bis*, Part 7 and Annex F of the Administrative Instructions Under the PCT were introduced so as to provide the legal framework and technical standard necessary for the implementation of electronic filing and processing of international applications (see document PCT/AI/1 Rev.1 Add.2). Further modifications to Section 707 are contained in documents PCT/AI/1 Rev.1 Add.4 and PCT/AI/1 Rev.1 Add.9. In addition, further modifications to Annex F are contained in documents PCT/AI/1 Rev.1 Add.5 (addition of section 2.5 to Annex F), PCT/AI/1 Rev.1 Add.7 (modifications and additions of a number of provisions of the main body of Annex F), PCT/AI/1 Rev.1 Add.11 (modifications of section 4.3 of Annex F), PCT/AI/ANF/1 Rev.1 (modifications of section 4.3.1 of Annex F) and PCT/AI/ANF/1 Rev.2 (modifications of section 5.1.2.1 of Annex F). As regards Appendix I of Annex F, which contains XML DTDs for the E-PCT standard, further modifications are contained in documents PCT/AI/1 Rev.1 Add.8, PCT/AI/1 Rev.1 Add.10, PCT/AI/1 Rev.1 Add.12, PCT/AI/DTD/1 Rev.1 and PCT/AI/DTD/1 Rev.2.

42. PLT Rule 8(2)(a) provides that, where a Contracting Party to the PLT permits the filing of communications in electronic form or by electronic means of transmittal with its Office in a particular language under the national/regional patent system, and there are requirements applicable to that Contracting Party under the PCT in relation to communications filed in electronic form or by electronic means of transmittal in that language in relation to international applications, the Office of the Contracting Party shall permit, under the applicable law, the filing of communications in electronic form or by electronic means of transmittal in the said language which complies with those requirements. Further, according to PLT Rule 9(5)(b), where there are requirements under the PCT which are applicable to a Contracting Party in relation to so-called digital signatures (a signature in electronic form that does not result in a graphic representation) in a particular language with respect to international applications under the PCT, the Office of that Contracting Party shall accept a digital signature that complies with such requirements under the applicable patent system if the Contracting Party permits the filing of communications in electronic form in that language under the applicable law.

43. Consequently, in respect of filing communications in electronic form or by electronic means of transmittal and of so-called digital signatures, where there are any requirements under Part 7 and Annex F of the Administrative Instructions Under the PCT which are applicable to a PLT Contracting Party with respect to international applications and communications under the PCT in a particular language, that PLT Contracting Party shall permit the filing of national/regional applications and communications and accept digital signatures under the applicable law, in the said language, which comply with those requirements.

(11) Inclusion and modification of Part 8 and addition of Annex C-bis of the Administrative Instructions Under the PCT

44. Pursuant to PCT Rules 89*bis* and 89*ter*, Part 8, which consists of Sections 801 to 806, was introduced in the Administrative Instructions Under the PCT (see document PCT/AI/1 Add.1*bis*). Further modifications of Part 8 and the addition of Annex C-*bis* (technical requirements for the presentation of tables related to nucleotide and amino acid sequence listings in international applications under the PCT) are contained in documents PCT/AI/1 Rev.1 Add.3 and PCT/AI/1 Rev.1 Add.9.

45. As regards the consequences of the inclusion and modifications of Part 8 and addition of Annex C-*bis* for the PLT, reference is made to PLT Rule 8(2)(a) (see paragraph 42 above). Further, PLT Rule 8(3)(a) provides that, where a Contracting Party permits the filing of a copy, in electronic form or in electronic means of transmittal, of a communication filed on paper in a language accepted by the office, and there are requirements applicable to that Contracting Party under the PCT in relation to the filing of such copies of communications, the office shall permit the filing of copies of communications in electronic form or by electronic means of transmittal in accordance with those requirements.

46. Accordingly, where there are any requirements under Part 8 and Annex C-*bis* of the Administrative Instructions Under the PCT which are applicable to a PLT Contracting Party in relation to filing copies of communications in electronic form or by electronic means of transmittal in a particular language under the PCT system, that PLT Contracting Party shall permit the filing of such copies in that language in accordance with those requirements under its national/regional patent system.

(12) *Modification of Annex B of the Administrative Instructions Under the PCT*

47. Annex B of the Administrative Instructions Under the PCT was modified so that certain examples illustrating the unity of invention practice were moved from the Administrative Instructions Under the PCT to the PCT International Search and Preliminary Examination Guidelines. Further, paragraph (f)(ii) of Annex B was modified with respect to the definitions of chemical compounds sharing a common structure (see document PCT/AI/2 Rev.1). It should be noted that, according to Article 23(1) of the PLT, any State or intergovernmental organization may decide through a reservation that the provisions of PLT Article 6(1) shall not apply to any requirement relating to the unity of invention standard applicable under the PCT to international applications.

(13) *Modifications of the PCT Request Form*

48. Consequential to the amendments of the Regulations under the PCT, the Request Form (PCT/RO/101) has been modified several times since June 1, 2000. The latest version of the Request Form entered into force on April 1, 2005.

49. PLT Article 6(2)(b) provides that a Contracting Party shall accept the presentation of the formal contents of a request on a Request Form, as prescribed in PLT Rule 3(2). Rule 3(2) provides that a Contracting Party shall, for national and regional applications, accept the PCT Request Form with appropriate amendments, which should be established by the PLT Assembly pursuant to PLT Article 17(2)(ii).

50. Since the PLT Assembly has not yet established such a modified PCT Request Form for the purposes of PLT Article 6(2)(b), it is suggested that, for the purposes of PLT Article 6(2)(b), the modifications made in the PCT Request Form after June 2, 2000, be reviewed by the PLT Assembly in the future in conjunction with the establishment of the modifications of the PCT Request Form referred to in PLT Rule 3(2)(i).

VI. ENTRY INTO FORCE OF THE SUGGESTED AMENDMENTS OF THE PLT REGULATIONS

51. It is proposed that the amendments set out in Annexes I and II enter into force on January 1, 2006.

52. *The Assembly of the PLT is invited:*

(i) to decide that the amendments and modifications of the PCT, the Regulations under the PCT and the Administrative Instructions Under the PCT indicated in the present document as applicable, which have been made after June 2, 2000, apply for the purposes of the PLT and its Regulations, subject to paragraph 50 above;

(ii) to adopt the proposed amendments of the Regulations under the PLT set out in Annexes I and II; and

(iii) to adopt the proposed decision set out in paragraph 51 relating to the entry into force of the proposed amendments of the Regulations under the PLT.

[Annexes follow]

¹ See documents PCT/A/30/4 (Proposed Modifications of Time Limits Fixed in Article 22(1) of the PCT), PCT/A/30/4 Add. (Proposed Modifications of Time Limits Fixed in Article 22(1) of the PCT: Implications for Elected Offices; Consequential Amendments of Rule 90*bis*; Entry Into Force and Transitional Arrangements) and paragraph 49 and Annex II of document PCT/A/30/7 (Report).

² See document PCT/A/29/1 (Proposed Amendment of the Schedule of Fees Annexed to the Regulations Under the PCT; proposed Rectification of the French text of PCT Rule 26*bis*.2(c)) and paragraph 10 and the Annex of document PCT/A/29/4 (Report).

³ See document PCT/A/30/4 Add. (Proposed Modifications of Time Limits Fixed in Article 22(1) of the PCT: Implications for Elected Offices; Consequential Amendments of Rule 90*bis*; Entry Into Force and Transitional Arrangements) and paragraph 49 and Annex III of document PCT/A/30/7 (Report).

⁴ See document PCT/A/30/1 (Proposed Amendment of the Schedule of Fees Annexed to the Regulations Under the PCT) and paragraph 14 and Annex I of document PCT/A/30/7 (Report).

⁵ See documents PCT/A/31/6 (Matters Concerning the PCT Union (Proposed Amendments of the Regulations Under the PCT)), PCT/A/31/6 Add.1 (Matters Concerning the PCT Union (Proposed Amendments of the Regulations under the PCT: Entry into Force and Transitional Arrangements), PCT/A/31/6 Add.2 (Matters Concerning the PCT Union (“Clean” Copy of

[Endnote continued from previous page]

- Proposed Amendments to the Regulations under the PCT Set Out in the Annexes to Documents PCT/A/31/6), PCT/A/31/6 Add.3 (Matters Concerning the PCT Union (Proposed Amendments of the Regulations under the PCT: Changes and Clarifications of Documents PCT/A/31/6, 6 Add.1, 6 Add.2)) and paragraph 45 and Annexes III to V of document PCT/A/31/10 (Report).
- 6 See documents PCT/A/32/1 (Schedule of Fees Annexed to the Regulations under the PCT; Directives for Establishing New Equivalent Amounts of Certain Fees), PCT/A/32/4 (Proposed Amendments of the Regulations Under the PCT) and PCT/A/32/4 Add.1 (Proposed Amendments of the Regulations under the PCT: Further Consequential Amendments), PCT/A/32/6 (Schedule of Fees Annexed to the Regulations under the PCT: Proposal by the United States of America) as well as paragraphs 9 and 21 and Annexes I and III of document PCT/A/32/8 (Report).
- 7 See documents PCT/A/33/2 (Proposed Amendments of the Regulations Under the PCT) and, in French only, PCT/A/33/2 Rev. (Propositions de modification du règlement d'exécution du PCT: corrections apportées au document PCT/A/33/2) as well as paragraph 11 and the Annex of document PCT/A/33/7 (Report).
- 8 Although PCT Rule 4.6(a) was also amended, it concerned only the correction of an erroneous reference to another provision.
- 9 See document PCT/AI/1 Rev.1 Add.1.
- 10 See document PCT/AI/1 Add.1^{ter} Rev.1.
- 11 See document PCT/AI/1 Rev.1 Add.9.
- 12 See documents PCT/AI/1 Rev.1 Add.2, PCT/AI/1 Rev.1 Add.4, PCT/AI/1 Rev.1 Add.5, PCT/AI/1 Rev.1 Add.7, PCT/AI/1 Rev.1 Add.8, PCT/AI/1 Rev.1 Add.9, PCT/AI/1 Rev.1 Add.10, PCT/AI/1 Rev.1 Add.11, PCT/AI/1 Rev.1 Add.12, PCT/AI/ANF/1 Rev.1, PCT/AI/ANF/1 Rev.2, PCT/AI/DTD/1 Rev.1 and PCT/AI/DTD/1 Rev.2.
- 13 See documents PCT/AI/1 Add.1^{bis}, PCT/AI/1 Rev.1 Add.3 and PCT/AI/1 Rev.1 Add.9.
- 14 See document PCT/AI/2 Rev.1.

ANNEX I

PROPOSED AMENDMENTS OF PLT RULE 3(1)

Rule 3: Details Concerning the Application Under Article 6(1), (2) and (3)

(1) [*Further Requirements Under Article 6(1)(iii)*] (a) A Contracting Party may require that an applicant who wishes an application to be treated as a divisional application under Rule 2(6)(i) indicate:

- (i) that he wishes the application to be so treated;
- (ii) the number and filing date of the application from which the application is divided.

(b) A Contracting Party may require that an applicant who wishes an application to be treated as an application under Rule 2(6)(iii) indicate:

- (i) that he wishes the application to be so treated;
- (ii) the number and filing date of the earlier application.

(c) A Contracting Party may require that an applicant who wishes an application to be treated as an application for a patent of addition indicate:

- (i) that he wishes the application to be so treated;
- (ii) the number and filing date of the parent application.

(d) A Contracting Party may require that an applicant who wishes an application to be treated as an application for the continuation or the continuation-in-part of an earlier application indicate:

- (i) that he wishes the application to be so treated;
- (ii) the number and filing date of the earlier application.

(e) Where a Contracting Party is an intergovernmental organization, it may require that an applicant indicate:

- (i) a petition that the applicant wishes to obtain a regional patent;
- (ii) the member States of that intergovernmental organization in which protection for the invention is sought.

[...]

[Annex II follows]

ANNEX II

PROPOSED AMENDMENTS OF PLT RULE 6(3)

Rule 6: Time Limits Concerning the Application Under Article 6(7) and (8)

[...]

(3) [*Time Limits Under Article 6(7) and (8) Relating to Payment of Application Fee in Accordance with the Patent Cooperation Treaty*] Where any fees required to be paid under Article 6(4) in respect of the filing of the application are not paid, a Contracting Party may, under Article 6(7) and (8), apply time limits for payment, including late payment, which are the same as those applicable under the Patent Cooperation Treaty in relation to the ~~basic fee component of the international fee~~ international filing fee.

[End of Annex II and of document]