

Chapter 5

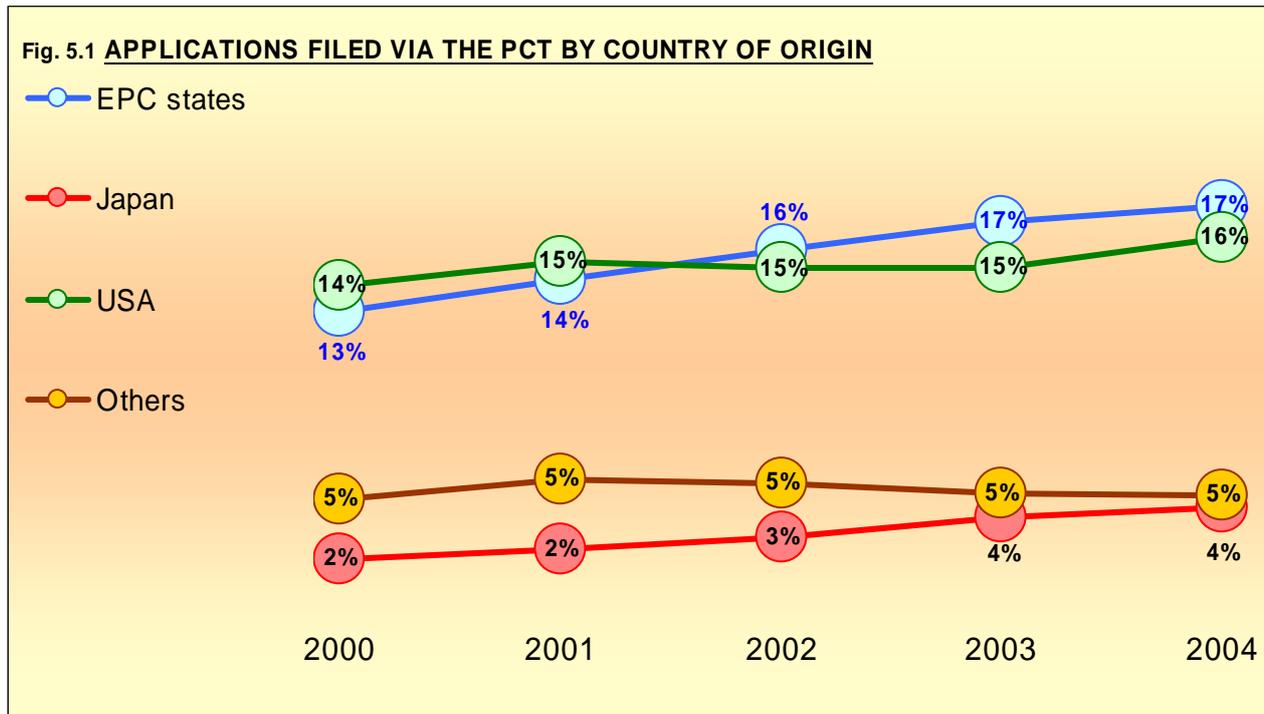
USE OF THE PATENT COOPERATION TREATY

This chapter shows statistics that indicate the impact of the intensified use of the PCT system regarding the activities of the Trilateral Offices. Graphs are presented to display the shares of patent applications and grants using the PCT filing route by origin. The Trilateral Offices act under the Patent Cooperation Treaty (PCT) as receiving offices, mainly for applicants resident in their respective territories, and as the major international searching and examining authorities. Graphs appear to indicate the various activities of the Trilateral Offices that relate to the PCT system. The graphs cover five-year periods that include the latest year for which reliable data are available.

THE PCT AS A FILING ROUTE

APPLICATIONS FILED

For each bloc of origin, Fig 5.1 shows the proportions of all patent applications filed (as provided in Fig. 3.1 of Chapter 3) that are PCT international applications. Applications are counted in the year of filing.

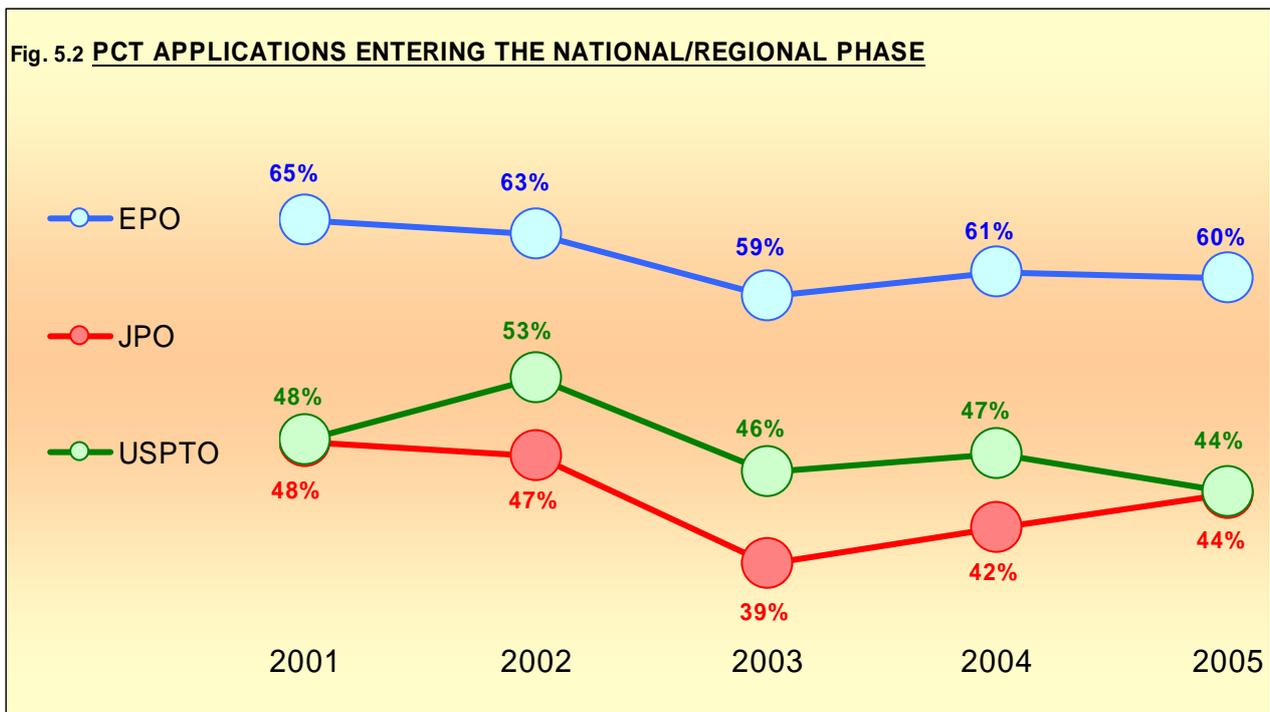


From 2003 to 2004, the share of PCT applications increased to some extent for all the major filing blocs. Overall, the use of the PCT as a route for filing patent applications has continued to increase since 2000.

PCT APPLICATIONS ENTERING THE NATIONAL/REGIONAL PHASE

After the international phase of the PCT procedure, applicants decide whether they wish to continue further with their applications. A decision has to be taken for each and every country and regional organization designated in the international application. If the decision is made to proceed further, the applicant has to fulfill the various national or regional requirements of the selected PCT contracting states or organizations. The applications then enter the national or regional phase. In most of the EPC contracting states, the applicants have a choice of proceeding either in individual countries or at the EPO. However, some EPC contracting states cannot be designated individually under the PCT. Also, some PCT applications have entered the national phase procedures in distinct countries and not the regional phase at the EPO. The proportions of all PCT applications that have entered the national or regional phase at each Trilateral Office are presented in Fig 5.2. Applications are counted in the year they are expected to enter the national or regional phase.

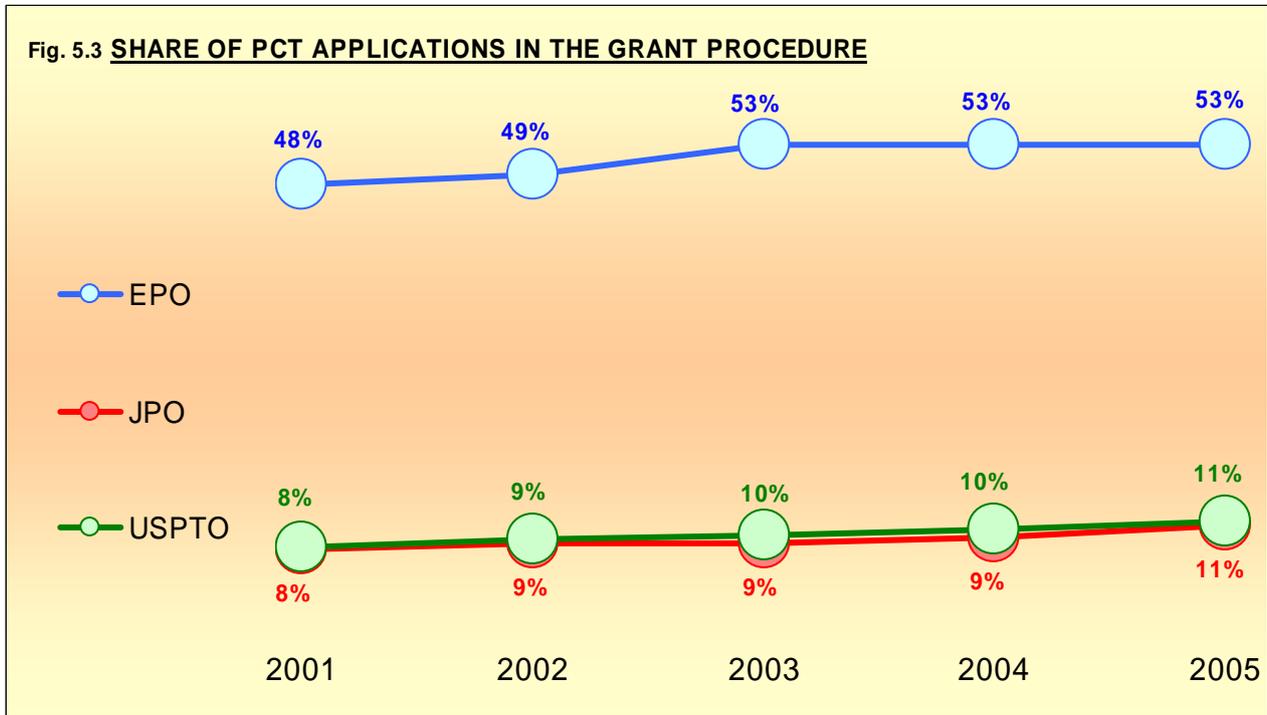
A higher proportion of PCT applications entered the regional phase at the EPO than entered the national phase either at the USPTO or the JPO. This is due to the supranational dimension of the EPO, which provides an opportunity to proceed further with a unique procedure for multiple designations.



The proportions of applications that continued in the national or regional phase tended to decline before 2003, and then to increase from 2003 to 2004. In 2005, the rate increased by 2% at the JPO to 44%, and decreased by 1% at the EPO to 60% and by 3% at the USPTO to 44%.

PCT APPLICATIONS AT THE TRILATERAL OFFICES

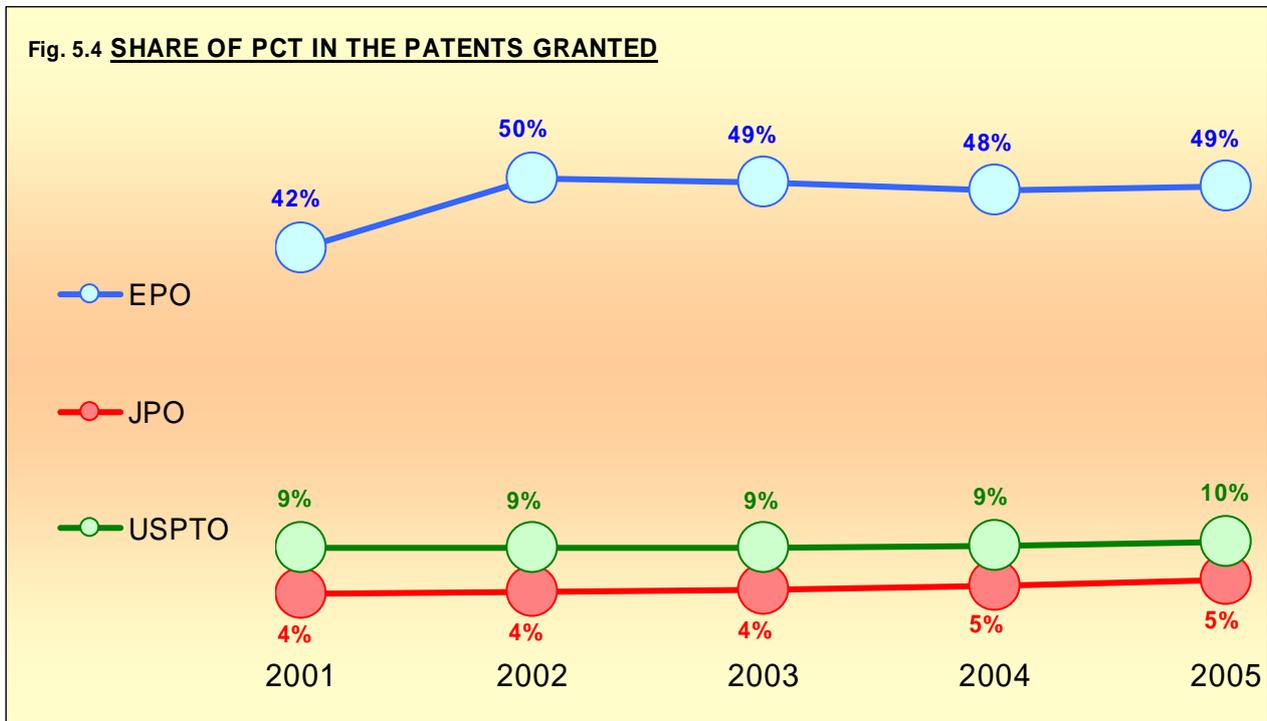
Fig 5.3 shows the proportions of PCT applications within the overall applications at each Trilateral Office as presented in Chapter 4. As in Fig. 4.1 of Chapter 4, PCT applications entering the national or regional phase are taken into account.



The proportions of PCT applications increased slightly in 2005 as compared to 2004 at all offices. For reasons given earlier, the EPO has a high proportion of PCT applications, while the proportions at the JPO and the USPTO are lower. However, both the JPO and the USPTO proportions increased about 2% and 1% respectively in 2005, while the proportion at the EPO remained nearly unchanged when compared to 2004.

PCT GRANTS BY THE TRILATERAL OFFICES

Fig 5.4 shows the percentage of patents granted by each Trilateral Office that were based on PCT applications.

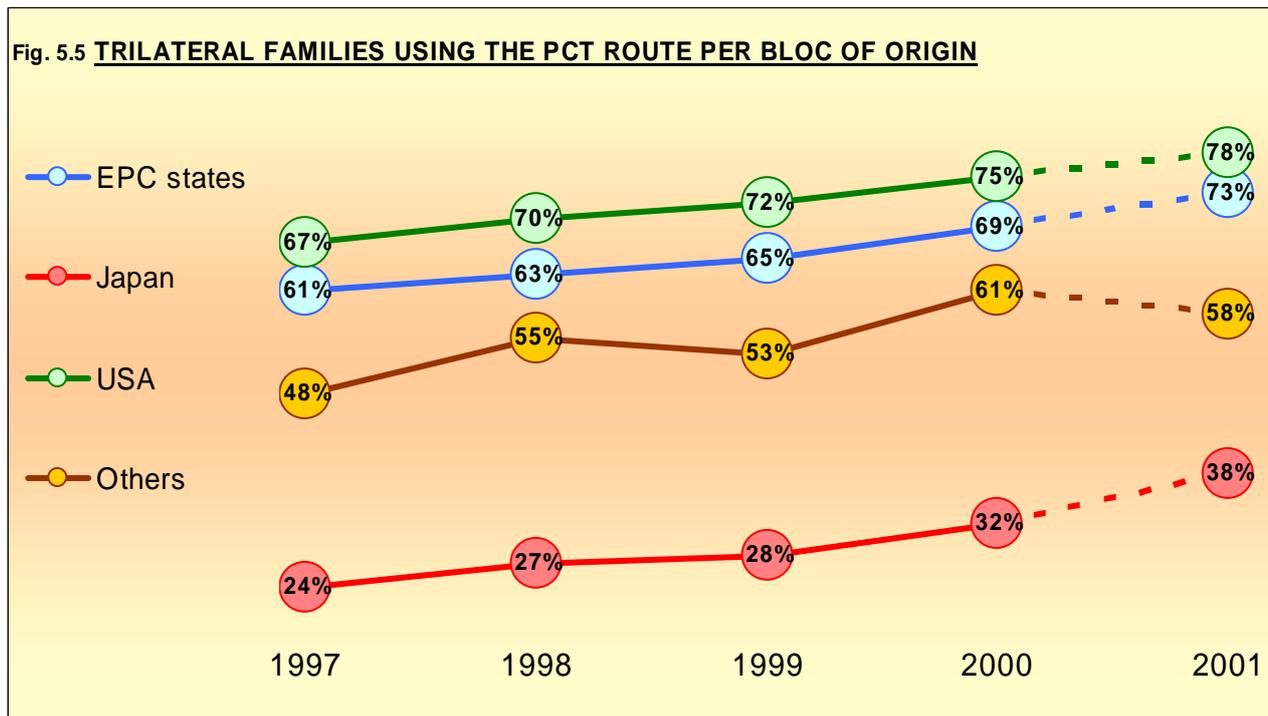


At all three offices, the share of PCT applications among all applications receiving a patent grant have remained stable since 2002. Shares are somewhat below those of applications (see Fig. 5.3), since granted patents relate to applications filed 3 to 5 years earlier when the proportions of PCT applications were lower.

PATENT FAMILIES INVOLVING PCT APPLICATIONS

The PCT system provides a good way to make subsequent patent applications in a large number of countries. Therefore it can be expected that many patent families flowing between blocs will use the PCT route. In this section, the use of the PCT system implies that at least one PCT application has been made within the family of filings for the same invention. Further details of PCT usage in patent families flows can be found in the web based annex to this report.

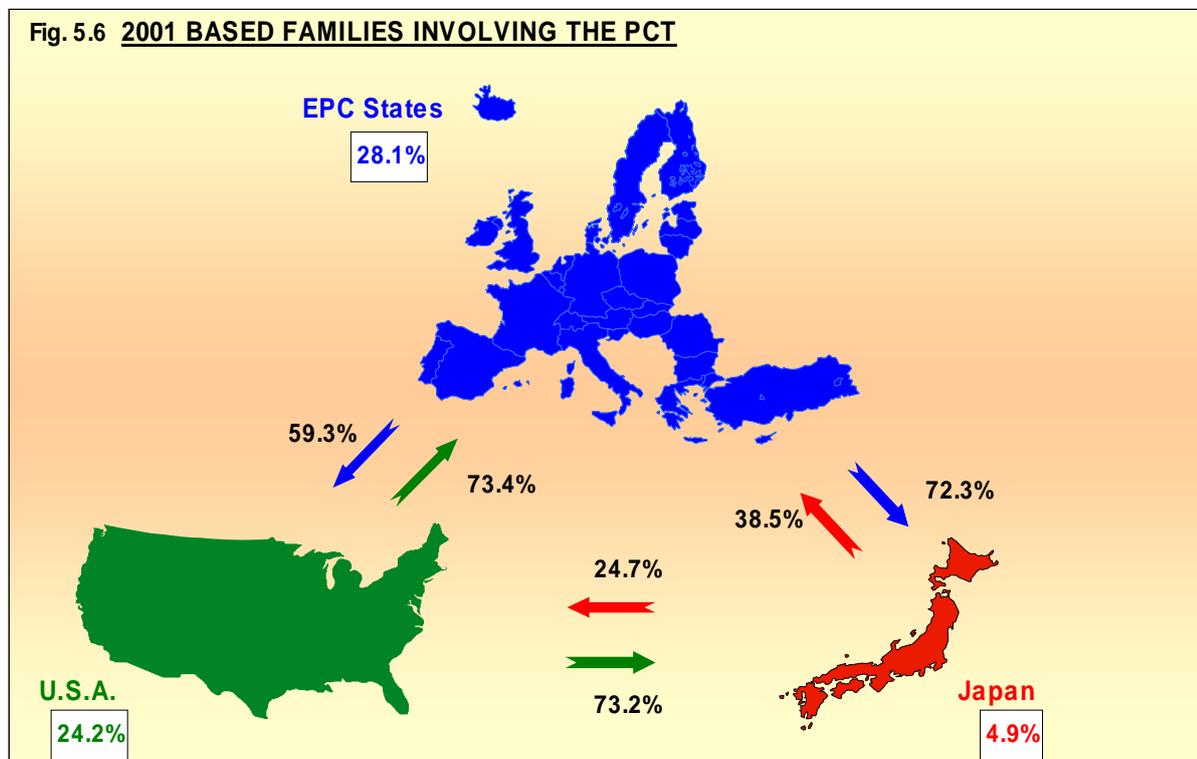
Fig 5.5 shows the proportions of trilateral patent families (as given earlier in Fig 3.11) that use the PCT system. As discussed earlier, the data for 2001 are provisional.



Usage of the PCT system was fairly widespread in trilateral patent families originating in all blocs except Japan. The proportions have generally trended upwards for all the trilateral blocs. In 2000, out of all trilateral patent families, 57% made some use of the PCT system. Approximately 75% of trilateral patent families originating from the USA and 69% of trilateral patent families originating from EPC contracting states involved PCT applications. This compares to 32% from Japan and 61% from other countries.

Fig 5.6 shows the percentages of PCT system usage in the flows of all patent families between trilateral blocs in 2001, and can be compared with Fig 3.12.

The percentage given in a box for each bloc is the proportion of distinct referenced priorities for the bloc that generated families using the PCT route. This is an indicator of the proportion of the total first filings in the bloc that led to the use of the PCT system.

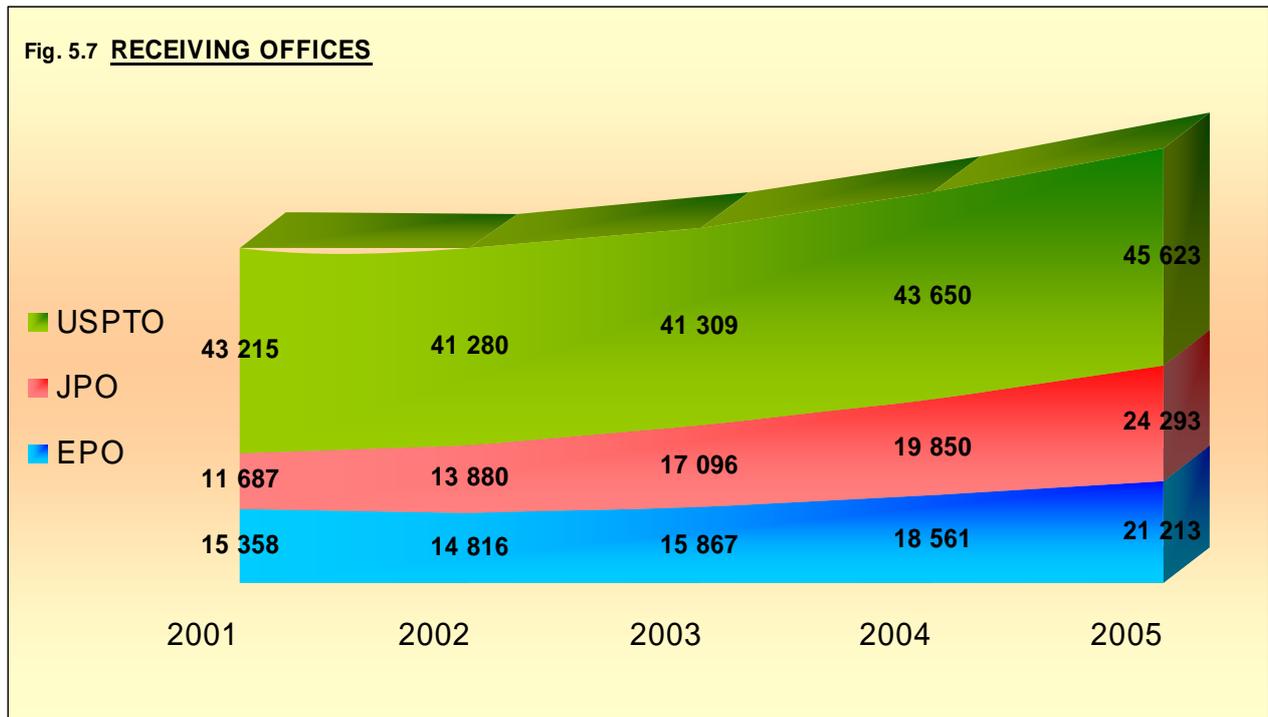


From information tabulated in the web-based annex of this report, out of all first filings in the trilateral area in 2001, 15.5% formed patent families that made some use of the PCT system. From those first filings in the trilateral area that resulted in filings in other trilateral blocs, 50.6% made some use of the PCT system. However, when considered by bloc of the priority applications, the proportions varied widely (59.6% from EPC contracting states, 25.3% from Japan, and 71.0% from USA). When the trilateral blocs receiving subsequent applications from the trilateral area are considered, the degree of variation in the proportions making use of the PCT system was slightly less (59.9% in EPC contracting states, 72.8% in Japan, and 39.8% in USA).

These statistics illustrate the fact that the PCT system is used on an increasing basis when making patent applications abroad. Applicants from USA and the EPC contracting states prefer to use the PCT system. In contrast, Japanese applicants tend to use the system to a somewhat lesser degree, both in percentage and absolute terms, although their participation is increasing.

THE TRILATERAL OFFICES AS PCT AUTHORITIES

Under the Patent Cooperation Treaty, each Trilateral Office acts as Receiving Office (RO), mainly for applicants from their own geographical zones, as International Searching Authority (ISA) and International Preliminary Examining Authority (IPEA). The following graphs show the trend over the years 2001 to 2005 of the activities of the Trilateral Offices as PCT authorities.



The USPTO received 45 623 international PCT applications in 2005, a 4.5% increase over 2004. The EPO and the JPO received far fewer international applications, but experienced large increases with 14.3% to 21 213 and 22.4% to 24 293 respectively.

Fig. 5.8 shows that, in 2005, the EPO received 66 256 international search requests, followed by the USPTO with 27 633 and the JPO with 23 021. Although the JPO received fewer requests, it experienced the largest increase from 2001 to 2005, with a rise of about 108% from the 2001 value.

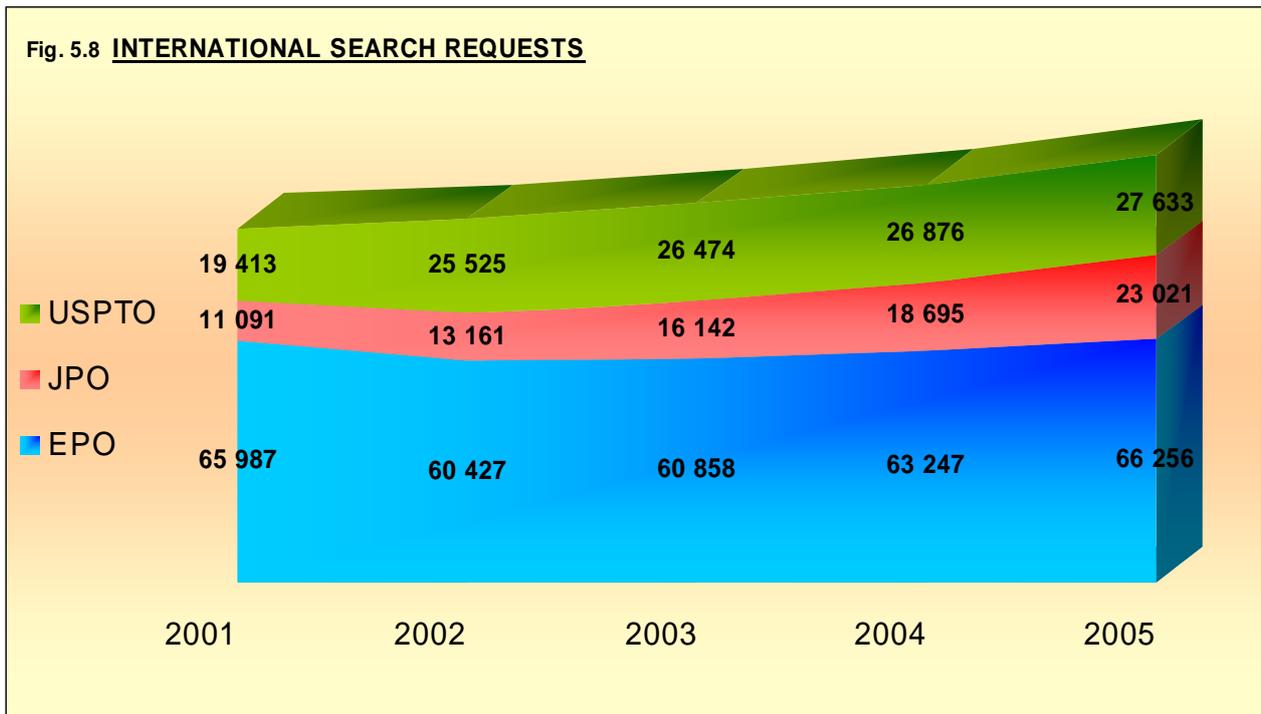
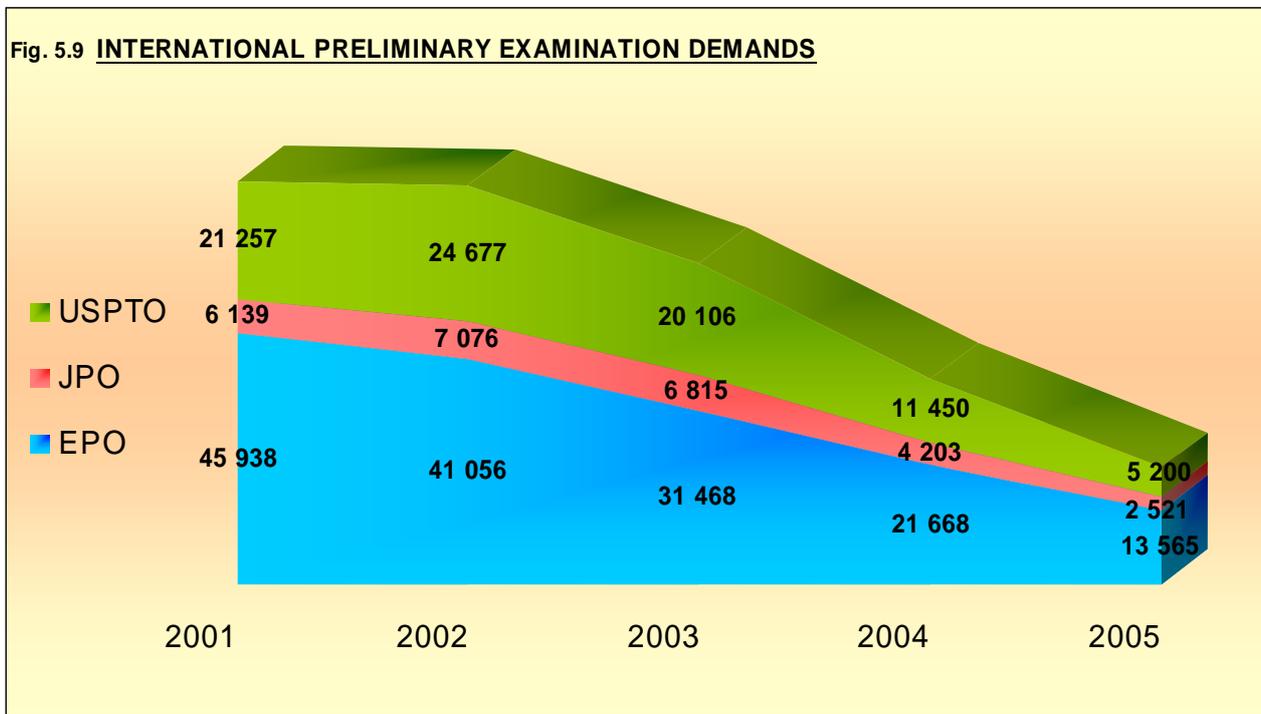


Fig 5.9 shows that the number of demands for international preliminary examination declined since 2001 at the EPO and since 2002 at the JPO and the USPTO. This is likely to be due to rule changes that took place in the PCT system.



The EPO was IPEA for 13 565 international applications in 2005, which represents a decline of 70.5% compared to 2001. The USPTO was IPEA for 5 200 applications in 2005, which represents 75.5% less demands than in 2001. The JPO is less often chosen as IPEA and, since 2001, has experienced a 58.9% decline to 2 521 demands in 2005.