

C. PCT 1287

January 11, 2011

Madam,
Sir,

1. This Circular is addressed to your Office in its capacity as a designated and elected Office and, where applicable, a receiving Office and/or an International Searching and Preliminary Examining Authority under the Patent Cooperation Treaty (PCT). It is also being sent to Geneva-based missions and foreign ministries of PCT Contracting States and of States that are invited to attend meetings of the PCT Working Group as observers, as well as to certain organizations that are invited to attend meetings of the PCT Working Group as observers.
2. At its third session, held in Geneva from June 14 to 18, 2010, the PCT Working Group endorsed a series of recommendations to improve the functioning of the PCT system, based on a study prepared by the International Bureau (document PCT/WG/3/2) and related submissions from certain Member States (documents PCT/WG/3/5 and PCT/WG/3/13). The Working Group's discussions are outlined in the report of the session (document PCT/WG/3/14 Rev., paragraphs 14 to 137). At its Forty-First (24th Extraordinary) Session, held in Geneva from September 20 to 29, 2010, the PCT Assembly discussed and noted the Working Group's report (see paragraphs 5 to 28 of document PCT/A/41/4).
3. The recommendations endorsed by the Working Group cover a variety of actions which should be undertaken by the International Bureau, applicants, Contracting States and national Offices (acting in both their national and international capacities) to make the PCT system more effective both for processing patent applications and for supporting technology transfer and technical assistance for developing countries. Following the division into six groups of recommendations used in document PCT/WG/3/2, those actions relate to the following issues:
 - (i) *backlogs; improving quality of granted patents* (see the recommendations endorsed by the Working Group set out in paragraphs 143, 146 and 149 of document PCT/WG/3/2 and in paragraph 92 of document PCT/WG/3/14 Rev. (the latter recommendation was inserted into document PCT/WG/3/2 as paragraph 149*bis*), and the comments and clarifications relating to those recommendations set out in paragraphs 87 to 91 of document PCT/WG/3/14 Rev.);

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- (ii) *timeliness in the international phase* (see the recommendations endorsed by the Working Group set out in paragraph 154 of document PCT/WG/3/2 and the comments and clarifications relating to those recommendations set out in paragraphs 93 to 95 of document PCT/WG/3/14 Rev.);
 - (iii) *quality of international search and preliminary examination* (see the recommendations endorsed by the Working Group set out in paragraphs 165 and 170 of document PCT/WG/3/2, and the comments and clarifications relating to those recommendations set out in paragraphs 96 to 102 of document PCT/WG/3/14 Rev.);
 - (iv) *incentives for applicants to use the system efficiently; skills and manpower shortages; access to effective search systems* (see the recommendations endorsed by the Working Group set out in paragraphs 176, 181 and 185 of document PCT/WG/3/2, and the comments and clarifications relating to those recommendations set out in paragraphs 103 to 110 of document PCT/WG/3/14 Rev.);
 - (v) *cost and other accessibility issues; consistency and availability of safeguards* (see the recommendations endorsed by the Working Group set out in paragraphs 191, 193, 194, 195 and 198 of document PCT/WG/3/2, and the comments and clarifications relating to those recommendations set out in paragraphs 111 and 112 of document PCT/WG/3/14 Rev.);
 - (vi) *technical assistance; PCT information and technology transfer* (see the recommendations endorsed by the Working Group set out in paragraph 129 of document PCT/WG/3/14 Rev., which replace or add to the relevant recommendations set out in paragraphs 204, 207 and 211 of document PCT/WG/3/2, and the comments and clarifications relating to those recommendations set out in paragraphs 113 to 128 and paragraphs 130 to 137 of document PCT/WG/3/14 Rev.).
4. As indicated during the discussions in the PCT Working Group, the International Bureau has undertaken to assist the implementation of recommendations endorsed by the Working Group by various means, as appropriate, such as the preparation of studies and proposals, or the sending of circulars or letters to the parties and bodies concerned (see document PCT/WG/3/14 Rev., paragraph 86).
5. The purpose of the present Circular is to take forward those recommendations endorsed by the Working Group which relate to the issues of *"timeliness in the international phase"* (see paragraph 3 (ii), above); and *"cost and other accessibility issues; consistency and availability of safeguards"* (see paragraph 3 (v), above). Each of these groups of recommendations is addressed in an Annex to this Circular (see Annexes I and II) which sets out the background to the recommendations concerned and outlines issues and questions to be considered in the context of those recommendations.
6. Your Office, in its capacity as an Office of a PCT Contracting State and, where applicable, also in its capacity as a receiving Office and/or an International Searching and Preliminary Examining Authority under the PCT, is invited:
- (i) to review its current processes and practices with a view to ensuring compliance with those recommendations and to report on any measures taken as a result of any such review;
 - (ii) to comment on the issues raised and to respond to the questions put forward in the Annexes to this Circular; and
 - (iii) to report on its experiences and "best practices" in the areas covered by those recommendations.

7. The International Bureau would especially welcome reports, responses and comments to the issues raised in this Circular from Offices of developing and least developed countries so as to be able to address and follow-up on matters of relevance or concern to the work of all Offices.
8. While the invitation to submit reports, responses and comments on the issues set out in this Circular is addressed to Offices of PCT Contracting States in their various PCT capacities, all recipients of the Circular are invited to submit comments on those issues.
9. The International Bureau would appreciate receiving any reports, responses and comments by February 18, 2011, sent to Mr. Claus Matthes, Director, PCT Business Development Division (e-mail: claus.matthes@wipo.int; fax: +41-22-338 7150). Reports, responses and comments may be sent in any of the 6 official UN languages (Arabic, Chinese, English, French, Russian and Spanish). A template is attached to the electronic version of this Circular as a separate Word document so as to facilitate the submission.
10. The International Bureau will take into account all responses received in the preparation of a working document, reporting on the implementation of the recommendations endorsed by the PCT Working Group, for discussion at the next session of the Working Group. In general, any responses received in reply to this Circular will be presented in the document in an anonymous fashion; individual responses from Offices will not be included in the document without the specific prior permission of the relevant Office. The working document will also report on the follow-up of recommendations endorsed by the Working Group that are specifically addressed to the International Bureau.
11. Further Circulars, aimed at taking forward other recommendations endorsed by the Working Group, will follow in due course.

Yours sincerely,



Francis Gurry
Director General

Attachments: Annexes I and II

RECOMMENDATIONS RELATING TO THE
TIMELINESS IN THE INTERNATIONAL PHASE

Action 1: Your Office, to the extent that it is functioning as a PCT receiving Office, is invited to review its current processes and practices with a view to ensuring compliance with the recommendations in paragraphs 154 (a) and (b) of document PCT/WG/3/2 (reproduced in paragraph 2, below) and to report on any measures taken as a result of any such review.

Action 2: Your Office, to the extent that it is functioning as a PCT receiving Office, is invited to comment on the practices raised in paragraph 8, below, and propose further issues where action by receiving Offices or the International Bureau, or discussion between Contracting States, may contribute to improving the timeliness of actions by receiving Offices, and to report on its experiences and “best practices” as a PCT receiving Office in this regard.

Action 3: Your Office, to the extent that it is functioning as a PCT International Authority, is invited to review its current processes and practices with a view to ensuring compliance with the recommendation set out in paragraph 154(d) of document PCT/WG/3/2 (reproduced in paragraph 2, below) and to report on any measures taken as a result of any such review.

Action 4: Your Office, to the extent that it is functioning as a PCT International Authority, is invited to comment on the practices raised in paragraph 8, below, and discussed in paragraph 11, below, and propose further issues where action by International Authorities or the International Bureau, or discussion between Contracting States and International Authorities may contribute to improving the timeliness of actions by International Authorities. To the extent that it is functioning as a PCT International Authority, your Office is also invited to report on its experiences and “best practices” in this regard.

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1. Document PCT/WG/3/2 set out the following considerations with regard to the issue of “*timeliness in the international phase*” (see paragraphs 151 to 153 of document PCT/WG/3/2):
 - “151. As noted in paragraph 70 [of document PCT/WG/3/2], above, the time limits set for various actions in the international phase are important to meeting the legitimate expectations of applicants, Offices and third parties, who may attempt to make plans on the assumption that these time limits will be respected. While there are proposals from Japan and the Republic of Korea to review some of these time limits (documents PCT/WG/2/8 and PCT/WG/2/11), it is important that the system delivers results in accordance with the time limits where any person may be relying on those results.
 - “152. This requires timely and accurate work by the applicant and all Offices which have a responsibility in the international phase:
 - “(a) *The applicant* should try to ensure that the international application is filed in compliance with the formal requirements, that all fees are paid correctly and on time and that any required translations are filed within the time limits prescribed in the Regulations. Errors and delays, together with the resulting correspondence with the receiving Office, can result in significant delays in sending the search copy to the ISA.

- “(b) *The applicant* should ensure that he is eligible to file at the particular receiving Office: transfer of an international application under Rule 19.4 to the IB as receiving Office can result in significant delays.
- “(c) *The receiving Office* must perform checks on the documents received quickly and accurately and issue any necessary invitations to correct defects immediately: many of the time limits for correcting defects begin only when the invitation to correct is issued and run for either one or two months, again introducing delays.
- “(d) *The ISA and IPEA* need to ensure that they have sufficient resources to deal with their workload, and that international searches and international preliminary examinations are given sufficient priority, with special attention given to international applications which are received by them late.
- “(e) *The IB* needs to ensure that documents are transmitted or made available to Offices and third parties in a timely fashion and that necessary translations are made of ISAs and IPRPs.
- “(f) *All Offices* should seek to transmit documents electronically between the IB and themselves or between one another using suitable secure online systems, such as PCT-EDI. The IB should provide suitable support in setting up such communications.

“153. It is a matter for individual Offices to decide how they meet these responsibilities, but it should be observed that Offices with responsibilities in the international phase usually also have similar responsibilities with respect to processing of national or regional applications, which may be received either through the PCT or as conventional national applications. The international phase functions of the Offices will generally compete for resources with the national processing functions and consequently, a satisfactory solution to timeliness in the international phase may require the Office to address questions of effective processing of national work as well. This is a matter which is closely related to other aspects of this study.”

2. It is against this background that the Working Group endorsed the following recommendations relating to timeliness in the international phase (see document PCT/WG/3/2, paragraph 154; see also document PCT/WG/3/14 Rev., paragraphs 93 to 95):

“154. *Recommendations* – The following recommendations are made in relation to ensuring that ISRs [international search reports] and IPRPs [international preliminary reports on patentability] are delivered in accordance with the time limits set by the Treaty. For the reasons pointed out in paragraph 153 [of document PCT/WG/3/2], above, these recommendations are in very general terms:

- “(a) Receiving Offices should ensure that they have adequate staff, facilities and training to receive and check international applications, and where necessary to send invitations for correction, promptly on receipt. They should also ensure that procedures, such as those for receiving fees, are easy to use for applicants and permit the Office to make the necessary checks quickly and accurately.”
- “(b) The IB [International Bureau] and receiving Offices should ensure that applicants have access to accurate, up-to-date information on the filing requirements for international applications, especially fees, in order to minimize the number of defects which need to be corrected before the international application is forwarded to the ISA and the IB.”

- “(c) The IB should review the Receiving Office Guidelines to ensure that they are both up-to-date and easy to follow. The IB should also, where necessary in cooperation with national Offices and subject to the availability of resources, seek to make the Guidelines available in as many languages of publication as possible (at present, they are available in English, French, Japanese, Portuguese, Russian and Spanish).”
- “(d) International Authorities should ensure that they have adequate resources to conduct the expected number of international searches and international preliminary examinations in addition to their national work and that, in cases where backlogs do build up, international work is given appropriate priority to ensure that the results are available to designated and elected Offices in the national phase and, as far as possible, to third parties by the time of international publication.”
3. Timely establishment and transmission to the applicant and the International Bureau of the international work products (international search reports (ISR) and international preliminary reports on patentability (IPRP)) are essential for the PCT to function in an efficient and effective way. This ensures that the applicant can make informed choices about an application within the relevant deadlines, third parties have full information on international publication, and that designated and elected Offices can take international work into account during the national phase.
 4. The responsibility to ensure the timely delivery of international applications is a shared one. Beyond the need for International Authorities to dedicate adequate resources towards international search and international preliminary examination activity, the International Bureau, receiving Offices and applicants can all play an important role to facilitate the timely delivery of the international work products.
 5. While, overall, the timeliness of certain actions performed by individual Offices in their various PCT capacities (as receiving Offices, International Searching Authorities and International Preliminary Examining Authorities) has markedly improved in recent years, there remain significant differences in the performance of individual Offices. Statistics on the timeliness of certain actions performed by individual Offices in their various PCT capacities and by the International Bureau are available on the website of WIPO at the following address: <http://www.wipo.int/ipstats/en/statistics/pct/>. In addition, quarterly performance indicators for the PCT analyzing recent trends (most recently, covering July to September 2010) are also published at this address.

Receiving Offices

6. The recommendations set out in paragraphs 154(a) and (b) of document PCT/WG/3/2 are specifically addressed to receiving Offices.
7. A crucial step in the smooth functioning in the international phase is the transmission of record copies by receiving Offices to the International Bureau and of the search copies to the competent International Searching Authority. Although the overall time from the receipt of the international application to the transmission of the record copy and the search copy has shortened considerably in 2009 when compared to previous years, the individual performance of receiving Offices varies significantly, notably among some of the larger receiving Offices.

8. It is recognized that some delays in transmission of record copies and search copies to the International Bureau and the International Searching Authority, respectively, are beyond the control of the receiving Office, particularly when the requirements of Article 11 are not fulfilled and the two month time limit for correction of defects by the applicant applies. Nevertheless, certain practices by receiving Offices can help reduce the numbers of late transmissions of record copies and search copies, complementing the recommendations in paragraphs 154(a) and (b) that were endorsed by the Working Group:
- (a) Correspondence with the applicant by electronic mail, when possible, enables the applicant to be aware more quickly of steps that need to be taken before the record copy and the search copy of the international application can be transmitted to the International Bureau and the International Searching Authority, respectively. Moreover, in certain situations, discussion by telephone with the applicant or his representative may lead to a more rapid resolution of any problems with the international application as filed. By contrast, communication by surface mail creates delays, many of which can be avoided.
 - (b) Where Offices have their own internal targets or customer service standards, it is desirable that these encompass international as well as domestic patent applications. This provides benefit to all Contracting States, but often gives particular benefit to the Office's State, given that these tend to act mainly for their own nationals and residents and that applicants tend to seek protection in their own State.

International Authorities

9. The recommendation set out in paragraph 154(d) of document PCT/WG/3/2 is specifically addressed to International Authorities.
10. Significant differences exist in the timeliness of actions by International Authorities. Whereas some International Authorities transmit most of their international search reports and written opinions under Chapter I and international preliminary reports on patentability under Chapter II to the International Bureau within 16 and 28 months of the priority date, respectively, other International Authorities are lagging behind, in some cases in certain technical fields only. This results in a significant number of international publications not being published with an international search report, and many applications under Chapter II not having an international preliminary report on patentability before transmission to elected Offices. Furthermore, a sizable number of applications miss these targets by many months.
11. Certain practices outlined in paragraph 8 also have relevance to improving the timeliness in the work of International Authorities. For example, correspondence with the applicant by electronic mail or telephone can help more to rapidly resolve situations like lack of unity of invention. Moreover, informal communication between the applicant and the International Preliminary Examination Authority is mentioned in Rule 66.6 of the PCT Regulations. Furthermore, it can be beneficial for International Authorities to set targets in relation to delivery of international work, provided these do not have a detrimental effect on the quality of the reports issued.

[Annex II follows]

RECOMMENDATIONS RELATING TO
COST AND OTHER ACCESSIBILITY ISSUES;
CONSISTENCY AND AVAILABILITY OF SAFEGUARDS

Action 5: Your Office is invited to make suggestions for financially sustainable ways forward with a view to developing appropriate levels of fees for different types of applicants and for seeking innovative solutions to the problem of ensuring that applicants are not excluded from use of the system by the level of the fees, addressing both the recommendation set out in paragraph 191 of document PCT/WG/3/2 (as reproduced in paragraph 2, below) and the issue set out in paragraph 181 of document PCT/WG/3/14 Rev. (reproduced in paragraph 3, below).

Action 6: Your Office is invited to bring to the attention of the International Bureau any ways in which it considers procedures could be simplified without the need to change national laws (see the recommendation set out in paragraph 193 of document PCT/WG/3/2, reproduced in paragraph 6, below).

Action 7: Your Office is invited to report on any relevant experiences and “best practices” undertaken when updating forms and online systems in order to ensure that the language, interfaces and associated help in online PCT systems mean that it is not necessary to consult the Regulations in most cases (see the recommendation set out in paragraph 195 of document PCT/WG/3/2, reproduced in paragraph 6, below).

Action 8: Your Office is invited to review any notifications of incompatibility which it has made and consider whether these can be withdrawn in order for the PCT to provide more consistent safeguards and effects across Contracting States, report on any measures taken as a result of any such review, and address points of incompatibility when there are opportunities for legislative changes (see the recommendation set out in paragraph 198 of document PCT/WG/3/2, reproduced in paragraph 9, below).

1. Document PCT/WG/3/2 sets out the following considerations with regard to the issue of “*addressing cost and other accessibility issues*” (see paragraphs 186 to 190 of document PCT/WG/3/2):

"186. As discussed in paragraph 103 [of document PCT/WG/3/2], many of the issues which have been discussed in terms of benefits to Offices in paragraphs 127 to 185 [of document PCT/WG/3/2], above, would also benefit applicants (and third parties) by:

“(a) providing better information in the international phase on which to base the decision whether to enter the national phase;

“(b) allowing defects to be identified and corrected at an earlier stage; and

“(c) potentially reducing the time and cost involved in using the system generally.

"187. In addition to the cost savings which could potentially be made as a result of a higher quality international search and more effective international preliminary examination, initial fees remain a significant barrier to entry to the system for some applicants. As pointed out in paragraphs 110 and 111 [of document PCT/WG/3/2], large reductions to the international filing fee have been offered to certain applicants from developing countries, but these do not extend to all groups for which Contracting States have suggested that assistance would be appropriate, including small and medium-sized enterprises and academic institutions.

"188. Given that the international fees are only a very small part of the total cost of seeking international patent protection, considering these fees alone will not solve the problems of access to the patent system more generally. However, it is clear that an applicant who cannot afford to use the international filing system will also not be able to bring most products to market internationally on a scale which would make patent protection worthwhile without partners of some type. An international application gives time before the greater costs need to be paid and may give assistance in finding such partners. Consequently, while a relatively small part of the total cost, accessibility to this stage of the patent procedure may be particularly important for some innovators.

"189. There is no simple solution to the question of the international fees. According to the funding model set up by the Contracting States, the PCT fees fund not only the operation of the PCT itself, but also a large part of the other operations of WIPO. These reduced-fee applications are processed at a considerable loss even taking into account only the direct cost of running the PCT and this can only be afforded because they still form a relatively small proportion of the total number of applications, though this is changing quickly. To offer reductions to potentially large categories of further applicants on the basis of the type of applicant rather than on methods of application which cost less to process (as with the reductions for filing applications in electronic form) would require careful study of the effects on the finances of the Organization and at least one of the following would need to take place:

"(a) a large increase in use of the PCT by applicants paying the full fees;

"(b) a reduction in either the amounts by which fees are currently reduced for developing country applicants or in the extent to which they are available;

"(c) a reduction in the other activities of WIPO which are funded by PCT fees; or

"(d) a major increase in the contributions made by WIPO Member States.

"190. Given the differences in definitions of small and medium-sized enterprises between Contracting States, the lack of clear information on how many applications such entities file and other difficulties in defining and identifying the relevant applicants, it is not clear how many applications would be involved. A practical and acceptable solution may require a more innovative approach to be found than simply extending the availability of fee reductions, especially in view of the difficulty which has been found in identifying an appropriate way to define the reductions which should be available for applicants from developing countries."

2. It is against this background that the Working Group endorsed the following recommendation relating to cost; (see document PCT/WG/3/2, paragraph 191; see also document PCT/WG/3/14 Rev., paragraphs 111 and 112):

"191. It is *recommended* that the IB and Contracting States further review the level of fees for different types of applicant and seek innovative solutions to the problem of ensuring that applicants are not excluded from use of the system by the level of the fees."

3. The issue of fee reductions was also discussed at the Working Group in a document presenting revised proposals for the eligibility criteria for reductions in certain fees (see

document PCT/WG/3/4 Rev. and paragraphs 158 to 181 of document PCT/WG/3/14 Rev.). The latter document concluded as follows:

“181. Noting that there was no agreement in the Working Group on the proposed new criteria for the eligibility for reduction in certain PCT fees set out in document PCT/WG/3/4 Rev., the Secretariat stated that it would further consider the issue with a view to finding alternative solutions which could be agreed upon by all Member States, pending which the status quo would remain. It encouraged all Member States to make suggestions as to a possible way forward.”

4. The International Bureau is committed to finding solutions for a fee structure that improves accessibility for innovators, especially those from developing and least developed countries, and offers a financially sustainable model for WIPO and its support activities. One possible way forward could be to establish criteria tackling the issues set out in both paragraphs 2 and 3, above, together.

5. Document PCT/WG/3/2 set out the following considerations with regard to the issue of “*other accessibility issues*” (see paragraph 192 of document PCT/WG/3/2):

“192. As discussed in paragraphs 112 to 114 [of document PCT/WG/3/2], above, much of the complexity of the Regulations is a result of the need to find solutions which meet the needs of all Contracting States in the different areas. The present review is not intended to require Contracting States to change their laws in any significant respect unless their consideration of the subject means that they conclude for themselves that this would be desirable. Consequently, it is not envisaged that major simplifications to the Regulations should be attempted in the near future. On the other hand, it is always desirable to simplify forms and procedures where possible and to provide simple guidelines which avoid applicants having to deal with the detail of the Regulations as far as possible. Similarly, electronic systems should be developed with interfaces and immediately accessible help which makes it clear what is needed in the administrative processes (as distinct from drafting effective application bodies, which will inevitably require detailed specialized knowledge) without recourse to the Rules in all but exceptional cases.”

6. It is against this background that the Working Group endorsed the following recommendations relating to cost and other accessibility issues; (see document PCT/WG/3/2, paragraphs 193 to 195; see also document PCT/WG/3/14 Rev., paragraphs 111 and 112):

“193. It is *recommended* that the IB and Contracting States bring to the attention of the International Bureau any ways in which they consider procedures could be simplified for applicants without needing to change national laws.

“194. It is *recommended* that the IB review the PCT Applicant’s Guide to ensure that it is up-to-date and provides useful, easy to understand information.

“195. It is *recommended* that the IB and Offices developing online PCT systems ensure that, when updating Forms and online systems, special attention is given to ensuring that the language, interfaces and associated help mean that it is not necessary to consult the Regulations in most cases.”

7. The recommendation set out in paragraph 193 of document PCT/WG/3/2 invites Contracting States to bring to the attention of the International Bureau ways in which

procedures could be simplified without needing to change national laws. This could include modifications to individual forms to reduce the likelihood of common mistakes in their completion or to make them more understandable to applicants, especially those who are less familiar with the PCT or the patent system as a whole. The International Bureau also welcomes suggestions for simplification to make online PCT filing more user-friendly and attractive to applicants, including experiences that Offices can share towards ensuring compliance with the recommendation set out in paragraph 195 of document PCT/WG/3/2.

8. Document PCT/WG/3/2 set out the following considerations with regard to the issue of “*addressing consistency and availability of safeguards*” (see paragraph 197 of document PCT/WG/3/2):

“197. There are around 120 notifications of incompatibility currently in force which mean that the Treaty can have inconsistent effects between States as seen by the applicant. The large majority of these relate to various safeguard provisions which have been introduced to allow applicants to recover from accidental errors which might otherwise be fatal to their application.”

9. It is against this background that the Working Group endorsed the following recommendation, (see document PCT/WG/3/2, paragraph 198; see also document PCT/WG/3/14 Rev., paragraphs 111 and 112):

“198. It is *recommended* that Contracting States review their compatibility with the Regulations and Administrative Instructions and seek to determine whether they can withdraw notifications of incompatibility.”

[End of Annex II and of Circular]

REPORTS, RESPONSES AND COMMENTS
TO CIRCULAR C. PCT 1287

RESPONSE FROM:

Name of responsible official:

On behalf of *[State, Office or Organization]*:

Type of national/regional patent system:

- full examination – grant only once defects have been corrected
- search or search and substantive examination made and results published, not requiring substantive defects to be corrected before registration
- registration without mandatory search and examination
- other *[give details]*

Note: While the invitation to submit reports, responses and comments on the issues set out in Circular C.PCT 1287 (as reproduced in this document) is addressed to Offices of PCT Contracting States in their various PCT capacities, all recipients of the Circular are invited to submit comments on those issues.

A. RECOMMENDATIONS RELATING TO TIMELINESS IN THE INTERNATIONAL PHASE

1. **With reference to the issues raised in Annex I to Circular C.PCT 1287 relating to “timeliness in the international phase”:**

- a) Your Office, to the extent that it is functioning as a PCT receiving Office, is invited to review its current processes and practices with a view to ensuring compliance with the recommendations in paragraphs 154 (a) and (b) of document PCT/WG/3/2 and to report on any measures taken as a result of any such review (see Action 1 of Annex I).

- b) Your Office, to the extent that it is functioning as a PCT receiving Office, is invited to comment on the practices raised in paragraph 8 of Annex I and propose further issues where action by receiving Offices or the International Bureau, or discussion between Contracting States, may contribute to improving the timeliness of actions by receiving Offices, and to report on its experiences and “best practices” as a PCT receiving Office in this regard (see Action 2 of Annex I).

- c) Your Office, to the extent that it is functioning as a PCT International Authority, is invited to review its current processes and practices with a view to ensuring compliance with the recommendation set out in paragraph 154(d) of document PCT/WG/3/2 and to report on any measures taken as a result of any such review (see Action 3 of Annex I).

- d) Your Office, to the extent that it is functioning as a PCT International Authority, is invited to comment on the practices raised in paragraph 8 and discussed in paragraph 11 of Annex I, and propose further issues where action by International Authorities or the International Bureau, or discussion between Contracting States and International Authorities may contribute to improving the timeliness of actions by International Authorities. To the extent that it is functioning as a PCT International Authority, your Office is also invited to report on its experiences and “best practices” in this regard (see Action 4 of Annex I).

B. RECOMMENDATIONS RELATING TO COST AND OTHER ACCESSIBILITY ISSUES; CONSISTENCY AND AVAILABILITY OF SAFEGUARDS

2. With reference to the issues raised in Annex II to Circular C.PCT 1287 relating to “cost and other accessibility issues; consistency and availability of safeguards”:

- a) Your Office is invited to make suggestions for financially sustainable ways forward with a view to developing appropriate levels of fees for different types of applicants and for seeking innovative solutions to the problem of ensuring that applicants are not excluded from use of the system by the level of the fees, addressing both the recommendation set out in paragraph 191 of document PCT/WG/3/2 and the issue set out in paragraph 181 of document PCT/WG/3/14 Rev. (see Action 5 of Annex II).

- b) Your Office is invited to bring to the attention of the International Bureau any ways in which it considers procedures could be simplified without the need to change national laws (see Action 6 of Annex II).

- c) Your Office is invited to report on any relevant experiences and “best practices” undertaken when updating forms and online systems in order to ensure that the language, interfaces and associated help in online PCT systems mean that it is not necessary to consult the Regulations in most cases (see Action 7 of Annex II).

- d) Your Office is invited to review any notifications of incompatibility which it has made and consider whether these can be withdrawn in order for the PCT to provide more consistent safeguards and effects across Contracting States, report on any measures taken as a result of any such review, and address points of incompatibility when there are opportunities for legislative changes (see Action 8 of Annex II).

[End of document]