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PATENT COOPERATION TREATY SYSTEM WORKING GROUP

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EXTRACT OF TRANSCRIPT FOR
DISCUSSION OF FUTURE PROCEDURES

1. FRANCIS GURRY: Distinguished Delegates, very good morning to you all. It is my great pleasure to welcome you here and to open the 6th session of the PCT Working Group. I am very pleased to be able to welcome the Delegation also of Brunei Darussalam in particular to attend the Working Group for the first time. Since it is the Darussalam accession to the PCT 2012, and I would like to also welcome Panama who became a new contracting party in 2012. And I am very pleased to be able to announce also that Saudi Arabia deposited its instrument of accession just two weeks ago becoming the 147th PCT Member State.
2. I would also like to pay -- extend a special welcome to the Delegation of Egypt and acknowledge the commencement of operations by Egypt on April 1 of this year as an international searching authority and preliminary examination authority under the PCT. We have an extremely full agenda as you are all aware 28 agenda items and 22 working documents and in addition it is a shortened meeting than usual. It is four days rather than five. But the full agenda I think is a good demonstration of the interests that prevails in the PCT system, and in the development of that system it is a good indication of the recognition of the PCT system as the central node in the international patent system. And let us not forget also that from point of view of this organization it is the financial basis of this organization. The PCT is responsible for the generation of a roundabout 75% of the revenue of this organization. So it is crucial to both the international patent system and to the operations of this organization. In this respect one of the items that you will be considering this week, of course, concerns PCT fee reductions, and we are all very much aware how sensitive this item is, first, of all, politically, and secondly, financially and economically for this organization.
3. There are two different issues that you will be considering. One of those issues concerns a review of the possibility of extending fee reductions to a certain class of applicants that is small, medium enterprises and universities and so forth. And let me just remind you here that if I may that there is potentially a great difference between the impact of any such reduction on SMEs and universities and the impact of any such reduction on WIPO as an organization.
4. From the point of view of SMEs or universities PCT fees are less than 1% of international patenting fees. You are all aware I am sure that the major element, the major element in cost for international patenting is lawyer and Attorney fees. The second major element is translation and only in third place are office fees. And when you consider office fees, in most cases the office fees at the national or regional level are considerably more expensive and more weighty than the international filing fee. All of that to say just to contextualize that in this very sensitive debate the potential impact of fee reductions with respect to this class of applicants we believe is quite considerable for this organization. But its potential impact for the applicants is less than 1% that we are talking about in terms of altering behavior. And, of course, there is the other issue that is to be considered in this regard which concerns the class of countries that are eligible for the PCT fee reduction which is also an extremely important and extremely sensitive subject.

5. Let me if I may give you some key figures for 2012 as far as the PCT system is concerned. 2012 was a very good year. We went to 146 Member States at the end of 2012. Now as I said with the accession of Saudi Arabia we go to 147 Member States. So it is a demonstration once again of the success of this arrangement which now covers such a huge area of the world, 147 states. We had a record number of applications, international applications filed. The number of international applications rose 6.6% compared to the last year. So we would expect that the number this year passes the 200,000 international applications mark.

6. 120 countries there were in which international applications were filed. And there were 45,000, 45,134 exactly but 45,000 applicants around the world who used the PCT system which is a considerable number. As I think you are aware the top filer came from China ZTE corporation, and the second top filer came from Japan, Panasonic Corporation. In terms of countries I think you are all aware it goes United States, Japan, Germany, China, Republic of Korea. The United States filing some 51,000 applications and Japan about 43,000 applications. Germany -- I will have to give the full figure because of the closeness of the number 3 and 4 spots. Germany, 18,755 and China, 18,614 and Republic of Korea, 11,846. There were a record number of national phase entries going back to 2011 I am talking about now, 500,000. And significantly because it is another item on the agenda for discussion this week there were some 4,500 of the national phase entries with requests to accelerate national procedures under the bilateral PCT PPH arrangements. That was an increase in some 60%. It is mainly we believe due to the coupling of the PPH with the PCT results and the possibility of using the PPH with PCT results. And we believe this is a very important item, extremely important item for the PCT that you will discuss this week.

7. Finally let me say in terms of statistics an action that occurred last year in 2012 that we estimate around about 55% of all international applications or if you would like 55% of all applications coming as foreign applications in to countries come through the PCT. So that's very significant. It is again a testimony to the importance of the PCT system.

8. Let me say one word then about some of the developments in our ePCT system which is a very, very important development in the administration of the PCT system. There are now over 6,000 users of the ePCT system from over 100 countries and it gives them live access as you know to files or the files of international applications in the International Bureau and the possibility to submit documents and data to eliminate personal delays and transcription errors and to reduce processing delays and to allow for immediate feedback on processing status.

9. EPCT filing has now entered a live pilot phase with a small group of volunteers and we are hoping that this will be extended to all users in the last part of this year, the third quarter of this year and that creates also new opportunities. We are also through ePCT offering an increasing range of services to national offices. I think you are all aware in their various roles as receiving offices, international searching authority and international preliminary examining authority and in this regard one of the things that we are offering is a hosted service to make available this possibility to those countries or offices which cannot themselves support the IT infrastructure at this stage. Our ePCT staff will be available throughout the whole of this week and in particular every day between 9 o'clock and 10 o'clock before the meeting starts to be able to address any questions that you might have or to talk about the ePCT or to show you how it operates.

10. Let me turn now to the agenda, the draft agenda for today's meeting and the second item that we have after the opening is the election of a Chair. And I turn to the floor and I recognize the Delegation of Belgium.

11. BELGIUM: Thank you very much, Mr. Director General. We would like to nominate Mr. Steve Portelli from Australia to Chair this Committee. Thank you very much.

12. FRANCIS GURRY: And I recognize the Delegation of Brazil.

13. BRAZIL: Thank you, Director General, for giving me the floor. I would just like to second the indication of the Distinguished Delegate of Belgium. Thank you, Mr. Chairman.

14. FRANCIS GURRY: I thank the Delegation of Brazil. I do not see any other Delegation seeking the floor. So I take this silence as universal assent to the proposal that was made; namely that Mr. Victor Portelli of Australia be elected as Chair. We don't yet have Vice Chairs, but that is a matter that can be dealt with throughout the course of this week. So I have great pleasure in declaring Mr. Portelli elected as Chair and I invite him to come and preside over the meeting.

15. CHAIR: Thank you, Francis. And it is a great pleasure to chair this meeting and I look forward to guide the meeting forward. I would like to start to give my thoughts and prayers to the people of Oklahoma. As watching the news this morning I was struck and hope the rescue and recovery can be undertaken quickly. I will also say good day which is a typical Australian greeting. Welcome all. I would like to mention that we only have four days for the meeting. So we need to move very quickly.

16. And so I will firstly just simply introduce myself to you, so you are aware of the individual who are leading you through this week as to my experience in IP so that you have some feel for where I am coming from. I started in the business of IP, my life of IP, not life of pi, some 25 years ago as a patent examiner and I have worked in the organization of IP Australia for over 25 years in various roles, patent examiner, training, IP in terms of trademark assisted filing service, industrial designs. And I am hoping I can bring to bear some of that experience to guide us through our work in this Working Group this week in order to achieve our outcomes come Friday and to have you safely on planes and trains, at home destinations come 6 o'clock this Friday afternoon.

17. I will also be seeking your indulgence as the Chair for the first time. There will be instances where I don't adopt the correct protocol and the gentlemen to the left will remind me and I seek your indulgence in doing that. I will later on move to procedural matters of how I wish to run the meeting and move it forward. Before doing that I think we would potentially move to the adoption of the agenda if that's appropriate and I will pass over to Claus at this point.

18. CLAUS MATTHES: Thank you. And the agenda set out in 6/1 rev which has been issued on April 16, 2013.

19. CHAIR: I would simply seek a show of hands, people agree to the agenda. Is there any Delegation who would wish to make any proposed changes to the agenda, please raise your flag. I see no flags. I will therefore accept the agenda as the agenda for our meeting and we work through the agenda to achieve the outcomes that we have indicated. Thank you. Yes, Claus.

20. CLAUD MATTHES: Thank you. With regard to the final item or the second to last item on the agenda, the summary by the Chair, I would like to make a couple of remarks. It is our suggestion as you see on the revised draft agenda to have at the end of the session as it has been a tradition for this meeting for quite some time now a summary by the Chair noted by this meeting. However I wanted to throw out a proposal by the Secretariat to this Working Group and indeed to Member States as to how to handle the reporting in general of this meeting. As you may be aware last year we noted a summary by the Chair but we also made available a full verbatim report of this session of the 5th session for comments by Member States and that was subsequently adopted by correspondence by Member States. That full voting report contained some 75 pages in English. The PCT Working Group to date only operates in two languages, namely English and French with regard to documentation. It is one of the bodies of Member States that decided should move on to a full six language regime as of 2014.

21. It is in our view a challenge for the Secretariat in particular from a cost perspective to produce a full report of this session if we have to move and just take in to account 75 pages last year if we have to move to six languages. So the food for thought we wanted to throw out to you and no means has to be decided now or even for this meeting but it may be adopted for this meeting would be to move to the following approach to have as usual a summary by the Chair to be noted by the meeting at the end of its session. And then instead of a full verbatim report which will be adopted by correspondence to have a summary report to be prepared by the Secretariat after the meeting, very much along the lines of the style which you see in document 3 which we have used for the report of the meeting of international authorities. So a summary style report of the meeting to be adopted by Member States by way of correspondence after the meeting. And as a third reporting document to put on to the WIPO website the transcript of the captioning service which we are using for the first time for this Working Group to capture all what has been said on the floor in English. That would be an informal document capturing all the discussions as captured by the captioning service we are using for this meeting and it would be put on to the WIPO website for information. It would not however be translated in to -- now to in the future six languages. It would be made available in six languages only.

22. So to summarize normal summary by the Chair to be noted by the meeting supplemented by a summary style report to be prepared by the Secretariat to be adopted by Member States by correspondence and then a third informal document showing the transcripts of the captioning service in English of all what has been said on the floor made available as an informal document on the WIPO website. That is something we would like Member States to consider eventually to adopt in the future. It could be implemented already for this meeting. If not then we would certainly hope that we can move to such an arrangement for next year's meeting when we have to produce all the documentation for this Working Group in all six UN languages.

23. While I have the floor I would like to make some housekeeping announcements. As the Chair has alluded we work to regular meeting hours 10 to 1 and 3 to 6 in the afternoon and the suggestion is to handle coffee breaks flexibly. That is not to formally break for coffee at 10:30 and 4:30 as we have done in the past but to make coffee available for those wishing to take coffee or tea. Furthermore, I have been asked to announce a side event which will be held today in the margins of this meeting today at 2 o'clock, let me find the meeting room. It is in the conference room No. 2 of the new building and it is a side event on the Patent Law Treaty, an introduction to the Patent Law Treaty held by my colleagues in that area. Furthermore, I have been asked to announce that the cafeteria in the new building which may be or may not be the prime destination for you to lunch on Thursday, unfortunately that cafeteria will be closed. There will be extended opening hours for the cafeteria on the other side in the PCT building. On Thursday make your way to the PCT building for lunch. And there are two publications that

have been made available outside this meeting room. One is the 2013 edition of the PCT review on the statistics. And finally a new version, updated version of the treaty and the regulations I believe dated January 1, 2013 will also be made available in English and other languages, too. So for you to take a copy home and even use it for this meeting. That's all I have to say at this point. Thank you.

24. CHAIR: Thank you, Claus. I might simply continue with some matters of administration. You will be wondering about the arrangement of the room as I was when Australia was not front and center this morning. Apparently a decision was made at General Assemblies last and the letter was picked K and it goes from K and works its way around the room. That's why we are in slightly different positions to where we have been in the past. But we will become accustomed to our new spots now. I would ask you to turn your phones off or go to silent. Some of you will be seeking to access WiFi. If you pick up your WiFi list and you see WIPO WiFi, that is the one to select. You will be able to go in to that WiFi network and access your data or your documents as you need for the working of the meeting. Do not pick the WIPO guest one because that requires a password that you will not have.

25. I will follow on quickly about matters of procedure as Claus has pointed out. It is my intention to start right on 10 o'clock for the morning session and right on 3 o'clock on the afternoon session. We have a full agenda and only four days to get through that. We need to be diligent so that we are not here late in to the evening and we will not be having coffee breaks but feel free to come and go to grab coffee and/or sustenance.

26. I will also ask Delegations given the short time frame for this week to keep their intervention as short as practically possible and where it is possible at the end of your intervention to try and draw out the key points, the key action or the key issues that you wish for the Plenary to know or to understand so that by the time that your intersession has finished we have some key idea of what you are trying to impart to the rest of the group. I will also add that notwithstanding my good colleague to the left will have a running order of interventions, and there will be instances where Delegates want to jump the queue in a sense to consider a point that's been raised just prior. And we will where possible bring forward interventions in order to allow the discussion to flow as easily as is possible. But again if I can stress upon you to keep your interventions as short and as practical as possible I think that will certainly help us all.

27. As Claus indicated we will make an attempt at the end of each session or at the end of each day to try and summarize what has gone on and what are the key issues that have occurred during the day in order that come Friday or Thursday afternoon we are not seeking in our memories to understand what is going on and -- but also assist me as in one of the key roles of the Chair to prepare a summary of the Chair. I will stress the two words, summary. It is not going to have everything in it, and of the Chair. It will be of the Chair. This summary of the Chair will be my summary as best as I can summarize the activities that go on during this week. I am quite happy to accept constructive feedback about how the summary may be enhanced or more accurate. At the end of the day in being elected as Chair it is one of my roles to establish the summary of the Chair and I will take that with full responsibility and ensure that that does occur. And I will also try in the course of each day to set out either by session by session basis or by on a daily basis the documents that I believe that we will get through in any given period of time such that you have an idea about what documents will be coming up for conversation and what interventions you need to prepare for and any discussions that you might need to have. So I think that's pretty much sufficient in terms of practical and administrative matters before this Working Group. And I think it is probably about time that we start to do some work and so we will do that.

107. CHAIR: Thank you, Brazil. Is there any other Delegation who would wish to make an intervention? I take that as a no. And I will bring down the gavel for the first time. The report is noted.

108. I will now move to agenda item 7 which relates to PCT/WG/6/14, PCT Kaizen. And I would ask the Japanese Patent Office to take the floor. Thank you.

109. JAPAN: Thank you, Mr. Chairman. It is our great pleasure today to introduce a proposal which is entitled PCT Kaizen. Some of you know the word Kaizen refers to Japanese philosophy of continuous improvement. Since corporate management approach is an essential part of our proposal we believe the word Kaizen to be well suited of a title of the proposal. As we know the international patent application filed under the PCT has increased over the years and that the PCT system is now a global infrastructure for applicants to file their patent applications worldwide. However we understand that there remains important issues to be solved. For example, it has been pointed out that work products of the international phase are not being solely and efficiently utilized in the international phase. Under certain circumstances this Delegation believes that the International Bureau contracting states have an important mission to maximize the system and further improve it. Accordingly in order to further improve the PCT system this Delegation considers that developing a common understanding of the future direction may lead to effective and fruitful discussions. Based on the perspective we have considered the basic concept of improving the PCT system and like to introduce them in order to gain such common understanding of this Working Group. We wish to emphasize this positive -- proposal based on the perspective of maximizing the PCT system within the existing framework. Then we would like to explain about the outline of the proposal by using the nonpaper which we distributed today.

110. First of all, the basic concept of the proposal is that the total optimization and effective implementation of PCT cycle are necessary to further improve the PCT system. Based on this concept the aim to achieve to PCT Kaizen, establish a framework for continuous improvement in every aspect of the PCT system. Improving the PCT system we're mainly focusing on partial optimization. In other words, efforts mostly made to enhance the quality and improve functional capabilities of each player in the PCT system. The figure on the left shows such state. However we believe that efforts being made to implement partial optimization might be insufficient to maximize the benefits of the PCT system. Accordingly we think that it is important for us to take a total maximization approach which is a general corporate management approach to maximize the benefits. It should be essential to obtain an overview of the whole process and procedure operations of the PCT system from the perspective of managing the system in order to facilitate collaboration among the operational elements.

111. In this system efficient implementation of the PCT cycle we have effective use of ISR as well as improvement in the whole operational process so as to improve the PCT system and to maximize the benefits. In this regard the mechanisms to achieve this improvement we would like to emphasize -- and it is establishing IT infrastructure for facilitating such. Based on this the PCT cycle continues to move efficiently in every phase of the system. Again we would like to emphasize the importance of developing a common understanding of the future direction of the PCT system and that we hope the aforementioned concept will be able to gain support from the Working Group.

112. Now as a first step to achieving PCT Kaizen we would like to introduce five specific proposals designed for implementing this concept very briefly. First proposal involves measures for improving the quality of such examination as an international phase which are indicated in the upper left of the right figure. The details of this proposal are described in annex 2 of this document. Therefore we will explain the outline of the proposal very briefly. The Japan Patent Office, JPO, conducted a detailed analysis on discrepancy which is the result of the international phase. JPO found that the result of the analysis contained useful information for providing the quality of such an examination not only for the offices that conducts analysis but also for other offices. These common problems will be found in analysis. It is better to share the programs with other offices to find the solutions together. Based on such awareness this Delegation proposes establishing two frameworks. This Delegation would like to emphasize the information to be shared between observations so it is not suited to how many mistakes. The important point of information to be shared are to find wider discrepancies and ways to consider how the offices can solve them.

113. Since there are some projects which have a close relationship to these frameworks this Delegation would like to cooperate with other offices on this issue. Also we believe that these frameworks should be flexible based on cooperation by each IPO office that is particularly interested in it. Second, the second specific proposal involves measures for promoting linkage between the international and the national phase. It is related to both high quality ISR and efficient office. We recognize that each IP office has already implemented and proposed several measures to strengthen the linkage under their current figure frameworks. Some of these measures have been implemented and produced a certain degree of effects while others are at the proposal stage. Therefore this Delegation proposes sharing and analyzing these measures in order to further promote linkage between the international and the national phase.

114. IP setup, PCT working in Forum, e-Forum so that information on such measures can be shared. The JPO has already posted information on the implemented measures. This Delegation would like a lot of fees to kindly share the information on the e-Forum. At next year's PCT meeting this Delegation would like to deepen the discussion on this issue based on the analysis of the shared information. The third specific proposal involves measures for refining collaborative search and examination. As a basic principle each ISA should take responsibility. Therefore improving the capacity of the individual is important. On the other hand, contrary to this principle it is true that collaborative search and examination has a possibility of achieving higher quality ISR and creating positive effects through cooperation among examiners at various ISAs. It also makes it possible for them to share expertise. Therefore this Delegation welcomes a follow-up analyzation for analyzing the collaborative search and examination with disadvantages such as increased workload and cost. This Delegation believes that it is necessary to conduct this evaluation from the perspective of making an analysis as to the effect that the reduction of workload has on the national phase. Although the JPO does not have a plan to join the pilot at this moment, this Delegation welcomes discussion for the purposes of exploring the collaborative search and practice and refining them. The result of the aforementioned evaluation will be an important basis for refining such. The first specific propose -- it is both vitally important that the PCT system has a certain degree of (inaudible) which serves as an indicator for observing how the PCT system is effectually operating. Formulating available data accumulated conventionally or unconventionally.

115. The PCT system has collected and accumulated many items of data featured now fully utilized for the purpose of informative statistics. The majority of existing data is static. Monitor the presence of the PCT operations such as international filing date, the date of receipt and the date of assurance of ISR. We have not paid sufficient attention to the fact that such data could have been enhanced and turned in to more value added information possibly contributing to improving the PCT process. We would like to refer to this type of knowing as intelligence, which is now a proper business term. In this respect to PCT intelligence there is two aspects this Delegation would like to share. Firstly the PCT system requires a certain mechanism to deliberate what kind of intelligence are to be established so that we can contemplate the current PCT issues by identifying real reasons behind the scene. Under that mechanism we have to see what kind of data are further needed and to share the interests among the contracting states. And great importance should be given to common understanding of how the PCT is important to PCT Kaizen and vital to maintain. It is not all solely the responsibility of the International Bureau to create and maintain PCT intelligence. It is not the intention of this Delegation to burden the contracting states by asking for some data while waiting for information to be furnished. This Delegation would however appreciate your understanding that the cooperative management approach, in other words, the PCT Kaizen approach is indispensable to achieving the utmost effectiveness.

116. The final proposal involves measures for creating IT infrastructure. This Delegation proposes cooperation between the PCT system and the Global Dossier. To create IT infrastructure that is conducive to PCT Kaizen. The Global Dossier is aimed at integrating the information as such application and examination information maintained by each IP office and providing various services in a unified manner. And a couple of measures can be taken as an example. One of them is to view the Dossier system that would provide similar and instant access to Dossier information at national and international phase and another is to create an applicant oriented service. We can use the common user interface that enables the Dossier information in various countries to be displayed on one portal site. In the PCT 20/20 proposal by United Kingdom/United States the integration of that Global Dossier in to the PCT system is mentioned. (Lost audio).

117. In conclusion we hope that through active discussion we will be able to develop an understanding of improving the PCT system and based on this we expect the five specific proposals will be defined and based on the basic concept which we hope is shared at this Working Group. We welcome questions or comments on our proposal in this regard. Finally, Mr. Chair, Japan as like in the past would like to contribute on the discussions. Thank you, Mr. Chair.

118. CHAIR: Thank you, Japan, both for your paper and for your considered introduction. I will open the floor but on a restricted basis. I would like to deal firstly with any general questions or queries related to the paper and the first proposal. I think given that there are five proposals it is best to take each proposal in turn. So given that we have approximately half an hour to lunchtime perhaps if there are any general comments or questions or any that relate specifically to the first proposal we will take those now and then after lunch deal with proposals 2 through 5. You have the floor.

119. EPO: Thank you very much. I would like to thank you for letting the EPO make some comments and also like to thank the JPO for your presentation. The EPO welcomes JPO's document. We have been following these concepts with interest for some time. The EPO is also keen to strengthen and optimize the PCT system as a whole. And because of this we have developed the PCT metrics framework which was mentioned earlier this morning. And this was developed with the aim of generating a solid statistical overview of PCT products and procedures. A vigorous statistical approach is essential to better understand the functioning of the PCT system. We are committed to working further with international authorities and the International Bureau on establishing the PCT metrics program work and it would assess the following issues. It would facilitate greater understanding of how the PCT system is functioning and provide common datasets to support discussions between offices and help to identify areas where improvements would be desirable and establish a basis for efforts to enhance PCT services and products. When embarking upon a project that will generate statistics the availability of data must be generated. It also helps to identify areas where efforts could be made to enhance the data collection in the future. Therefore gaining an understanding of data availability is key. Our PCT metrics framework initiative therefore has a lot in common with the PCT Kaizen proposal, and we look forward to collaborating with the JPO on developing these concepts in the future. Thank you.

120. CHAIR: Thank you, EPO. India, you have the floor.

121. INDIA: Thank you, Mr. Chairman. First let me also join other colleagues in congratulating you for your election of the Chair, and I have to make a general statement on this proposal of Japan. I would like to thank the Japanese Delegation for giving this proposal and this is new and we don't have any capital based Delegate present here. So I would like to reflect upon the proposal which is a very interesting proposal, all the elements of the PCT Kaizen for improving the PCT process, for improving quality of search examination at international phase, promoting linkage and then further proposal for IT infrastructure and development of the Global Dossier. We would like to reflect on it in the next session of the PCT Working Group. Thank you.

122. CHAIR: Thank you. El Salvador, you have the floor.

123. EL SALVADOR: Thank you very much, sir. We would like to thank the Delegation of Japan for making this proposal. And first of all, we would congratulate them on we share the Kaizen philosophy because our national office is certified as an ISO 9000 and we are familiar with this type of working which could provide excellent results in this Forum. It was said that we should only make general comments. And I think my statement is more basic than what you were proposing. I wanted to congratulate the Japanese Delegation and ask them if we can remind them which is the first proposal out of the five because I took note of the other four but I am not clear which is the first proposal.

124. CHAIR: Japan, you have the floor.

125. JAPAN: Thank you, Mr. Chair. Our first proposal is improving qualities of search examination as a national phase and proposing establishing a framework for the feedback and analyzing system. Thank you.

126. CHAIR: Thank you Japan. Israel, you have the floor.