

WIPO General Assembly

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COOPERATION UNDER THE AGREED STATEMENTS BY THE DIPLOMATIC CONFERENCE REGARDING THE PATENT LAW TREATY (PLT)

Document prepared by the Secretariat

I. INTRODUCTION

1. Item 4 of the Agreed Statements by the Diplomatic Conference for the Adoption of the Patent Law Treaty (PLT) (hereinafter referred to as the Agreed Statements), adopted on June 1, 2000, states the following:

“4. With a view to facilitating the implementation of Rule 8(1)(a) of this Treaty, the Diplomatic Conference requests the General Assembly of the World Intellectual Property Organization (WIPO) and the Contracting Parties to provide the developing and least developed countries and countries in transition with additional technical assistance to meet their obligations under this Treaty, even before the entry into force of the Treaty.

“The Diplomatic Conference further urges industrialized market economy countries to provide, on request and on mutually agreed terms and conditions, technical and financial cooperation in favor of developing and least developed countries and countries in transition.

“The Diplomatic Conference requests the WIPO General Assembly, once the Treaty has entered into force, to monitor and evaluate the progress of that cooperation every ordinary session.”

2. In accordance with the third paragraph of item 4 of the Agreed Statements, the WIPO General Assembly is requested to monitor and evaluate the progress of technical and financial cooperation in favor of developing and least developed countries (LDCs) and countries in transition, which facilitates the filing of communications in electronic form in those countries.

3. Against this backdrop, “industrialized market economy countries” referred to in paragraph 2, item 4 of the Agreed Statements above, are invited to provide information as set forth in that paragraph to the forthcoming session of the WIPO General Assembly so that it could monitor and evaluate the progress of the cooperation.

II. ACTIVITIES OF WIPO

4. With respect to the relevant activities of WIPO, when adopting Rule 8 of the Regulations under the PLT at the Diplomatic Conference for the Adoption of the PLT, the Director General of WIPO stated that WIPO would remain committed to its technical cooperation program, and that it would further translate the content of Rule 8 into a meaningful capacity building for developing countries and countries in transition.¹

5. In addition, the recommendations of the WIPO Development Agenda (DA) refer to development and improvement of infrastructure and other facilities, including those relating to information and communication technologies (ICT). In particular, the following recommendations appear to be relevant in this context:

“10. To assist Member States to develop and improve national intellectual property institutional capacity through further development of infrastructure and other facilities with a view to making national intellectual property institutions more efficient and promote fair balance between intellectual property protection and the public interest. This technical assistance should also be extended to sub-regional and regional organizations dealing with intellectual property.

“24. To request WIPO, within its mandate, to expand the scope of its activities aimed at bridging the digital divide, in accordance with the outcomes of the World Summit on the Information Society (WSIS) also taking into account the significance of the Digital Solidarity Fund (DSF).”

6. Specifically, between the previous ordinary session of the WIPO General Assembly in 2015 and the end of May 2017, the following developments in the context of the Patent Cooperation Treaty (PCT) should be noted, given the strong relationship between the PCT and the PLT. Since these activities have already been adopted in the framework of the PCT, they may have medium and long-term potential for application in the PLT context.

7. ePCT: The International Bureau (IB) has continued to develop and deploy the ePCT system. There are now over 34,000 registered users from over 100 different countries using ePCT to file and/or subsequently manage international applications. The system has also been opened to national/regional offices, which can now access the service in their roles as receiving Office (RO), International Searching Authority (ISA) and International Preliminary Examining Authority (IPEA) as well as designated Office (DO). To date, the offices of the following countries and regional patent organizations have started to use these additional services: Algeria, Australia, Austria, Azerbaijan, Belgium, Brazil, Brunei Darussalam, Bulgaria, Canada, Chile, China, Colombia, Comoros, Cuba, Czech Republic, Denmark, Dominican Republic,

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See paragraphs 2556 and 2563 of the Summary Minutes of the Main Committee I contained in the Records of the Diplomatic Conference for the Adoption of the Patent Law Treaty (WIPO publication No. 327).

Ecuador, Egypt, Estonia, Eurasian Patent Office, European Patent Office, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Israel, Italy, Japan, Kenya, Latvia, Lithuania, Malaysia, Mexico, Morocco, Netherlands, New Zealand, Nicaragua, Nordic Patent Institute, Norway, Oman, Panama, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, Singapore, Slovenia, Slovakia, South Africa, Spain, Sweden, Switzerland, Thailand, Turkey, Ukraine, United Kingdom, United States of America and Visegrad Patent Institute. In addition, the web-based filing solution, ePCT-Filing, which is intended to supersede PCT-SAFE and provides all offices with the ability to offer an electronic filing solution to applicants, is accepted by 44 ROs (as of May 1, 2017). In April 2015 the ePCT user interface became available in all languages of international publication under the PCT: Arabic, Chinese, English, French, German, Japanese, Korean, Portuguese, Russian and Spanish.

8. ePCT hosted filing: The IB now offers fully hosted ePCT RO services compatible with the ePCT-Filing web filing solution. These services are available to offices of all Member States, which do not have the capacity or desire to develop, operate and maintain local IT infrastructure for RO operations, allowing them to offer their applicants the same level of service as that enjoyed at highly automated offices. Participating offices only require a standard web browser and Internet connection (plus scanner for handling documents filed on paper). The IB currently hosts ePCT servers for a number of ROs, namely, the offices of Algeria, Austria, Australia, Azerbaijan, Brazil, Brunei Darussalam, Chile, Colombia, Cuba, Czech Republic, Dominican Republic, Estonia, Hungary, India, Indonesia, Iran (Islamic Republic of), Latvia, Malaysia, Mexico, Morocco, New Zealand, Oman, Panama, Philippines, Portugal, Qatar, Russian Federation, Saudi Arabia, Singapore, Slovakia, South Africa and Turkey, as well as the Eurasian Patent Office.

9. In addition to the services listed above, WIPO offers assistance to offices in their preparations for ePCT services to enter into effect. This includes technical assistance, e.g., providing test environments to the RO in order to test the end-to-end filing process, transmittal of record copy packages to the IB, as well as legal and procedural assistance. In addition, the WIPO Certification Authorities (CA), which distribute and manage digital certificates, have continued to operate. One CA is used by applicants and office users for strong authentication access to ePCT services. In March 2017, two new strong authentication methods were implemented ('one time password' generated either by an application or *via* SMS) as part of the new ePCT Design deployment.

10. Transitions away from legacy services: Following the emergence of more efficient and accessible alternatives, the following transitional activities should be noted for three legacy services that had been reported in document WO/GA/43/15:

(a) PCT-SAFE: With ePCT superseding PCT-SAFE as the IB's solution for electronic filing under the PCT, the number of ROs that accept electronic filings under the PCT using PCT-SAFE has reduced from 27 in 2013 to 20. Nevertheless, updated versions of the PCT-SAFE software have continued to be released in a timely manner in order to support the ongoing evolution of the legal and procedural framework of the PCT, such as various PCT Rule changes.

(b) PCT-EASY: Following consultations between the IB and Member States the PCT-EASY filing method was discontinued with effect from July 1, 2015.

(c) PCT Automated Document Ordering System (PADOS): The IB has requested the last Office (the Japan Patent Office) using the system to transition to PATENTSCOPE web services.

11. Program 15 aims to enhance national and regional IP Offices' IP business systems and technical infrastructure so as to help them provide more cost-effective and higher-quality services to their own stakeholders. The assistance provided is aligned with the Development Agenda recommendations aiming at strengthening institutional and technical infrastructure of IP offices and institutions. The Program's services include technical consultancy; business needs assessment; project scoping and planning; business process analysis; ongoing development and deployment of customized business systems solutions for the administration of IP rights and for the exchange of priority documents, and of search and examination results; establishment of IP databases; assistance with digitization of IP records and preparation of data for online publications and electronic data exchange; training and knowledge transfer to staff of IP institutions; and support for the systems provided by WIPO. The assistance takes into account WIPO Standards on IP data and information where appropriate. On-site training, mentoring and regional training workshops account for a significant portion of the Program's work and are critical in achieving the desired results.

12. Within the framework of this program, activities were undertaken with 85 IP offices in 2016, including 15 regional or sub-regional training workshops. At the end of 2016, 81 IP Offices, from developing countries in all regions, were actively using WIPO Business Solutions for the administration of their IP rights. A key focus of the program for the current biennium is to upgrade the service level of IP Offices by assisting them to move to online services for filing and for IP information dissemination. For more information please consult the website of WIPO's technical assistance program for IP Offices at: http://www.wipo.int/global_ip/en/activities/technicalassistance/.

13. The WIPO General Assembly is invited to take note of the "Cooperation under the Agreed Statements by the Diplomatic Conference Regarding the Patent Law Treaty" (document WO/GA/49/15).

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