

Patent Cooperation Treaty (PCT) Working Group

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WIPO FEE TRANSFER SERVICE

Document prepared by the International Bureau

SUMMARY

1. The WIPO Fee Transfer Service (“the Service”) is used for most transfers of fees between Offices¹ where a fee is collected by one Office for the benefit of a different Office. The Service has brought significant benefits to participating Offices. In order to enable full participation, this document makes proposals to remove remaining legal barriers to the use of the service. It is also proposed to formalize arrangements for applicants to make payments directly to the International Bureau (IB) where the Office that should normally receive the payment so wishes and suitable processing arrangements are in place.

BACKGROUND

2. The Service formally began operation for PCT purposes in July 2020 following a successful trial with a number of national and regional Offices. In accordance with Rule 96.2 and Annex G of the Administrative Instructions, it allows for payments made to one Office for the benefit of a second Office to be transferred via the IB. The main fees currently involved are:

- (a) international filing fees paid to receiving Offices (ROs) for the benefit of the IB;
- (b) search fees paid to ROs for the benefit of other Offices as International Searching Authority (ISA); and

¹ In this document, Offices refer to national Offices and intergovernmental organizations responsible for international phase processing, including receiving Offices, International Searching and Preliminary Examining Authorities and the International Bureau.

(c) handling fees paid to International Preliminary Examining Authorities (IPEAs) for the benefit of the IB.

3. The Service is particularly useful for ROs that have specified several ISAs as competent for searching international applications filed at their Office, and for ISAs that are competent for searching international applications filed at many ROs. Moreover, it simplifies arrangements for all parties since every RO needs to make payments to the IB and an ISA can receive payments from a single source instead of several different ROs. Using the Service means that Offices only need to transfer funds to and receive them from the International Bureau.

4. For additional simplification, payments may be consolidated and “netted”, allowing all required fee transfers for a month concerning a particular Office to be combined into a single transaction. All the monies that the IB would be required to transfer to an Office (irrespective of the number of other Offices that had made payments to the IB for the benefit of that Office) would be subtracted from the monies that the Office would be required to transfer to the IB, producing a net amount to be transferred either from or to the IB. However, this is not mandatory; the transfers can be made as separate payments per party (the other Office to or from which the fees are being transferred) and per purpose (separating international filing, search and handling fees) where this is required by Office practice or national financial regulations.

IMPROVEMENTS SOUGHT

5. A large majority of fee transfers between Offices are now made through the Service. To achieve the greatest benefits, it is desired:

(a) to expand the use of the service to include *all* fee transfers between Offices; and

(b) to add the option of supporting “centralized payments”, such that the IB can receive payments directly from applicants on behalf of the Offices currently responsible for receiving the payments.

MANDATORY USE OF WIPO FEE TRANSFER SERVICE

6. A few Offices have legal issues with joining the Service because their financial regulations prohibit making payments through an intermediary. It is understood that amending the PCT Regulations to require the transfer of fees to the IB (other than the fees that an Office receives for its own benefit) will allow these Offices to join the Service.

7. To this end, it is proposed to amend Rule 96.2(c) to specify that all fees collected by an Office (other than the IB) for the benefit of another Office shall be transferred to the IB.

8. Rule 16.1(e) would be deleted because it would no longer be required after use of the Service became mandatory. The IB pays search fees through the Service to ISAs in the fixed currency. Consequently, once all search fees are paid through the Service, there can no longer be any differences in the amounts received by the Authority due to differences in exchange rates between the prescribed currency and fixed currency.

9. Annex I contains draft amendments to the PCT Regulations to make this change.

CENTRALIZED PAYMENT

10. Some other receiving Offices do not presently have the capacity to manage the collection of fees from applicants and the subsequent transfer to other Offices. As such, the IB has been managing the receipt of international filing fees and search fees on behalf of these Offices as a delegated function under Rule 19.1(b). However, the arrangements for this have been *ad hoc*. Developing a more formal centralized payment system would allow this arrangement to be consistently administered and properly automated.

11. A centralized payment system would also allow the IB at a later stage to offer fully integrated services more generally. At present, the IB hosts the PCT electronic filing system for more than 80 ROs. It also offers the preparation and transmission of demands for any IPEA. However, in both cases, the applicant subsequently needs to pay the fees directly to the RO or IPEA.

12. It should be possible (where agreed between the IB and the Office responsible for ensuring the collection of the relevant fee) to make the payments through a web-based fee collection system managed by the IB². The IB would then notify the relevant Office that the fees had been paid and any necessary transfers would be made the following month at the same time as the fees that had been paid directly to the relevant national Office would be transferred to the IB.

13. To this end, it is proposed to change each Rule referring to an international phase fee collected by Offices other than the International Bureau to indicate that the relevant Office is responsible for the collection of fees subject to a new provision (Rule 96.2(c)) allowing that responsibility and related actions to be delegated to the International Bureau, either entirely or in part. Annex II shows indicative draft amendments, showing how this might be done for the fees payable following filing of an international application, as well as for the fees payable following the submission of a demand for international preliminary examination. Annex II also repeats the amendments from Annex I (mandatory use of the WIPO Fee Transfer Service), but with Rules 96.2(c) and (d) in Annex I being numbered as Rules 96.3(a) and (d), respectively, in Annex II (see paragraph 14, below). However, these are not strictly essential to the proposal beyond that centralized payment services could only be offered to Offices using the Service for the purpose of receiving any fees paid to the International Bureau for their benefit.

14. Centralized payment may require equivalent amounts to be set for fees that are currently always paid in the currency fixed by the Office that performs the action requiring that fee ("fixed currency"). It will also require transfers of monies for fees that do not currently take place as part of the Service. It is therefore proposed to split Rule 96.2 into two parts:

(a) A revised Rule 96.2 based on existing Rule 96.2(a) and (b), adding provisions consolidating the requirements concerning the collection of fees and setting of any required equivalent amounts; and

(b) A new Rule 96.3, based on existing Rule 96.2(c) covering the transfer of fees and consolidating provisions concerning the currencies in which transfers should be made.

15. This change would have no effect on the arrangements for setting existing equivalent amounts or transferring existing fees, but would allow a simple and consistent arrangement for extending equivalent arrangements to other fees as and when necessary.

16. It should be emphasized that these proposals are merely enabling provisions. The International Bureau does not have the capacity to provide for centralized payment options for all fees payable to all Offices and does not wish to take on management of all fee payments in the PCT. The implementation of such arrangements would begin with improving the arrangements for the existing delegated fee payment functions and conducting a number of pilots to validate the procedures, determine the costs of IT systems and evaluate any related impact on the support requirements of the IB receiving such payments centrally. Centralized payment of fees would be available only where agreed between the IB and the Office responsible for the collection of the fees. Further details will be dependent on experience from the pilots, but it is expected that such agreements would be limited as follows:

² Such as the IB's existing ePAY2

- (a) The International Bureau would only offer centralized payment for fee payments that can be fully automated – this will require further work on internal fee information exchange processes within the International Bureau before even pilot schemes can begin.
- (b) Collection would only be possible where the fee is set in a currency accepted by the International Bureau which is freely convertible to and from Swiss francs. Proposed Rule 96.2(g) would require any Office wishing to accept centralized payments for a fee currently fixed in a currency that is not freely convertible from Swiss francs to set a fee for that purpose in Swiss francs. The pilots will also examine the feasibility of collecting transmittal fees on behalf of and transmitting the fees to Receiving Offices should this be of interest.
- (c) The International Bureau would only agree to collect fees with no variable components, save for page fees that are set by the PCT Regulations or reductions for electronic filing or for certain applicants equivalent to those currently recognized by ePCT-Filing (90 per cent reductions in the international filing fee set by the PCT Regulations or reductions in search fees for similar applicant types).
- (d) The fees would need to be collected through ePCT and the International Bureau would only agree to do so for fees where the International Bureau has the information necessary to process the fee automatically. In general, this would mean that the service would be limited to fees for actions that had been requested by the applicant through ePCT.
- (e) The International Bureau would need to be certain that the relevant Office had suitable arrangements in place for receiving and acting to the extent necessary on notifications from the International Bureau that fees had been paid (the technical aspects of this requirement would be met automatically by any Office processing international applications using ePCT).
- (f) Initial pilots would focus on the fees payable on the filing of international applications (transmittal fee, international filing fee and search fee) and on submission of a demand (handling fee and preliminary examination fee).
- (g) The pilots will also examine the costs of service charges currently assumed by receiving Offices and the implications for the implementation of centralized payments.

Example

17. Thus, a centralized payment of fees relating to the filing of an international application at a receiving Office XX using ePCT-Filing selecting International Searching Authority YY for international search might trigger the following processes. RO/XX sets and usually collects its fees in currency XXD. ISA/YY's fixed currency is YYD. The IB operates using Swiss francs (CHF).

- (a) Application is filed using ePCT-Filing to RO/XX, selecting ISA/YY.
- (b) The transmittal fee, international filing fee and search fee are collected by the IB using a web based fee collection system (such as ePAY2) that would trigger debit of the fees from the applicant's WIPO Current Account in CHF (a CHF equivalent of the transmittal fee will have been established; the filing fee is set in CHF and CHF equivalents already exist for all search fees).
- (c) IB notifies RO/XX of the payment of fees.

(d) RO/XX sends Form PCT/RO/102 to the applicant (this should always be an indication that the fee has been correctly paid in full). For Offices using ePCT for processing, the form will be prepared automatically and the RO simply needs to check, print and post it (actions that may be fully automated by the time the pilots begin, at least for applications where ePCT is selected as the official means of delivery).

(e) ISA/YY is notified of payment of the search fee by transmittal of the search copy using eSearchCopy. This is no different from cases where the payment is made to RO/XX.

(f) As part of the fee transfers the following month, the IB transmits the transmittal fee to the RO (ideally, netted against any international filing fees received by the RO) and transmits the search fee to the ISA as part of a single payment of all search fees related to applications filed at that RO, irrespective of whether the fee was originally received by the IB or the RO.

18. Equivalent to the procedure under current Rule 96.2(b), the RO would act on a notification that the IB has received a fee as if the RO had itself received it. The following month, statements are drawn up of the fees collected by or for each Office concerned according to the timetable established under paragraph 8 of Annex G to the Administrative Instructions:

(a) IB sends RO/XX a list of transmittal fees collected and the amounts that will be transferred. The list will be in the currency in which RO/XX would transmit fees collected by it (usually XXD for freely convertible currencies; CHF for other currencies).

(b) RO/XX sends IB a list of filing fees and search fees collected by it (as today).

(c) IB sends ISA/YY a combined list of search fees collected by RO/XX and IB.

19. Transfers would then be made according to the timetable referred to in paragraph 18, above, where possible including netting, so that the transfers between the RO and IB could be made as one single transfer in the appropriate direction.

Overpayment and Underpayment: Refunds

20. One of the purposes of the limitations referred to in paragraph 16, above, is to ensure that centralized payments can be automated so that it would usually be impossible for applicants to over-pay or to under-pay. Refunds on behalf of the RO should only be necessary in the case of withdrawal of the international application before transmission of the record copy, or where the application is transferred to the IB as RO under Rule 19.4.

21. As such, it should be acceptable for the International Bureau to refund the applicant on behalf of an Office where the fee had been paid to the International Bureau. Where fees are paid to a WIPO Current Account, the IB could simply credit the fees to the WIPO Current Account from which they were paid. Further, for the case of transfers under Rule 19.4, it should be possible for this to be handled as an additional payment or refund only of the difference between the amount originally paid and that eventually due, rather than a complete refund followed by a complete new payment. A similar approach should also be possible for refund of the handling fee under Rule 57.4 and refund of preliminary examination fees under Rule 58.3 to the extent that this is a complete refund where the demand is considered not to have been made or withdrawn before the international preliminary examination has begun.

22. On the other hand, refunds are made more frequently by International Searching and Preliminary Examining Authorities for a variety of reasons:

(a) Under Rule 16.3, a partial refund is required where the International Searching Authority takes into account the results of an earlier search.

(b) Under Rules 40.2(e) and 68.3, an International Authority must refund a protest fee in the event of an entirely justified protest that the amount of additional fees for search or preliminary examination of additional inventions is excessive.

(c) Under Rule 45*bis*.6(d), an International Authority must refund a review fee if an opinion on unity of invention by an Authority specified for supplementary search was entirely unjustified.

23. The International Bureau would only be willing to assist in such refunds to the extent that they could be fully automated, such as those paid using a WIPO Current Account (in which case, the relevant funds could easily be re-credited).

Enabling Provisions for Future Development

24. As noted in paragraph 13, above, the indicative draft amendments in Annex II only fully cover the arrangements for the transmittal, international filing, search, handling and preliminary examination fees. These would be the subject of the first pilots for centralized payments. However, if the Working Group agrees in principle that these arrangements are desirable, the IB will conduct further analysis of the one-time investment that would be needed to establish a scalable system and infrastructure for the management of centralized payments, as well as the ongoing skills needed and costs associated with providing a centralized payment service, before presenting the proposal to the PCT Assembly. Furthermore, the IB would revise the proposal, taking into account comments made and extending the arrangement to enable the possibility of centralized payment of the following fees, so that they could be included in future developments, depending on the success of the initial scheme, demand for the further services and development of the necessary technical infrastructure:

(a) late payment fees for translations (Rules 12.3(e) and 12.4(e) (the amounts, if charged, are determined by the international filing fee so no special provision is required concerning equivalent amounts).

(b) fees relating to the preparation of copies of documents relating to earlier search (Rule 12*bis*.1(b)).

(c) late furnishing fees for sequence listings for the purposes of international search or preliminary examination (Rules 13*ter*.1(c) and 13*ter*.2).

(d) late payment fees for the transmittal, international filing and search fees (Rule 16*bis*.2).

(e) fees relating to the preparation of priority documents or certified copies (Rules 17.1(b) and 21.2).

(f) fees for the transmittal of applications to the International Bureau as receiving Office under Rule 19.4.(b) (the amount, if charged, is equal to the transmittal fee so no special provision is required concerning equivalent amounts).

(g) fees relating to restoration of the right of priority (Rule 26*bis*.3(d)).

(h) additional fees relating to unity of invention (Rules 40, 45*bis*.6(c) and 68).

(i) additional fees relating to missing parts or correct elements and parts (Rule 40*bis*).

25. No amendment would appear to be needed to the rules concerning the fee for request of supplementary international search since this fee is required to be paid to the International Bureau.

26. The proposal would thus provide a solid basis for a pilot of centralized payment to the International Bureau of fees normally collected by national Offices and for the extension of such pilots if successful. Simultaneously, it ensures that the scope of any centralized payment scheme is limited to cases that the International Bureau and the relevant national Offices agree would be beneficial and are ready to handle effectively. The proposal does not extend to the payment of national phase fees.

27. The Working Group is invited to consider the proposals set out in the Annexes to this document.

[Annex I follows]

PROPOSED AMENDMENTS TO THE PCT REGULATIONS
CONCERNING MANDATORY USE OF THE WIPO FEE TRANSFER SERVICE

TABLE OF CONTENTS

Rule 16 The Search Fee	2
16.1 <i>Right to Ask for a Fee</i>	2
16.2 and 16.3 <i>[No change]</i>	2
Rule 96 The Schedule of Fees; Receipt and Transfer of Fees.....	3
96.1 <i>Schedule of Fees Annexed to Regulations</i>	3
96.2 <i>Notification of Receipt of Fees; Transfer of Fees</i>	3

Rule 16
The Search Fee

16.1 *Right to Ask for a Fee*

(a) to (d) [No change]

~~(e) Where, in respect of the payment of the search fee in a prescribed currency, other than the fixed currency, the amount actually received under paragraph (d)(i) of this Rule by the International Searching Authority in the prescribed currency is, when converted by it into the fixed currency, less than that fixed by it, the difference will be paid to the International Searching Authority by the International Bureau, whereas, if the amount actually received is more, the difference will belong to the International Bureau.~~

(f) [No change]

16.2 and 16.3 [No change]

Rule 96

The Schedule of Fees; Receipt and Transfer of Fees

96.1 *Schedule of Fees Annexed to Regulations*

[No change] The amounts of the fees referred to in Rules 15, 45*bis*.2 and 57 shall be expressed in Swiss currency. They shall be specified in the Schedule of Fees which is annexed to these Regulations and forms an integral part thereof.

96.2 *Notification of Receipt of Fees; Transfer of Fees*

(a) [No change] For the purposes of this Rule, "Office" shall mean the receiving Office (including the International Bureau acting as receiving Office), the International Searching Authority, an Authority specified for supplementary international search, the International Preliminary Examining Authority or the International Bureau.

(b) [No change] Where, in accordance with these Regulations or the Administrative Instructions, a fee is collected by one Office ("collecting Office") for the benefit of another Office ("beneficiary Office"), the collecting Office shall promptly notify the receipt of each such fee in accordance with the Administrative Instructions. Upon receipt of the notification, the beneficiary Office shall proceed as if it had received the fee on the date on which the fee was received by the collecting Office.

(c) The collecting Office, if not the International Bureau, shall transfer any fees collected for the benefit of a any other Office as beneficiary Office to ~~that Office~~ the International Bureau in accordance with the Administrative Instructions.

(d) The International Bureau shall transfer fees received by it for any other Office as beneficiary Office to that Office in the fixed currency in accordance with the Administrative Instructions.

[Annex II follows]

INDICATIVE DRAFT AMENDMENTS TO THE PCT REGULATIONS
CONCERNING CENTRALIZED PAYMENTS

TABLE OF CONTENTS

Rule 14	The Transmittal Fee	2
14.1	<i>The Transmittal Fee</i>	2
Rule 15	The International Filing Fee.....	3
15.1	<i>The International Filing Fee</i>	3
15.2	<i>Amount; Transfer</i>	3
15.3	<i>Time Limit for Payment; Amount Payable</i>	4
15.4	<i>Refund</i>	4
Rule 16	The Search Fee	5
16.1	<i>Right to Ask for a Fee</i>	5
16.2	<i>Refund</i>	6
16.3	<i>Partial Refund</i>	6
Rule 57	The Handling Fee.....	7
57.1	<i>Requirement to Pay</i>	7
57.2	<i>Amount; Transfer</i>	7
57.3	<i>[No change]</i>	8
57.4	<i>Refund</i>	8
Rule 58	The Preliminary Examination Fee.....	9
58.1	<i>Right to Ask for a Fee</i>	9
58.2	<i>[Deleted]</i>	9
58.3	<i>Refund</i>	9
Rule 96	The Schedule of Fees; Receipt and Transfer of Fees.....	10
96.1	<i>Schedule of Fees Annexed to Regulations</i>	10
96.2	Notification of Receipt of Fees; <u>Equivalent Amounts</u> ; Transfer of Fees	10
96.3	<u>Transfer of Fees</u>	11

Rule 14
The Transmittal Fee

14.1 *The Transmittal Fee*

(a) Any receiving Office may require that the applicant pay a fee ~~to it~~, for its own benefit, for receiving the international application, transmitting copies to the International Bureau and the competent International Searching Authority, and performing all the other tasks which it must perform in connection with the international application in its capacity of receiving Office (“transmittal fee”). [Subject to Rule 96.2\(c\), the receiving Office shall be responsible for collection of the fee.](#)

(b) The amount of the transmittal fee, if any, shall be fixed by the receiving Office.

(c) The transmittal fee shall be paid within one month from the date of receipt of the international application. The amount payable shall be the amount applicable on that date of receipt.

Rule 15 The International Filing Fee

15.1 *The International Filing Fee*

Each international application shall be subject to the payment of a fee for the benefit of the International Bureau ("international filing fee") ~~to be collected by the receiving Office.~~ Subject to Rule 96.2(c), the receiving Office shall be responsible for collection of the fee.

15.2 ~~Amount; Transfer~~

~~(a) [No change] The amount of the international filing fee is as set out in the Schedule of Fees.~~

~~(b) The international filing fee shall be payable in the currency or one of the currencies prescribed by the receiving Office ("prescribed currency").~~

~~(c) Where the prescribed currency is the Swiss franc, the receiving Office shall transfer the said fee to the International Bureau in Swiss francs in accordance with Rule 96.2.~~

~~(d) Where the prescribed currency is a currency other than the Swiss franc and that currency:~~

~~(i) — is freely convertible into Swiss francs, the Director General shall establish, for each receiving Office which prescribes such a currency for the payment of the international filing fee, an equivalent amount of that fee in the prescribed currency according to directives given by the Assembly, and the amount in that currency shall be transferred by the receiving Office to the International Bureau in accordance with Rule 96.2;~~

~~(ii) — is not freely convertible into Swiss francs, the receiving Office shall be responsible for the conversion of the international filing fee from the prescribed currency into Swiss francs and shall transfer that fee in Swiss francs, in the amount set out in the Schedule of Fees, to the International Bureau in accordance with Rule 96.2. Alternatively, if the receiving Office so wishes, it may convert the international filing fee from the prescribed currency into euros or US dollars and transfer the equivalent amount of that fee in euros or US dollars, as established by the Director General according to directives given by the Assembly as referred to in item (i), to the International Bureau in accordance with Rule 96.2.~~

15.3 *Time Limit for Payment; Amount Payable*

The international filing fee shall be paid ~~to the receiving Office~~ within one month from the date of receipt of the international application. The amount payable shall be the amount applicable on that date of receipt.

15.4 *Refund*

The receiving Office shall refund the international filing fee to the applicant [in accordance with Rule 96.2](#):

- (i) if the determination under Article 11(1) is negative,
- (ii) if, before the transmittal of the record copy to the International Bureau, the international application is withdrawn or considered withdrawn, or
- (iii) if, due to prescriptions concerning national security, the international application is not treated as such.

Rule 16 The Search Fee

16.1 *Right to Ask for a Fee*

(a) Each International Searching Authority may require that the applicant pay a fee ("search fee") for its own benefit for carrying out the international search and for performing all other tasks entrusted to International Searching Authorities by the Treaty and these Regulations. [The International Searching Authority shall fix the fee according to the agreement under Article 16\(3\)\(b\).](#)

~~(b) The search fee shall be collected by the receiving Office. The said fee shall be payable in the currency prescribed by that Office ("prescribed currency").~~ [Subject to Rule 96.2\(c\), the receiving Office is responsible for collection of the fee.](#)

~~(c) Where the prescribed currency is the currency in which the International Searching Authority has fixed the said fee ("fixed currency"), the receiving Office shall transfer the said fee to that Authority in that currency in accordance with Rule 96.2.~~

~~(d) Where the prescribed currency is not the fixed currency and that currency:~~

~~(i) — is freely convertible into the fixed currency, the Director General shall establish, for each receiving Office which prescribes such a currency for the payment of the search fee, an equivalent amount of that fee in the prescribed currency according to directives given by the Assembly, and the amount in that currency shall be transferred by the receiving Office to the International Searching Authority in accordance with Rule 96.2;~~

~~(ii) — is not freely convertible into the fixed currency, the receiving Office shall be responsible for the conversion of the search fee from the prescribed currency into the fixed currency and shall transfer that fee in the fixed currency, in the amount fixed by the International Searching Authority, to the International Searching Authority.~~

~~(e) Where, in respect of the payment of the search fee in a prescribed currency, other than the fixed currency, the amount actually received under paragraph (d)(i) of this Rule by the International Searching Authority in the prescribed currency is, when converted by it into the fixed currency, less than that fixed by it, the difference will be paid to the International Searching Authority by the International Bureau, whereas, if the amount actually received is more, the difference will belong to the International Bureau.~~

(f) As to the time limit for payment of the search fee and the amount payable, the provisions of Rule 15.3 relating to the international filing fee shall apply *mutatis mutandis*.

16.2 *Refund*

The receiving Office shall refund the search fee to the applicant [in accordance with Rule 96.2](#):

- (i) if the determination under Article 11(1) is negative,
- (ii) if, before the transmittal of the search copy to the International Searching Authority, the international application is withdrawn or considered withdrawn, or
- (iii) if, due to prescriptions concerning national security, the international application is not treated as such.

16.3 *Partial Refund*

Where the International Searching Authority takes into account, under Rule 41.1, the results of an earlier search in carrying out the international search, that Authority shall refund the search fee paid in connection with the international application to the extent and under the conditions provided for in the agreement under Article 16(3)(b) [and in accordance with Rule 96.2](#).

Rule 57 The Handling Fee

57.1 Requirement to Pay

Each demand for international preliminary examination shall be subject to the payment of a fee for the benefit of the International Bureau (“handling fee”). Subject to Rule 96.2(c), the fee to be collected by the International Preliminary Examining Authority to which the demand is submitted is responsible for the collection of the fee.

57.2 Amount; Transfer

(a) [No change] The amount of the handling fee is as set out in the Schedule of Fees.

~~(b) The handling fee shall be payable in the currency or one of the currencies prescribed by the International Preliminary Examining Authority (“prescribed currency”).~~

~~(c) Where the prescribed currency is the Swiss franc, the Authority shall transfer the said fee to the International Bureau in Swiss francs in accordance with Rule 96.2.~~

~~(d) Where the prescribed currency is a currency other than the Swiss franc and that currency:~~

~~(i) is freely convertible into Swiss francs, the Director General shall establish, for each Authority which prescribes such a currency for the payment of the handling fee, an equivalent amount of that fee in the prescribed currency according to directives given by the Assembly, and the amount in that currency shall be transferred by the Authority to the International Bureau in accordance with Rule 96.2;~~

~~(ii) is not freely convertible into Swiss francs, the Authority shall be responsible for the conversion of the handling fee from the prescribed currency into Swiss francs and shall transfer that fee in Swiss francs, in the amount set out in the Schedule of Fees, to the International Bureau in accordance with Rule 96.2. Alternatively, if the Authority so wishes, it may convert the handling fee from the prescribed currency into euros or US dollars and transfer the equivalent amount of that fee in euros or US dollars, as established by the Director General according to directives given by the Assembly as referred to in item (i), to the International Bureau in accordance with Rule 96.2.~~

57.3 *[No change]*

57.4 *Refund*

The International Preliminary Examining Authority shall refund the handling fee to the applicant [in accordance with Rule 96.2](#):

(i) if the demand is withdrawn before the demand has been sent by that Authority to the International Bureau, or

(ii) if the demand is considered, under Rule 54.4 or 54*bis*.1(b), not to have been submitted.

Rule 58 The Preliminary Examination Fee

58.1 *Right to Ask for a Fee*

(a) Each International Preliminary Examining Authority may require that the applicant pay a fee (“preliminary examination fee”) for its own benefit for carrying out the international preliminary examination and for performing all other tasks entrusted to International Preliminary Examining Authorities under the Treaty and these Regulations.

(b) The amount of the preliminary examination fee, if any, shall be fixed by the International Preliminary Examining Authority [according to the agreement under Article 32\(3\)](#). As to the time limit for payment of the preliminary examination fee and the amount payable, the provisions of Rule 57.3 relating to the handling fee shall apply *mutatis mutandis*.

(c) ~~The preliminary examination fee shall be payable directly to the International Preliminary Examining Authority. Where that Authority is a national Office, it shall be payable in the currency prescribed by that Office, and where the Authority is an intergovernmental organization, it shall be payable in the currency of the State in which the intergovernmental organization is located or in any other currency which is freely convertible into the currency of the said State.~~ [Subject to Rule 96.2\(c\), the International Preliminary Examining Authority is responsible for collection of the fee.](#)

[COMMENT: There does not appear to be any need to differentiate between national Offices and intergovernmental organizations with regard to the choice of currencies. Consequently, the distinction in the second sentence of paragraph (c) is not transferred to draft Rule 96.2.]

58.2 *[Deleted]*

58.3 *Refund*

The International Preliminary Examining Authorities shall inform the International Bureau of the extent, if any, to which, and the conditions, if any, under which, they will refund any amount paid as a preliminary examination fee where the demand is considered as if it had not been submitted, and the International Bureau shall promptly publish such information.

Rule 96

The Schedule of Fees; Receipt and Transfer of Fees

96.1 *Schedule of Fees Annexed to Regulations*

The amounts of the fees referred to in Rules 15, 45*bis*.2 and 57 shall be expressed in Swiss currency. They shall be specified in the Schedule of Fees which is annexed to these Regulations and forms an integral part thereof.

96.2 ~~Notification of Receipt of Fees;~~ Equivalent Amounts; ~~Transfer of Fees~~

(a) For the purposes of ~~this~~ Rules 96.2 and 96.3, “Office” shall mean the receiving Office (including the International Bureau acting as receiving Office), the International Searching Authority, an Authority specified for supplementary international search, the International Preliminary Examining Authority or the International Bureau.

(b) Fees shall be collected by the responsible Office in a currency prescribed by that Office (“prescribed currency”).

(c) The Office responsible for the collection of a fee may collect that fee itself or may, by agreement with the International Bureau, allow or require applicants to pay the fee to the International Bureau. Such an agreement may also extend to the International Bureau undertaking the tasks related to the processing of such fees on behalf of the Office, including issuing notifications concerning the payment to applicants, inviting the payment of any amounts required to cover the fees due to the Office when no fees have been paid or the fees paid are insufficient to cover the fees due, declaring that the international application shall be considered withdrawn or that a request or demand for a fee-bearing service is considered not to have been made, or making any required refunds to the applicant. The International Bureau shall promptly publish any such agreement.

(d) Equivalent amounts of the fees referred to in Rules 12*bis*.1, 13*ter*.1, 13*ter*.2, 14, 15, 16, 17, 26*bis*.3, 40, 40*bis*, 45*bis*.6(c), 57, 58 and 68 shall be established in accordance with this Rule where the prescribed currency is different from the currency in which the fee was fixed by these Regulations or by the Office or Authority fixing the fee (“fixed currency”).

[COMMENT: For illustrative purposes, this draft Rule refers to a number of Rules that are not yet otherwise included in the proposal, but which would need to be updated in a manner similar to that shown for Rules 14 to 16, 57 and 58, as noted in paragraph 24. This Rule would only require equivalent amounts to be established for fee combinations that are actually needed.

Consequently, it would apply only to the international filing, search and handling fees as at present until such time as centralized payments required the establishment of equivalent amounts for other fees. There is no need to refer to Rules 12.3, 12.4 or 19.4 since the fees in those cases are set in terms of international filing fees for which equivalent amounts are already set, or transmittal fees for which equivalent amounts would be set if centralized payment were enabled for relevant purposes at the receiving Office.]

(e) Where the prescribed currency is freely convertible into the fixed currency, the Director General shall establish an equivalent amount according to directives given by the Assembly.

(f) Subject to paragraph (g), where the prescribed currency is not freely convertible into the fixed currency, the Office collecting the fee shall be responsible for the conversion of the fee into Swiss francs or, where agreed with the International Bureau, into euros or US dollars.

(g) Where a fee is fixed by an Office other than the International Bureau in a currency not freely convertible from Swiss francs and the Office responsible for collecting the fee wishes to require or permit the applicant to pay the fee to the International Bureau, that Office shall set a fee for the purpose in Swiss francs.

(~~b~~h) Where, in accordance with these Regulations or the Administrative Instructions, a fee is collected by one Office (“collecting Office”) for the benefit of another Office (“beneficiary Office”), the collecting Office shall promptly notify the receipt of each such fee in accordance with the Administrative Instructions. Upon receipt of the notification, the beneficiary Office shall proceed as if it had received the fee on the date on which the fee was received by the collecting Office.

96.3 Transfer of Fees

(~~ea~~) The collecting Office, if not the International Bureau, shall transfer any fees collected for the benefit of a any other Office as beneficiary Office to ~~that Office~~ the International Bureau in accordance with the Administrative Instructions.

[COMMENT: This paragraph is based on existing Rule 96.2(c).]

(b) Where the fees referred to in paragraph (a) were collected in a prescribed currency freely convertible into the fixed currency for a given fee, the collecting Office shall transfer the fee in that currency in the amount established by the Director General.

(c) Where the fees referred to in paragraph (a) were collected in a prescribed currency not freely convertible into the fixed currency for a given fee, the collecting Office shall transfer the fee in Swiss francs, euros or US dollars in the amount fixed where the relevant currency is the fixed currency, or in the amount established by the Director General otherwise.

(d) The International Bureau shall transfer fees received by it for any other Office as beneficiary Office to that Office in the fixed currency in accordance with the Administrative Instructions.

[End of Annex II and of document]