

COMITÉ DE COORDINATION INTERUNIONS, CINQUIÈME SESSION
INTERUNION COORDINATION COMMITTEE, FIFTH SESSION

(Genève, 18-21 décembre 1967)
(Geneva, December 18 to 21, 1967)

SUPPLEMENTARY PROGRESS REPORT
ON THE "PATENT COOPERATION TREATY" PLAN

1. Document CCIU/V/3, paragraphs 44 to 49, contain a report on the progress of the plan for a "Patent Cooperation Treaty" (PCT) up to September 16, 1967. The present document supplements that report by a brief account of the work of the Committee of Experts which met, on the invitation of the Director of BIRPI, in Geneva from October 2 to 10, 1967, in order to examine BIRPI's plan for facilitating the filing and examination of applications for the protection of the same invention in a number of countries.
2. Those 23 countries in which, according to the latest available yearly statistics, more than 5,000 applications are filed were invited to attend as members of the Committee. They all accepted the invitation and were represented. They were the following: Argentina, Australia, Austria, Belgium, Brazil, Canada, Czechoslovakia, Denmark, France, Germany (Federal Republic), Italy, Japan, Mexico, Netherlands, Norway, Poland, South Africa, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America. Two countries--Hungary and India--were represented by observers.
3. The following seven intergovernmental organizations were represented by observers: United Nations, International Patent Institute, Organization of American States, Council of Europe, European Communities, European Free Trade Association, African and Malagasy Industrial Property Office.

4. Ten non-governmental organizations, representing inventors, industrialists, patent lawyers, and patent agents, were invited as observers and were represented. They were the following: Committee of National Institutes of Patent Agents, Council of European Industrial Federations, European Industrial Research Management Association, Inter-American Association of Industrial Property, International Association for the Protection of Industrial Property, International Chamber of Commerce, International Federation of Patent Agents, National Association of Manufacturers (USA), Union of European Patent Agents, Union of Industries of the European Economic Community.

5. Observers had the same opportunities for participating in the discussions as full members of the Committee.

6. The Director of BIRPI, Professor G.H.C. Bodenhausen, participated in all the discussions.

7. The Committee unanimously elected as Chairman Mr. J. Voyame, Director of the Swiss Federal Office of Intellectual Property, and, as Vice-Chairmen, Mr. E.I. Artemiev, Deputy Chairman of the Committee for Inventions and Discoveries attached to the Council of Ministers of the Union of Soviet Socialist Republics, and Mr. E.M. Braderman, US Deputy Assistant Secretary of State for Commercial Affairs and Business Activities.

8. Dr. Arpad Eogsch, Deputy Director, BIRPI, acted as Secretary of the Committee.

9. The number of participants was around one hundred. The list of these participants was published in the November 1967 issue of Industrial Property.

10. At the close of the meeting, the Committee adopted a report on the work it had accomplished (PCT/I/11.Rev.). The following paragraphs try to summarize the salient features of the report.

11. In general, the experts expressed the view that the PCT draft was highly worth while examining further and, after appropriate changes, completing within the shortest possible time.

12. The idea of international filing and international search was generally very favorably received.

13. As to the question whether the possibility of filing international applications should be limited to nationals of countries party to the PCT or open also to nationals of other Paris Union countries, opinions seemed to be fairly divided.

14. An international search to be carried out by one central institution, of a kind such as the International Patent Institute (IIB), seemed an ideal solution to a number of participants. It was generally recognized, however, that, at least for the foreseeable future, the only workable solution was a decentralized international search system making use of the existing facilities of the IIB and of the best equipped national Offices.

15. The uniform high quality of the international search reports was recognized as the most important single factor for the success of the PCT. Numerous suggestions were made on the question how to achieve such quality. A thorough exploration of the possibilities of the prospective searching Authorities and a careful study of all the problems connected with the proposed system of international search will be one of the main tasks of the coming months.

16. Whereas the draft presented to the Committee provided that international filing must always precede international search, the additional possibility, suggested by the Committee, of filing after the search results are known to the applicant will also be explored. Should the international application differ from the first national application forming the basis of the search, a complementary international search report would probably become necessary.

17. Examination as to form of the international applications should generally not be effected by the International Bureau but by the national Patent Offices or the searching Authorities.

18. The need for regulating the formalities of international applications, including the structure of the description and the claims, was generally recognized.

19. All unnecessary transmittal of documents between national Offices, searching Authorities, and the International Bureau, should be avoided.

20. The majority of the experts favored the rule of publishing international applications promptly after 18 months from the date of the first application. Some participants suggested that, if an applicant designates a country whose national law provides for publication promptly after 18 months, the deadline for international publication should be the same, whereas it could be extended until the expiration of the 24th month if no such country is designated.

21. It was generally agreed that applicants may adjust their claims to the requirements of each national law once the international application reaches the various national Offices.

22. The procedure concerning certificates of examination (rather than "certificates of patentability") should be streamlined. Some proposed that the procedures for a search report and a certificate of examination should be telescoped and the failure to obtain a certificate kept a secret between the applicant and examining Authority. Others suggested that any elected country should have the right to ask for an international certificate. Some experts wondered whether the whole procedure concerning certificates should not be delayed until the procedure concerning central international filing and search reports had been tested in practice, while others expressed doubts as to the usefulness of the whole PCT plan if only the international filing and international search procedure were to be put into effect without, at the same time, bringing into operation also the procedure concerning certificates of examination.

23. The proposal according to which failure to act, within a year, by a national Office which has received an international application or an international certificate of examination could have the effect of a national patent will not be maintained.

24. To sum up, the main tendency manifested by the Committee was that the proposed system should be simplified to the maximum extent and should require as little change as possible in the substantive patent laws of the participating countries.