

Annex 2

DEFINITIONS FOR STATISTICS ON PROCEDURES

EXAMINATION RATE

This rate shows the proportion of those applications, for which the period to file a request for examination expired in the reporting year, that resulted in a request for examination up to and including the reporting year.

For the EPO, where the request for examination has to be filed no later than 6 months after publication of the search, the rate for 2005 relates to applications mainly filed in the years 2004 and 2005.

Since the JPO has allowed a three-year period to file a request for examination since October 1, 2001, but a seven-year period before that, the rate for the JPO in 2005 still relates to applications filed since 1998.

GRANT RATE

For the EPO, this is the number of applications that were granted during the reporting period, divided by the number of disposals in the reporting period (applications granted plus those abandoned or refused).

For the JPO, the grant rate is defined as the number of decisions to grant a patent divided by the number of disposals in the reporting year (decisions to grant or to refuse and withdrawals or abandonment after first office action).

For the USPTO, an allowance rate is reported, which is based on applications allowed to be granted divided by the number of disposals. This rate includes plant patents and reissue patents in addition to utility patents. However, since utility patents comprise over 90% of patent applications, and over 90% of issued patents, this rate is almost identical to a rate based strictly on utility patents.

OPPOSITION RATE

The opposition rate for the EPO is the number of granted patents for which the opposition period ended in the reporting year and against which one or more oppositions are filed, divided by the total number of patents for which the opposition period ended in the reporting year.

This rate does not apply for the JPO and the USPTO, since there is no opposition procedure there.

MAINTENANCE RATE AFTER OPPOSITION

The rate for the EPO is the number of decisions (in the opposition procedure) to maintain, possibly in amended form, a patent during the reporting year, divided by the total number of decisions in the opposition procedure during the reporting year.

Data are not available for the JPO and this rate does not apply to the USPTO.

APPEAL RATE

For the EPO, appeal rates are given for examination and opposition, being the numbers of decisions in the examination and opposition procedures respectively, against which an appeal was lodged in the reporting year, divided by the number of all decisions for which the time limit for appeal ended in the reporting year.

For the JPO, the total number of appeals is shown instead of the appeal rate. The JPO does not make a distinction between *inter-partes* trials and appeals in which no defendants exist.

The USPTO appeal rate, which includes utility, plant, and reissue categories, captures the number of appeals filed after an examiner's decision to issue a final rejection against a patent application. The rate is the number of examiner answers written during the year in response to appeal briefs divided by the number of final rejections issued that year.

For all Trilateral Offices, any subsequent litigation proceedings in national courts are not included.

PENDENCY IN THE SEARCH PROCEDURE

This only applies to the EPO. Pending applications in search is the number of applications received up to and including the reporting year for which a search report has not been made by the end of the reporting year. Pending searches in months is defined as the number of pending applications in search by the end of the reporting year divided by the average monthly number of disposed searches in the reporting year.

In the case of Euro-direct applications, there is a target to produce the search report by the time of the publication of the applications.

PENDENCY NUMBER OF APPLICATIONS AWAITING REQUEST FOR EXAMINATION

This only applies to the EPO and the JPO. This statistic indicates the number of filed applications awaiting a request for examination by the applicant for the EPO after publication of the search report and for the JPO at any time during three years after filing.

For the EPO, pending applications awaiting request for examination is the number of applications for which the search report has been published by the end of the reporting year and for which the prescribed period for the request has not expired (six months after publication of the search).

For the JPO, pending applications awaiting request for examination indicates the number of applications for which no request for examination has been filed by the end of the reporting year, and for which the prescribed period for the request has not expired (three years from the date of

its filing).

PENDING EXAMINATIONS

For the EPO, pending applications in examination are applications filed for which the search was completed and the request for examination was filed, yet they have not been disposed of (granted, refused or abandoned) by the end of the reporting year.

For the JPO, pending applications in examinations are applications for which the requests for examination were filed and which have been waiting for a first action and have not been subject to a final action such as withdrawal or abandonment by the end of the reporting year.

For the EPO, pendency time in examination (months) is the number of pending applications in examination as of the end of the reporting year, divided by the average monthly number of disposals (decisions to grant or refuse, withdrawals, abandonments) during the reporting year.

For the JPO, pendency time in examination (months) is the total amount of months for disposing applications as final actions (decisions to grant or to refuse, withdrawals or abandonments) in the reporting year, divided by the average monthly number of final actions during the reporting year.

For the USPTO, average total pendency time (months) for utility, plant, and reissue applications is calculated by measuring the time from filing to abandonment or issue for all applications that are abandoned or issued during a three month period. The average of these times is the pendency in months.

PENDENCY TO FIRST OFFICE ACTION

For the EPO since July 2005, the first office action consists of the dispatch of the search report together with the examining division first communication. There is no longer a distinct first action in the examination phase of the procedure. Therefore the pendency to first office action is no longer evaluated.

For the JPO, pendency time to first office action (months) is the average time period, in months, from the request for examination to first office action in examination.

For the USPTO, pendency time to first office action (months) is the average amount of time, in months, from filing to first office action on merits (FAOM). A FAOM is generally defined as the first time an examiner either formally rejects or allows the claims in a patent application.

PENDENCY OPPOSITION

This only applies to the EPO.

Number of pending applications in opposition is the number of patents against which one or more oppositions have been filed and for which no final decision has been taken by the end of the reporting year.

Pendency time in opposition (months) is the number of pending applications in opposition at the end of the reporting year, divided by the average number of disposals in opposition per month in the reporting year.