

## 专利合作条约（PCT） 工作组

第十二届会议  
2019年6月11日至14日，日内瓦

### PCT 费用的汇交

国际局编拟的文件

### 概 述

1. 国际局对于“净额清算”某些PCT费用的试点项目的初步审查显示，该试点安排给国际局和同时作为受理局和国际单位<sup>1</sup>的其他主管局带来了益处（见文件PCT/WG/12/19）。
2. 进一步扩展和完善这一安排取决于确保流程、信息传送和时间安排在所有参与局之间保持一致。本文件载有《PCT 实施细则》修正案草案和对《行政规程》的修改，旨在为通过国际局汇交费用提供一致的法律依据，同时在有主管局目前尚无法参与这一新安排的情况下，允许继续根据当前正常程序直接缴纳费用。
3. 为了使主管局尽可能参与进来，这些建议允许主管局仅在通过国际局汇交费用的范围内使用该程序，而对汇交一个主管局所收取的费用和汇交支付给该局的费用进行净额清算可作为今后的一个选项。

### 背 景

4. 关于从2018年开始通过国际局汇交费用和对收付款进行净额清算的试点项目的最新进展，参见文件PCT/WG/12/19。

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<sup>1</sup> 在本文件中，“主管局”指作为受理局和国际单位的国家和地区主管局，还指行使主要职能和作为受理局的国际局。

5. 该项目作为“净额清算项目”由国际局启动，主要目的是缩小国际局的外汇波动敞口以及更好地控制以国际局鲜有支出的货币在账户中持有资金的水平。但受理局和国际检索单位所报告的主要收益是在以下方面增进了效率：

- (a) 允许主管局在单独一笔交易中汇交其他主管局所要求的全部费用；
- (b) 每个主管局在单独一笔交易中收到应从其他主管局得到的全部费用；
- (c) 每个受理局能够以与对在该受理局所提交国际申请进行检索的主管单位相同的方式告知国际检索单位关于应付检索费的信息；
- (d) 国际检索单位收到一份一致且预先确认过的清单，其中列有从各受理局汇交的检索费；及
- (e) 对于参与净额清算试点且用确定货币以外的规定货币缴纳费用的受理局，国际检索单位不再需要根据细则 16.1(e) 要求国际局偿付汇兑损失或是向国际局偿付汇兑收益。

6. 为了使国际检索单位或有一个以上主管国际检索单位的受理局从该制度中充分受益，理想的安排是一个主管局为另一个主管局代收的国际阶段全部费用适用相同的费用汇交安排。也就是说所有费用都通过国际局汇交，并且在切合实际的情况下，如果主管局既转交也接收费用，则对所有费用进行净额清算。国际局认为，如果可以证明收益与国际局和其他主管局可能承担的费用成比例，则应把这一条作为中期目标。但由于以下原因，它在目前来看并不实际：

- (a) 一些主管局需要先解决法律或程序障碍才能更改其费用汇交和接收安排；
- (b) 一些主管局被要求对于以不同名义或职能（受理局对国际单位；付款对收款）开展的业务相关交易必须严格区分；
- (c) 国际局要求进行的检查需要增加员工数量，这样才能把这一安排扩展至一个大得多的主管局群体，这可能会使所增加的费用超过得到的收益，除非确保主管局（尤其是受理局）发送的数据足够高质量、一致和及时，使国际局可以接近全自动化地处理大多数交易。

7. 应注意的是载于本文件的净额清算试点拟议更改中的不同选项涉及若干组不同的费用和收益。一些收益仅需主管局通过国际局汇交费用，并且关于汇交的配套信息按照一致的时间表以一致的格式提供给国际局。其他收益具体取决于打包付款给其他不同的主管局或打包接收它们的付款，也称之为“净额清算”，即付款和收款相抵销。

8. 国际局的最大收益取决于收付款数额都很大的主管局的付款和收款相抵销，从而使国际局需要维持的任何特定货币的现金余额都处于最低水平。但是，尽管一些主管局在试点中轻松落实了这项工作，但要承认的是作出这样的变动对于一些主管局来说比较困难且成本较高，因为这可能需要对国家信息技术系统和/或会计实务作出显著调整；这种调整可能需要不仅是主管局还有可能没有分享到收益的政府其他部门的同意和调整。

#### 《实施细则》拟议修正案和《行政规程》拟议修改

9. 本文件中的各项建议旨在搭建一个法律框架，为通过国际局汇交费用提供明确依据，如果主管局能够满足要求，则允许和鼓励它们参与进来。此外，《实施细则》中赋权条款的表述足够灵活，以便在今后对《行政规程》进行更新，以要求该制度被用于更广泛的情况中，条件是这是可取和看起来实际的做法。

10. 重要的是，这些建议力求把通过国际局汇交费用的问题与对汇交不同费用组别进行净额清算的问题相区分。尽管国际局强烈鼓励主管局在可能的情况下采用净额清算的方法，但它们完全可以参与汇交费用的一般性安排而不采用净额清算。对于这样的主管局来说，变动仅限于更改转交的收款银行账户，并确保时间安排和数据格式与新安排相一致。

11. 为了强调净额清算不是该制度必须的一部分，在建议中不再称总体制度为“产权组织净额清算制度”。而是把这项服务暂时称为“产权组织费用汇交服务”，如果在国际局和一个主管局之间的交易中，该局为另一个主管局代收的费用与另一个主管局为该局代收的费用相抵销，则这种交易被称为“经净额清算的费用汇交”。

### 目前的程序

12. 在 PCT 下，申请人应付的费用或是为一个主管局提供的 PCT 服务直接付给（行使各项 PCT 职能的）该局（如申请人支付受理局传送费），或是为另一个不同主管局提供的服务付给该局（如申请人支付受理局检索费，后者为作出国际检索的国际检索单位代收这项费用）。同样地，付给国际局的某些费用或是国际局自己收取的费用（如申请人支付国际局补充检索手续费），或是国际局为其他局代收的费用（如申请人支付国际局的补充检索费是国际局为被指定作出补充检索的单位代收的费用）。

13. 如果包括国际局在内的主管局在行使它们各项 PCT 职能时为其他局（下称“受益局”）代收费用，费用后续从收取局转交受益局的过程由《实施细则》管理。尤其是：

(a) 根据细则 15.1，为国际局的利益缴纳的国际申请费由受理局收取，并“迅速”从该局汇交国际局；

(b) 根据细则 16.1，为作出国际检索的国际检索单位的利益缴纳的检索费由受理局收取，并“迅速”从受理局汇交该单位；

(c) 根据细则 45 之二.3，为被指定作出补充检索的单位的利益缴纳的补充检索费由国际局收取，并“迅速”从国际局汇交该单位。

(d) 根据细则 57.1 和 57.2，为国际局的利益缴纳的手续费由国际初步审查单位收取，并“迅速”从该单位汇交国际局。

(e) 根据细则 16.1 (e)，国际检索单位从受理局收到的（汇率波动产生的）检索费差额从国际局汇交国际检索单位（如果差额属于该单位），或是从该单位汇交国际局（如果差额属于国际局）。

14. 在实践中，这些要求通常通过每月汇交费用来实施，但有着各种不同的时间表以及传送支持信息的格式和途径。

### 拟议的新程序

15. 拟议的新程序涉及按照共同的时间表和共同程序，在不同的参与局之间通过国际局进行所有的费用汇交。理想的情况是这一安排会使国际局与任何特定主管局之间的交易数量最小化。但各主管局可与国际局商议（对于既汇交也收费用主管局）是否对收付款进行净额清算，以及付给不同主管局或从不同主管局收到的款项是否合并为一笔款项交易还是分开交易。

16. 同时是一件国际申请的受理局和国际检索单位的主管局将根据被认为适当的程序，继续负责可能要求的在该局内部代表不同职能的账户之间汇交费用。

17. 具体来说，所要求的程序如下：

缴纳各项费用的通知

(a) 为另一个主管局（受益局）代收费用的各主管局（收取局）迅速通知国际局，确认某项费用已全额缴纳。

(b) 国际局然后通知受益局已收到费用。该局依据从国际局收到的通知（和所要求的任何其他文件或信息，如检索费情况下的检索本）开始采取已为此缴费的行动。

上月期间收取费用综合清单——在没有净额清算情况下收取局支付的款项

(c) 在每月第一个特定日期，各收取局会向国际局提供一份或多于一份清单，汇总关于在上个日历月为其他主管局所代收所有费用的信息，以及处理前几个月中出现的改正和遗漏所要求的任何信息。对于通过 ePCT 提交相关各项通知的主管局，国际局会以该局的名义自动制订该清单（为这个目的正在开发一个系统，允许主管局确认并在必要时改正详细信息）。

(d) 如果收取局不同意把这些付款与应从其他主管局收到的款项进行净额清算，该局将在不晚于下文第 18 段所述时间表的时间汇交国际局所显示的数额。收取局可选择单笔付款（可能的情况下优先选择）或多笔付款，对于后者，每笔付款代表某一商定同意的费用组别的小计，如国际申请费或应付给特定国际检索单位的检索费。

(e) 如果受理局以不同于确定货币的规定货币收取检索费，国际局通常会以规定货币收到费用，但以确定货币把费用汇交国际检索单位。对于以这种方式汇缴费用的任何申请，这种做法就无需根据细则 Rule 16.1(e) 支付差额。

为国际检索单位代收费用的综合清单——支付受益局的款项

(f) 在每月第二个特定日期，国际局会向从其他局收到为其所代收费用的主管局（主要是作为国际检索单位的主管局）提交清单，对收取局在上月收取的总额进行归纳汇总。

(g) 如果同意对费用进行净额清算，国际局将告知对方主管局酌情由国际局或对方主管局支付的差额。

(h) 国际局（如果没有进行净额清算，或差额应支付给对方主管局）或对方主管局会在不晚于下文第 18 段所述共同时间表中规定日期的时间向对方汇交所显示的数额。

18. 为使该制度有效运行，关于在任何一个月中在任何两个主管局之间（通过国际局）所要汇缴费用的信息必须全部及时准备好，以便制订净额清算清单，并且实际的费用汇交必须在一定时间段内进行。正因如此，所有主管局必须按照共同的时间表开展工作。所设想的做法是这一时间安排通常每年制订一次，在每年的九月前后制订下个日历年全年的安排。所建议的每月到期日会为每个阶段的完成留出充足的时间，兼顾各成员国的节假日，以便所有汇交都根据共同时间表完成。

19. 附件一载有《PCT 实施细则》拟议修正案，其目的是允许制定行政规程，为汇交一个主管局为另一个主管局代收的费用提供具体程序。

20. 附件二载有《PCT 行政规程》初始修改草案，其中涵盖以下情况：

(a) 如果收取局和受益局都同意通过国际局汇交费用，两者都：

(i) 对在一个主管局和国际局之间汇交的一些或所有费用组别进行净额清算；及

(ii) 有一些或所有费用组别作为单独的款项汇交；

及

(b) 如果这两个主管局之一不同意通过国际局汇交费用，在这种情况下将以与目前相同的方式在两局之间直接汇交费用。

21. 如果工作组建议附件一中的《PCT 实施细则》修正案提交 PCT 大会通过，国际局将在《实施细则》修正案生效前通过 PCT 通函就《行政规程》开展进一步磋商。

22. 请工作组审议本文件附件中所载的建议。

[后接附件]

## 《PCT 实施细则》拟议修正案<sup>2</sup>

### 目录

错误!未定义书签。

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<sup>2</sup> 建议增加和删除的内容分别通过在有关案文上加下划线和删除线的方式表示。为方便参阅，可能包括了某些未建议修正的条款。

## 细则 15

### 国际申请费

#### 15.1 [无变化] 国际申请费

每件国际申请都应为国际局的利益缴纳费用(“国际申请费”),该费用由受理局收取。

#### 15.2 数额:[汇交](#)

[说明:建议修正细则 15.2 的标题,以澄清此处不仅涉及申请人应付费用的数额,还涉及向国际局汇交该费用。]

(a) [无变化] 国际申请费的数额由费用表规定。

(b) [无变化] 国际申请费应以受理局规定的货币或其中的一种缴纳(“规定货币”)。

(c) 当规定货币是瑞士法郎时,受理局应当[根据细则 96.2](#) ~~迅速~~将上述费用以瑞士法郎汇交国际局。

[说明:建议增加新细则 96.2 (见下文),以便提供关于为另一个主管局代收费用的主管局(如为国际局代收国际申请费的受理局)汇缴费用的详细信息,并说明参与产权组织费用汇交进程的“收取”局对费用进行汇交的程序。]

[细则 15.2, 续]

(d) 当规定货币不是瑞士法郎，且该货币：

(i) 能够自由兑换成瑞士法郎的，对于每一个规定以此种货币缴纳国际申请费的受理局，总干事应根据大会的指示为之确定以该种规定货币缴纳所述费用的等值数额，受理局应当[根据细则 96.2](#)按该数额将规定货币[迅速](#)汇交国际局；

[说明：见上文细则 15.2 (c) 的说明。]

(ii) 不能自由兑换成瑞士法郎的，受理局应负责将国际申请费从规定货币转换成瑞士法郎，并[根据细则 96.2](#) [迅速](#)按费用表列出的数额以瑞士法郎汇交国际局。或者，如果受理局愿意，可以将国际申请费从规定货币转换成欧元或美元，并[根据细则 96.2](#) [迅速](#)按(i)中所述由总干事根据大会指示确定的等值数额、以欧元或者美元汇交国际局。

[说明：见上文细则 15.2 (c) 的说明。]

15.3 和 15.4 [无变化]



## 细则 16

### 检索费

#### 16.1 要求缴费的权利

(a) [无变化] 每一国际检索单位，因完成国际检索，因履行条约和本细则委托国际检索单位的一切其他任务，可以为其自身利益要求申请人缴纳费用（“检索费”）。

(b) 检索费应由受理局收取。该费用应以该局规定的货币缴纳（“规定货币”）。

(c) 如果规定货币是国际检索单位用以确定该费数额的货币（“确定货币”），受理局应~~迅速~~将上述费用以该货币汇交国际检索单位。

[说明：见上文细则 15.2 (c) 的说明。]

(d) 当规定货币不是确定货币，且该货币：

(i) 能够自由兑换成确定货币的，对于每一个规定以此种货币缴纳检索费的受理局，总干事应根据大会的指示为之确定以该种规定货币缴纳所述费用的等值数额，受理局应当[根据细则 96.2](#)按该数额将规定货币~~迅速~~汇交国际检索单位；

[说明：见上文细则 15.2 (c) 的说明。]

[细则 16.1(d), 续]

(ii) 不能自由兑换成确定货币的, 受理局应负责将检索费从规定货币转换成确定货币, 并[根据细则 96.2](#) ~~迅速~~按国际检索单位确定的数额、以确定货币汇交国际检索单位。

[说明: 见上文细则 15.2 (c) 的说明。]

(e) [无变化] 用确定货币以外的规定货币缴纳检索费时, 如果国际检索单位根据本条 (d) (i) 规定实际收到的规定货币数额换算成确定货币后低于其确定的数额, 则该差额应由国际局付给国际检索单位, 如果实际收到的数额高于确定的数额, 则余额应属于国际局。

[说明: 根据通过国际局汇交费用的新安排, 国际局总是以确定货币向国际检索单位汇交检索费。确定货币数额与规定货币数额之间的差额在换算为确定货币后由国际局直接处理。因此, 本条款仅适用于那些仍然直接从受理局汇交国际检索单位的费用。]

(f) [无变化] 关于缴纳检索费的期限和数额, 应比照适用本细则 15.3 有关国际申请费的规定。

16.2 和 16.3 [无变化]

## 细则 45 之二

### 补充检索费

45 之二.1 和 45 之二.2 [无变化]

45 之二.3 补充检索费

(a) [无变化]

(b) [无变化] 国际检索费应由国际局收取。应比照适用本细则 16.1(b)至(e)。

(c)至(e) [无变化]

45 之二.4 至 45 之二.9 [无变化]

## 细则 57

### 手续费

#### 57.1 [无变化] 缴纳费用的要求

每份国际初步审查要求均应为国际局的利益缴纳费用(“手续费”),该费用由受理要求书的国际初步审查单位收取。

#### 57.2 数额;汇交

[说明:建议修正细则 57.2 的标题,以澄清此处不仅涉及申请人应付费用的数额,还涉及向国际局汇交该费用。]

(a)和(b) [无变化]

(c) 当规定货币是瑞士法郎时,国际初步审查单位应当[根据细则 96.2](#) ~~迅速~~将该手续费以瑞士法郎汇交国际局。

[说明:见上文细则 15.2 (c) 的说明。]

(d) 当规定货币不是瑞士法郎,且该货币:

[细则 57.2(d), 续]

(i) 能够自由兑换成瑞士法郎的，对于每一个规定以此种货币缴纳手续费的国际初步审查单位，总干事应根据大会的指示为之确定以该种规定货币缴纳所述费用的等值数额，国际初步审查单位应当[根据细则 96.2](#)按该数额将规定货币~~迅速~~汇交国际局；

[说明：见上文细则 15.2 (c) 的说明。]

(ii) 不能自由兑换成瑞士法郎的，国际初步审查单位应负责将手续费从规定货币转换成瑞士法郎，并[根据细则 96.2](#) ~~迅速~~按费用表列出的数额以瑞士法郎汇交国际局。或者，如果国际初步审查单位愿意，可以将手续费从规定货币转换成欧元或美元，并[根据细则 96.2](#) ~~迅速~~按(i)中所述由总干根据大会指示确定的等值数额、以欧元或者美元汇交国际局。

[说明：见下文细则 96.2 的说明。]

57.3 和 57.4 [无变化]

## 细则 96

### 费用表；费用的收取和汇交

[说明：由于建议增加拟议的新细则 96.2，因此建议修正细则 96 的标题]

#### 96.1 [无变化] 附于本细则的费用表

本细则 15、45 之二.2 和 57 所述的费用数额应以瑞士货币表示，并应在费用表中列出，费用表附于本细则，并且是本细则不可分的一部分。

#### 96.2 收到费用的通知；费用的汇交

(a) 为本条细则之目的，“主管局”应当指受理局（包括作为受理局的国际局）、国际检索单位、指定补充国际检索单位、国际初步审查单位或国际局。

(b) 如果根据本细则或行政规程的规定，一项费用由一个主管局（“收取局”）为另一个主管局（“受益局”）代收，收取局应当根据行政规程的规定迅速通知受益局已收到每项此种费用。受益局收到通知后，应如同它于收取局收到该费用之日已收到该费用一样进行处理。

[说明 1：建议增加新细则 96.2(a) 和 (b) 以澄清如果一个主管局为另一个主管局代收费用（如受理局为国际检索单位代收检索费），“受益局”不应等待汇交费用实际发生，而应在收到收取局已收到费用的通知后就开始处理申请（在上述例子中：在收到受理局已收到检索费的通知后就开始进行国际检索，条件是如传送检索本等其他要求已满足）。]

[说明 2：本条细则不适用于主管局为自己收取的费用，无论它是否在行使相同的职能。任何涉及主管局需要“向自己”汇交费用的情形，如由于受理局收取的检索费需要转至同一主管局单独的国际检索单位账户，都完全由主管局作出当地安排。]

[说明 3：在实践中，任何为作出这一通知而建立的新制度还应将主管局为其自己的利益收到的费用（至少是检索费和潜在的其他费用，如传送费、滞纳金、异议费和检索和审查附加费）通知国际局。国际局可能把这一条作为实施细则或行政规程未来的要求提出相关建议，条件是主管局能够在满足该条的同时不产生过高费用。]

(c) 收取局应当根据行政规程的规定向受益局汇交任何代受益局收取的费用。

[后接附件二]

## PROPOSED MODIFICATIONS TO THE ADMINISTRATIVE INSTRUCTIONS

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**Section 114**

**Transfer of Fees ~~{Deleted}~~**

The transfer of fees under Rule 96.2(c) shall be carried out in accordance with Annex G.

[COMMENT: See proposed new Annex G to the Administrative Instructions, below.]



## **ANNEX G**

### **TRANSFER OF FEES**

[COMMENT: It is proposed to add a new Annex G to the Administrative Instructions so as to provide detailed instructions with regard to the transfer of PCT fees from collecting Offices to beneficiary Offices, including provisions relating to the timing of transfers and special provisions where an Office agrees with the International Bureau to net fees collected and due, to minimize the number of transactions and associated fees and administrative costs.]

#### **I. INTRODUCTION**

1. Pursuant to PCT Rule 96.2(c) and Section 114 of the PCT Administrative Instructions, the transfer of fees collected by one Office for the benefit of another Office shall be carried out in accordance with the provisions set out in this Annex.

2. For the purposes of this Annex, the expression "Office" has the same meaning as defined in PCT Rule 96.2(a), namely: "Office" shall mean the receiving Office (including the International Bureau as receiving Office), the International Searching Authority, an Authority specified for supplementary search, the International Preliminary Examining Authority or the International Bureau.

#### **II. TRANSFER OF FEES VIA THE INTERNATIONAL BUREAU**

##### **II.1 AGREEMENT TO PARTICIPATE IN THE WIPO FEE TRANSFER PROCESS**

3. An Office ("participating Office") may agree with the International Bureau, by way of an exchange of letters, to participate in the WIPO process for exchanging fees via the International Bureau ("WIPO Fee Transfer Process") for PCT purposes by:

(a) transferring PCT fees collected by it for the benefit of another participating Office to that other participating Office via the International Bureau in accordance with the provisions set out in this Annex; and

(b) having PCT fees collected by other participating Offices for its benefit transferred to it via the International Bureau in accordance with the provisions set out in this Annex.

A participating Office may also agree:

(c) to participate in the WIPO Fee Transfer Process for the purposes of all PCT fees, or of some PCT fees but not others, or to limit its participation to the transfer of fees by it under paragraph (a);

(d) that some or all of the transfers of fees by it under paragraph (a) and the transfer of fees to it under paragraph (b) shall be subject to netting in accordance with the provisions set out in this Annex ("fee transfer subject to netting"), in which case it may also agree to net different groups of PCT fees as separate netting processes.

The International Bureau shall publish a notice in the PCT Gazette indicating the Offices and PCT fees concerned.

[COMMENT: Although the agreement between a participating Office and the International Bureau is a bilateral one, the scope of an International Searching Authority's participation will affect the actions necessary for the receiving Offices for which it is competent and vice-versa. Consequently, it is essential that the scope of participation is visible to all participating Offices so that they can set up their payment and receipt processes accordingly. The International Bureau would take into account the effect of any changes on the processes with regard to other Offices in agreeing the dates on which any change would take effect.]

## II.2 TRANSMISSION OF FEE INFORMATION BY PARTICIPATING OFFICES TO THE INTERNATIONAL BUREAU

4. Any participating Office shall establish a list each month, in an agreed standard format, preferably in XML, of the following PCT fee information, as applicable:

[COMMENT: The term "agreed standard format" is intended to provide considerable flexibility for interim arrangements. The aim is eventually to exchange all fee information in a single, consistent XML format. However, where an Office produces an existing data feed to consistent standards to support the transfer of fees from one Office to another, the International Bureau will seek to allow its use with minimum changes, including inferring data items that have not been explicitly provided if they can readily be inferred from the context of the data transfer.]

(a) with regard to each international filing fee collected during the preceding month by it in its capacity as a receiving Office under Rule 15.1 for the benefit of the International Bureau:

- (i) the international application number;
- (ii) the date of receipt of the international application;
- (iii) the payment date;
- (iv) the fee code<sup>3</sup>;
- (v) the code of the receiving Office (the Office responsible for collecting the fee);
- (vi) the code "IB" (the Office for whose benefit the fee has been collected).

[COMMENT: It is desirable to include items (iv) and (v) in the lists, even though they will be the same on every row, in order to establish a consistent approach across different fee types (see item (c), below), and to avoid the need to change the data formats in the event that the system is expanded in the future to handle "centralized payments", where one Office (normally the International Bureau) accepts payments on behalf of another Office.]

- (vii) the currency for payment according to Rule 15.2(c) or (d);
- (viii) the amount of each component of the international filing fee;

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<sup>3</sup> The fee code shall indicate the type of fee and any relevant variants, such as fee reductions.

(ix) the total amount of the international filing fee;

and the total amount of international filing fees so collected by it during the preceding month;

(b) with regard to each search fee collected during the previous month by it in its capacity as a receiving Office under Rule 16.1(b) for the benefit of a different participating Office as International Searching Authority:

(i) the international application number;

(ii) the date of receipt of the international application;

(iii) the payment date;

(iv) the fee code<sup>4</sup>;

(v) the code of the receiving Office (the Office responsible for collecting the fee);

(vi) the code of the International Searching Authority (the Office for whose benefit the fee has been collected);

[COMMENT: see comment on paragraph (a), items (iv) and (v), above]

(vii) the currency for payment according to Rule 16.1(c) or (d);

(viii) the amount of the search fee;

and the total amount of search fees so collected by it during the preceding month;

(c) with regard to each handling fee collected during the preceding month by it in its capacity as an International Preliminary Examining Authority under Rule 57.1 for the benefit of the International Bureau:

(i) the international application number;

(ii) the date of receipt of the demand;

(iii) the payment date;

(iv) the fee code<sup>5</sup>;

(v) the code of the International Preliminary Examining Authority (the Office responsible for collecting the fee);

(vi) the code "IB" (the Office for whose benefit the fee has been collected);

[COMMENT: see comment on paragraph (a), items (iv) and (v), above]

(vii) the currency for payment according to Rule 57.2(c) or (d);

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<sup>4</sup> See footnote 3.

<sup>5</sup> See footnote 3.

(viii) the amount of the handling fee;

and the total amount of handling fees so collected by it during the preceding month;

(d) any information required to add or correct details of fees omitted or indicated incorrectly in previous months' lists and not corrected prior to the establishment of any relevant netting statement;

(e) any information required in relation to other payments to be made by the participating Office using the netting system.

Any participating International Searching Authority that receives search fees from non-participating Offices in a prescribed currency different from the fixed currency shall establish a list in an agreed standard format, preferably in XML, of the following PCT fee information, relating to those search fees:

(i) the international application number;

(ii) the date of receipt of the international application;

(iii) the payment date;

(iv) the fee code<sup>6</sup>;

(v) the code of the International Searching Authority (where the difference referred to in Rule 16.1(e) belongs to the International Searching Authority);

(vi) the code "IB" (where the difference referred to in Rule 16.1(e) belongs to the International Bureau);

[COMMENT: see comment on paragraph (a), items (iv) and (v), above]

(vii) the prescribed currency;

(viii) the amount of the search fee received in the prescribed currency;

(ix) the amount of the search fee when converted into the fixed currency on that date;

and the total amount of such differences relating to search fees received by it covering either the preceding month, calendar quarter, year or other period as agreed with the International Bureau. The Authority shall also submit documentation agreed with the International Bureau showing the amounts transferred in the prescribed currency, the date, the exchange rate applied and the amount received in the fixed currency.

[COMMENT: The relevant documentation would normally be the bank statements.]

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<sup>6</sup> See footnote 3.

5. Any participating Office shall transmit the list or lists referred to in paragraphs 4 and 5, above, to the International Bureau electronically (by e-mail or by any other means agreed) in accordance with a yearly common timetable established by the International Bureau following consultations with the participating Offices, specifying the latest date of each month by which Offices shall transmit the fee information to the International Bureau. Where the participating Office uses the electronic services provided by the International Bureau for the management of PCT fee payments and the transmission of search copies<sup>7</sup>, those services [shall][may] be used to make this transmission.

[COMMENT: Paragraphs 4 to 6 set out details with regard to the fee information to be provided by the participating Office to the International Bureau, as well as the means of transmittal of such fee information. For receiving Offices using ePCT to transmit the individual notifications of receipt of filing and search fees, the relevant lists would be prepared automatically by the system on the relevant date. Similar arrangements might also apply to other sets of fees managed through ePCT or by notifications transmitted to a suitable standard.]

6. The International Bureau shall carry out a thorough check of the fee information received against the information it holds in its databases with regard to the international applications concerned and confirm to that Office that the information it has received is accurate. In case of differences that require reconciliation, the International Bureau shall contact the participating Office.

[COMMENT: The International Bureau would check that the fees paid were correct, based on the bibliographic data, selected Offices and page counts in its records. Any differences would be investigated to determine whether the fee or the data held was incorrect. Where possible, this check would be done immediately on receipt of the individual notifications under Rule 96.2(b), rather than waiting until the monthly list was established, since in the latter case the corrections would typically be agreed too late and need to be included in the following month's statements.]

### II.3 TRANSMISSION OF FEE INFORMATION BY THE INTERNATIONAL BUREAU TO PARTICIPATING OFFICES

7. The International Bureau shall establish a list or lists each month, in an agreed standard format, preferably in XML, of the fees collected by the International Bureau or notified to the International Bureau in a list according to paragraph 5 as having been collected for the benefit of that participating Office, setting out the following fee information, as applicable:

(a) with regard to the search fees collected by International Bureau in its capacity as a receiving Office during the preceding month for the benefit of the participating Office in its capacity as an International Searching Authority, or collected by any other participating Office in its capacity as a receiving Office during the preceding month for the benefit of the participating Office in its capacity as an International Searching Authority and notified to the International Bureau in accordance with paragraph 4, above:

(i) the international application number;

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<sup>7</sup> The relevant services are the browser-based ePCT services for indication of fee payment and eSearchCopy.

- (ii) the date of receipt of the international application;
  - (iii) the payment date;
  - (iv) the fee code<sup>8</sup>;
  - (v) the code of the receiving Office (the Office responsible for collecting the fee);
  - (vi) the code of the International Searching Authority (the Office for whose benefit the fee has been collected);
  - (vii) the fixed currency; and
  - (viii) the amount of the fee owed to the International Searching Authority;
- (b) with regard to the supplementary search fees collected by the International Bureau during the preceding month for the benefit of the participating Office in its capacity as an Authority specified for supplementary international search:
- (i) the international application number;
  - (ii) the date of receipt of the international application;
  - (iii) the fee code<sup>9</sup>;
  - (iv) the code "IB" (the Office responsible for collecting the fee);
  - (v) the code of the Authority specified for supplementary international search (the Office for whose benefit the fee has been collected);
  - (vi) the fixed currency; and
  - (vii) the amount of the fee owed to the Authority specified for supplementary international search;
- (c) any information required to add or correct details of fees omitted or indicated incorrectly in previous months' lists and not corrected prior to the establishment of any relevant netting statement;
- (d) any information required in relation to other payments to be made to the beneficiary participating Office using the WIPO netting system.

[COMMENT: Paragraph 8 sets out details with regard to the fee information to be provided by the International Bureau to the participating Office.]

8. For any groups of fee transfers subject to netting, the International Bureau shall establish, on the basis of the fee information established by the participating Office under paragraph 4, above, and the fee information established by the International Bureau under paragraph 8, above, a netting statement for the preceding month, indicating the net amount in favor of the participating Office or of the International Bureau, as the case may be.

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<sup>8</sup> See footnote 3.

<sup>9</sup> See footnote 3.

[COMMENT: Paragraph 9 sets out details with regard to the netting statement to be prepared by the International Bureau, setting out the net amount in favor of either the participating Office or of the International Bureau, as the case may be.]

9. Where the participating Office has agreed to transfer certain PCT fees as separate groups or to net only certain groups of fees against others (see paragraph 3(d), above), the International Bureau shall establish the list of the fee information referred to in paragraph 8, above, and the netting statement referred to in paragraph 9, above, separately for each such different groups of PCT fees.

10. The list or lists of the fee information established under paragraph 8, above, and the netting statement or statements established under paragraph 9, above, shall be transmitted by the International Bureau to the participating Office electronically (by e-mail or by any other means agreed) in accordance with a yearly common timetable established by the International Bureau following consultations with the participating Offices, specifying the latest date of each month by which the list(s) and the netting statement(s) should be established.

## II.4 TRANSFER OF FEES

### II.4.1 Fee Transfers to Beneficiary Offices; Fee Transfers Subject to Netting

11. Where a fee list under paragraph 8 relates to fee transfers not subject to netting, or where the net amount indicated on a netting statement under paragraph 9 is in favor of the participating Office, the International Bureau shall transfer the net amount to the participating Office in which the netting statement has been established no later than the date set in the common timetable. The International Bureau shall bear all bank charges, if any, for this transfer.

12. Where the net amount indicated on a netting statement under paragraph 9 is in favor of the International Bureau, the participating Office shall transfer the net amount to the International Bureau in which the netting statement has been established, no later than the date set in the yearly common timetable. The participating Office shall bear all bank charges, if any, for this transfer.

[COMMENT: Paragraphs 12 and 13 set out details with regard to the actual transfer of the amounts payable in cases where the International Bureau needs to collate lists from different sources. This includes all cases of beneficiary Offices, since these will need to consider fees from at least one national Office and the International Bureau, whether or not netting occurs. It also allows for the possibility of an Office that is not a beneficiary Office for PCT purposes netting fees collected as a PCT collecting Office against non-PCT fees.]

### II.4.2 Fee Transfers Not Subject to Netting

13. Where a collecting Office has not agreed that fee transfers shall be subject to netting, or where only certain groups of fees will be subject to netting, transfers by that Office of fees which are not subject to netting shall be carried out in the full amount as indicated, no later than the date set in the common timetable

### II.4.3 Transfer of Fees Not Included in the WIPO Fee Transfer Process

14. Where a participating Office has agreed to participate in the WIPO Fee Transfer Process for the purposes of some PCT fees but not others, the transfer by the participating Office of fees not to be included in the WIPO Fee Transfer Process shall be carried out in accordance with paragraph 17, below.

## II.5 CORRECTION OF ERRORS AND OMISSIONS

Any errors or omissions discovered in the information transmitted concerning fees collected by one Office for the benefit of another shall be notified promptly to the International Bureau. The International Bureau shall promptly inform any other Office to which the erroneous information has been transmitted. Where the error is discovered too late to correct the lists on which the transfers of fees are based during the same month, the correction shall be included in the lists and transfers to be made the following month.

### **III. TRANSFER OF FEES BY OR TO OFFICES NOT PARTICIPATING IN THE WIPO FEE TRANSFER PROCESS**

15. Where an Office has not agreed to participate in the WIPO Fee Transfer Process (“non-participating Office”), the transfer, where applicable, of:

- (a) international filing fees under Rule 15.2(c) or (d) collected by the Office in its capacity as a receiving Office for the benefit of the International Bureau;
- (b) search fees under Rule 16.1(c) or (d) collected by the Office in its capacity as a receiving Office for the benefit of a non-participating Office in its capacity as an International Searching Authority;
- (c) supplementary search fees under Rule 45*bis*.3(b) collected by the International Bureau for the benefit of the non-participating Office in its capacity as an Authority specified for supplementary search;
- (d) handling fees under Rule 57.2(c) or (d) collected by the Office in its capacity as an International Preliminary Examining Authority for the benefit of the International Bureau; and
- (e) differences under Rule 16.1(e) relating to search fees received by the Office in its capacity as an International Searching Authority;

shall be carried out promptly in accordance with Rule 15.2(c) or (d), Rule 16.1(c) or (d), Rule 45*bis*.3(b), Rule 57.2(c) or (d), or Rule 16.1(e), as applicable, preferably in accordance with a monthly time table for such transfers agreed between the Offices concerned and/or the International Bureau. The Office carrying out the transfer shall bear all bank charges, if any, for the transfer of the fees referred to in paragraphs (a), (b) and (d) and, where the difference belongs to the International Bureau, paragraph (e), whereas the International Bureau shall bear all bank charges, if any, for the transfer of the fees referred to in paragraph (c) and, where the difference belongs to the Office in its capacity as an International Searching Authority, paragraph (e).

[COMMENT: Offices which decided against participation in the WIPO Fee Transfer Process would continue to be required to transmit fee information and to transfer fees collected for the benefit of other Offices (in their various PCT capacities) or for the benefit of the International Bureau “promptly” to the beneficiary Office or to the International Bureau, as the case may be.]

[附件二和文件完]