



Internal Oversight Division

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Audit Report

Audit of PCT Netting Pilot

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LIST OF ACRONYMS

AIMS	Administrative Integrated Management Systems
ATPO	Austrian Patent Office
EFT	Electronic File Transfer
EPO	European Patent Office
FX	Foreign Exchange
IB	International Bureau
IIA	Institute of Internal Auditors
IOD	Internal Oversight Division
IPEA	International Preliminary Examining Authority
ISA	International Searching Authority
JPO	Japan Patent Office
JPY	Japanese Yen
KIPO	Korean Intellectual Property Office
MOU	Memorandum of Understanding
OI	Office Instruction
PCT	Patent Cooperation Treaty
PoC	Proof of Concept
RO	Receiving Office
ROSPATENT	Russian Federation Federal Service for Intellectual Property
SEPA	Single Euro Payments Area
UN	United Nations
UNORE	United Nations Operational Rates of Exchange
USPTO	United States Patent and Trademark Office
WIPO	World Intellectual Property Organization

EXECUTIVE SUMMARY

1. "Netting" is a settlement mechanism used to allow a positive value (payment) and a negative value (receivable) to offset and partially or entirely cancel each other out. The netting process consolidates all transactions between participants and calculates settlement between the participants on a "net" basis, typically by means of a single payment or receipt.
2. In 2018, the International Bureau (IB) launched the Patent Cooperation Treaty (PCT) Netting Pilot following a positive response to the invitations sent to Receiving Offices (ROs) and International Searching Authorities (ISAs) to participate in the Pilot. The European Patent Office (EPO), Japan Patent Office (JPO) and Austrian Patent Office (ATPO) responded positively to the invitation.
3. The table below shows the status of ROs/ISAs invited to participate in the PCT Netting Pilot as of February 2019.

Receiving Offices (ROs) Participating in Netting	Declined	No Response to invitation	Inactive ¹	Invitation in Progress	Total ROs specifying participating ISAs
43	14	26	43	22	148

Source: Finance Division

4. The table below shows the total amounts involved in the netting process between February 2018 and January 2019, for each participating ISA and in respective currencies.

International Searching Authority (ISA)	Amounts to be paid by ISAs to the IB	Amounts to be paid by the IB to ISAs	Net Position
EPO (Euro)	44,848,447	-62,142,042	-17,293,595
ATPO (Euro)	496,636	-48,744	447,892
JPO (JPY)	5,355,199,449	-23,845,752	5,331,353,697

Source: Finance Division

5. For that period, the IB was a net payer of 17, 3 million Euros (approximately 19, 5 million Swiss francs) to the EPO, while the IB was a net receiver of 5, 3 billion Japanese Yen (approximately 47 million Swiss francs) from the JPO.
6. The netting statistics show that, during 2018, ROs submitted 62,917² international applications to ISAs for search. The three ISAs (EPO, JPO, and ATPO) currently participating in the PCT Netting Pilot handled 44,882 (71.34 per cent) of these applications, whereas the remaining 18, 035 applications (28.66 per cent) were handled by ISAs/ROs not participating in the Pilot.
7. In respect of the 44,882 applications, the three ISAs together handled related search fees for 43,398 applications (68.98 per cent of the 62,917 applications) from ROs that participated in the PCT Netting Pilot. The search fees for the remaining 1,484 (2.36 per cent) applications were directly remitted to the ISAs by ROs that were not participating in the Pilot.
8. The PCT Netting Pilot aims to reduce exposure of PCT fee income to movements in Foreign exchange (FX) resulting from search fee flows, which culminate in 16.1(e) claims,

¹ ROs, which did not submit any international applications to any of the three participating ISAs for search in 2017 or 2018.

² Represents international applications where the ISA is not the same Office that acted as an RO; in other words, the figure excludes international search applications submitted to the ISA through its own national RO.

improve cash management for the IB, ROs and ISAs, reduce banking charges, and improve the efficiency and effectiveness of the PCT process through simplification of procedures.

9. However, the PCT Netting Pilot's impact on reducing exposure of PCT fee income to movements in currency exchange rates addresses only the differences between the UN exchange rate used by the IB to recognize income in its accounts and the FX spot rate on the date of the receipt and/or disbursement of funds. It does not address the FX impact of the Equivalent Amount³ mechanism established by the PCT Assembly.

10. The Internal Oversight Division (IOD) found that the netting process has fundamentally changed the workflows of the IB and the participating ROs/ISAs in respect of PCT search fees. The workflow for handling PCT search fees has been streamlined, with the IB experiencing an evident reduction in the workload relating to claims of foreign exchange losses and gains that arise as per PCT Rule 16.1(e)⁴. Going forward, the process would be further streamlined and more efficient by automating a number of manual tasks undertaken in netting operations.

11. Implementing the netting process resulted in the average notional amount of cash at the bank (Euro currency) for PCT search fees dropping by 69 per cent. This reduction enabled the IB to avoid finance costs related to the prevailing negative interest rates.

12. In addition, IOD noted a nominal monetary decrease in the bank charges related to Electronic File Transfer (EFT) charges, which correlated with the reduction in the volume of EFT transactions – payments and receipts, and with the reduction in the number of claims for reimbursements, from the participating ISAs.

13. The volume of EFT transactions decreased from 90 in 2017 to 39 in 2018 (netting period), which is a decrease of 51 transactions (57 per cent decrease), while the number of claims for reimbursements decreased from 160 (pre-netting period) to 87 (netting period), a decrease of 73 claims (46 per cent decrease). This helped in mitigating other operational risks, such as potential errors due to reduced processing of a large volume of transactions.

14. Leveraging on the setup available in Coprocess (the netting software) and encouraging participation from the current list of non-participating ISAs/ROs, will widen the view of currency exposures, reduce the number of claims for reimbursements under PCT Rule 16.1(e), provide greater predictability to the budgetary process, and enhance financial stability of the IB.

15. Further, the IB should review the resources required for the netting process, considering current resources and structure, future automation and potential increase in the number of netting participants.

16. Finally, the IB would benefit from proposing an amendment of the PCT Regulations and related Administrative Instructions to, inter alia, reflect and align with current netting procedures and work practices.

³ According to PCT Rules, the IB determines an equivalent amount per fee for each freely convertible currency in accordance with the directives of the PCT Assembly. When the exchange rate difference between one or more currencies against the Swiss franc fluctuates above or below five per cent for four consecutive Fridays; the Director General must establish a new equivalent amount for these currencies, which should then be communicated to the ROs and the ISAs.

⁴ Where in respect of the payment of the search fee in a currency prescribed by the RO ("the prescribed currency"), other than the currency fixed by the ISA ("the fixed currency"), the amount actually received under paragraph (d)(i) of this Rule by the ISA in the prescribed currency is, when converted by it into the fixed currency, less than that fixed by it, the difference will be paid to the ISA by the IB, whereas, if the amount actually received is more, the difference will belong to the IB.