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Negotiating Group on Trade-Related Aspects
of Intellectual Property Rights, including
Trade in Counterfeit Goods

DATA ON MAINTENANCE OF PATENTS THROUGH PAYMENT OF MAINTENANCE FEES

Note by the Secretariat

1. At its meeting of 11-13 September 1989, the Negotiating Group requested the secretariat to put together data available from official sources on the maintenance of patents through payment of maintenance fees. The data that the secretariat has been able to put together in response to this request are contained in the tables and figures attached to this note.

2. When examining the data annexed, it should be borne in mind that different countries have different policies in relation to requirements to pay fees as a condition of the maintenance of patents. Most countries require the payment of such fees. But a few do not or have introduced this requirement so recently that little experience with the operation of the system is available as yet; such countries include Argentina, Canada, Colombia, Ghana, Peru, Tanzania, United States and Zaire. The amount of such fees differs considerably as does the starting date in relation to the year of the life of the patent at which they become payable. The period covered by each maintenance fee is one year in most countries, but there are countries where the payment, especially the first payment, covers a longer period. In some countries, but not in others, maintenance fees are progressive, i.e. the amount payable rises according to the age of the patent. Detailed information on the regimes regarding maintenance fees in different countries can be found in WIPO document HL/CE/IV/INF/2 Rev.1.

3. Table I, which contains data derived from WIPO sources, shows for 17 countries the patents still in force at the end of 1987 broken down according to the year in which they were granted, together with the number of patents granted in those years. The countries covered in the Table are those operating a maintenance fee system for which series of comparable figures are available. When examining the Table, it should be borne in mind that the information relates back to the date of grant of the patent, whereas many countries have patent terms counted from the filing date of the application. Of the countries in the Table, only Bangladesh, Portugal and Sri Lanka count their patent terms from the date of grant of the patent.

4. Tables II, IV, V and VII show the lifetime of, respectively, national patents in the Federal Republic of Germany, national patents in Switzerland, patents granted under the European Patent Convention (EPC) in Switzerland and national patents in the Netherlands. Table III complements Table II by showing the various reasons for the cancellation of patents in the Federal Republic of Germany in several recent years. It will be noted that virtually all the patents cancelled before the expiry of the full term were cancelled because of failure to pay the annual renewal fee. These three countries and the EPC have a patent term of 20 years counted from the date of filing of the application (day after filing for Federal Republic of Germany). It should be noted that the information concerning the Netherlands in Table VII (and also in Table VI, referred to below) relates back to the date of grant, rather than of application for the patent.

5. Table VI shows the age distribution of patents in force in the Netherlands at the end of 1986. Table VIII shows similar information for Austria as of 30 June 1987. Austria has a patent term of 18 years counted from the publication date of the examined application (but not beyond 20 years from the filing date of the application).

6. Table IX shows the results of a survey in Japan of the payment of maintenance fees, based on representative samples of patents. It should be noted that this information is not very recent, having been published in the Japanese Report of Industrial Property

Statistics of 1979.

7. Tables X and XI show the age distribution of the patents for which renewal fees were paid in France in 1988 and in India in 1987. Table XII shows the proportion of patents applied for in Australia between 1968 and 1972 that remained in force for the full term. It should be noted that in each of these three tables the total in relation to which the number of patents maintained can be compared is the number of applications for patents filed, not the number of patents granted as in the other tables.

8. The only information that the secretariat has been able to identify which shows the pattern of maintenance of patents broken down by industry sectors is that contained in a recent article by Ariel Pakes and Margaret Simpson published in the Brookings Papers earlier this year. Although this is not in itself an official source, the information is reproduced in this note, in Figures I and II, since it is based on statistics obtained from the Finnish and Norwegian Patent Offices and these two Offices have agreed to its reproduction in this note. It should be noted that this information concerns patents applied for more than 10 years ago, since it only reflects the situation regarding the pattern of maintenance of patents between their tenth and eighteenth years after application.

9. In order to limit the demands on the processing and translation services of the secretariat, the tables and figures are being reproduced in their original language or languages only (or in English where the original language is not a GATT language).

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TABLE I

Number of Patents Granted and Still in Force on 31 December 1987
Broken Down According to Year of Granting

Nombre de brevets délivrés et encore en vigueur au 31 décembre 1987
répartis selon l'année de délivrance

"G" = Number of patents granted "M" = Number of patents in force
Nombre de brevets délivrés Nombre de brevets encore en vigueur

Country / Pays	Before 1977 / Avant 1977	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	TOTAL
Australia1 G							5731	7247	7252	7105	7738	10644	
Australie M						19602	1376	3973	5061	5481	6785	10496	52774
Bangladesh G								126	113	118	107	89	
M	163	34	33	36	58	61	68	72	113	118	107	89	952
Belgium2 G		12446	10594	7669	5918	4690	3826	3031	2764	1976	2154	572	
Belgique M	19709	3854	3698	2968	2718	2447	1810	1875	1854	1835	2152	572	45492
Denmark G		2097	2130	2141	1645	1439	1530	1155	1089	1054	958	1129	
Danemark M	1262	403	440	583	546	495	686	599	661	731	877	1103	8386
Finland G		1446	1594	1719	1906	2050	2057	2224	2204	2161	2175	2672	
Finlande M	226	130	431	536	679	866	1040	1315	1532	1798	1969	2605	13127
France2 G		31045	30530	24618	28360	21477	23944	25043	23666	24195	19082	18003	
France M	59072	12600	13362	13134	12455	12221	13317	13808	14658	15021	16058	18003	213799
Germany,Fed.Rep. G		21749	23514	22534	20188	13429	16306	20913	21758	19378	21546	23510	
Allemagne,Rep.fed. M	9929	5077	6844	8359	9452	7519	8849	13598	16500	17249	19961	22327	145664
Ireland G		1254	1292	1271	1431	1340	1083	1020	1152	1042	1433	1036	
Irlande M	992	331	317	396	443	471	522	582	827	863	1338	1036	8118
Japan G		52608	45504	44104	46106	50904	50601	54701	61800	50100	59900	62400	

Japon	M	74809	26672	26301	29638	33565	39196	43112	48574	56114	50100	59900	62400	550381
Malta	G								24	30	20	13	12	
Malte	M		2			3	6	2	10	9	17	12	12	73
Netherlands	G		3692	3325	3458	3683	5484	6653	8361	10257	11967	13954	12570	
Pays Bas	M	1198	565	730	1053	1472	2592	3861	5622	7882	9461	11862	11378	57676
Norway	G		2173	1925	1937	2119	1847	1849	1911	1931	2165	1818	2145	
Norvège	M	1445	481	521	597	786	795	900	1071	1296	1687	1543	2045	13167
Portugal	G						1588	1213	1200	637	960	4039	1724	
Portugal	M						692	779	817	476	958	4039	1724	9486

Country / Pays	Before 1977 / Avant 1977	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	TOTAL
Republic of Korea G		274	427	1419	1632	1808	2609	2433	2365	2268	1894	2330	
République de Corée M	62	36	93	601	864	1097	1734	1892	2047	2260	1893	2326	14905
Sri Lanka G								82	105	112	97	124	
Sri Lanka M					155	14	88	43	58	77	97	124	656
Switzerland G		22555	704	6614	5961	8289	9627	11768	13977	14540	15263	13401	
Suisse M	12588	6222	234	2379	2622	4031	5361	7427	10105	11776	13463	12721	88929
Thailand G								20	20	45	52	71	
Thailande M							1	12	12	38	44	68	175

1The figure for 1981 also includes the figures for earlier years / Le chiffre de 1981 comprend également les chiffres des années précédentes.

2Patents granted on the basis of national applications (not including e.g. patents granted on the basis of applications filed under the European Patent Convention and Patent Cooperation Treaty) / Brevets délivrés sur la base de demandes de brevet nationaux (brevets délivrés, par exemple, sur la base de demandes de brevet européen déposées en vertu de la Convention sur le brevet européen, ou, sur la base de demandes internationales de brevet en vertu du Traité de Coopération en matière de brevets (PCT) non compris).

Source:

- 100 Years of Industrial Property Statistics, WIPO, 1983 / 100 Ans de Statistiques de Propriété Industrielle, OMPI, 1983

- Industrial Property Statistics, 1983-7, WIPO / Statistiques de Propriété Industrielle, OMPI, 1983-7