

Chapter 5

THE TRILATERAL OFFICES AND THE PATENT COOPERATION TREATY

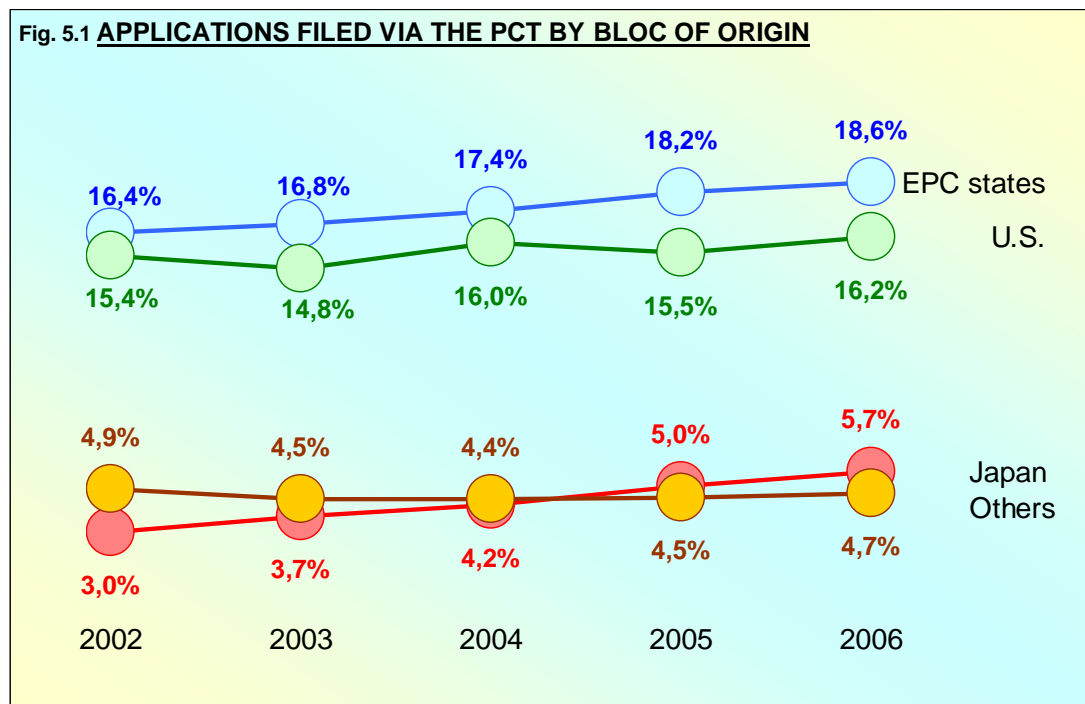
This chapter presents statistics on the extent of the various activities of the Trilateral Offices that relate to the PCT system. The graphs cover five-year periods that include the latest year for which reliable data are available.

Graphs are presented to display the shares of patent applications and grants using the PCT filing route by origin. Descriptions are then given of additional activities of the Trilateral Offices under the PCT as Receiving Offices (RO) for applicants in their respective territories, as the major International Search Authorities (ISA) and as International Preliminary Examining Authorities (IPEA). PCT searches are a significant additional workload item to those already described in Chapter 4.

THE PCT AS FILING ROUTE

PATENT FILINGS

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.

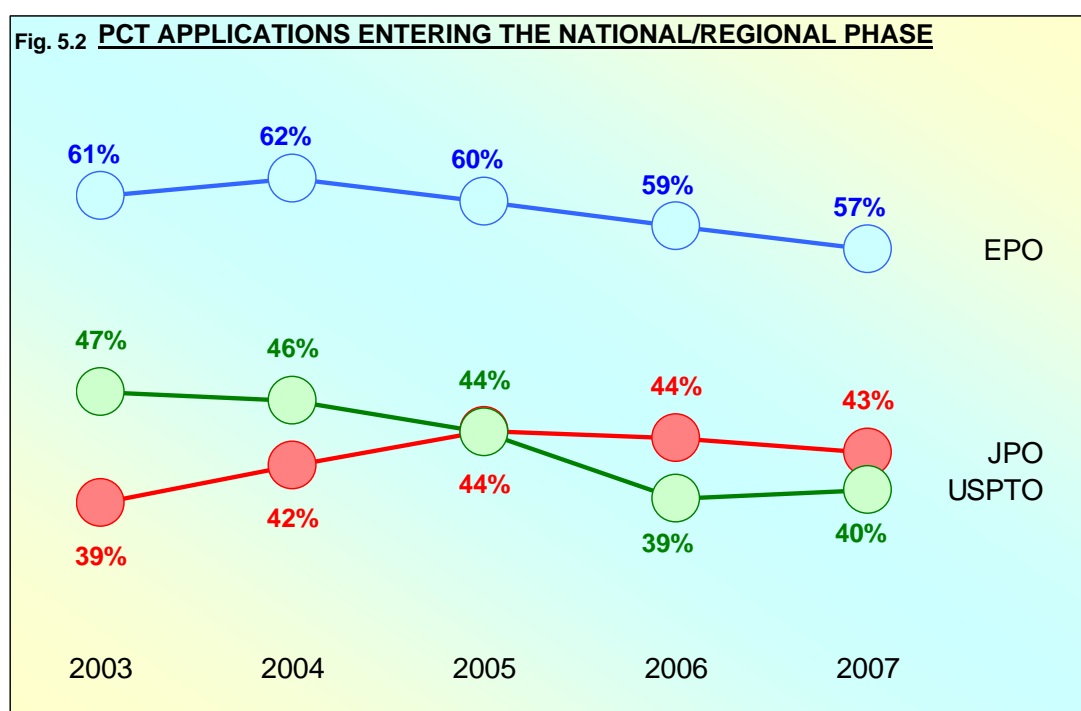


From 2005 to 2006, the share of PCT applications slightly increased in the EPC contracting states, Japan and the U.S. For those applications filed in the "Others" bloc, the proportion remained unchanged. Overall, the use of the PCT as a route for filing patent applications has generally continued to increase.

NATIONAL/REGIONAL ENTRY RATE

After the international phase of the PCT procedure, applicants decide whether they wish to continue further with their applications. A decision has to be made for each country or regional organisation. If the decision is made to proceed further, the applicant has to fulfil the various requirements of the selected PCT contracting states or organisations. The application then enters 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 of the 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 the delay to enter the national or regional phase has expired.

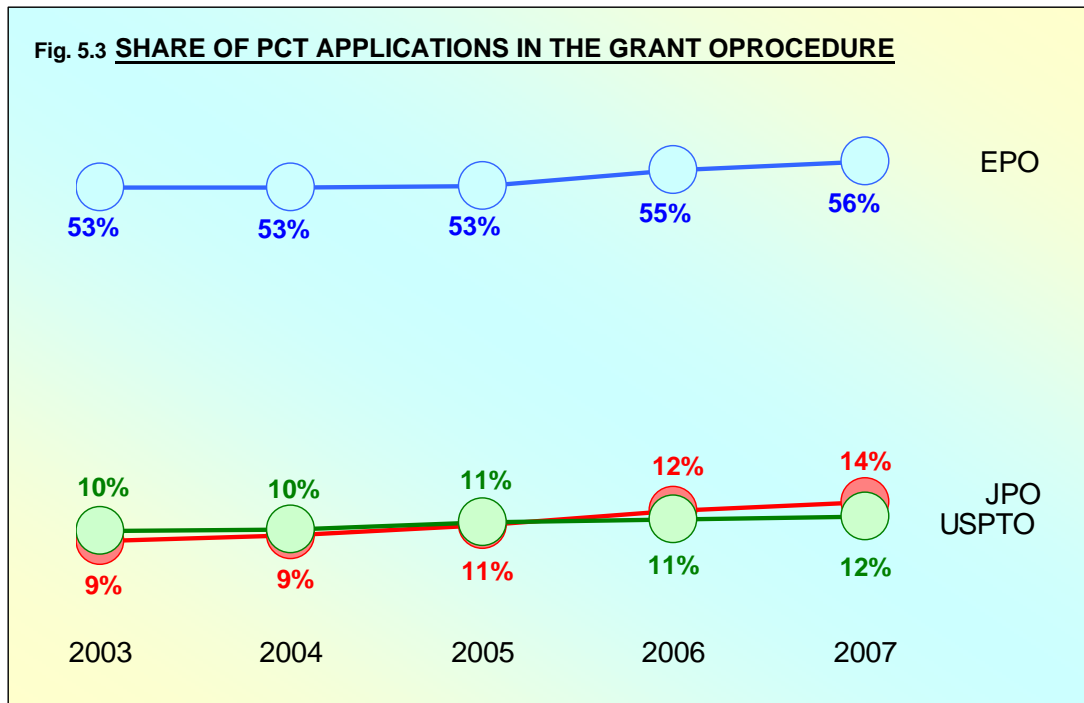


A higher proportion of PCT applications entered the regional phase at the EPO than entered the national phase either at the USPTO or the JPO. This is due to the supranational dimension of the EPO, which provides an opportunity to proceed further with a unique procedure for several countries.

Marginal variations were recorded in 2007. The rate decreased by 1 percent to 57 percent at the EPO and to 43 percent at the JPO and increased by 1 percent to 40 percent at the USPTO.

SHARE OF PCT APPLICATIONS

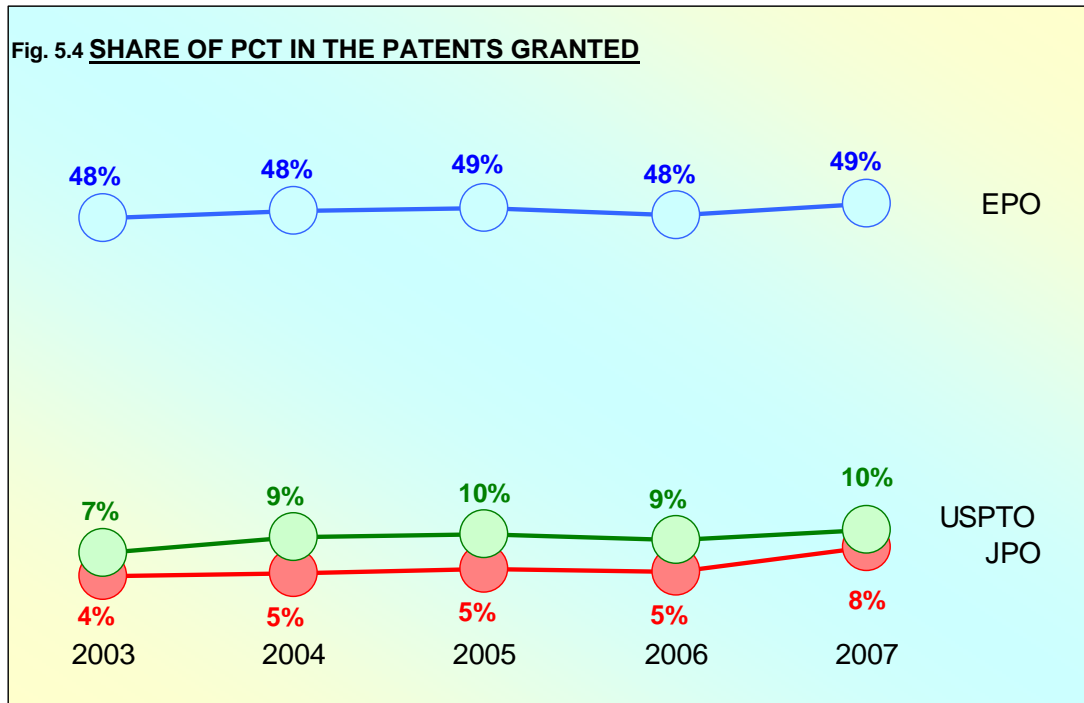
Fig. 5.3 shows the proportions of PCT applications within the overall applications that entered the grant procedure at each Trilateral Office as presented earlier in Fig. 4.1.



The total number of PCT applications increased in 2007 as compared to 2006 at all offices. The EPO has a higher proportion of PCT applications than at the other offices. At each Trilateral Office the share of PCT applications in the grant procedure rose in 2007.

PCT GRANTS

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

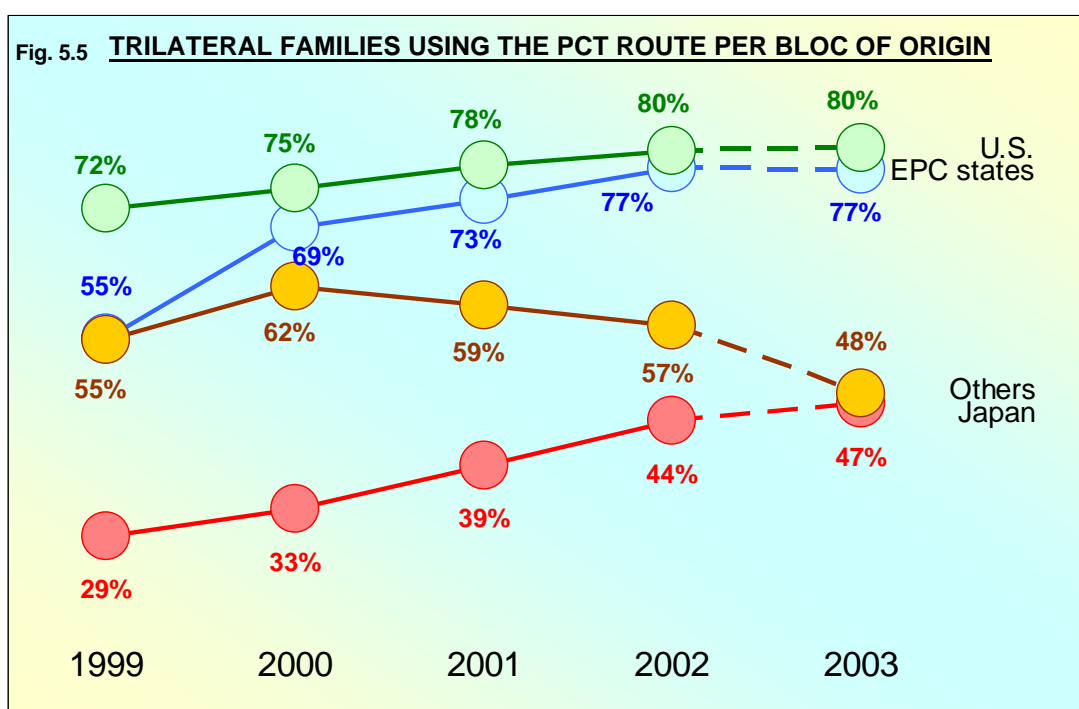


The shares of PCT applications among all applications receiving a patent grant have remained stable at the EPO and the USPTO in the recent years. The share increased markedly at the JPO from 5 percent in 2006 to 8 percent in 2007. Shares are somewhat below those of applications (see Fig. 5.3), since granted patents relate to applications filed three to five years earlier when the proportions of PCT applications were lower.

PATENT FAMILIES AND PCT

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 statistical data file that is attached to the web based version of this report.

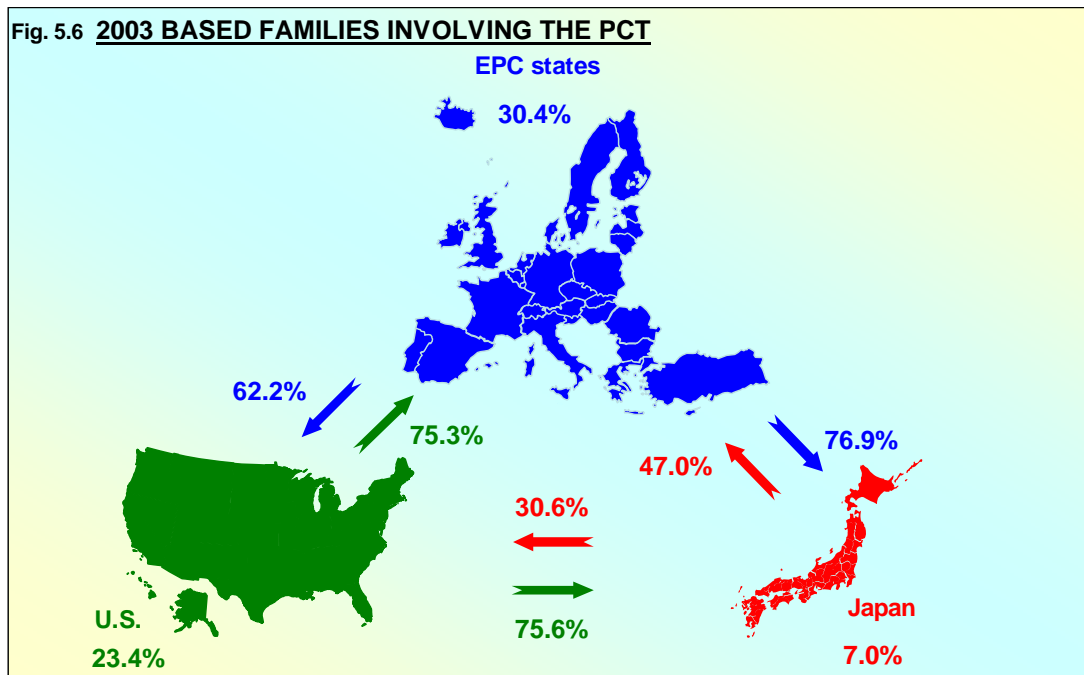
Fig. 5.5 shows the proportions of trilateral patent families (as given earlier in Fig. 3.13) that use the PCT system. As discussed above the data for 2003 is provisional (see p.32).



Usage of the PCT system was fairly widespread in trilateral patent families, although still at a somewhat lower level in Japan. The proportions have generally trended upwards for all the trilateral blocs, but have had a two year decline in non-trilateral countries of origin. In 2002, out of all trilateral patent families, 65.5 percent made some use of the PCT system. 80 percent of trilateral patent families originating from the U.S. and 77 percent of trilateral patent families originating from the EPC contracting states involved PCT applications. This compares to 44 percent from Japan and 57 percent from other countries.

Fig. 5.6 shows the percentages of PCT system usage in the flows of all patent families between trilateral blocs in 2003, and can be compared with Fig. 3.14.

The percentage given next to 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.



Applicants from U.S. and the EPC contracting states prefer to use the PCT system to a greater extent than Japanese applicants do. However, the participation rate of Japanese applicants is increasing, particularly when making filings abroad.

PCT AUTHORITIES

Under the PCT, each Trilateral Office acts as Receiving Office, mainly for applicants from its own geographical zone, as International Search Authority (ISA) and International Preliminary Examination Authority (IPEA). The following graphs show the trend over the years 2003 to 2007 of the activities of the Trilateral Offices as PCT authorities.

In 2007, two thirds of the PCT international filings were filed at one of the Trilateral Offices.

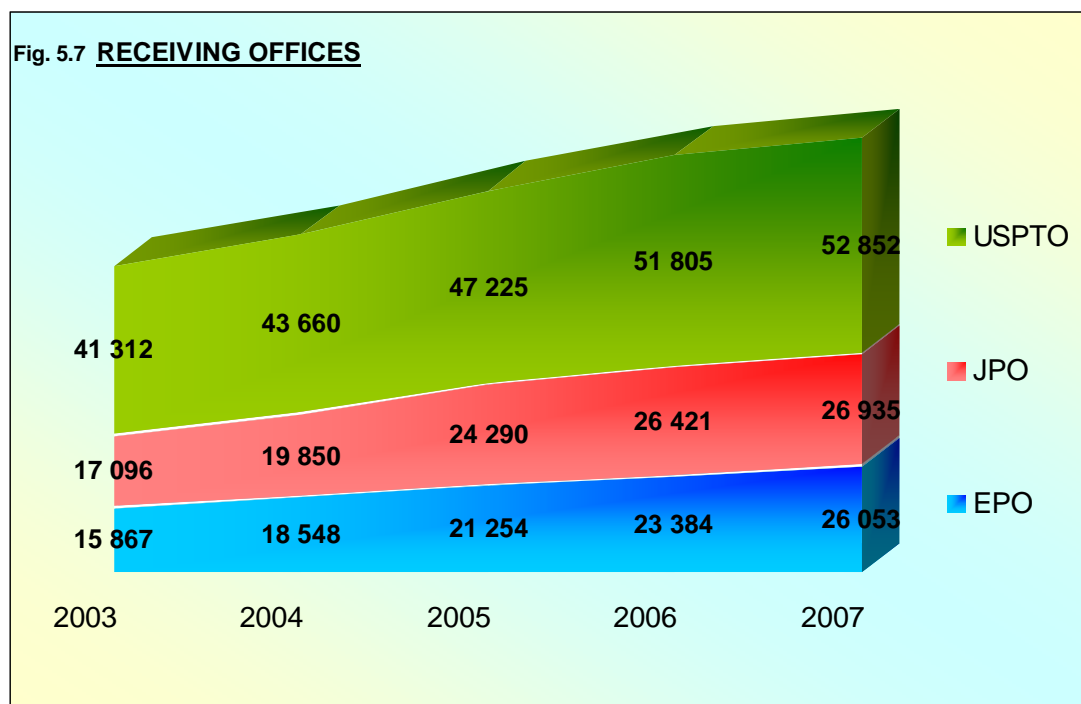


Fig. 5.7 shows that the USPTO received nearly 53 000 international PCT applications in 2007. The EPO and the JPO received fewer international applications. In 2007, the EPO experienced an increase of 11 percent to 26 000 international applications received.

Together, the Trilateral Offices received 82 percent of the PCT international search requests in 2007, compared to 90 percent in 2003. A growing proportion of applicants select the SIPO of China or KIPO of the Republic of Korea to perform the PCT international search.

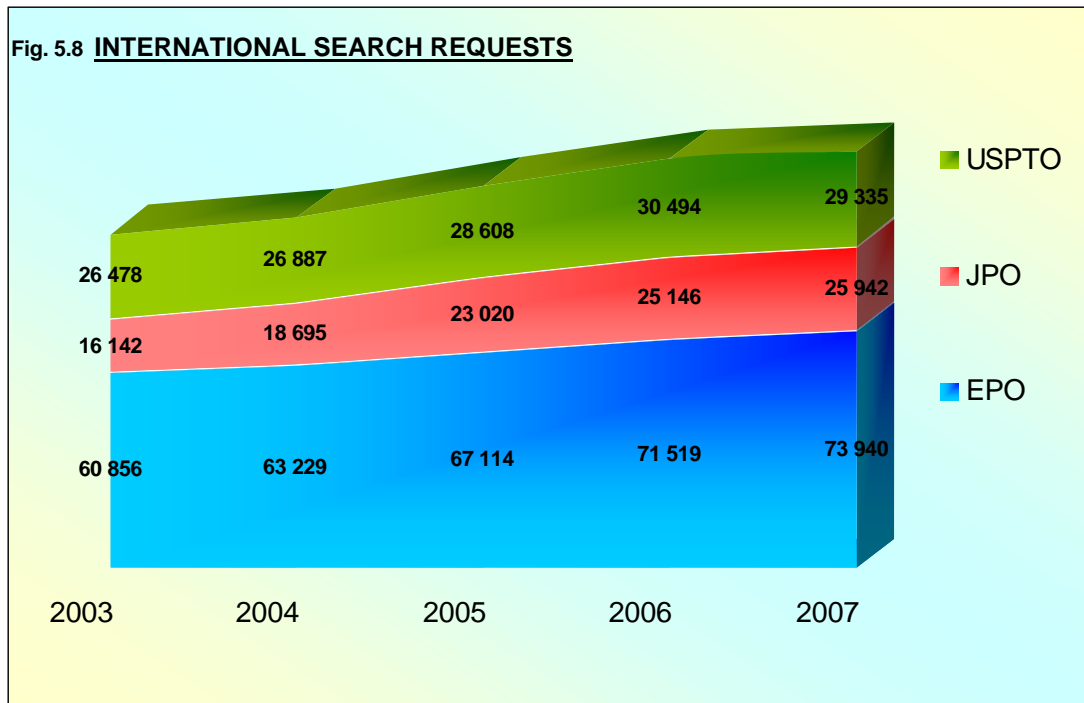


Fig. 5.8 shows that, in 2007, the EPO received nearly 73 000 international search requests, followed by the USPTO with more than 29 000 and the JPO with almost 26 000. Although the JPO received fewer requests, it experienced the largest percentage increase from 2003 to 2007.

Together the Trilateral Offices were in charge of 83 percent of the work as IPEA in 2007, compared to 90 percent in 2003. Since 2004, the share of work of the USPTO declined from about 30 percent to 14 percent in 2007.

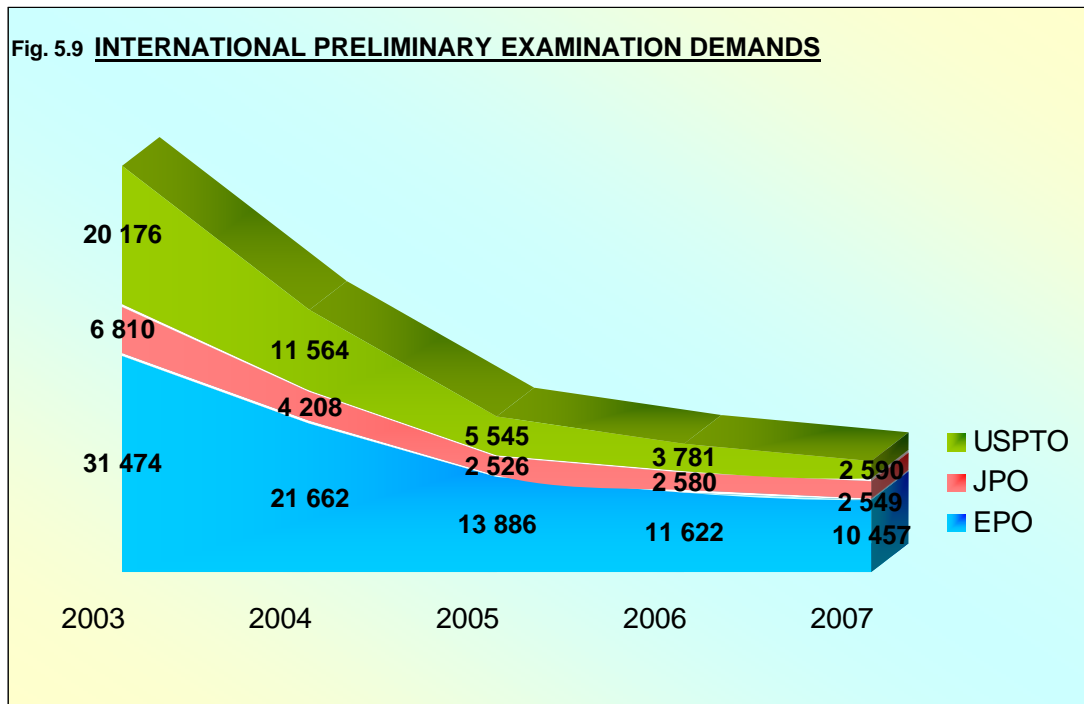


Fig. 5.9 shows that the number of demands for international preliminary examination declined since 2003 at all three Trilateral Offices. This is due to rule changes that took place in the PCT system regarding time limits to enter the national or regional phase, and also to the introduction of a written opinion on patentability with the international search report. These changes tended to reduce the attraction of the international preliminary examination.

The EPO was IPEA for 10 457 international applications in 2007, which represents a decline of 67 percent compared to 2003. The USPTO was IPEA for 2 590 applications in 2007, which represents 87 percent fewer demands than in 2003. The JPO, although less often chosen as IPEA, has also experienced a 63 percent decline since 2003 to 2 549 demands in 2007.