

WIPO



PCT/R/2/8

ORIGINAL: English

DATE: June 14, 2002

E

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

INTERNATIONAL PATENT COOPERATION UNION
(PCT UNION)

COMMITTEE ON REFORM
OF THE PATENT COOPERATION TREATY (PCT)

Second Session
Geneva, July 1 to 5, 2002

PROPOSAL FOR A 50% REDUCTION OF CERTAIN PCT FEES IN FAVOR OF
“NATURAL PERSONS” FROM PCT MEMBER STATES OTHER THAN THOSE
ALREADY BENEFITING FROM A 75% REDUCTION

Proposal submitted by the
International Federation of Inventors Associations (IFIA)

PROPOSAL SUBMITTED BY THE
INTERNATIONAL FEDERATION OF INVENTORS ASSOCIATIONS (IFIA)

Introduction

1. Paragraph 14(iv) of the Summary by the Chair of the first session of the Working Group on the Reform of the PCT, November 12 to 16, 2001, (document PCT/R/WG/1/9) reads as follows:

“the representative of IFIA proposed a study of the possibility of granting a fee reduction to all those applicants who are ‘natural persons’ irrespective of their nationality and residence.”

2. The present document clarifies the IFIA proposal for its consideration by the second session of the Committee on the Reform of the PCT.

The reductions already offered to “natural persons” from certain States

3. Since over six years (January 1, 1996) certain PCT fees are *reduced by 75%* where the applicant or, if there are two or more applicants, each applicant is a *natural person* and is a national of and resides in a State member of the PCT where the *national income per inhabitant is less than US \$3,000.-* (three thousand). The number of these States member of the PCT is today 80. The list follows (source: PCT Newsletter, May 2002, footnotes to fee tables):

Albania, Algeria, Armenia, Azerbaijan, Belarus, Belize, Benin, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Cameroon, Central African Republic, Chad, China, Colombia, Congo, Costa Rica, Côte d’Ivoire, Croatia, Cuba, Czech Republic, Democratic People’s Republic of Korea, Dominica, Ecuador, Equatorial Guinea, Estonia, Gabon, Gambia, Georgia, Ghana, Grenada, Guinea, Guinea-Bissau, Hungary, India, Indonesia, Kazakhstan, Kenya, Kyrgyzstan, Latvia, Lesotho, Liberia, Lithuania, Madagascar, Malawi, Mali, Mauritania, Mexico, Mongolia, Morocco, Mozambique, Niger, Philippines, Poland, Republic of Moldova, Romania, Russian Federation, Saint Lucia, Senegal, Sierra Leone, Slovakia, South Africa, Sri Lanka, Sudan, Swaziland, Tajikistan, The former Yugoslav Republic of Macedonia, Togo, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Republic of Tanzania, Uzbekistan, Viet Nam, Yugoslavia, Zambia, Zimbabwe.

4. The reduction concerns four types of PCT fees: the basic fee, the designation fee, the confirmation fee and the handling fee. The first two fees will most probably be replaced by a flat international filing fee, the amount of which is still to be determined.

The IFIA proposal

5. IFIA is of the opinion that a 50% reduction be offered to the “*natural persons*” of all the other PCT member States, under the same conditions as those applied in favor of “*natural persons*” from the States receiving a 75% reduction. The applicants who would be receiving the proposed 50% reduction belong to the following 34 countries:

Australia, Austria, Barbados, Belgium, Canada, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Israel, Italy, Japan, Liechtenstein, Luxembourg,

Monaco, Netherlands, New Zealand, Norway, Oman, Portugal, Republic of Korea, Singapore, Slovenia, Spain, Sweden, Switzerland, Trinidad and Tobago, United Arab Emirates, United Kingdom, United States of America.

6. In our view there are no *legal or administrative difficulties*, simply because the *same rules and practices* developed during the past six years concerning the 75% reduction in relation to the other States would apply *ipso facto* in this case.

7. That is why IFIA proposed at the first session of the Working Group on the Reform of the PCT that the International Bureau of WIPO undertakes a *Study concerning the financial implications of such a reduction*.

8. The study we propose is *exactly the same* which was adopted by the International Bureau itself when it took the initiative to propose to the Assembly of the PCT Union the reduction by 75% of certain PCT fees.

The basis of the IFIA proposal

9. IFIA refers to one of the main General Objectives of the Reform of the PCT which reads as follows:

“Reduction of costs for applicants, bearing in mind the *different needs* of applicants in industrialized and developing countries, *including individual inventors* and small and medium-sized enterprises, as well as larger corporate applicants.” (highlighted by us).

Why the IFIA proposal?

10. Several statements made during the general discussions at the PCT Reform meetings have acknowledged that the present initial PCT procedural fees act as a disincentive for independent inventors (“natural persons”). Compared to large enterprises, independent inventors have to commit a large portion of their personal income and assets if they want to acquire patent protection abroad. This explains why most of them are not in a position to protect their own inventions at the international level.

11. We are here confronted with certain human rights dimensions of the issue. Is it fair that large enterprises can afford to use the PCT system for international protection, while others cannot? They can afford to use a system (the PCT system) which allows them to decide in full knowledge the countries in which their inventions should be protected. Large enterprises can afford to use the PCT system which gives them 30 months to take their decision, while the independent inventor who cannot afford the PCT system, can only rely on the 12 months priority system of the old Paris Convention. Further, the large enterprises will have the advantage of protecting their inventions in a large number of countries, contrary to the independent inventor.

12. IFIA considers that a 50% reduction of the initial PCT procedural fees could help make the PCT system become more affordable and thus more accessible to independent inventors. In doing so, the International Bureau of WIPO would actively help create a pro-patent and pro-PCT climate among independent inventors, which is after all one of its *raison d'être*. By stimulating more PCT international applications among this group of potential users of the system, WIPO would also generate more income for itself in the long run.

A final word

13. IFIA is perfectly aware of the objections which some may raise in order to refuse such a reduction of PCT fees. However, we prefer to answer to these objections in due time, if and when they will be brought up, because we consider that a meaningful discussion cannot be seriously engaged on this issue before knowing the impact of the IFIA proposal on the finances of WIPO Budget. In this regard we fully understand a previous statement made by the representative of the International Bureau at the First Session of the Committee on the Reform of the PCT, namely, that “any recommendation on fees by the Committee should be made within a broader context, noting that PCT fees play an important role in the budget of WIPO as a whole, and not only in the implementation or practice of the PCT.”

14. That is why we hope that the Committee on the Reform of the PCT will accept to transmit the IFIA proposal to the forthcoming Assembly of the PCT Union (September 2002) for decision, proposal which we recall is limited to a *Study by the International Bureau concerning the financial implications* of the said proposal as noted in paragraph 5 above.

[End of document]