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**INTERNATIONAL PATENT COOPERATION UNION
(PCT UNION)**

**COMMITTEE ON REFORM
OF THE PATENT COOPERATION TREATY (PCT)**

**First Session
Geneva, May 21 to 25, 2001**

REFORM OF THE PCT:
PROPOSALS BY THE INTERNATIONAL FEDERATION
OF INVENTORS' ASSOCIATIONS (IFIA)

Document prepared by the International Bureau

1. The proposals appearing on the following pages were made by the International Federation of Inventors' Associations (IFIA) in a submission to the International Bureau received on May 21, 2001. Background information appears in document PCT/R/1/2.¹

2. *The Committee is invited to consider the proposals contained in this document.*

¹ The working documents for the Committee's session are available on WIPO's web site at the following address: http://www.wipo.int/pct/en/reform/index_1.htm

REFORM OF THE PCT
COMMENTS BY THE INTERNATIONAL FEDERATION
OF INVENTORS' ASSOCIATIONS (IFIA)

A. GENERAL COMMENTS

1. IFIA, which is the only spokesman of inventors world-wide, confirms its desire to participate actively in the present PCT Reform process.
2. IFIA was able to convene a small working group on March 3 and 4, 2001. At the time, no proposals (other than the USA proposal) were published by WIPO on Internet. Therefore our working group considered the USA proposal only.
3. IFIA considers that it is necessary, during the first stage of reform, to expedite a limited number of reforms on which consensus can be reached without great difficulty. This first stage could include the USA 15 proposed changes under its first 5-year stage of reform, plus any additional changes presented by other countries or organizations which the Committee agrees to include.
4. The first 23 documents (published until May 18, 2001), clearly show that the PCT system is much more complicated than we imagined. Therefore IFIA will only comment here on 3 out of the 15 USA proposed changes (see Section B below). Our working group has also given its opinion on 4 other USA proposed changes which we consider relevant to inventors. But IFIA now considers that these matters need still further study and thoughtful answers.
5. Independent inventors and SMEs represent a very large sector of the inventive activity in any country. The statistics of the national Patent Offices confirm this statement. If we want a true reform of the PCT, the views of these two categories of potential PCT applicants should be heard. The problem is that even IFIA experts get lost in the complexity of the PCT system. How can we understand all the PCT Regulations, when they are composed of 96 Rules, themselves divided in several hundreds of sub-rules and sub-sub-rules, presented in some 150 printed pages (WIPO Publication No. 274 E)? And then how can the representatives of inventors and SMEs present, on their behalf, an early opinion on some of the important proposals presented to the Committee? A more appropriate method of work should be considered and adopted by the Committee.
6. Inventors and SMEs cannot wait 7, 8 or more years till they see the first PCT reforms become a legal reality. For IFIA, for independent inventors and innovative SMEs, the reduction of PCT fees is Priority No. 1. That is why IFIA would prefer to see a more rapid method of work adopted, whenever possible. For instance, if the elimination of the concept of designation of States receives wide consensus from the part of Governments, but still needs to be included in the first stage of reform, why not accept an interim solution? Why couldn't the PCT Assembly decide next September that the Designation fees be "O Swiss francs"? The PCT Assembly could similarly, but at its 2002 session, take a decision in respect of the IFIA suggestion under the item of "Fee Reassessment". Our suggestion, our request, is that there be a special reduction of PCT fees in favor of independent inventors and SMEs. The PCT Assembly could, in this respect, follow the same method it used when it adopted few years ago a 75% reduction of fees in favor of nationals or residents of certain countries.

B. COMMENTS ON 3 OF THE USA PROPOSED CHANGES (FIRST STAGE OF REFORM)

No. 1: Elimination of the concept of designations

IFIA fully supports the elimination of the entire concept of designation of States so that the filing of an international application would automatically constitute the filing of an international application for all PCT States.

The advantages for the inventor community are:

(i) Reduce the cost of filing a PCT application:

- Elimination of payment of designation fees entirely (as indicated in the US and the Canadian proposals). These fees represent today 840 Swiss francs (US\$ 492) if the applicant designates 6 or more States. And of course there can be additional fees under the PCT system.
- Reduce patent attorney fees by reducing his workload.

(ii) Eliminate the different risks of missing the protection in one or another PCT member country (including possible errors like the one mentioned by Australia, namely, the confusion between two country codes, such as in the case of Australia and Austria)

(iii) By allowing a world-wide usage of the PCT system, we take a step forward towards a world patent – a long term objective of all inventors.

No. 2: Elimination of all residency and nationality requirements

IFIA fully supports the removal of all nationality and residency requirements.

The advantages for the inventor community are:

(i) Inventors from non PCT contracting States will be able to use the PCT system. Our solidarity at IFIA goes to all inventors in the world. From our point of view, there is no reason why these inventors should be ostracized, penalised.

(ii) Inventors who presently do not have the right to use the PCT system are often “invited” to “find”, and of course “pay”, a PCT “resident” to become a co-applicant.

(iii) Legalising a world-wide usage of the PCT system, is taking a further step in the direction of a world patent – a long term objective of all inventors.

No. 10: Fee reassessment

1. IFIA supports this proposal, with the understanding that “reassessment” means “elimination” of fees (as in the case of designation fee, if the concept of designation of States is eliminated), or “reduction” of fees (even when 2 functions are combined). It is evident that

such reassessment” should remain, as in the past, a continuous subject for consideration by the PCT Assembly, as long as the PCT Union has important surpluses.

2. IFIA also supports the remark which appears under section (e) of the proposal by Cuba, namely, that the present 75% reductions offered to applicants from countries with a per capita income below US\$ 3,000 a year, be retained.

3. IFIA suggests that the PCT Contracting States adopt a similar system of fee reduction in favor of independent inventors and SMEs, irrespective of their nationality and/or residence. Such a system has been introduced in several national patent legislations. It is a necessity in view of the fact that the expected fees after their reassessment will still be too high for these two categories of potential applicants. This measure seems to IFIA a precondition if the PCT Contracting States wish to encourage wider use of the patent system by individual inventors and SMEs. Concretely, IFIA suggests that the International Bureau follows the same procedure, including a preliminary study on the budgetary implications, as in the case of the 75% reductions for nationals and/or residents of certain countries. An early decision by the PCT Union would also facilitate the role of IFIA and others to involve independent inventors and SMEs in the present long term PCT reform exercise.

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