

MAIN PROGRAM 03

**PATENTS AND THE PATENT COOPERATION  
TREATY (PCT) SYSTEM**

**03.1 Development of International Patent Law and Services**

**03.2 The PCT System**

**03.3 International Patent Classification (IPC)**

**Summary**

63. The WIPO Patent Agenda, launched by the Director General during the last biennium, will continue to address the future evolution of the international patent system, ensuring that the work to be undertaken is directed towards achieving a common goal; the international patent system should become more user-friendly, accessible and cost-effective for all Member States, and provide an appropriate balance between the rights of inventors and the general public, while at the same time taking into account the implications for the developing world. The WIPO Patent Agenda will also address all the pertinent issues that Member States agree to include in the course of on-going discussions. The development of the international patent system, including the PCT, needs to occur in a manner consistent with the formulation of national, regional and international strategies and laws for the use of the patent system as a policy tool to gain benefits for the countries concerned. The WIPO Patent Agenda aims at ensuring that such developments are coordinated to the maximum extent possible, given variations in national priorities and policies. It is recalled that, in September 2002, following discussions on options for developing the international patent system, the General Assembly, the Paris Union Assembly and the PCT Union Assembly noted the contents of the memorandum and decided to keep the WIPO Patent Agenda issue on the agenda for discussion at their next session in 2003.

64. The principal objective of the PCT, in the interests of the users of the patent system, patent administrations and the general public, is to streamline the filing and processing of patent applications in more than one country by reducing duplication of the work of national filing and processing and by rendering more economical the grant of patents, resulting in less diversion of public resources for patent

administration. High priority is therefore placed on operational excellence in the PCT, providing services of high value and efficiency.

65. Sub-program 3.1 concerns the development of international patent law and services, focusing on substantive and procedural harmonization of patent law, as well as on the development and adoption of reforms of the PCT System. The Secretariat will support the Standing Committee on the Law of Patents (SCP), which deals with clusters of interrelated patent law issues, and gives Member States an effective mechanism for setting priorities, allocating resources and ensuring the coordination and continuity of on-going work. The sub-program will continue work in the procedural law reform area, promoting the entry into force of the Patent Law Treaty (PLT). The sub-program will also examine the need for modifications to the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure in order to simplify deposit procedures. It will also focus on the initiative to reform the PCT, and will support the Committee and the Working Group on Reform of the PCT set up by the Assembly of the PCT Union to consider reform proposals.

66. Sub-program 3.2 covers the management and operation of the PCT system, and provides legal information, advice and training on the PCT. It also implements the PCT reforms adopted by the PCT Assembly, develops strategic management measures to help ensure the continued success of the PCT. The use of the PCT has increased enormously over the past decade as more States have joined the PCT Union and growing numbers of patent applicants have chosen to file PCT applications. As efforts continue to meet user and Member State needs and to increase use of and benefit from the PCT, an important new focus for this sub-program will be the development of strategic measures and practices to manage the increasing PCT workloads as well as to define indicators for following trends in patent applications as they may relate to the PCT. Alongside these measures will be an enhanced effort to reach out to Industrial Property Offices and PCT users to ensure that PCT beneficiaries receive adequate knowledge of the system and that the system responds satisfactorily to their needs.

67. Sub-program 3.3 provides the administrative and information services for the maintenance, revision, reform and promotion of the IPC system for governments, IGOs, research and development establishments, and the general public. It also concerns the improvement of international patent searches through the development of recommendations to ISAs for the extension of the non-patent part of PCT minimum documentation to include, among other things, traditional knowledge publications.

SUB-PROGRAM 3.1

**DEVELOPMENT OF INTERNATIONAL PATENT LAW AND SERVICES**

**Objective:** To further develop the international patent system, including laws and services, and including reform of the PCT system in accordance with the interests and policies of Member States.

Expected Results	Performance Indicators
1. Enhanced international cooperation in the area of patent law and practice.	Feedback and reports on meetings of the SCP regarding the further harmonization of patent law.
2. Enhanced international cooperation in the area of the international deposit of microorganisms for the purposes of patent procedure.	Decision by Member States to examine the further development, including a possible revision, of the Budapest Treaty.
3. Increased awareness of the benefits of adherence to the WIPO-administered patent treaties, especially the PLT.	Number of adherences or preparations for adherence by Member States.
4. Improvement of the PCT system, in line with the objectives of PCT reform set out by the PCT Assembly, including simplified and streamlined procedures, reduced costs for users, and enhanced quality of service.	<ul style="list-style-type: none"><li>• The PCT Assembly adopts amendments of the PCT Regulations to give effect to reform.</li><li>• Feedback and reports on meetings regarding PCT reform (the PCT Assembly, and the Committee and Working Group on Reform of the PCT).</li></ul>
5. Enhanced international cooperation in developing the international patent system.	Number and quality of reports and studies identifying the effects of proposals relating to the international patent system on Member States, particularly developing and least-developed countries.

68. Patent laws differ from country to country, creating difficulties for patent applicants and owners, in particular in terms of the complexity and cost of obtaining patent protection in multiple countries. In addition, an increasing workload faces patent offices throughout the world, due to rising numbers of patent applications and duplication of work. The Patent Law Treaty, adopted in 2000, has contributed to harmonizing and streamlining patent formalities and procedures, but does not address issues of substantive patent law. Thus, the Member States have agreed to continue discussions in the Standing Committee on the Law of Patents (SCP) concerning further harmonization of patent law, in particular substantive issues of patent law. In addition, specific demands and needs have arisen in relation to the Budapest Treaty and the presentation of DNA sequence listings in patent applications.

69. Efforts on PCT reform began in October 2000 when the Assembly of the PCT Union established the Committee on Reform of the PCT to consider specific proposals; a Working Group on Reform of the PCT was subsequently established. Based on the preparatory work of these two bodies, the Assembly agreed on the general objectives of PCT reform and, in October 2002, unanimously adopted a first set of amendments of the PCT Regulations. The general objectives of PCT reform include simplifying the system and streamlining of procedures, reducing costs for applicants, maintaining balance between workload of PCT Authorities and quality of services provided, aligning PCT provisions with those of the PLT, and ensuring that the system works to the advantage of all Offices, irrespective of their size. In line with these objectives, further work on PCT reform will include consideration of possible modifications to the PCT International Search and International Preliminary Examination Guidelines, possible further amendments of the PCT Regulations, and the possible revision of the Treaty itself.

70. Modifications of the Administrative Instructions under the PCT designed to enable the implementation of electronic filing and processing of international applications and related documents entered into force on January 7, 2002. These modifications to the Administrative Instructions established the necessary legal framework (Part 7) and technical standards (Annex F). As filing and processing of international applications and related documents in electronic form become possible, the legal framework may need to be adapted and modified in the light of practical experience gained and of new technical developments.

71. The work undertaken by the International Bureau and by Member States in their cooperation with WIPO ensures that the proposals for reform of the PCT system are transparent and clearly presented for decision and analysis by Member States. Also, this work aims to ensure that the international patent system becomes more user-friendly and accessible, that it facilitates greater use by all Member States and a broader range of beneficiaries, particularly in developing countries and the SME sector, that it provides an appropriate balance between the rights of inventors and the general public, and that it relates to the development and IP policy objectives of all Member States.

## **Activities**

- Convening four meetings of the SCP (and any Working Group it sets up) to consider current issues relating to the law of patents, including: opportunities for further harmonizing substantive patent law and increased convergence of patent practices; the desirability and feasibility of further development of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the purposes of patent procedure (this may include harmonized rules for public access to deposited biological material, provisions in the Treaty on the time of filing of microorganisms and consideration of a possible system for the single deposit in a data bank of DNA sequence listings referred to in a patent application, with the effect of replacing the whole contents of the listing); and preparation of the appropriate action to facilitate discussions of Member States on the protection of industrial property in outer space;

- preparation of studies on important issues relating to the law of patents that might not yet be ready for consideration by the SCP, but where Member States will benefit from expert analysis;
- promotion of the entry into force of the PLT, by increasing the understanding of the principles of procedural patent law harmonization, including correspondence, legal advice, missions for speaking at and attendance of seminars and advising national governments, and, at the appropriate time, establishment of the PLT Assembly;
- administration and promotion of WIPO-administered treaties in the area of patents (including the Paris Convention and the Budapest Treaty), by promoting the understanding of the international principles relating to the law of patents, including correspondence, legal advice, missions for speaking at and attendance of seminars and advising national governments, preparation and provision of advice concerning WIPO documents and publications;
- publication of an updated version of the *Guide to the Deposit of Microorganisms under the Budapest Treaty*;
- updating of the WIPO guides on the licensing of biotechnology and on the licensing of integrated circuits, to promote licensing as an efficient tool to facilitate the transfer of technology and the commercialization of industrial property rights;
- convening six meetings of the Committee and/or the Working Group on Reform of the PCT to consider proposals for reform of the PCT system;
- preparation of PCT reform related proposals for revising the PCT itself, amending the PCT Regulations, and modifying the PCT International Search and International Preliminary Examination Guidelines;
- convening of and participation in meetings of PCT Offices and Authorities related to PCT reform, and promotion of PCT reform activities, including correspondence, legal advice, missions for speaking at and attendance of seminars and advising national governments, preparation and provision of advice concerning WIPO documents and publications;
- development of documentation for policy-makers and users aimed at awareness-building in Member States related to PCT reform, presented in clear formats to promote widespread understanding of the issues involved;
- preparation of proposals for modifying the Administrative Instructions under the PCT, participation in meetings and seminars and providing legal advice related to the filing and processing of international applications and related documents in electronic form (PCT-SAFE);

- designing programs, developing guidelines and best practices as well as undertaking case studies to achieve cost-effective solutions for the administration of the patent system, particularly in smaller industrial property offices;
- meeting with policy-makers at national, sub-regional, regional and international level for assistance for, consideration of, and exchange of views on policy issues in the field of patents.

Where appropriate, activities under this sub-program will be coordinated with other relevant Main Programs, especially Main Programs 07, 08, 09 and 11.

## SUB-PROGRAM 03.2 THE PCT SYSTEM

**Objective:** To provide in a swift, reliable, easy to use, and cost-effective manner the IP protection services entrusted to the International Bureau under the PCT, and to contribute to the further strengthening of the PCT system.

Expected Results	Performance Indicators
1. Increase in the productivity of PCT operations in the International Bureau.	<ul style="list-style-type: none"> <li>• Ratio between the total number of PCT staff and the number of international applications.</li> <li>• Comparison between the growth in the total PCT expenditures and the growth in the number of international applications.</li> </ul>
2. Processing in a swift, reliable and cost-effective manner of up to 130,500 international applications in 2004 and 143,000 in 2005 and up to 6,500 international applications in the International Bureau acting as receiving Office in 2004 and 7,000 in 2005; processing up to 121,000 international preliminary reports on patentability (both under Chapter I and Chapter II) and publishing up to 121,000 pamphlets in 2004 and 131,000 in 2005.	<ul style="list-style-type: none"> <li>• Number of international applications and international preliminary reports on patentability received and processed, and number of pamphlets published.</li> <li>• Timeliness of processing (including publications and reports) of the international applications.</li> <li>• Number of international applications processed in the International Bureau acting as Receiving Office.</li> </ul>
3. Improved operations of the PCT system, including simplifying and streamlining procedures, reducing costs for users, providing quality service.	<ul style="list-style-type: none"> <li>• Implementation of all PCT reform related amendments of the PCT Regulations adopted by the Assembly.</li> </ul>

Expected Results	Performance Indicators
	<ul style="list-style-type: none"> <li>• Promulgation and implementation of modifications to the Administrative Instructions under the PCT.</li> <li>• Feedback and reports on meetings regarding non-reform related matters (including the PCT Assembly and the Meeting of International Authorities (MIA) under the PCT).</li> </ul>
4. Increase in knowledge of the PCT system, improved bilateral exchanges between the International Bureau and Industrial Property Offices, and improved exchanges with users.	<ul style="list-style-type: none"> <li>• Quality, quantity and accessibility of PCT information.</li> <li>• Number of Industrial Property Offices and users and users groups with which exchanges of views are established on a regular basis.</li> </ul>
5. Effective and timely resolution of legal problems arising in the administration of the PCT system or in the processing by the International Bureau of PCT applications.	<ul style="list-style-type: none"> <li>• Number and quality of solutions proposed.</li> <li>• Feedback and reports on problems resolved.</li> </ul>
6. Improved productivity in translation of abstracts and IPERs, and introduction of the translation of international search opinions.	Increase in the number of translations in each category.
7. Timely and cost-effective implementation of changes to the PCT system, and enhanced efficiency of the services rendered under the PCT, including the assessment of trends in patent applications filed worldwide.	Creation and implementation of appropriate policies, practices, databases and management project systems.

72. This sub-program provides the operational, managerial, legal, and external relations framework that enables the PCT system to function and to meet the demands of an increasing number of PCT users and PCT Member States.

73. *PCT Operations:* The role of PCT Operations is to ensure the processing by the International Bureau of international patent applications, including the formal examination of applications, the translation of titles, abstracts, international search opinions and international preliminary examination reports, as well as the publication of international applications. It also covers the growing volume of activities of the International Bureau acting as Receiving Office. When first established, the PCT system did not anticipate that annual applications would significantly exceed 100,000. As a result, a principal focus of PCT Operations is to continue to meet the challenge of providing high quality service to PCT users while adapting its workflow methods and automation systems to guarantee the timely and effective processing of an ever-growing number of applications. Ongoing refinement of its new Processing

Team structure and the continued deployment and implementation of the Information Management for the Patent Cooperation Treaty (IMPACT) system and the PCT-SAFE electronic filing and processing system will be key factors in enabling the International Bureau to meet its challenge.

74. *PCT Strategic Management:* In an era of heightened economic volatility and technological change, and with an increasing call for the adoption of more modern and cost-effective management measures, it is clear that an attitude of “business as usual” will not be appropriate if the PCT System is to continue to provide a dynamic, efficient and effective means for securing patent protection. As a result, a major focus of the PCT System sub-program for the 2004-2005 biennium will be the adoption and implementation of Strategic Management tools. The objective of this initiative will be to further strengthen the PCT system by developing sound quality assessment and change management measures to enhance the International Bureau’s capacity to meet the demands of PCT users and Industrial Property Offices, and to apply statistical analysis and modern business policy to enhance the quality of the services entrusted to the International Bureau under the PCT.

75. *PCT Legal Services:* The principal focus of PCT Legal Services is to ensure the development, implementation and execution of the PCT legal framework, as well as to make certain that PCT users have adequate knowledge of the PCT system through the preparation and delivery of PCT legal information and training activities. It is the responsibility of PCT Legal Services to carry out and guarantee timely and successful implementation of all reforms adopted by the PCT Assembly, including the implementation and dissemination of procedures for processing PCT applications under the Expanded International Search and Preliminary Examination System. It is also the charge of PCT Legal Services to provide legal advice to the International Bureau and Industrial Property Offices in response to the generally more than 1,000 problem cases that arise annually in the processing of international applications. In addition, PCT Legal Services responds annually to approximately 25,000 requests for advice and inquiries from individual PCT users to enable those users to benefit fully from the PCT system.

76. *PCT External Legal Relations:* The continued success of the PCT system requires regular and effective bilateral exchanges between the International Bureau and Industrial Property Offices, in particular with respect to the role of Offices as PCT receiving Offices, designated or elected Offices or International Authorities. A primary focus of PCT External Legal Relations will therefore be to ensure the timely provision of useful and appropriate information, assistance and training to Industrial Property Offices, as well as the receipt of timely feedback from Offices, with the objective of enhancing the quality, productivity and efficiency of the International Bureau’s bilateral relationships. Similarly, the focus of PCT Legal Relations will be to reach out to users and potential users of the PCT system, not only to promote enhanced use of the PCT but also to ensure that the PCT system and the services provided by the International Bureau respond fully to user needs.



## Activities

- Formal examination of international applications;
- implementation of procedures for processing applications under the Expanded International Search and Preliminary Examination System;
- monitoring time limits to be observed by receiving Offices, International Searching Authorities and International Preliminary Examining Authorities;
- translation into English and French of international application titles, abstracts and text in drawings;
- translation of international preliminary reports on patentability (under Chapter I and Chapter II) into English;
- publication of international applications in the form of PCT pamphlets;
- publication of data from published international applications in the PCT Gazette in both paper and electronic form;
- processing of international applications filed with the International Bureau as Receiving Office;
- completing deployment of automation systems capable of handling files in electronic form and of supporting automated processes;
- designing programs, developing guidelines and best practices as well as undertaking case studies to achieve cost-effective solutions for the administration of the PCT system;
- defining indicators for effective follow-up of trends in patent applications filed worldwide as they may relate to the PCT;
- proposing legal, procedural and organizational measures in the internal handling of international applications and rendering of other services under the PCT;
- convening of and participation in meetings of PCT Contracting States, Offices and Authorities related to administration of the PCT system; and promotion of PCT activities and results, including correspondence, legal advice, missions for speaking at and attendance of seminars and advising national governments, preparation and provision of advice concerning WIPO documents and publications;
- development of documentation for policy-makers and users aimed at awareness-building in Member States related to the PCT, presented in clear formats to promote widespread understanding of the issues involved;

- contacts, including for the communication of notifications and documents, with Industrial Property Offices, applicants and agents.

Where appropriate, Activities under this sub-program will be coordinated with other relevant Main Programs, especially Main Programs 08, 09 and 11.

### SUB-PROGRAM 3.3

#### INTERNATIONAL PATENT CLASSIFICATION (IPC)

**Objective:** To ensure the efficient use of the IPC in the electronic environment and to promote worldwide use of the IPC for classifying and searching of invention and intervention like information as well as for retrieval of patent information.

Expected Results	Performance Indicators
1. Increase in the efficiency of the IPC for searching patent documentation resulting from IPC revision.	Number of new entries and other amendments introduced into the eighth edition of the IPC.
2. Accommodation of the IPC to the use in the electronic environment.	Completion of the basic period of IPC reform.
3. Use of automated classification and translation tools by patent offices.	Elaboration of automated tools supporting maintenance and revision of the IPC and creation of classification databases.
4. Extension of the PCT minimum documentation for the further improvement of international searches.	Number of non-patent information sources included in the PCT minimum documentation.

77. This sub-program deals with the administrative and information services provided by the International Bureau for the maintenance, revision, reform and promotion of the IPC for governments, intergovernmental organizations, research and development units, and general public, as well as with the preparation of recommendations to International Searching Authorities with regard to the PCT minimum documentation.

## Activities

- Administration of the revision of the IPC through meetings of the IPC Revision Working Group, and promotion of the worldwide use of the IPC by organizing and participating in IPC training courses and workshops;
- coordination of IPC reform and completion of its basic period; publication of the reformed IPC (eighth edition); preparation of documentation for sessions of the IPC Committee of Experts; and elaboration of IT classification tools;
- investigation of the appropriate extension of the non-patent part of the PCT minimum documentation, and preparation of documentation for sessions of the PCT Committee for Technical Cooperation (PCT/CTC).

## Resource Description by Object of Expenditure

78. Total resources of Sfr133,045,000 reflect a program decrease of Sfr5,346,000 or 4.0 per cent with respect to the corresponding amount in the 2002-2003 biennium.

79. For staff resources, an amount of Sfr108,455,000 is shown, a program increase of Sfr459,000 or 0.4 per cent. This includes resources of:

- (i) Sfr101,047,000 for posts, reflecting seven additional posts, the reclassification of 35 posts including the reclassification of one position to D-level; and
- (ii) Sfr7,408,000 for short-term expenses.

80. For travel and fellowships, an amount of Sfr1,495,000 is shown, a program increase of Sfr66,000 or 4.6 per cent. This includes resources of:

- (i) Sfr927,000 for 180 staff missions,
- (ii) Sfr568,000 for 100 third party travel in connection with the holding of the Standing Committee on Patents, the Committee on the PCT reform, and the provision of training on the PCT.

81. For contractual services, an amount of Sfr9,104,000 is shown, a program decrease of Sfr2,472,000 or 21.5 per cent. This includes resources of:

- (i) Sfr618,000 for conferences to cover the cost of interpretation and related costs of holding the Standing Committee on Patents, the Committee and Working Group on PCT Reform, the International Patent Classification Committee, the PCT Committee for Technical Cooperation and related meetings,
- (ii) Sfr360,000 for consultants services,
- (iii) Sfr1,172,000 for publishing services including the printing cost of the PCT Gazette, Newsletter and Applicants Guide, and
- (iv) Sfr6,954,000 for other contractual services including cost of special translations.

82. For operating expenses, an amount of Sfr10,937,000 is shown, a program decrease of Sfr2,506,000 or 18.7 per cent. This includes resources of:

- (i) Sfr5,105,000 for premises and maintenance to cover the cost of production of PCT pamphlets and other maintenance costs and
- (ii) Sfr5,832,000 for communication and other expenses, including the cost of mailing PCT material.

83. For equipment and supplies, an amount of Sfr3,054,000 is shown, a program decrease of Sfr893,000 or 22.7 per cent. This includes resources of:

- (i) Sfr781,000 for furniture and equipment and
- (ii) Sfr2,273,000 for supplies and materials.

**Table 9.3 Detailed Budget 2004-2005 for Main Program 03**

**A. Budget Variation by Sub-program and Object of Expenditure** (in thousands of Swiss francs)

		2002-2003 Revised  A	Budget Variation						2004-2005 Proposed  E=A+D
			Program		Cost		Total		
			Amount B	% B/A	Amount C	% C/A	Amount D=B+C	% D/A	
I. By Sub-program									
03.1	Development of International Patent Law and Services	5,822	(410)	(7.0)	353	6.1	(57)	(1.0)	5,765
03.2	The Patent Cooperation Treaty (PCT) System	126,089	(4,835)	(3.8)	3,349	2.7	(1,486)	(1.2)	124,603
03.3	International Patent Classification (IPC)	2,678	(101)	(3.8)	100	3.7	(1)	--	2,677
TOTAL		134,589	(5,346)	(4.0)	3,802	2.8	(1,544)	(1.1)	133,045
II. By Object of Expenditure									
	Staff Costs	104,347	459	0.4	3,649	3.5	4,108	3.9	108,455
	Travel and Fellowships	1,420	66	4.6	9	0.6	75	5.3	1,495
	Contractual Services	11,519	(2,472)	(21.5)	57	0.5	(2,415)	(21.0)	9,104
	Operating Expenses	13,374	(2,506)	(18.7)	69	0.5	(2,437)	(18.2)	10,937
	Equipment and Supplies	3,929	(893)	(22.7)	18	0.5	(875)	(22.3)	3,054
TOTAL		134,589	(5,346)	(4.0)	3,802	2.8	(1,544)	(1.1)	133,045

**B. Post Variation by Post Category**

Post Category	2002-2003 Revised A	Post Variation B-A	2004-2005 Proposed B
Directors	4	1	5
Professionals	73	40	113
General Service	290	(34)	256
<b>TOTAL</b>	<b>367</b>	<b>7</b>	<b>374</b>

**C. Budget Allocation by Sub-program and Object of Expenditure** (in thousands of Swiss francs)

Object of Expenditure	Sub-program			Total
	1 DIPLS	2 PCTS	3 IPC	
<b>Staff Costs</b>				
Posts	3,758	95,097	2,192	101,047
Short-term Expenses	117	7,172	119	7,408
<b>Travel and Fellowships</b>				
Staff Missions	371	486	70	927
Third Party Travel	568	--	--	568
<b>Contractual Services</b>				
Conferences	348	74	196	618
Consultants	72	288	--	360
Publishing	147	1,005	20	1,172
Other	20	6,934	--	6,954
<b>Operating Expenses</b>				
Premises and Maintenance	--	5,095	10	5,105
Communication and Other	203	5,589	40	5,832
<b>Equipment and Supplies</b>				
Furniture and Equipment	89	672	20	781
Supplies and Materials	72	2,191	10	2,273
<b>TOTAL</b>	<b>5,765</b>	<b>124,603</b>	<b>2,677</b>	<b>133,045</b>