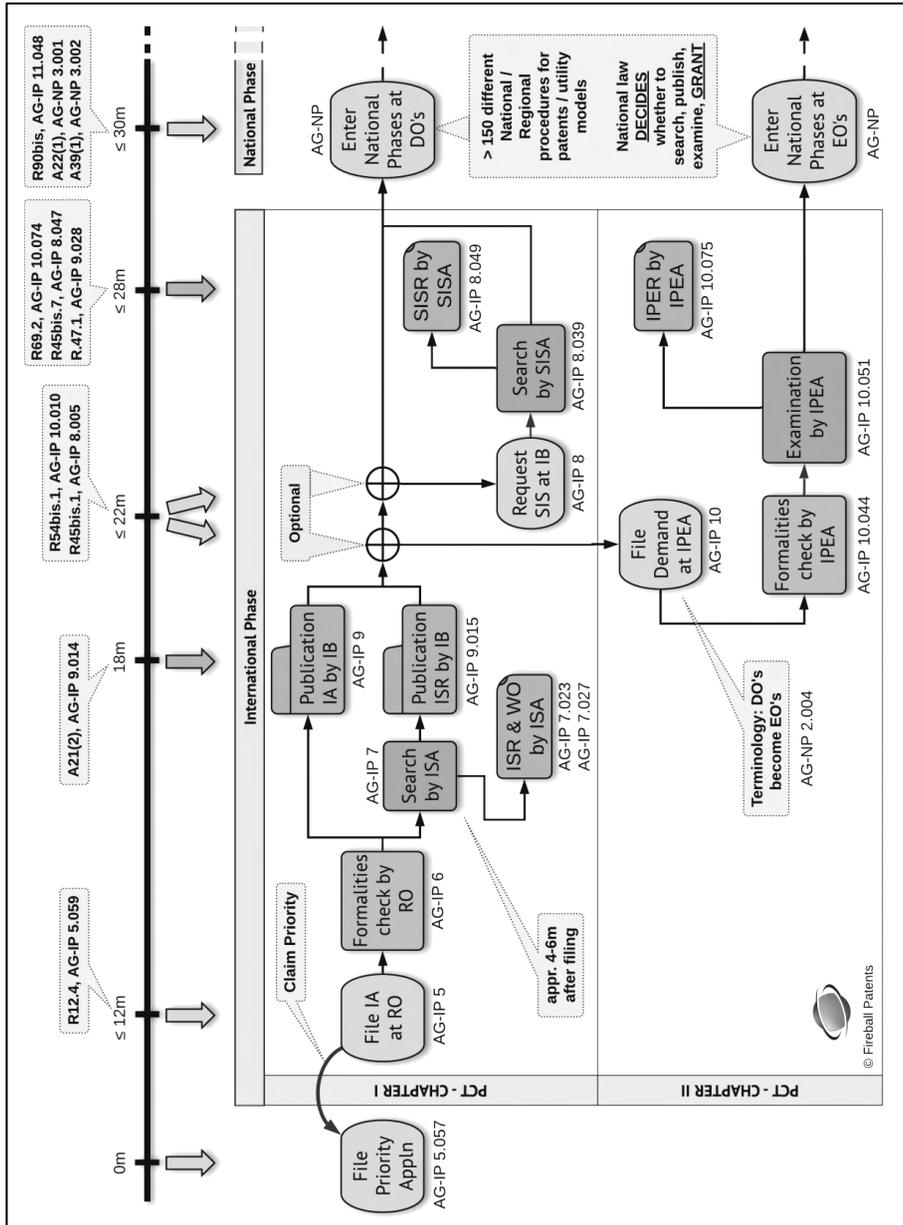


Complete PCT Applicant's Guide (1 Sep 2021)



**Based on official WIPO resources
Compiled by Pete Pollard**

Compilation Notes:

Many applicants and administrators rely on the "Introduction" parts of the Applicant's Guide as main references to answer day-to-day questions:

- Introduction to the International Phase (AG-IP or PCT AG I): requirements and actions before the International Authorities from the applicant's point of view.
- Introduction to the National Phase (AG-NP or PCT NG I): requirements and actions before the Designated and Elected Offices from the applicant's point of view.

However, many users are unaware of a second level of documentation, providing much more detail about how the Authorities operate, how they handle less-common situations, and how they communicate with applicants. This book also contains some of these supplementary references:

- Administrative Instructions (AI): referenced in PCT Rules, detailing how the Authorities should apply the Rules. Referenced in AG-IP as "Section xxx".
 - Annex A is replaced by our "Overview of Applicant & Office forms" (the forms themselves are not included). Forms provide further info about defects, remedies, sanctions and time limits: www.wipo.int/pct/en/forms
 - Annexes B to E are included in this book
 - Annex F (Electronic Filing & Processing Standard - 600 pages) is not included as it is less relevant for applicants. See: www.wipo.int/pct/en/texts/index.html
- Receiving Office Guidelines (RO GL or GL/RO): recommended actions & steps to be followed by RO's. The information is mainly procedural.
- International Search & Examination Guidelines (ISPE GL or GL/ISPE): recommended actions & steps to be followed by ISA's & IPEA's. Substantive subjects such unity of invention and patentability are explained, with useful examples.

For each reference, the standard contents have been replaced by our "Detailed Table of Contents", with abbreviated section titles, page numbers and indications of the sections with a major amendment in the last 3 years. This provides a convenient overview of the contents, and helps to quickly find the desired information.

This book is suitable as a desktop reference for everyday use by attorneys and administrators. However, **always double check** the status with latest WIPO resources and national patent offices before relying on the information presented. These references are very useful during EQE (European Qualifying Exam) preparation. AG-IP and AG-NP are also useful during the Exam to answer questions – however, answers should be supported with citations of PCT Articles, PCT Rules and EPO-PCT Guidelines (REE Rule 22).

Major changes in 1 Sep 2021 edition: There were very few legal changes in 2021, so many references from 2020 are still valid. PCT states overviews have been combined into one main overview, Requirements for Biological Deposits (Ann. L) have been added, our legal citation index is included for AG-NP, the ISPE-GL's have been updated to the 1 Jul 21 version, and a color overview of the procedure is provided on the cover.

Versions included in this edition:

- PCT Fees 1 Sep 21
- Introduction to International Phase (AG-IP) 1 Jul 20
- Administrative Instructions (AI) 1 Jul 20
- Overview of Applicant & Office Forms 1 Sep 21
- RO Guidelines (RO GL) 1 Jul 20
- ISA/IPEA Guidelines (ISPE GL) 1 Jul 21
- Introduction to National Phase (AG-NP) 6 Aug 20



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About me

- Originally from the UK, I now live in The Netherlands. I have been training patent attorneys and formalities officers in EPC and PCT law for more than 13 years, and preparing them for their respective qualification exams.
- I was the author of the DeltaPatents' D exam methodology for DI and DII, and spent several years improving their Question and Answer books. I currently give EQE training for **EQELIBRIUM**, and courses for formalities officers in English through **Forum Institut**.
- I am also the author of the legal reference **PCT.App**, available in print or as a self-editable reference book at www.pctapp.net/en. I also contribute to the **EPC.App**.
- I founded **Fireball Patents** (www.fireballpatents.com) to better serve startups and SME's – the firm is virtual, using automation and external specialists to limit overhead. I am also part of **IP.DESIGN**, a German-Swiss IP boutique, offering one-stop solutions to innovative SMEs.
- I work in the fields of physics, software, electronics, mechanics, optics, communications, image processing, medical devices. I can be contacted at: pete@fbpats.com or via www.linkedin.com/in/petepollard
- More study materials can be found at: fireballpatents.com/study-materials

Pete Pollard

Dutch and European Patent Attorney
European Designs & Trademark Attorney
Certified Dutch Formalities Officer



PCT.App

The self-editable commented Patent Cooperation Treaty

Annotated by Pete Pollard. Edited by Till Andlauer, Stefan Ahlers, Thomas Eißfeller.

MAJOR UPDATE on 1 Sep 21: legal changes of 1 Jul 21 incorporated, details for specific states updated, key Paris Convention articles included & annotated, internal hyperlinks online to jump between parts, full-text search available online.

Online (self-editable) or printed book: PCT.App tackles the well-known problem that the Articles define only basic matter, and the Rules have become so convoluted that they are difficult to comprehend. Combining knowledge from 10 years of teaching PCT, and the highly automated *IP.appify* platform, we have created a pioneering legal reference to go beyond the standard guidance provided by the official WIPO user guides.



It is useful for daily practice and essential for European Qualifying Exam (EQE) students.

Logical legal structure: 130 subjects are organized into 18 parts by merging the order of the Articles with the chronological order of the WIPO PCT Applicant's Guide. Each subject includes the most relevant provisions - relevant paragraphs are repeated or referenced, less relevant parts are hidden. All Articles and Rules are included at least once.

Extensively annotated law: legal texts and comments are displayed side-by-side. Authors' comments are assigned per paragraph, and include references to other provisions, external resources and annotations. Umbrella & implementing provisions are frequently indicated. Explanation and overviews are provided for complex subjects such as priority, remedies, representation and filing date requirements.

Standardized layout & marking: standard phrases in legal texts have been replaced by well-known abbreviations, such as IB, ISA, IPEA, RO, and DO. Inline comments in the legal text are sometimes used, such as /EO. Standardized marking is used to emphasize keywords, time limits, fees, languages, and legal consequences, either in black & white (printed book) or color (online).

Buy as a black/white printed book with 596 pages: available internationally through Amazon on 90gr paper (34mm thick) or on thin (50gr) bible paper (19mm thick):

www.pctapp.net/en

PCT.App (online)

Customize & self-edit your PCT.App: subscribers can digitally navigate up-to-date legal texts on mobile devices, and tailor the contents to their own requirements. No need to transfer notes when the law is updated. FAQ's: <http://www.pctapp.net/en/faq>

Read & navigate: hyperlinked internal references to Articles & Rules, internal links to other parts of the book, full text search, and external links to Guidelines & OJEO notices. Marking styles are in color, and can be personalized.

The screenshot displays the PCT.App interface. At the top, there are navigation and editing tools. The main content area is divided into a left sidebar with a table of contents and a main text area. The table of contents lists sections from 2.1 to 2.16. The main text area shows the content of section 2.9, including an overview, key issues, and the text of Article 4 PCT. The interface is clean and professional, with a dark header and a light background for the text.

Hide and add text: hide legal texts and comments you do not want to see. The text is not deleted permanently, and can be restored. Add comments and references in areas you struggle with. Subscribers to **EPC.App** can add bidirectional hyperlinked reference.

Further shape to your logic: add Articles & Rules that you consider more relevant. Your comments are linked to legal paragraphs, so they appear wherever the paragraph is visible. Overviews of each section are generated automatically.

Never out-of-date: your adaptations are saved in a personal cloud, and legal texts are regularly updated automatically. Generate an A4 color printable pdf of your own **PCT.App** for printing in your office or via a print service.

Subscribe (test & student accounts available): <http://www.pctapp.net/en/prices>

1. Overview of Paris/WTO/PCT Members and PCT Reservations

Code & Country / Territories or Organization	Paris (PC) States - p1, p6	Member of WTO - p1, p2	Date State Bound by PCT	Regional Treaty Members	Reservations - membership, designation, priority - a 1	Acts as rO: Ann. C - r21	Reservations - Filing, Search, Publication - r24	Requirements for Biological Deposit as	Acts as ISA: Ann. D	Acts as SISA: Ann. SISA	Acts as IPEA: Ann. E	Reservations - national entry	Ch. I National Entry (m)	Ch. II National Entry (m)
AD Andorra	X	-	Not PCT											
AE United Arab Emirates	X	X	10 Mar 99			IB		-	-	-	-		30	30
AF Afghanistan	X	X	Not PCT											
AG Antigua & Barbuda	X	X	17 Mar 00			IB		-	-	-	-		30	30
AL Albania	X	X	04 Oct 95	EP		X	X	-	-	-	-	n1	31	31
AM Armenia	X	X	25 Dec 91	EA	a2	X		-	-	-	-	n2	31	31
AO Angola	X	X	27 Dec 07			IB		-	-	-	-		30	30
AP African Regional Intellectual Property Organization	-	-	(ARIPO)		a13	X		X	-	-	-	n4	31	31
AR Argentina	X	X	Not PCT											
AT Austria	X	X	23 Apr 79	EP		X		X	X	X	X	n1	30	30
AU Australia	X	X	31 Mar 80			X	r8	X	X	-	X		31	31
AZ Azerbaijan	X	-	25 Dec 95	EA		X		-	-	-	-	n2, n17	30	31
BA Bosnia & Herzegovina	X	-	07 Sep 96	EP	a16	X		X	-	-	-	n1	34	34
BB Barbados	X	X	12 Mar 85			IB		-	-	-	-		30	30
BD Bangladesh	X	X	Not PCT											
BE Belgium	X	X	14 Dec 81	EP		EP	r23-1	-	-	-	-	n20	EP	EP
BF Burkina Faso	X	X	21 Mar 89	OA		OA		-	-	-	-	n21	OA	OA
BG Bulgaria	X	X	21 May 84	EP		X		X	-	-	-	n1	31	31
BH Bahrain	X	X	18 Mar 07		a2	X		-	-	-	-		30	30
BI Burundi	X	X	Not PCT											
BJ Benin	X	X	26 Feb 87	OA		OA		-	-	-	-	n21	OA	OA
BN Brunei Darussalam	X	X	24 Jul 12			X		X	-	-	-		30	30
BO Bolivia (Plurinational State of)	X	X	Not PCT											
BR Brazil	X	X	09 Apr 78			X	r11	X	X	-	X	r12, r15, r16	30	30
BS Bahamas	X	-	Not PCT											
BT Bhutan	X	-	Not PCT											
BW Botswana	X	X	30 Oct 03	AP		X		-	-	-	-	n6	31	31
BY Belarus	X	-	25 Dec 91	EA	a2	X		X	-	-	-		31	31
BZ Belize	X	X	17 Jun 00			X		-	-	-	-	n7	30	30
CA Canada	X	X	02 Jan 90			X		X	X	-	X	r14, r16, n15	30	30
CD Democratic Republic of Congo	X	X	Not PCT											
CF Central African Republic	X	X	24 Jan 78	OA		OA		-	-	-	-	n21	OA	OA
CG Congo	X	X	24 Jan 78	OA		OA		-	-	-	-	n21	OA	OA
CH Switzerland	X	X	24 Jan 78	EP		X		X	-	-	-	n1	30	30
CI Côte d'Ivoire	X	X	30 Apr 91	OA		OA		-	-	-	-	n21	OA	OA
CL Chile	X	X	02 Jun 09		a2	X	r4	X	X	-	X	r6	30	30
CM Cameroon	X	X	24 Jan 78	OA		OA		-	-	-	-	n21	OA	OA

PCT Reservations - Footnotes a(1-17), n(1-22), p(1-6), r(1-25)

- p2: WTO Members cannot necessarily become party to Paris Convention (PC) or PCT
- p3: China has notified WIPO that Paris Convention (PC) and PCT also apply to Hong Kong, China.
- p4: China has notified WIPO that Paris Convention (PC) also applies also to Macao, China.
- p5: Also referred to by WTO as "Chinese Taipei" or "Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu"
- p6: PCT States must either join Paris Convention first, or join Paris & PCT at same time - A.62(1) PCT

Reservations and Incompatibilities - filing, search, publication

- r1: R. 4.9(b) - State allows designation to be excluded from automatic designation on filing
- r2: R. 20.1(d) - State will not accord filing date if only a part of description or only a part of the claims is in a language accepted by rO
- r3: R. 20.8(a) - State will not apply incorporation of missing elements / parts provisions when they act as rO
- r4: R. 20.8(a-bis) - States will not apply incorporation of erroneously filed elements / parts provisions when they act as rO
- r7: R. 23bis.2(b) - rO will not transmit results of earlier search to ISA under R.41.2 following request by applicant on filing
- r8: R. 23bis.2(e) - rO will not transmit results of earlier search to ISA under R.41.2 without authorization by applicant
- r9: R. 26.3ter(b) - rO will not invite applicants to translate abstract and/or text in drawings under A. 3(4)(i)
- r10: R. 26.3ter(d) - rO will not invite applicants to translate request under A. 3(4)(i)
- r11: R. 26bis.3(j) - rO will not accept requests for Restoration of priority as rO
- r18: R. 66.1bis(b) - IPEA will not consider WO's by certain ISA's as their WO-IPEA. IPEA may not include itself as ISA for this exception.
- r19: AI Sec. 703(f), Section 703(b)(ii) to (iv) - electronic filing software is not fully compliant with AI, Annex F (Basic Common Standard)
- r20: AI, Sec. 329, RO-GL 48A - rO does not allow correction of residence or nationality
- r21: All rO's allow filings by their residents and nationals
- r22: rO = AP, CH, EA, EP, IB, OA => for this State, file at ARIPO, CH, EAPO, EPO, IB, OAPI
- r23-1: Since 1 Apr 2018, BE no longer accepts filing as RO (unless security-restricted)
- r23-2: Since 1 Dec 2018, MC no longer accepts filing as RO
- r23-3: Since 1 Jan 2020, SM no longer accepts filing as RO
- r24: All RO's allow EP to be ISA and IPEA, except AU, CA, KP, KR, PG & ZM
- r25: CN allows EP to be ISA and IPEA from 1 Dec 2020

Reservations and Incompatibilities - national entry

- n1: If protection via EPO is to be pursued, see EP as dO/eO for the applicable time limits
- n2: If protection via EAPO is to be pursued, see EA as designated/elected Office (dO/eO) for the applicable time limits
- n3: No national entry info yet available for DM, GD, LA, LC, LY, RW, ST and WS. So, default time limits under PCT A. 22(1) and 39(1)(a) are shown.
- n4: AP acts as dO/eO for the following States which have closed their national routes: SZ.
- n5: National time limit may be extended if applicant pays an additional fee
- n6: If protection via ARIPO is to be pursued, see AP as dO/eO for the applicable time limits
- n7: National time limit may be extended upon written request by the applicant
- n8-1: CN - 32 months applicable if applicant pays an additional fee for late entry into the national phase
- n8-2: PH - 31 months applicable if applicant pays an additional fee for late entry into the national phase
- n8-3: TR - 33 months applicable if applicant pays an additional fee for late entry into the national phase
- n9: LI has closed its national route. Protection is only possible via CH national route.

2. PCT fees on 1 Sep 2021

Overview of Competent ISA's for all RO's

The following Tables show the amounts and currencies of the main PCT fees which are payable to the receiving Offices (ROs) and the International Preliminary Examining Authorities (IPEAs) during the international phase under Chapter I (Tables I(a) and I(b)) and under Chapter II (Table II). Fees which are payable only in particular circumstances are not shown; nor are details of certain reductions and refunds which may be available; such information can be found in the *PCT Applicant's Guide*, Annexes C, D and E. Note that all amounts are subject to change due to variations in the fees themselves or fluctuations in exchange rates. The international filing fee may be reduced by CHF 100, 200 or 300 where the international application, or part of the international application, is filed in electronic form, as prescribed under Item 4(a), (b) and (c) of the Schedule of Fees (annexed to the Regulations under the PCT) and the *PCT Applicant's Guide*, paragraph 5.189. A 90% reduction in the international filing fee (including the fee per sheet over 30), the supplementary search handling fee and the handling fee, as well as an exemption from the transmittal fee payable to the International Bureau as receiving Office, is also available to applicants from certain States—refer to footnotes 2 and 14. (Note that if the CHF 100, 200 or 300 reduction, as the case may be, and the 90% reduction are applicable, the 90% reduction is calculated **after** the CHF 100, 200 or 300 reduction.) The footnotes to the Fee Tables follow Table II.

Key to abbreviations used in fee tables:

eq	equivalent of –	BND	Brunei dollar	HRK	Croatian kuna	MWK	Malawian kwacha	TJS	Tajik somoni
IA	international application	BRL	Brazilian real	HUF	Hungarian forint	MYR	Malaysian ringgit	TND	Tunisian dinar
IPEA	International Preliminary Examining Authority	BYN	Belarusian rouble	IDR	Indonesian rupiah	NOK	Norwegian krone	TRY	Turkish lira
ISA	International Searching Authority	BZD	Belize dollar	ILS	New Israeli sheqel	NZD	New Zealand dollar	TTD	Trinidad and Tobago dollar
ISR	international search report	CAD	Canadian dollar	INR	Indian rupee	OMR	Omani rial	UAH	Ukrainian hryvnia
RO	receiving Office	CHF	Swiss franc	IRR	Iranian rial	PEN	Nuevo sol	UGX	Uganda shilling
		CLP	Chilean peso	ISK	Icelandic krona	PGK	Kina	USD	US dollar
		CNY	Yuan renminbi	JOD	Jordanian dinar	PHP	Philippine peso	UZS	Uzbek sum
		COP	Colombian peso	JPY	Japanese yen	PLN	Polish zloty	VND	Vietnamese dong
		CUP	Cuban peso	KES	Kenyan shilling	QAR	Qatari riyal	ZAR	South African rand
		CZK	Czech koruna	KHR	Cambodian riel	RON	New leu	XAF	CFA franc BEAC
ALL	Albanian lek	DJF	Djibouti franc	KPW	Won (KP)	RSD	Serbian dinar	XCD	East Caribbean dollar
AMD	Armenian dram	DKK	Danish krone	KRW	Won (KR)	RUB	Russian rouble	ZAR	South African rand
AUD	Australian dollar	DZD	Algerian dinar	KZT	Kazakh tenge	SAT	Samoa tala	ZWD	Zimbabwe dollar
AZN	Azerbaijani manat	EGP	Egyptian pound	LSL	Lesotho loti	SDG	Sudanese pound		
BAM	Convertible mark	EUR	Euro	LYD	Libyan dinar	SEK	Swedish krona		
BGN	Bulgarian lev	GBP	Pound sterling	MAD	Moroccan dirham	SGD	Singapore dollar		
BHD	Bahraini dinar	GHS	Ghanaian cedi	MKD	Macedonian denar	THB	Baht		

Table I(a) — Transmittal and international filing fees
(amounts on 1 September 2021, unless otherwise indicated)

RO	Transmittal fee ¹	International filing fee ^{1, 2} (CHF 1,330)	Fee per sheet over 30 ^{1, 2, 3} (CHF 15)	E-filing reductions according to Schedule of Fees:			Competent ISA(s) ⁴
				Item 4(a) ⁵ (CHF 100)	Item 4(b) ⁶ (CHF 200)	Item 4(c) ⁷ (CHF 300)	
AL	ALL 9,000	CHF 1,330	15	–	–	–	EP
AM	AMD 32,000	USD 1,453	16	–	–	–	EP RU
AP	USD 50 (or eq in local currency)	USD 1,453	16	–	218	328	AT EP SE
AT	EUR 52	EUR 1,233	14	–	185	278	EP
AU	AUD 200	AUD 1,860 (from 1.11.21: 2,019)	21 (23)	– (–)	280 (304)	420 (455)	AU KR
AZ	AZN 30	USD 1,453	16	–	218	328	EP RU
BA	BAM 50	EUR 1,233	14	–	–	–	EP
BG	BGN 80	EUR 1,233	14	–	185	278	EP RU
BH	BHD 70	USD 1,453	16	–	–	–	AT EP US
BN	BND 150	BND eq CHF 1,330	eq CHF 15	–	eq CHF 200	eq CHF 300	AU EP JP KR SG
BR	BRL ⁸ online: 175 on paper: ⁹ 260	BRL eq CHF 1,330	eq CHF 15	–	eq CHF 200	eq CHF 300	AT BR EP SE US
BW	USD 32	USD 1,453	16	–	–	–	EP
BY	BYN 71.05	USD 1,453	16	–	–	–	EP RU
BZ	BZD 300	USD 1,453	16	–	–	–	CA EP
CA	CAD 306	CAD 1,782	20	–	268	402	CA
CH	CHF 100	CHF 1,330	15	–	200	300	EP
CL	CLP eq USD ¹⁰ 130	CLP eq USD ¹⁰ 1,453	eq USD ¹⁰ 16	–	eq USD 218	eq USD 328	CL EP ES KR US
CN	CNY none	CNY eq CHF 1,330	eq CHF 15	–	eq CHF 200	eq CHF 300	CN EP ¹¹
CO	COP online: 419,640 on paper: 503,470	COP eq CHF 1,330	eq CHF 15	–	eq CHF 200	eq CHF 300	AT BR CL EP ES KR RU
CR	USD online: 212 on paper: 289	USD 1,453	16	–	218	328	CL EP ES

[continued on next page]

4. Introduction to International Phase (AG-IP)

Requirements and actions before the International Authorities from the applicant's point of view. Referenced in EPO-PCT Guidelines (GL/PCT-EPO) as "PCT AG I".

PATENT COOPERATION TREATY (PCT)

PCT APPLICANT'S GUIDE INTRODUCTION TO THE INTERNATIONAL PHASE

(1 July 2020)

1. This part of the PCT Applicant's Guide (the Guide) consists of general information on the PCT intended for those interested in filing international patent applications, in particular, information on the "international phase" of the PCT procedure.
2. This is supplemented by a number of Annexes containing more detailed information; whenever the word "Annex" followed by a capital letter is used in the Guide, it is a reference to an Annex. These are NOT INCLUDED. See: www.wipo.int/pct
3. Since 2006, the Guide is only available via the Internet at www.wipo.int/pct/.
An e-mail update service is also available which provides users of the Guide with a weekly notice informing them which Guide information has been updated that week.

Source:

Extracted from "INTRODUCTION TO THE INTERNATIONAL PHASE"
as in force from 1 Jul 2020

Amended by Fireball Patents (1 Sep 21):

- Standard contents replaced by "Detailed Table of Contents" with page numbers
- Blank pages added

4.1 AG-IP - Detailed Table of Contents

Major changes

2018
2019
2020

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4.2 Applicant's Guide (International Phase)

CHAPTER 1: THIS GUIDE AND ITS ANNEXES

INTRODUCTION

1.001. This part of the PCT Applicant's Guide (the *Guide*) consists of general information on the Patent Cooperation Treaty (PCT) intended for those interested in filing international patent applications, in particular, information on the "international phase" of the PCT procedure. This is supplemented by a number of Annexes Containing more detailed information; whenever the word "Annex" followed by a capital letter is used in the *Guide*, it is a reference to an Annex. A second part follows and contains general information on the "national phase" of the PCT procedure, namely the procedure before the designated (or elected) Offices. A designated (or elected) Office is the national or regional Patent Office of or acting for a State party to the PCT (a "Contracting State") that is designated (or elected) in an international application. This National Phase also indicates the requirements to be complied with before each of these Offices in their respective National Chapters. Since 2006, the *Guide* is only available via the Internet at <https://www.wipo.int/pct/>. An e-mail update service is also available which provides users of the *Guide* with a weekly notice informing them which *Guide* information has been updated that week.

1.002. In the text of the *Guide*, "Article" refers to Articles of the PCT, "Rule" refers to the PCT Regulations and "Section" refers to the PCT Administrative Instructions. References to a "paragraph" relate to the texts of either the International or the National Phases of the *Guide*.

1.003. Although the information contained in this *Guide* is fairly comprehensive, it should be borne in mind that it condenses and interprets Rules that are contained in longer, official texts, particularly the PCT itself and the Regulations under the PCT, and it is those texts which apply in the case of any inconsistency with this *Guide*. Consultation of those texts is indispensable for complete information.

1.004. Since the text of the PCT and PCT Regulations is sometimes fairly complex, and since the drafting and prosecution of patent applications is itself a complex matter, prospective applicants, unless they are specialists in patent law themselves, are strongly advised to obtain professional advice from patent attorneys or patent agents, and to use the services of such attorneys or agents.

1.005. Up-to-date versions of the PCT and Regulations may be browsed or downloaded from the PCT Resources page at <https://www.wipo.int/patentscope/en/>. These texts are also available in Arabic, Chinese, French, German, Italian, Japanese, Portuguese, Russian and Spanish.

Printed brochures of the PCT and Regulations, in many of the above languages, may be ordered as WIPO publication number 274 from the International Bureau at the address given in Annex B (IB), or by e-mail from publications.mail@wipo.int or from the electronic bookshop at <https://www.wipo.int/ebookshop>. Publication orders should also indicate the language of the required publication. PCT users may consult published international applications on PATENTSCOPE at: <https://patentscope.wipo.int/search/en/search.jsf>. It is also recommended that they consult the *Official Notices (PCT Gazette)* which contain notices and information of a general character. Accession of new Contracting States, changes in fees and other information are promptly published therein. A complete collection of *Official Notices (PCT Gazette)* from 1998 to the present is available in electronic form on the WIPO website at: https://www.wipo.int/pct/en/official_notices/index.html.

1.006. Up-to-date news about the PCT is available from the *PCT Newsletter*, a monthly publication. In addition to matters such as adherence of further States to the PCT and changes in requirements of Offices and Authorities, the *PCT Newsletter* also includes the current list of PCT Contracting States, reports of international meetings concerning the PCT, amendments to the PCT Regulations, changes to PCT forms, statistics relating to the filing of international applications, practical advice for PCT users, information about forthcoming PCT seminars and tables of PCT fees. The *PCT Newsletter* is available on the WIPO website at: <https://www.wipo.int/pct/en/newslett/>. This web page also contains a fully searchable collection of all practical advice published since 1994, plus back issues of the *PCT Newsletter* which are also fully searchable as from the January 1994 issue onwards. In addition to English, excerpts from the *PCT Newsletter* are also available in Chinese (<https://www.wipo.int/pct/zh/newslett/index.html>), Japanese (<https://www.wipo.int/pct/ja/newslett/index.html>) and Korean (<https://www.wipo.int/pct/ko/newslett/>).

1.007. Those wishing to know the background to the PCT are advised to consult the “Records of the Washington Diplomatic Conference on the Patent Cooperation Treaty, 1970” which is available on the WIPO website at: <https://www.wipo.int/pct/en/texts/washington.html>.

1.008. Further useful material is contained in the Administrative Instructions under the PCT (available at <https://www.wipo.int/pct/en/texts/index.html>), the PCT Receiving Office Guidelines, and the PCT International Search and Preliminary Examination Guidelines (both available at <https://www.wipo.int/pct/en/texts/gdlines.html>).

However, the Administrative Instructions and those Guidelines are mainly addressed to the authorities carrying out the various tasks entrusted to them by the PCT. To the extent that they are of interest to applicants, their contents are duly reflected in the notes to some PCT forms and in the text of this *Guide*.

CHAPTER 2: WHAT IS THE PCT?

2.001. The Patent Cooperation Treaty or PCT is a multilateral treaty that was concluded in Washington in 1970 and entered into force in 1978. It is administered by the International Bureau of the World Intellectual Property Organization (WIPO), whose headquarters are in Geneva (Switzerland).

2.002. The PCT facilitates the obtaining of protection for inventions where such protection is sought in any or all of the PCT Contracting States (see Annex A). It provides for the filing of one patent application (“the international application”), with effect in several States, instead of filing several separate national and/or regional patent applications. In addition to designations of PCT Contracting States for the purposes of obtaining national patents and similar titles, an international application includes designations for regional patents in respect of States party to any of the following regional patent treaties: the Protocol on Patents and Industrial Designs within the framework of the African Regional Intellectual Property Organization (ARIPO) (hereinafter referred to as “the ARIPO Harare Protocol”), the Eurasian Patent Convention, the European Patent Convention, and the Agreement establishing the African Intellectual Property Organization (OAPI) (hereinafter referred to as “the OAPI Agreement”). The PCT does not eliminate the necessity of prosecuting the international application in the national phase of processing before the national or regional Offices, but it does facilitate such prosecution in several important respects by virtue of the procedures carried out on all international applications during the international phase of processing. The formalities check, the international search and the optional supplementary international search(es) and the likewise optional international preliminary examination carried out during the international phase, as well as the automatic deferral of national processing which is entailed, give the applicant more time and a better basis for deciding whether and in which countries to further pursue the application.

CHAPTER 3: INTERNATIONAL & NATIONAL PHASE

3.001. The PCT procedure consists of two main phases. It begins with the filing of an international application and ends (in the case of a favorable outcome for the applicant) with the grant of a number of national and/or regional patents: hence the terms “international phase” and “national phase.” (The expression “national phase” is used even if the Office before which it takes place is a regional Office.) The expressions “international phase” and “national phase” are not actually used in the PCT, but they are convenient, short expressions which have become customary and are therefore used in this *Guide*.

3.002. The international phase, which is the subject of this part of the *Guide*, consists of five stages. The first three occur automatically for all international applications and the last two are optional. The first three steps consist of the filing of the international application by the applicant and its processing by the “receiving Office” (see Annex C), the establishment of the international search report and written opinion by one of the “International Searching Authorities” (see Annex D), and the publication of the international application together with the international search report by the International Bureau of WIPO (hereinafter referred to as “the International Bureau”). The fourth step includes the establishment of a supplementary international search which may be carried out by one or more of the International Searching Authorities (other than the one that carried out the main international search) resulting in the establishment of a supplementary international search report (see Annex SISA). Hereinafter, reference to the “(main) international search” alone does not include reference to the “supplementary international search”, and reference to “international search report” alone does not include reference to “supplementary international search report”, except where otherwise indicated. The third step includes communication of the published international application and the international search report and, where applicable, the supplementary international search report(s), as well as the international preliminary report on patentability (Chapter I of the PCT), by the International Bureau to the national (or regional) Offices which the applicant wishes to grant him a patent on the basis of his international application (the so-called “designated Offices”). The communication occurs upon request by the designated Office to the International Bureau.

3.003. The optional fifth step involves what is known as international preliminary examination (under Chapter II of the PCT), and is concluded with the establishment of the international preliminary report on patentability (Chapter II of the PCT) by one of the “International Preliminary Examining Authorities” (see Annex E). The international preliminary report on patentability (Chapter II of the PCT) analyzes aspects of the general patentability of the invention. Together with the published international application, the international search report and any supplementary international search report, the international preliminary report on patentability (Chapter II of the PCT) is communicated to the national (or regional) Offices which the applicant wishes to grant him a patent on the basis of his international application (the so-called “elected Offices”). The communication occurs upon request by the elected Office to the International Bureau. International preliminary examination is available subject to certain conditions and qualifications being met; those are discussed in detail in paragraph 10.004.

3.004. On completion of the international phase, further action is required before and in each of the national (or regional) Offices which the applicant wishes to grant him a patent on the basis of his international application. In particular, the applicant has to pay to those Offices the required national (or regional) fees, furnish them with any translations that are required and appoint a representative (patent agent) where required. There are time limits by which those steps must be taken if the application is to proceed in the national phase (see paragraphs 4.014 to 4.016, 5.005 and 5.006 below). If the steps are not taken within the applicable time limit, the effect of the international application may cease in any State where the time limit has not been met. The national (or regional) Offices then examine the application and grant or refuse the national (or regional) patent on the basis of their national laws. (In the PCT and in this *Guide*, any reference to “national law” is also a reference to a regional treaty such as the ARIPO Harare Protocol, the Eurasian Patent Convention, the European Patent Convention and the OAPI Agreement – see paragraph 2.002.) These procedures before the national (or regional) Offices constitute what is usually referred to as the “national phase” of the PCT procedure and are considered in that part of this *Guide*.

3.005. It is up to the applicant to decide whether and when to enter the national phase before each national (or regional) Office. The international phase continues, for any particular State, until entry into the national phase before the national (or regional) Office concerned or until the expiration of the applicable time limit for entering the national phase before that Office. Since the national phase may be

entered before different Offices at different times, the international application may simultaneously be in the international phase for some States and the national phase for others. Where national phase processing or examination has begun before a particular Office, any actions taken on the international application remaining in the international phase have no effect on the proceedings before that Office.

5. Administrative Instructions (AI)

Referenced in PCT Rules, detailing how the Authorities should apply the Rules. Referenced in EPO-PCT Guidelines (GL/PCT-EPO) as "AI", and in AG-IP as "Section xxx".

WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

PCT/AI/21
ORIGINAL: ENGLISH
DATE: JUNE 25, 2020

PATENT COOPERATION TREATY (PCT)

ADMINISTRATIVE INSTRUCTIONS UNDER THE PATENT COOPERATION TREATY

as in force from July 1, 2020

1. This document contains the consolidated text of the Administrative Instructions under the Patent Cooperation Treaty (PCT), established under PCT Article 58(4) and Rule 89.2(a), and modified under PCT Rule 89.2(b), as in force from July 1, 2020.
2. This document will supersede documents PCT/AI/20 (dated June 7, 2019) and PCT/AI/20 ADD. (dated April 30, 2020).
3. **Annex F** is not reproduced in this document. The full text of this annex may be downloaded from the WIPO website at: www.wipo.int/pct/en/texts/index.html

Source:

Extracted from "ADMINISTRATIVE INSTRUCTIONS UNDER THE PCT"
as in force from 1 Jul 2020

- established under PCT A. 58(4) & R. 89.2(a), modified under PCT R. 89.2(b)

Amended by Fireball Patents (1 Sep 21):

- Standard contents replaced by "Detailed Table of Contents" with page numbers

- Blank pages added

- Annex A replaced by "Overview of Applicant & Office forms"

- Annexes B to E are included

- Annex F (Standard for Electronic Filing & Processing) is 530 pages, so only an overview is included. Contents can be downloaded at:

www.wipo.int/pct/en/texts/index.html

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Major changes

2017
2019
2020

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Abbreviations used

DO	Designated Office	ISA	International Searching Authority
EO	Elected Office	ISR	International Search Report
IA	International Application	PoA	Power of Attorney
IB	International Bureau	SIS	Supplementary International Search
intern.	international	SISA	Supplementary International Searching Authority
IPE	International Preliminary Examination	SISR	Supplementary International Search Report
IPEA	International Preliminary Examining Authority	WO	Written Opinion
IPRP	International Preliminary Report on Patentability		

5.2 Administrative Instructions

PART 1: INSTRUCTIONS RELATING TO GENERAL MATTERS

Section 101 Abbreviated Expressions and Interpretation

- (a) In these Administrative Instructions:
- (i) "Treaty" means the Patent Cooperation Treaty;
 - (ii) "Regulations" means the Regulations under the Treaty;
 - (iii) "Article" means an Article of the Treaty;
 - (iv) "Rule" means a Rule of the Regulations;
 - (v) "International Bureau" means the International Bureau as defined in Article 2(xix) of the Treaty;
 - (vi) "International Authorities" means the receiving Offices, the International Searching Authorities, the International Preliminary Examining Authorities, and the International Bureau;
 - (vii) "Annex" means an Annex to these Administrative Instructions, unless the contrary clearly follows from the wording or the nature of the provision, or the context in which the word is used;
 - (viii) "Form" means a Form contained in Annex A;
 - (ix) "WIPO Standard" means a Standard established by the World Intellectual Property Organization;
 - (x) "Director General" means the Director General as defined in Article 2(xx) of the Treaty;
 - (xi) "electronic" technology includes that having electrical, digital, magnetic, optical or electromagnetic capabilities;
 - (xii) the expressions "sequence listing", "sequence listing forming part of the international application" and "sequence listing not forming part of the international application" have the same meaning as in Annex C.
- (b) The Annexes are part of these Administrative Instructions.

Section 102 Use of the Forms

(a) Subject to paragraphs (b) to (k) and Section 103, the International Authorities shall use, or require the use of, the mandatory Forms specified below:

(i) Forms for use by the applicant:

PCT/RO/101 (request Form)
PCT/IPEA/401 (demand Form)

(ii) Forms for use by the receiving Offices:

PCT/RO/103	PCT/RO/112	PCT/RO/133	PCT/RO/154
PCT/RO/104	PCT/RO/113	PCT/RO/136	PCT/RO/155
PCT/RO/105	PCT/RO/114	PCT/RO/143	PCT/RO/156
PCT/RO/106	PCT/RO/115	PCT/RO/147	PCT/RO/157
PCT/RO/107	PCT/RO/117	PCT/RO/150	PCT/RO/158
PCT/RO/109	PCT/RO/118	PCT/RO/151	PCT/RO/159
PCT/RO/110	PCT/RO/123	PCT/RO/152	
PCT/RO/111	PCT/RO/126	PCT/RO/153	

(iii) Forms for use by the International Searching Authorities:

PCT/ISA/201	PCT/ISA/209	PCT/ISA/219	PCT/ISA/235
PCT/ISA/202	PCT/ISA/210	PCT/ISA/220	PCT/ISA/236

PCT/ISA/203	PCT/ISA/212	PCT/ISA/225	PCT/ISA/237
PCT/ISA/205	PCT/ISA/217	PCT/ISA/233	
PCT/ISA/206	PCT/ISA/218	PCT/ISA/234	
PCT/SISA/501	PCT/SISA/504	PCT/SISA/507	
PCT/SISA/502	PCT/SISA/505	PCT/SISA/510	
PCT/SISA/503	PCT/SISA/506		

(iv) Forms for use by the International Bureau:

PCT/IB/301	PCT/IB/319	PCT/IB/345	PCT/IB/369
PCT/IB/304	PCT/IB/320	PCT/IB/346	PCT/IB/370
PCT/IB/305	PCT/IB/321	PCT/IB/349	PCT/IB/371
PCT/IB/306	PCT/IB/323	PCT/IB/350	PCT/IB/373
PCT/IB/307	PCT/IB/325	PCT/IB/351	PCT/IB/374
PCT/IB/308	PCT/IB/326	PCT/IB/353	PCT/IB/376
PCT/IB/310	PCT/IB/331	PCT/IB/354	PCT/IB/377
PCT/IB/311	PCT/IB/332	PCT/IB/356	PCT/IB/378
PCT/IB/313	PCT/IB/335	PCT/IB/357	PCT/IB/379
PCT/IB/314	PCT/IB/336	PCT/IB/358	PCT/IB/399
PCT/IB/315	PCT/IB/337	PCT/IB/360	
PCT/IB/316	PCT/IB/338	PCT/IB/366	
PCT/IB/317	PCT/IB/339	PCT/IB/367	
PCT/IB/318	PCT/IB/344	PCT/IB/368	

(v) Forms for use by the International Preliminary Examining Authorities:

PCT/IPEA/402	PCT/IPEA/409	PCT/IPEA/420	PCT/IPEA/441
PCT/IPEA/404	PCT/IPEA/412	PCT/IPEA/425	PCT/IPEA/442
PCT/IPEA/405	PCT/IPEA/414	PCT/IPEA/431	PCT/IPEA/443
PCT/IPEA/407	PCT/IPEA/415	PCT/IPEA/436	PCT/IPEA/444
PCT/IPEA/408	PCT/IPEA/416	PCT/IPEA/440	

(b) Slight variations in layout necessary in view of the printing of the Forms referred to in paragraph (a) in various languages are permitted.

(c) Slight variations in layout in the Forms referred to in paragraph (a)(ii) to (v) are permitted to the extent necessary to meet the particular office requirements of the International Authorities, in particular in view of the production of the Forms by computer or of the use of window envelopes.

(d) Where the receiving Office, the International Searching Authority and/or the International Preliminary Examining Authority are each part of the same Office, the obligation to use the Forms referred to in paragraph (a) does not extend to communications within that same Office.

(e) The annexes to Forms PCT/RO/106, PCT/RO/118, PCT/ISA/201, PCT/ISA/205, PCT/ISA/206, PCT/ISA/210, PCT/ISA/219, PCT/IB/313, PCT/IB/336, PCT/IPEA/404, PCT/IPEA/405 and PCT/IPEA/415 may be omitted in cases where they are not used.

(f) The notes attached to Forms PCT/RO/101 (request Form), PCT/IB/375 (supplementary search request Form) and PCT/IPEA/401 (demand Form) shall be distributed by the International Authorities concerned together with the printed versions of those Forms. The notes attached to Form PCT/ISA/220 shall accompany the Form when sent to the applicant.

(g) The use of Forms other than those referred to in paragraph (a) is optional.

(h) Where the request or the demand is presented as a computer print-out, such print-out shall be prepared as follows:

(i) the layout and contents of the request and the demand when presented as computer print-outs shall correspond to the format of Forms PCT/RO/101 (request Form) and PCT/IPEA/401 (demand Form) ("the printed Forms"), with the same information being presented on the corresponding pages;

(ii) all boxes shall be drawn by solid lines; double lines may be presented as single lines;

(iii) the box numbers and box titles shall be included even where no information is supplied therein;

(iv) the boxes for use by the International Authorities shall be at least as large as those on the printed Forms;

(v) all other boxes shall be within one cm in size of those on the printed Forms;

(vi) all text shall be 9 points or larger in size;

(vii) titles and other information shall be clearly distinguished;

(viii) explanatory notes presented in italics on the printed Forms may be omitted.

(i) Other formats permitted for the presentation of the request and the demand as computer print-outs may be determined by the Director General. Any such format shall be published in the Gazette.

(j) The page-based layout of a Form generated from a character-coded format shall be permitted if it is generated using a stylesheet provided by the International Bureau.³

(k) A Form may be transmitted by one Office, International Authority or the International Bureau to another in character-coded format only, without its page based layout, if the recipient Office, Authority or Bureau has agreed to receive the information in such format and has agreed to generate any page based layout which may be required for the recipient Office's file records.

Section 102bis

[Deleted]

Section 103

Languages of the Forms Used by International Authorities

(a) The language of the Forms used by any receiving Office shall be the same as the language in which the international application is filed, provided that:

(i) where the international application is to be published in the language of a translation required under Rule 12.3(a) or 12.4(a), the receiving Office shall use the Forms in such language;

(ii) the receiving Office may, in its communications to the applicant, use the Forms in any other language being one of its official languages.

(b) Subject to Section 104(b), the language or languages of the Forms to be used by any International Searching Authority shall be specified in the applicable agreement referred to in Article 16(3)(b).

(c) Subject to Section 104(b), the language or languages of the Forms to be used by any International Preliminary Examining Authority shall be specified in the applicable agreement referred to in Article 32(3).

(d) The language of any Form used by the International Bureau shall be English where the language of the international application is English, and it shall be French where the language of the international application is French. Where the language of the international application is neither English nor French, the language of any Form used by the International Bureau in its communications to any other International Authority shall be English or French according to the wishes of such Authority, and in its communications to the applicant it shall be English or French according to the wishes of the applicant.

³ *Editor's Note:* Available from the WIPO website at: www.wipo.int/pct/en/epct/resources.

Section 104

Language of Correspondence

(a) The language of any letter from the applicant to the receiving Office shall be the same as the language of the international application to which such letter relates, provided that, where the international application is to be published in the language of a translation required under Rule 12.3(a) or 12.4(a), any letter shall be in such language. However, the receiving Office may expressly authorize the use of any other language.

(b) The language of any letter from an Office or Authority to the International Bureau shall be English where the language of the international application is English, and it shall be French where the language of the international application is French. Where the language of the international application is neither English nor French, the language of any letter to the International Bureau shall be English or French, provided that any copy, sent to the International Bureau as a notification addressed to it, of a Form sent to the applicant by the receiving Office, the International Searching Authority or the International Preliminary Examining Authority, does not require translation into English or French.

(c) Any communication from the applicant to the International Bureau using ePCT shall be in English, French or the language of publication. The Director General may determine that communications in such languages may also be submitted through other means of communication, and may additionally expand the languages permitted. Any such decisions by the Director General shall be published in the Gazette.

Section 105

Identification of International Application with Two or More Applicants

Where any international application indicates two or more applicants, it shall be sufficient, for the purpose of identifying that application, to indicate, in any Form or correspondence relating to such application, the name of the applicant first named in the request. The provisions of the first sentence of this Section do not apply to the demand.

Section 106

Change of Common Representative

Where a change is recorded under Rule 92*bis*.1(a) in the person of an applicant who was considered to be the common representative under Rule 90.2(b), the new applicant shall be considered to be the common representative under Rule 90.2(b) if he is entitled according to Rule 19.1 to file an international application with the receiving Office.

Section 107

Identification of International Authorities and of Designated and Elected Offices

(a) Whenever the nature of any communication from or to the applicant, from or to any International Authority or, before national processing or examination has started, from or to any designated or elected Office so permits, any International Authority or any designated or elected Office may be indicated in the communication by the two-letter code referred to in Section 115.

(b) The indication of a receiving Office, an International Searching Authority, an International Preliminary Examining Authority or a designated or elected Office shall be preceded by the letters "RO," "ISA," "IPEA," "DO," or "EO," respectively, followed by a slant (e.g., "RO/JP," "ISA/US," "IPEA/SE," "DO/EP," "EO/AU").

Section 108

Correspondence Intended for the Applicant

(a) For the purpose of this Section, where there are two or more agents whose appointments are in force, "first mentioned agent" means the agent first mentioned in the document containing the appointments or, where the appointments are contained in two or more documents, in that which was filed first.

(b) Where a sole applicant has appointed an agent or agents under Rule 90.1(a), correspondence intended for the applicant from the International Authorities shall, subject to paragraph (d), be addressed to the agent or, where applicable, to the first mentioned agent.

(c) Where there are two or more applicants, correspondence intended for the applicants from the International Authorities shall, subject to paragraph (d), be addressed:

(i) if no common agent has been appointed under Rule 90.1 – to the common representative or, where applicable, to his agent or first mentioned agent; or

(ii) if the applicants have appointed a common agent or common agents under Rule 90.1(a) – to that common agent or, where applicable, to the first mentioned common agent.

(d) Where an agent has or agents have been appointed under Rule 90.1(b), (c) or (d)(ii), paragraphs (b) and (c) shall apply to correspondence intended for the applicant relating to the procedure before the International Searching Authority or the International Preliminary Examining Authority, as the case may be, as if those paragraphs referred to the agent or agents so appointed.

(e) Where, in accordance with paragraph (c), correspondence intended for the applicants from the International Authorities is to be addressed to the common representative but the indication required under Rule 4.5(a)(ii) has not been provided for the common representative, correspondence shall be addressed:

(i) to the first applicant named in the request who is entitled according to Rule 19.1 to file an international application with the receiving Office and in respect of whom the indication required under Rule 4.5(a)(ii) has been provided; or, if there is no such applicant,

(ii) to the applicant first named in the request who is entitled according to Article 9 to file an international application and in respect of whom the indication required under Rule 4.5(a)(ii) has been provided; or, if there is no such applicant,

(iii) to the applicant first named in the request in respect of whom the indication required under Rule 4.5(a)(ii) has been provided.

Section 109 **File Reference**

(a) Where any document submitted by the applicant contains an indication of a file reference, that reference shall not exceed 25 characters in length and may be composed of either letters of the Latin alphabet, or Arabic numerals, or both. The hyphen character (“-”) may also be used as a separator between alphanumeric characters.

(b) Correspondence from International Authorities intended for the applicant shall indicate any such file reference.

Section 110 **Dates**

Any date in the international application, or used in any correspondence emanating from International Authorities relating to the international application, shall be indicated by the Arabic number of the day, by the name of the month, and by the Arabic number of the year. The receiving Office, where the applicant has not done so, or the International Bureau, where the applicant has not done so and the receiving Office fails to do so, shall, after, above, or below any date indicated by the applicant in the request, repeat the date, in parentheses, by indicating it by two-digit Arabic numerals each for the number of the day and for the number of the month followed by the number of the year in four digits, in that order and with a period, slant or hyphen after the digit pairs of the day and of the month (for example, “20 March 2004 (20.03.2004),” “20 March 2004 (20/03/2004),” or “20 March 2004 (20-03-2004)”).

Section 111
Procedure and Considerations in the Case of Excuse of the Delay in Meeting
Certain Time Limits under Rule 82*quater*

(a) Where the receiving Office, the International Searching Authority, the Authority specified for supplementary search, the International Preliminary Examining Authority, or the International Bureau receives a request under Rule 82*quater* for the excuse of a delay in meeting a time limit, it shall promptly:

(i) communicate its decision whether or not to excuse such a delay to the interested party; and

(ii) where applicable, transmit a copy of such a request, a copy of any evidence furnished and of its decision to the International Bureau.

(b) An interested party desiring to have delays excused due to general unavailability of electronic communications services under Rule 82*quater.1* must establish that the outage of electronic communications services affected a widespread geographical area rather than being a localized problem, that it was unexpected or unforeseen, and that there was no alternative communication means available to him.

(c) Where any Office that acts as the receiving Office, the International Searching Authority, the Authority specified for supplementary search, or the International Preliminary Examining Authority provides for the excuse of a delay in meeting time limits due to the unavailability of electronic means of communication at that Office under Rule 82*quater.2*, it shall notify the International Bureau accordingly. The International Bureau shall promptly publish this information in the Gazette.

(d) Where the International Bureau provides for the excuse of a delay in meeting time limits due to the unavailability of electronic means of communication at the Bureau under Rule 82*quater.2*, it shall publish this information in the Gazette.

(e) The International Bureau shall also promptly publish in the Gazette any notification received by it under Rule 82*quater.2(a)*, last sentence.

Section 112
Ceasing of Effect under Articles 24(1)(iii) and 39(2), Review
under Article 25(2) and Maintaining of Effect under Articles 24(2) and 39(3)

(a) Each national Office shall, in its capacity as designated Office, notify the International Bureau once a year of:

(i) the number of international applications in respect of which, during the preceding calendar year, the time limit applicable under Article 22 has expired;

(ii) the number of international applications in respect of which, during the preceding calendar year, the requirements provided for in Article 22 have not been complied with before the expiration of the time limit applicable under that Article, with the consequence that the effects of the international applications concerned have ceased under Article 24(1)(iii).

(b) Each national Office shall, in its capacity as elected Office, notify the International Bureau once a year of:

(i) the number of international applications in respect of which, during the preceding calendar year, the time limit applicable under Article 39(1) has expired;

(ii) the number of international applications in respect of which, during the preceding calendar year, the requirements provided for in Article 39(1) have not been complied with before the expiration of the time limit applicable under that Article, with the consequence that the effects of the international applications concerned have ceased under Article 39(3).

(c) Where, under Article 25(2), the designated Office decides that the refusal, declaration or finding referred to in Article 25(1) was not justified, it shall promptly notify the International Bureau that it will treat the international application as if the error or omission referred to in

Article 25(2) had not occurred. The notification shall preferably contain the reasons for the decision of the designated Office.

(d) Where, under Article 24(2) or under Article 39(3), the designated or elected Office maintains the effect provided for in Article 11(3), it shall promptly notify the International Bureau accordingly. The notification shall preferably contain the reasons for the decision of the designated or elected Office.

Section 113 **Special Fees Payable to the International Bureau**

(a) The special publication fee provided for in Rule 48.4 shall be 200 Swiss francs.

(b) The special fee provided for in Rule 91.3(d) shall be payable to the International Bureau and shall be 50 Swiss francs plus 12 Swiss francs for each sheet in excess of one. Where that fee has not been paid prior to the expiration of the time limit under Rule 91.3(d), the request for rectification, the reasons for refusal by the authority and any further brief comments submitted by the applicant shall not be published. Where the last sentence of Rule 91.3(d) applies and the said fee has not been paid before the time of the communication of the international application under Article 20, a copy of the request for rectification shall not be included in that communication.

(c) The special fee provided for in Rule 26*bis*.2(e) shall be payable to the International Bureau and shall be 50 Swiss francs plus 12 Swiss francs for each sheet in excess of one.

Section 114 **Notification and Transfer of Fees**

The notification of the receipt of fees under Rule 96.2(b) and the transfer of fees under Rule 96.2(c) shall be carried out in accordance with Annex G.

Section 115 **Indications of States, Territories and Intergovernmental Organizations**

The indication of a State, territory or intergovernmental organization shall be made either by its full name, by a generally accepted short title which, if the indications are in English or French, shall be as appears in WIPO Standard ST.3 (Recommended Standard Two-Letter Code for the Representation of Countries, and of Other Entities and International Organizations Issuing or Registering Industrial Property Titles), or by the two-letter code as appears in that Standard.⁴

PART 2: INSTRUCTIONS RELATING TO THE INTERNATIONAL APPLICATION

Section 201 **Language of the International Application**

The language in which the international application is filed shall preferably be indicated in the request.

Section 202 *[Deleted]*

⁴ *Editor's Note:* Published in the WIPO Handbook on Industrial Property Information and Documentation.

1) APPLICANT FORMS

Number	Title	Relevant PCT Provisions
PCT/RO/101 (Filled-in Sample)	Request (Continuation Sheets for 6 or More Applicants/Inventors)	
PCT/RO/134	Indications Relating to Deposited Microorganism or Other Biological Material	R.13bis
PCT/ROIB/198	List of Documents Filed with IB as RO (receipt)	
PCT/IB/372	Notice of Withdrawal	R.90bis .1, R.90bis .2, R.90bis .3, R.90bis .3bis, R.90bis .4
PCT/IB/375	SIS Request	R.45bis .1
PCT/IB/382	Request for Indication of Availability for Licensing Purposes	
PCT/IB/384	Request for Omission of Information from International public and/or Public File Access	R.48.2(l), R.94.1(e)
PCT/IPEA/401 (Filled-in Sample)	Demand (Continuation Sheets for 6 or More Applicants/Inventors)	A.31, A.34 R.53, R.54, R.54bis, R.55, R.57, R.58,
PoA specific	PoA model - specific	R.90.4
PoA general	PoA model - generic	R.90.5
RCSE	Request to Participate in IP5 Collaborative Search & Examination Pilot	A.30 R.42

2) RO FORMS

Number	Title	Relevant PCT Provisions
PCT/RO/101 (Filled-in Sample)	Request (Continuation Sheets for 6 or More Applicants/Inventors)	
PCT/RO/102	Notification About Payment of Prescribed Fees	R.12bis.1(b), R.14, R.15, R.16 Sections 304, 323(b) & 707
PCT/RO/103	Invitation to Correct Purported IA	A.11(2)(a) R.20.3, R.20.6, R.20.7
PCT/RO/104	Notification that Purported IA is not & Will not Be Treated as an IA	R.20.4(i)
PCT/RO/105	Notification of IA Number & of International Filing Date	R.20.2(c)
PCT/RO/106	Invitation to Correct Defects in IA	A.3(4)(i), A.14(1) R.26
PCT/RO/107	Invitation Relating to Missing Parts or Erroneously Filed Elements or Parts	R.20.5(a), R. 20.5bis(a)
PCT/RO/108	Invitation to Request Rectification	R.91.1(h) & 91.2
PCT/RO/109	Notification of Decision About Request for Rectification	R.91.3(a) & (d)
PCT/RO/110	Invitation to Correct Priority Claim and/or Notification of Possibility to Request Restoration of Priority	R.4.10, R.26bis.1, R.26bis.2(a) & (b), R.26bis.3

(continued on next page)

5.5 ANNEX C: STANDARD FOR THE PRESENTATION OF SEQUENCE LISTINGS

INTRODUCTION

1. This Standard has been elaborated so as to provide standardization of the presentation of nucleotide and amino acid sequence listings in international patent applications. The Standard is intended to allow the applicant to draw up a single sequence listing which is acceptable to all receiving Offices, International Searching and Preliminary Examining Authorities for the purposes of the international phase, and to all designated and elected Offices for the purposes of the national phase. It is intended to enhance the accuracy and quality of presentations of nucleotide and amino acid sequences given in international applications, to make for easier presentation and dissemination of sequences for the benefit of applicants, the public and examiners, to facilitate searching of sequence data and to allow the exchange of sequence data in electronic form and the introduction of sequence data onto computerized databases.

DEFINITIONS

2. For the purposes of this Standard:

(i) the expression "sequence listing" means a nucleotide and/or amino acid sequence listing which gives a detailed disclosure of the nucleotide and/or amino acid sequences and other available information;

(i-*bis*) the expression "sequence listing forming part of the international application" means a sequence listing contained in the international application as filed (as referred to in paragraph 3), including any sequence listing or part thereof which is included in the international application under Rule 20.5(b) or (c), or 20.5*bis*(b) or (c), which is considered to have been contained in the international application under Rule 20.6(b), or which has been corrected under Rule 26, rectified under Rule 91 or amended under Article 34(2); or a sequence listing included in the international application by way of an amendment under Article 34(2)(b) of the description in relation to sequences contained in the international application as filed (as referred to in paragraphs 3*bis* and 3*ter*);

(i-*ter*) the expression "sequence listing not forming part of the international application" means a sequence listing which does not form part of the international application but is furnished for the purposes of the international search or international preliminary examination (as referred to in paragraphs 4 and 4*bis*);

(ii) sequences which are included are any unbranched sequences of four or more amino acids or unbranched sequences of ten or more nucleotides. Branched sequences, sequences with fewer than four specifically defined nucleotides or amino acids as well as sequences comprising nucleotides or amino acids other than those listed in Appendix 2, Tables 1, 2, 3 and 4, are specifically excluded from this definition;

(iii) "nucleotides" embrace only those nucleotides that can be represented using the symbols set forth in Appendix 2, Table 1. Modifications, for example, methylated bases, may be described as set forth in Appendix 2, Table 2, but shall not be shown explicitly in the nucleotide sequence;

(iv) "amino acids" are those L-amino acids commonly found in naturally occurring proteins and are listed in Appendix 2, Table 3. Those amino acid sequences containing at least one D-amino acid are not intended to be embraced by this definition. Any amino acid sequence that contains post-translationally modified amino acids may be described as the amino acid sequence that is initially translated using the symbols shown in Appendix 2, Table 3, with the modified positions, for example, hydroxylations or glycosylations, being described as set forth in Appendix 2, Table 4, but these modifications shall not be shown explicitly in the amino acid

5.8 ANNEX F: STANDARD FOR ELECTRONIC FILING & PROCESSING OF INTERNATIONAL APPLICATIONS (Overview)

[This Annex, which is not reproduced here, contains the Standard for the Electronic Filing and Processing of International Applications, including the following Appendices:

Appendix I: XML DTDS for the ePCT Standard

Appendix II: PKI Architecture for the ePCT Standard

Appendix III: Basic Common Standard for Electronic Filing

Appendix IV: Use of Physical Media for the ePCT Standard

Annex F and its Appendix I are set out in two separate documents. They are both available on the WIPO website at: www.wipo.int/pct/en/texts/index.htm]

[Annex G follows]

Note:

- contents of Annex F are not included - they are 600 pages, and less relevant for applicants
- download from WIPO at: www.wipo.int/pct/en/texts/index.htm

5.9 ANNEX G: NOTIFICATION OF RECEIPT AND TRANSFER OF FEES

I. INTRODUCTION

1. Pursuant to Rules 96.2(b) and 96.2(c) and Section 114 of the PCT Administrative Instructions, the notification of receipt of fees and the transfer of fees collected by one Office for the benefit of another Office shall be carried out in accordance with the provisions set out in this Annex.

2. For the purposes of this Annex, the term “Office” has the same definition as in Rule 96.2(a).

II. AGREEMENTS AND TIMETABLES

II.1 AGREEMENT TO PARTICIPATE IN THE WIPO FEE TRANSFER SERVICE

3. An Office (“participating Office”) may agree with the International Bureau to participate in the WIPO process for exchanging fees via the International Bureau (“WIPO Fee Transfer Service”) for PCT purposes by:

(a) transferring some or all fees collected by it for the benefit of another participating Office to that other participating Office via the International Bureau in accordance with the provisions set out in this Annex; and

(b) having some or all fees collected by another participating Office for its benefit transferred to it via the International Bureau in accordance with the provisions set out in this Annex.

4. Where a collecting Office and the corresponding beneficiary Office have agreed to participate in the WIPO Fee Transfer Service, the transfer of

(a) international filing fees under Rule 15.2(c) or (d) collected by the Office in its capacity as a receiving Office for the benefit of the International Bureau;

(b) search fees under Rule 16.1(c) or (d) collected by the Office in its capacity as a receiving Office for the benefit of a participating Office in its capacity as an International Searching Authority;

(c) supplementary search fees under Rule 45*bis*.3(b) collected by the International Bureau for the benefit of a participating Office in its capacity as an Authority specified for supplementary search;

(d) handling fees under Rule 57.2(c) or (d) collected by an International Preliminary Examining Authority for the benefit of the International Bureau; and

(e) differences under Rule 16.1(e) relating to search fees received by the Office in its capacity as an International Searching Authority in a currency other than its fixed currency;

from the collecting office to the International Bureau for further transfer to the beneficiary Office shall be considered to be the transfer of said fee in accordance with Rule 15.2(c) or (d), Rule 16.1(c) or (d), Rule 45*bis*.3(b), Rule 57.2(c) or (d), or Rule 16.1(e), as applicable and shall not be considered a payment by the collecting office to a third party. The transfer shall be carried out promptly in accordance with a timetable for such transfers agreed between the Offices concerned and/or the International Bureau. The Office carrying out the transfer (including, where applicable, the International Bureau) shall bear all bank charges for the transfer of the fees.

5. A participating Office, in its capacity as an International Searching Authority, may agree with the International Bureau that some or all of the transfers of fees by it under paragraph 3(a) and the transfer of fees to it under paragraph 3(b) shall be subject to netting in accordance with the provisions set out in this Annex (“fee transfer subject to netting”).

6. Receiving Office (RO) Guidelines (RO GL)

Recommended actions & steps to be followed by RO's. The information is mainly procedural. Referenced in EPO-PCT Guidelines (GL/PCT-EPO) as "GL/RO".

WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

PCT/GL/RO/19
ORIGINAL: ENGLISH
DATE: JUNE 25, 2020

PATENT COOPERATION TREATY (PCT)

PCT RECEIVING OFFICE GUIDELINES

(Guidelines for the processing by receiving Offices of international applications under the Patent Cooperation Treaty)

as in force from July 1, 2020

1. This document contains the consolidated text of the PCT Receiving Office Guidelines, established by the International Bureau of WIPO and modified after consultation with the receiving Offices under the PCT.
2. This document will supersede documents PCT/GL/RO/18 (dated December 19, 2018) and PCT/GL/RO/18 ADD. (dated April 30, 2020).

Source:

Extracted from "PCT RECEIVING OFFICE GUIDELINES"
as in force from 1 Jul 2020

Amended by Fireball Patents (1 Sep 21):

- Standard contents replaced by "Detailed Table of Contents" with page numbers
- Blank pages added

6.1 Detailed Table of Contents

Major changes

2018
2019
2020

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6.2 Receiving Office Guidelines

CHAPTER I: INTRODUCTION

1. These Guidelines are intended to assist receiving Offices in carrying out the duties entrusted to them under the Patent Cooperation Treaty (PCT) and provide them with reference material that can assist them in processing international applications under the PCT. They describe the tasks of a receiving Office in relation to relevant PCT procedures.
2. The Guidelines recommend to receiving Offices a system for carrying out their duties under the PCT. Applying that system to the extent possible is of great importance in order to ensure uniform processing of all international applications by all receiving Offices. However, the Guidelines do not cover all possible procedures within a receiving Office and not all tasks referred to need to be performed with regard to each international application. Rarely occurring or particularly complex situations have not been included.
3. For complete information, consultation of the official texts, particularly the PCT itself, the Regulations under the PCT and the Administrative Instructions under the PCT, is indispensable. In case of any inconsistency with these Guidelines, it is those texts which apply.
4. References in these Guidelines to “Articles” are references to those of the Treaty, to “Rules” to those of the Regulations under the PCT, to “Sections” to those of the Administrative Instructions under the PCT, and to paragraphs to those of these Guidelines. The forms to be used by the receiving Office are contained in Part I of Annex A to the Administrative Instructions.
5. These Guidelines contain in some cases references to the Notes to the request form (Form PCT/RO/101); they also contain references to the *PCT Applicant’s Guide* to the extent that they appear to be useful for receiving Offices to carry out their duties.
6. References to “national” Office, “national” phase and “national” fees cover also the procedure before a regional patent Office.
7. A reference to “national law” includes reference to a regional treaty such as the Protocol on Patents and Industrial Designs within the framework of the African Regional Industrial Property Organization (the “ARIPO Harare Protocol”), the Eurasian Patent Convention, the European Patent Convention, or the Agreement establishing the African Intellectual Property Organization (the “OAPI Agreement”).
8. The expression “international phase,” which is not used in the Treaty or the other official texts mentioned above but which has become customary, is commonly used as opposed to the subsequent “national phase” of processing before the national or regional Offices. The international phase encompasses the period from the filing of the international application by the applicant and its processing by the receiving Office, the establishment of the international search report and written opinion by the International Searching Authority, and the international publication of the international application by the International Bureau. It also comprises the (optional) international preliminary examination procedure before the International Preliminary Examining Authority.
9. Whenever the word “applicant” is used, it shall be construed as meaning also the agent (or common representative, where applicable) of the applicant, except where the contrary clearly follows from the wording or the nature of the provision, or the context in which the word is used, for example, in those parts of the Guidelines which deal with representation.

10. The various tasks which a receiving Office may be required to perform when processing an international application are presented in these Guidelines in an order which, in general, corresponds to the chronological sequence in which these tasks are performed. However, some tasks, such as, for example, those relating to the appointment of an agent or the renunciation or revocation of such an appointment, may arise at any time during the international phase; other tasks may, in practice and depending on the case, be more easily carried out concurrently or in a sequence different from that in which they are dealt with in these Guidelines.

11. Formal requirements and corrections of defects are sometimes referred to in separate Chapters or parts thereof, taking into account the fact that there is not always a single or obligatory way of correcting a given defect. In certain cases, the receiving Office may use its discretion and, where appropriate, contact the applicant, before deciding on how to proceed, for example, whether to correct a defect *ex officio* or to invite the applicant to correct that defect.

12. *[Deleted]*

13. Annex B to these Guidelines contains examples of typical errors made by applicants in international applications together with an indication of how such defects should be corrected.

CHAPTER II: GENERAL

Marking of the Sheets of the International Application, Documents and Correspondence Relating Thereto

14. When marking the sheets of the international application or any document or correspondence relating thereto, the receiving Office should use black ink so that the markings are fit for reproduction by photocopying, scanning, etc. The marking of the date by a perforation stamp is not sufficient.

Use of Facsimile Machine and Other Like Means of Communication; Date of Receipt

15. A document making up the international application, and any later document or correspondence relating thereto, may, if the receiving Office so permits, be transmitted, to the extent feasible, by facsimile machine or other like means of communication resulting in the filing of a printed or written document (Rule 92.4). Note that the receiving Office may, on a case-by-case basis, accept any document transmitted by any of those means even if it has notified the International Bureau that it is not prepared to do so in general.

16. Upon receipt of sheets transmitted by any of the means referred to above, the receiving Office checks whether the document received is legible and appears to be complete. Where part or all of the received document is illegible or part of the document is not received, the document is treated as not having been received to the extent that the received document is illegible or that the attempted transmission failed (Rule 92.4(c)). Where part or all of the received document is illegible or part of the document appears not to have been received, the receiving Office promptly notifies (Form PCT/RO/140) the applicant accordingly.

17. The receiving Office applies its usual national practice to determine the date of receipt of any document (other than a document making up the international application) transmitted by any of the means referred to above if a document was received before, and another part after, midnight, and the transmission therefore spans two calendar days. With regard to a document making up the international application, see Rule 20.2(a) and paragraphs 193 to 207.

18. Where the receiving Office requires, under Rule 92.4(d), or considers it necessary, under Rule 92.4(f), that the original of any document transmitted by any of the means referred to above be furnished, it proceeds as provided for in Rule 92.4(d) to (g). For further details, see paragraphs 37 and 38.

Computation of Time Limits

19. For the computation of periods expressed in years, months or days, see Rules 80.1 to 80.3. For the computation of any period expiring on a non-working day or official holiday, see Rule 80.5. For the determination of the starting date of the computation of any period and the date on which any period expires, see Rules 80.4 and 80.7. For the computation of any period in the case of delay in the mailing or the receipt by the applicant, see Rule 80.6. For the (re)computation of any time limit where the priority date has changed, see Rules 26*bis*.1(c) and 90*bis*.3(d) and paragraphs 192 and 321.

Documents and Correspondence

20. ***Documents and Correspondence Submitted by the Applicant.*** Any paper submitted by the applicant in the course of the PCT procedure, other than the international application itself, must, if not itself in the form of a letter, be accompanied by a letter identifying the international application to which it relates; the letter must be signed by the applicant (Rule 92.1(a)). If those requirements are not complied with, the receiving Office informs the applicant as to the non-compliance and invites (Form PCT/RO/131) the applicant to remedy the omission within a time limit fixed in the invitation. The time limit so fixed must be reasonable in the circumstances; even where the time limit so fixed expires later than the time limit applying to the furnishing of the paper (or even if the latter time limit has already expired), it shall be not less than 10 days and not more than one month from the date of mailing of the invitation. If the omission is remedied within the time limit fixed in the invitation, the omission shall be disregarded; otherwise, the applicant shall be informed (Form PCT/RO/149) that the paper has been disregarded (Rule 92.1(b)). Where non-compliance with those requirements has been overlooked and the paper taken into account for the international procedure, the non-compliance is to be disregarded (Rule 92.1(c)).

21. The language of any letter from the applicant to the receiving Office shall be the same as the language of the international application to which such letter relates, provided that, where the international application is to be published in the language of a translation required under Rule 12.3(a) or 12.4(a), any letter shall be in such language (paragraphs 67, 67A and 68). However, the receiving Office may expressly authorize the use of any other language (Section 104(a)). It may also accept any language on a case-by-case basis.

22. Documents and/or correspondence from the applicant which are to be transmitted to the International Bureau and/or the International Searching Authority shall be transmitted by the receiving Office together with the record copy and/or the search copy, respectively, where those copies have not yet been transmitted to that Bureau or Authority (paragraph 285). Otherwise, later documents and/or, correspondence should be transmitted promptly. Form PCT/RO/118 is used for transmitting the record copy, the search copy and any other document and correspondence relating thereto. For transmittal of the record copy and search copy, see paragraphs 285 to 293.

23. ***Correspondence Intended for the Applicant.*** Where the applicant has appointed an agent or agents under Rule 90.1(a), correspondence intended for the applicant is addressed to the applicant's agent or, in the case of two or more agents, to the "first mentioned agent" under Section 108(a) or (b). Where there are two or more applicants and a common agent (that is, an agent appointed by all applicants) has been appointed, correspondence is addressed to that common agent. Where the applicants have not appointed a common agent but have appointed,

under Rule 90.2(a), a common representative (that is, one of the applicants appointed to represent all of them and who is entitled to file an international application in accordance with Article 9), correspondence is addressed to that common representative (Section 108(c)). If an appointed common representative has appointed an agent, correspondence is sent to that agent (Section 108(c)(i)). Where a sub-agent has been appointed (Rule 90.1(d)(i)), correspondence intended for the applicant will continue to be sent to the first mentioned agent referred to above; such correspondence will be sent to the sub-agent only if the agent who has appointed the sub-agent specifically requests that correspondence be sent to the sub-agent. In case of doubt, the receiving Office should clarify with the applicant to whom correspondence should be sent. Correspondence intended for the applicant must indicate the applicant's file reference, if any (Section 109 and paragraph 76).

24. Where there are two or more applicants and no common agent or common representative has been appointed, correspondence intended for the applicant is addressed to the "deemed" common representative, that is, the applicant first named in the request who is entitled, in accordance with Rule 19.1, to file an international application with the receiving Office (Rule 90.2(b)). If that "deemed" common representative has appointed an agent, correspondence intended for the applicant is addressed to that agent.

25. Where a special address for correspondence is indicated under Rule 4.4(d) in Box No. IV of the request, correspondence is sent to that address (paragraphs 81 and 118).

26. Where an international application indicates two or more applicants, it shall be sufficient, for the purpose of identifying that application, to indicate, in any form or correspondence relating to such application, the name of the applicant first named in the request (Section 105).

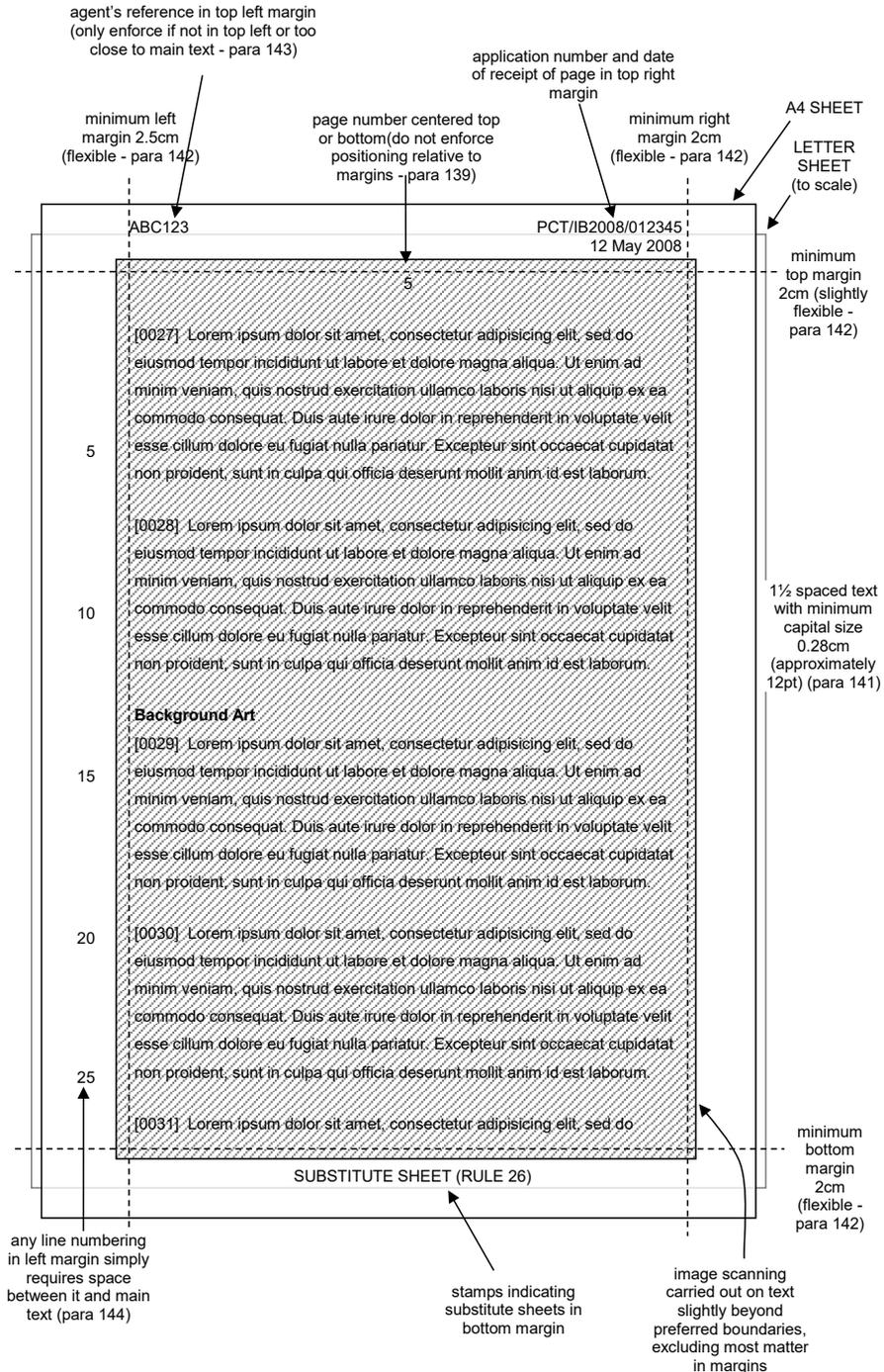
27. **Mailings by Receiving Offices.** Any document or letter emanating from or transmitted by the receiving Office constituting an event from the date of which any time limit under the Treaty and the Regulations commences to run is to be sent by airmail, provided that surface mail may be used instead of airmail in cases where surface mail normally arrives at its destination within two days from mailing or where airmail service is not available (Rule 92.3). In cases where the applicant's attention should be drawn urgently to a notification or other communication, the receiving Office should, to the extent possible, transmit such notification or other communication by facsimile and send a confirmation copy by mail. If the applicant or the agent has authorized either the sending of advance copies of notifications by e-mail or the sending of notifications exclusively by e-mail, by marking the corresponding check-box in Box No. II or Box No. IV of the request form, the receiving Office may, if it wishes to offer this service, send such notifications in respect of the international application to the applicant, thus avoiding postal delays. If an e-mail notification is followed by the official notification on paper, only the paper copy of the notification is considered to be the legal copy of the notification and only the date of mailing of the paper copy will commence any time limit within the meaning of Rule 80. Where the applicant requests the sending of notifications exclusively by e-mail, the date of mailing indicated on the electronic copy will commence any time limit within the meaning of Rule 80.

Irregularities in the Mail Service and Excuse of Delay in Meeting Time Limits

28. **Delay or Loss in the Mail of a Document or Letter Sent by the Applicant.** Delay or loss in the mail shall be excused when it is proven to the satisfaction of the receiving Office that the document or letter concerned was mailed at least five days before the expiration of the time limit, provided that the mailing was by registered airmail or, where surface mail would normally arrive at the destination concerned within two days of mailing, by registered surface mail. Evidence of the mailing and, where the document or letter was lost, the substitute document or letter as well as the evidence concerning its identity with the document or letter lost, shall be submitted within one month after the date on which the interested party noticed – or with due

6.3 Diagram of Page Showing Main Layout Requirements

Diagram of Page Showing Main Layout Requirements



6.5 ANNEX B: EXAMPLES OF TYPICAL DEFECTS IN THE REQUEST AND CORRECTIONS BY RO

ANNEX B EXAMPLES OF TYPICAL DEFECTS IN THE REQUEST AND CORRECTIONS THEREOF

This Annex contains examples of typical errors made by applicants in the request and examples of corrections which may be made *ex officio* by the receiving Office. The defects are shown on even-numbered pages and the respective *ex officio* corrections on the odd-numbered pages opposite. Comments on the various examples appear below. For references to Rules, Sections, etc., see paragraph 4.

Boxes Nos. II and III

Example No. 1:

A legal entity cannot be an inventor. Therefore, where the applicant is a legal entity, the check-box "This person is also inventor" must not be marked. See paragraph 88.

Example No. 2:

The family name of a natural person (applicant or inventor) must precede the given name(s). Academic degrees, titles or other indications, for example, Dr., Dipl.-Ing., Mrs., Mr., etc., must be omitted. See paragraphs 79 and 161A.

The indication of the State of nationality and the State of residence must be given for any person identified as "applicant only" or "applicant and inventor" (but need not be furnished for any person identified as "inventor only"). If the State of residence is not indicated, it is assumed that the country of the address indicated in that Box is the applicant's State of residence and the receiving Office adds the name of that State *ex officio*. If the State of nationality is not indicated, it may only be added on the basis of information furnished by the applicant. The country may be indicated by the corresponding two-letter code (WIPO Standard ST.3). See paragraphs 82 to 85.

EXAMPLES OF TYPICAL DEFECTS

PCT

REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For receiving Office use only

International Application No.
International Filing Date
Name of receiving Office and "PCT International Application"
Applicant's or agent's file reference (if desired) (25 characters maximum)

Box No. I TITLE OF INVENTION				
WEAVING MACHINE				
Box No. II APPLICANT <input checked="" type="checkbox"/> This person is also inventor				
Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.) WALSH AND COMPANY 2500 Virginia Avenue, N.W. Washington, D.C. 20037-0456 United States of America	<table border="1"> <tr> <td>Telephone No. (202) 557-3054</td> </tr> <tr> <td>Facsimile No. (202) 557-3100</td> </tr> <tr> <td>Applicant's registration No. with the Office</td> </tr> </table>	Telephone No. (202) 557-3054	Facsimile No. (202) 557-3100	Applicant's registration No. with the Office
Telephone No. (202) 557-3054				
Facsimile No. (202) 557-3100				
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E-mail authorization: Marking one of the check-boxes below authorizes the receiving Office, the International Searching Authority, the International Bureau and the International Preliminary Examining Authority to use the e-mail address indicated in this Box to send notifications issued in respect of this international application to that e-mail address if those offices are willing to do so. <input type="checkbox"/> as advance copies followed by paper notifications; or <input type="checkbox"/> exclusively in electronic form (no paper notifications will be sent). E-mail address:				
State (that is, country) of nationality: US	State (that is, country) of residence: US			
This person is applicant for the purposes of: <input checked="" type="checkbox"/> all designated States <input type="checkbox"/> the States indicated in the Supplemental Box				
Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)				
<input checked="" type="checkbox"/> Further applicants and/or (further) inventors are indicated on a continuation sheet.				
Box No. IV AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR CORRESPONDENCE				
The person identified below is hereby/has been appointed to act on behalf of the applicant(s) before the competent International Authorities as:	<input checked="" type="checkbox"/> agent <input type="checkbox"/> common representative			
Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.) SMITH, John J.; HILLARD, Steven; MEYER, David Patent Attorneys 220 Jefferson Avenue Arlington, Virginia 22202-0234 United States of America	<table border="1"> <tr> <td>Telephone No. (703) 545-2212</td> </tr> <tr> <td>Facsimile No. (703) 545-2200</td> </tr> <tr> <td>Agent's registration No. with the Office</td> </tr> </table>	Telephone No. (703) 545-2212	Facsimile No. (703) 545-2200	Agent's registration No. with the Office
Telephone No. (703) 545-2212				
Facsimile No. (703) 545-2200				
Agent's registration No. with the Office				
E-mail authorization: Marking one of the check-boxes below authorizes the receiving Office, the International Searching Authority, the International Bureau and the International Preliminary Examining Authority to use the e-mail address indicated in this Box to send notifications issued in respect of this international application to that e-mail address if those offices are willing to do so. <input type="checkbox"/> as advance copies followed by paper notifications; or <input type="checkbox"/> exclusively in electronic form (no paper notifications will be sent). E-mail address:				
<input type="checkbox"/> Address for correspondence: Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.				

No. 1

No. 5

HOW SHOULD DEFECTS BE CORRECTED

PCT

REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For receiving Office use only

International Application No.
International Filing Date
Name of receiving Office and "PCT International Application"
Applicant's or agent's file reference (if desired) (25 characters maximum)

Box No. I TITLE OF INVENTION	
WEAVING MACHINE ▲▲	
Box No. II APPLICANT <input checked="" type="checkbox"/> This person is also inventor	
Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.) WALSH AND COMPANY 2500 Virginia Avenue, N.W. Washington, D.C. 20037-0456 United States of America	Telephone No. (202) 557-3054 Facsimile No. (202) 557-3100 Applicant's registration No. with the Office
E-mail authorization: Marking one of the check-boxes below authorizes the receiving Office, the International Searching Authority, the International Bureau and the International Preliminary Examining Authority to use the e-mail address indicated in this Box to send notifications issued in respect of this international application to that e-mail address if those offices are willing to do so. <input type="checkbox"/> as advance copies followed by paper notifications; or <input type="checkbox"/> exclusively in electronic form (no paper notifications will be sent). E-mail address:	
State (that is, country) of nationality: US	State (that is, country) of residence: US
This person is applicant <input checked="" type="checkbox"/> all designated States <input type="checkbox"/> the States indicated in the Supplemental Box for the purposes of:	
Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)	
<input checked="" type="checkbox"/> Further applicants and/or (further) inventors are indicated on a continuation sheet.	
Box No. IV AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR CORRESPONDENCE	
The person identified below is hereby/has been appointed to act on behalf of the applicant(s) before the competent International Authorities as:	<input checked="" type="checkbox"/> agent <input type="checkbox"/> common representative
Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.) SMITH, John J.; HILLARD, Steven; MEYER, David Patent Attorneys ▲▲ 220 Jefferson Avenue Arlington, Virginia 22202-0234 United States of America	Telephone No. (703) 545-2212 Facsimile No. (703) 545-2200 Agent's registration No. with the Office
E-mail authorization: Marking one of the check-boxes below authorizes the receiving Office, the International Searching Authority, the International Bureau and the International Preliminary Examining Authority to use the e-mail address indicated in this Box to send notifications issued in respect of this international application to that e-mail address if those offices are willing to do so. <input type="checkbox"/> as advance copies followed by paper notifications; or <input type="checkbox"/> exclusively in electronic form (no paper notifications will be sent). E-mail address:	
<input type="checkbox"/> Address for correspondence: Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.	

No. 1

No. 5

▲▲ DELETED BY RO

▲ COMPLETED BY RO

7. International Search & Preliminary Examination Guidelines (ISPE GL)

Recommended actions & steps to be followed by ISA's & IPEA's. Substantive subjects such as unity of invention and patentability are explained, with useful examples. Referenced in EPO-PCT Guidelines (GL/PCT-EPO) as "GL/ISPE".

INTELLECTUAL PROPERTY
ORGANIZATION

PCT/GL/ISPE/11
ORIGINAL: ENGLISH
DATE: June 25, 2021

PATENT COOPERATION TREATY (PCT)

PCT INTERNATIONAL SEARCH AND PRELIMINARY EXAMINATION GUIDELINES

(Guidelines for the Processing by International Searching and Preliminary Examining Authorities of International Applications Under the Patent Cooperation Treaty)

as in force from July 1, 2021

1. This document contains the text, as in force from July 1, 2021 of the PCT International Search and Preliminary Examination Guidelines, established by the International Bureau of WIPO after consultation with the International Searching and Preliminary Examining Authorities under the PCT.
2. The Guidelines replace the PCT International Search and Preliminary Examination Guidelines (PCT/GL/ISPE/10), as in force from July 1, 2020.

Source:

Extracted from "PCT PCT INTERNATIONAL SEARCH AND PRELIMINARY EXAMINATION GUIDELINES" as in force from 1 July 2021

Amended by Fireball Patents (1 Sep 21):

- Standard contents replaced by "Detailed Table of Contents" with page numbers
- Blank pages added

7.1 Detailed Table of Contents

Major changes

2019
2020
2021

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7.2 International Search & Preliminary Examination Guidelines

PART I: INTRODUCTION AND OVERVIEW

Chapter 1 Introduction

Purpose and Status of These Guidelines

1.01 These Guidelines give instructions as to the practice to be followed by Authorities during the international search and examination procedures.

1.02 The Guidelines are addressed primarily to the examiners in the various International Searching and Preliminary Examining Authorities but it is hoped that they will also be of assistance to applicants and patent practitioners. They also apply, where appropriate, to international-type searches (see paragraph 2.22). Moreover, the Guidelines may be useful to the patent Offices of the designated and elected States in the national phase in the searching and examination of the international application and in better understanding the international search and examination reports. Although the Guidelines deal with international applications, they may be used *mutatis mutandis* by national Offices in dealing with national applications if the national law so permits; also they may be used in revising national laws with the purpose of unification of current practices in patent Offices of various countries. They, however, do not generally cover the actions of the receiving Office, even though this might in some cases be the same Office as the International Searching Authority and/or the International Preliminary Examining Authority.

Articles 16(3)(b), 32, 33

1.03 These Guidelines are common rules of international search and examination that provide instructions regarding international search and examination and assist in the application of the provisions of the PCT, PCT Regulations and PCT Administrative Instructions relating to international search and examination. They are intended to cover typical occurrences. They should therefore be considered only as general directives; examiners will have to go beyond the instructions in exceptional cases. Nevertheless, applicants can expect the International Searching and Examining Authorities to act, as a general rule, in accordance with the Guidelines until such time as they are revised. In addition, at various points throughout these Guidelines, the examiner is directed to interpret a claim in a particular fashion. This has been done to enable the designated and/or elected Offices to understand the examiner's conclusion as to novelty, inventive step (non-obviousness) and industrial application, and in no way binds the designated and/or elected Offices to adopt a similar interpretation. The Guidelines set forth standards for quality for the International Searching Authorities and the International Preliminary Examining Authorities to follow so as to minimize differences in the results of the search and examination process among the various Authorities.

1.04 The above criteria merely serve the purpose of international search and preliminary examination, and any Contracting State may apply additional or different criteria for the purpose of deciding whether, in that State, the claimed invention is patentable. It should be noted also that the Guidelines do not have the binding authority of a legal text. These Guidelines have been designed to assist International Searching and Examining Authorities in establishing international search and examination reports, in accordance with PCT Articles 17 and 18, written opinions in accordance with PCT Article 34 and Rule 43*bis* and international preliminary examination reports in accordance with PCT Article 35. For the ultimate authority on questions concerning international search and examination, it is necessary to refer to the PCT Articles themselves, interpreted, where necessary, by reference to the Minutes of the Washington Diplomatic Conference and interpretations given by the PCT Assembly. Any failure of an International Searching or Examining Authority to follow these Guidelines would not of itself constitute a basis for review of the action of the

Authority except where such review is provided for under the applicable national law and practice.

Arrangement and Terminology of These Guidelines

1.05 These Guidelines initially set out the framework, which is to be followed at the international search stage and the international preliminary examination stage and then go on to set out a number of steps and concepts in greater detail. The Guidelines are divided into eight parts. Part I provides a brief overview of the procedures at the international search stage and international preliminary examination stage. Part II provides details of the international application. Part III provides details of considerations that the examiner needs to keep in mind during both the international search stage and the international preliminary examination stage. Part IV provides details on the international search. Part V contains information on the content of written opinions and the international preliminary examination report. Part VI discusses procedures during the international preliminary examination. Part VII provides for a common quality framework. Part VIII discusses clerical and administrative procedures. Some of the chapters in the various parts are relevant to only one stage or the other. However, with a few exceptions which are explained in the text, where examiners in the International Searching Authority and the International Preliminary Examining Authority consider any particular issue, this should be done to the same standards and most chapters are relevant to the work of both stages.

1.06 Unless qualified, references in the Guidelines to “the Treaty” are to the PCT, to “Articles” are to those of the Treaty, to “Rules” to those of the Regulations under the PCT, to “Sections” to those of the Administrative Instructions under the PCT, and to “parts,” “chapters” and “paragraphs” to those of these Guidelines. References to Parts and Annexes of the Administrative Instructions under the PCT bear the prefix “AI”.

1.07 “International Authority” or “Authority”, unless qualified, mean International Searching Authority and/or International Preliminary Examining Authority, as the case requires. The term “examiner”, unless qualified, is used in the Guidelines to refer to the examiner working in the International Preliminary Examining Authority, the International Searching Authority or the Authority specified for supplementary search. “Search” and “examination”, unless qualified, mean international search and international preliminary examination according to the Treaty and Regulations.

1.08 References to a “national” Office or law, include also regional systems where several States have entrusted to an intergovernmental authority the task of granting regional patents.

Overview of International Application Process

1.09 The procedure through which an international patent application under the Patent Cooperation Treaty proceeds from the filing of the application to the granting of a patent (or the refusal thereof) comprises two main stages, commonly referred to as the “international phase” and the “national phase” (or “regional phase” when an international application comes before a regional body rather than a national one). The following paragraphs 1.10, and 1.11, and the flowchart of typical international application processing that has been provided at the end of this chapter, provide a brief overview of the international phase, with a complete explanation provided in parts II to VIII of the Guidelines.

The International Phase

Articles 22, 23

1.10 The international phase begins when the international application is filed and, provided that the international application is not withdrawn, includes various formalities checks, an international search, preparation of a written opinion, publication of the application and, optionally, an international preliminary examination. During this phase, no national or regional Office may process or examine the application except at the specific request of the applicant.

1.11 The international phase in turn includes a number of groups of actions which are distinct in nature, though they may in practice overlap slightly in timing:

(a) Filing of the international application with an appropriate receiving Office: this includes a "request" (a petition that the international application be processed according to the Treaty, together with certain data concerning matters such as the applicant, inventor, any agent and formal details about the application, such as the title and any priority claims), a description, one or more claims, one or more drawings (where required) and an abstract;

(b) Certain procedural checks are carried out, an international filing date is accorded and copies of the application are sent to the International Bureau (the record copy) and the International Searching Authority (the search copy);

(c) An international search by the International Searching Authority: this includes a search for earlier disclosures relevant to the novelty and inventive step of the claimed invention and the establishment of an international search report and a written opinion on novelty, inventive step and industrial application, normally at 16 months from the priority date, as detailed later in this document. (See Chapter 2 and Parts IV and V);

(d) International publication of the international application, the international search report, and Article 19 amendments (if any) by the International Bureau at 18 months from the priority date; the written opinion of the International Searching Authority (and any informal comments filed by the applicant) will be made available to the public at the same time;

(e) Optionally, at the request of the applicant, a supplementary international search by a participating Authority other than the one which conducted the main international search, in order to extend the overall scope of the search (for example, to better cover prior art in languages not covered by the main Authority). Supplementary international searches may be requested from more than one participating Authority. For a more detailed outline of the supplementary international search procedure, see Chapter 15 at paragraphs 15.75 to 15.97 and also paragraphs 9.42 and 16.03.

(f) Optionally, at the request of the applicant by filing a "demand" (Chapter II of the PCT), an international preliminary examination conducted by the International Preliminary Examining Authority, in which the examiner considers further the issues of novelty, inventive step and industrial application, taking into account any comments or amendments under Article 19 or 34 from the applicant, as detailed later in this document; this concludes with the establishment of an international preliminary examination report, which is entitled "international preliminary report on patentability (Chapter II of the Patent Cooperation Treaty)" (see Chapter 17).

(g) Issuance of an "international preliminary report on patentability (Chapter I of the Patent Cooperation Treaty)" by the International Bureau on behalf of the International Searching Authority if the applicant does not file a demand requesting examination of the international application in response to the written opinion as established by the International Searching Authority; such an international preliminary report on patentability has the same content as the written opinion established by the International Searching Authority.

(h) Distribution by the International Bureau of documents to the designated Offices or elected Offices, including copies of the application, any amendments which have been filed, any supplementary international search reports(s), and an international preliminary report on patentability, comprising either the contents of the written opinion by the International Searching Authority or, where established, the international preliminary examination report.

The National (or Regional) Phase

1.12 After 30 months from the priority date of the application (20 months in certain States due to transitional provisions; States also have the option of specifying a later date applicable for applications before their Office), the application may begin its national (or regional) phase in each designated Office (if international preliminary examination has not

been demanded and Chapter I of the PCT applies) or elected Office (if international preliminary examination has been demanded and Chapter II of the PCT applies). This is the procedure which actually leads to the grant, or refusal, of a patent according to the relevant national law or regional arrangement. While the national and regional Offices may not make further requirements beyond those of the Treaty and Regulations in respect of matters of form and contents, they are not bound by the Treaty to follow the results of any international search or examination which has been performed when the application is examined during the national or regional phase.

The International Authorities

Articles 16, 32; Rules 35, 36, 59, 63

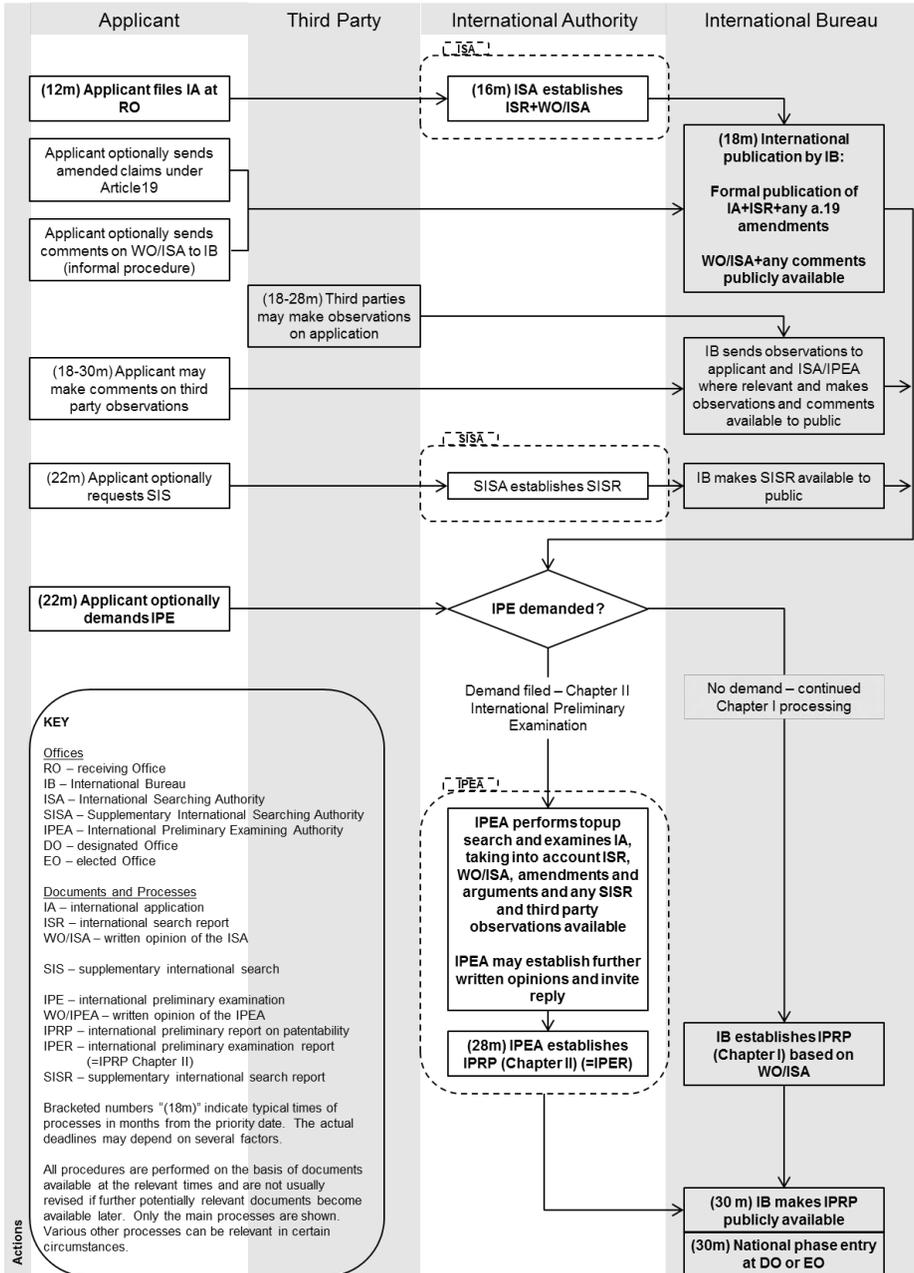
1.13 The International Searching Authorities and International Preliminary Examining Authorities are national Offices or intergovernmental organizations entrusted with a number of tasks under the Treaty, especially the establishment of international search and preliminary examination reports. Authorities are appointed by the Assembly of the PCT Union. The requirements for appointment are such that Authorities must necessarily be appointed in both capacities (that is, to undertake both search and preliminary examination). Details about the functions of Authorities and the requirements of particular Authorities are set out in Annexes D, E and SISA of the PCT Applicant's Guide. The Authorities meet together regularly in sessions of the Meeting of International Authorities under the PCT (PCT/MIA) (see WIPO's web site via www.wipo.int/pct).

1.14 One or more Authorities may be competent to search or examine a particular international application. This depends on agreements between the International Authorities and the International Bureau, together with a decision which has been notified to the International Bureau by each receiving Office concerning which Authorities are competent to act in respect of international applications filed with that Office. Where more than one Authority might be competent to perform the search or examination of any particular application, the applicant chooses the desired Authority in the request or demand. International Searching Authorities may each decide whether they wish to offer a supplementary international search service, which will then normally be available to any applicant for whom that Authority did not perform the main international search.

1.15 The International Preliminary Examining Authority for any particular application will usually be the same body as the International Searching Authority, but this is not necessarily the case. A different Authority may be specifically chosen by the applicant or else, occasionally, an Authority may be competent to search a particular international application but not to examine it. Consequently it is particularly important that both the international search report and the written opinion by the International Searching Authority are produced to consistent standards, so that they may be used effectively by any other Authority, as well as by applicants and designated Offices.

7.3 Flowchart of Typical International Application Processing

Overview of Procedures Relating to International Search and Preliminary Examination



Cases of Doubt

9.18 In cases of doubt as to whether subject matter covered by a claim constitutes excluded subject matter, the Authority carries out the search or preliminary examination to the extent that this is possible using the available documentation.

Extent of Search and Preliminary Examination in Certain Situations

9.19 There may be exceptional situations where the description, the claims or the drawings fail to comply with the prescribed requirements to such an extent that a meaningful search cannot be carried out, that is, no search at all is possible for a particular claim (see paragraph 9.01). However, in certain situations where the description, the claims, or the drawings can be sufficiently understood, even though a part or parts of the application are not in compliance with the prescribed requirements, a search is performed taking into consideration the non-compliance in determining the extent of the search. In such cases, the international search report and the written opinion then indicate how the description, claims, or drawings fail to comply with the prescribed requirements (see paragraphs 16.28, 16.29 and 17.34). In this indication, it is also noted by the International Searching Authority to what degree that non-compliance with the particular prescribed requirements has been taken into account for the purposes of determining the extent of the search, and this extent is indicated as precisely as possible. In general, a search should be carried out to the maximum extent practical.

7.4	Examples Where Search or Preliminary Examination Possible, with an Indication in the Written Opinion
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9.20 *Example 1*

Claim 1. "Distillate fuel oil boiling in the range 120°C to 500°C which has a wax content of at least 0.3 weight% at a temperature of 10°C below the Wax Appearance Temperature, the wax crystals at that temperature having an average particle size less than 4000 nanometers."

The description does not disclose any other method of obtaining the desired crystal size than the addition of certain additives to the fuel oil and there is no common general knowledge of making fuel oils of this kind available to the person skilled in the art.

A search would first be made for the additive and fuel oils having defined amounts of the additive disclosed. The field of search would then be extended to all probable areas relevant to the claimed subject matter, that is, the broad concept of fuel oil compositions having the desired property. However, the search need not be extended to areas in which it could reasonably have been determined that there was a low probability of finding the best reference. If the broad concept of having crystals as small as possible was known in the art, the written opinion should indicate the claim as not complying with the requirements of novelty and/or inventive step. The written opinion should also include any observations on non-prior art grounds (that is, requirements under Articles 5 and 6 such as sufficiency and support as well as industrial applicability). In this example, the claim would be objected to in the written opinion on the following non-prior art grounds: (1) it is not supported by the description and drawings "in a manner sufficiently clear and complete for the invention to be carried out by a person skilled in the art" (see paragraph 5.45); and/or (2) it is not fully supported in the description and drawings thereby showing that the applicant only claims subject matter which he recognized and described on the filing date (see paragraphs 5.54 and 5.58). The international search report would cite the fields of search, the most relevant references for prior art purposes, and, where possible, the most relevant references for non-prior art purposes (see paragraph 16.72 (which indicates that the symbol "T" should be used for designating documents which are cited to show that the reasoning or the facts underlying the invention are incorrect), and paragraph 15.66 (directed to the category symbol to be used for subject matter which may be excluded from the international search)), which in this example involve a lack of support by the description. The International Searching

example from a particular passage, that clearly indicates which subject matter might be expected to be claimed.

The search should be based on the subject matter that would be expected to be claimed. In the written opinion, the claims should be objected to on the non-prior art grounds of lack of compliance with Article 6 and Rule 6. The International Searching Authority should also include in the objection on non-compliance with Article 6 and Rule 6 an indication to what degree the objection has been taken into account for the purposes of determining the extent of the search, and this extent should be indicated as precisely as possible, for example by a brief written description of the searched subject matter, where possible citing a particular passage.

7.5	Examples of Exceptional Situations Where No Search at All is Possible for All or Some of the Claims
------------	--

9.26 These examples relate to exceptional situations where, due to non-compliance of the application with the prescribed requirements, all or some of the claims cannot be meaningfully searched at all. This means that for cases where a meaningful search of all or some of the claims *is* possible, for example by taking into account a likely amendment to overcome the non-compliance, then such a search is carried out along the procedural lines set out in paragraph 9.19 and the examples in paragraphs 9.20 to 9.25.

9.27 When none of the claims can be meaningfully searched at all, since no likely amendment can be determined to overcome the non-compliance, the International Searching Authority makes a declaration in accordance with Article 17(2)(a)(ii). When only some of the claims cannot be meaningfully searched at all, however, an indication is made in the international search report in accordance with Article 17(2)(b) to this effect whereas the other claims will be searched as usual.

9.28 *Example 1*

Claim 1: "My invention is worth a million dollars."

Claim 1 is the only claim in the application. The description does not provide sufficient information about the invention to determine the subject matter to which the claim might reasonably be expected to be directed after it had been amended.

No search at all is possible. A declaration will be made in accordance with Article 17(2)(a)(ii). In the written opinion, the claim should be objected to on the non-prior art grounds of lack of compliance with Article 6 and Rule 6. The International Searching Authority should also include in the objection on non-compliance with Article 6 and Rule 6 an indication to what degree the objection has been taken into account for the purposes of determining that no search at all is possible.

9.29 *Example 2*

Claim 1: "A composition of matter comprising kryptonite."

The description recites the term "kryptonite". However, the description fails to define the purported material in terms of any of the elements of the periodic table. The description also fails to set forth any of the physical properties of the purported material such as density, melting point, etc.

No search at all is possible for claim 1.

9.30 *Example 3: Multitudinous Claims*

An application contains 480 claims, of which 38 are independent. There is no clear distinction between the independent claims because of overlapping scope. There are so many claims, and they are drafted in such a way, that they are not in compliance with Article 6 and Rule 6. There is no reasonable basis in the description or elsewhere,

item of prior art may lead to a finding of lack of inventive step. Examples of such instances are described in the appendix to this chapter.

7.7 Examples

13.14 The following examples provide guidance, as to circumstances where a claimed invention should be regarded as obvious or where it involves a positive determination of an inventive step (non-obviousness). It is to be stressed that these examples are only guides for the examiners and that the applicable principle in each case is “was it obvious to a person skilled in the art?” Examiners should avoid attempts to fit a particular case into one of these examples where the latter is not clearly applicable. Also the list is not exhaustive.

(a) *Claimed inventions involving the application of known measures in an obvious way and in respect of which an inventive step is therefore lacking:*

(i) The teaching of a prior document is incomplete as to the entire claimed invention and at least one of the possible ways of supplying the missing claim feature(s) would naturally or readily occur to the person skilled in the art thereby resulting in the claimed invention.

Example: The claimed invention relates to a building structure made from aluminum. A prior document discloses the same structure and says that it is of lightweight material but fails to mention the use of aluminum. Aluminum is a light-weight material that is well known in the art to be useful as a building material.

(ii) The claimed invention differs from the prior art merely in the use of well-known equivalents (mechanical, electrical or chemical) possessing the same purpose, wherein the equivalency is recognized in the prior art. Note that the applicant's recognition within the international application that an element is equivalent to another, which had previously been used for a different purpose, does not mean that the use of this element instead of the other is obvious.

Example: The claimed invention relates to a pump-motor combination which differs from a known pump-motor combination solely in that the motor is hydraulic instead of an electric motor.

(iii) The claimed invention consists merely in a new use of a well-known material employing the known properties of that material.

Example: A washing composition containing as a detergent a known compound having the known property of lowering the surface tension of water, this property being known to be an essential one for detergents.

(iv) The claimed invention consists in the substitution in a known device of a recently developed material whose properties make it plainly suitable for that use (analogous substitution).

Example: An electric cable comprises a polyethylene sheath bonded to a metallic shield by an adhesive. The claimed invention lies in the use of a particularly newly developed adhesive known to be suitable for polymer-metal bonding.

(v) The claimed invention consists merely in the use of a known technique in a closely analogous situation (analogous use).

Example: The claimed invention resides in the application of a pulse control technique to the electric motor driving the auxiliary mechanisms of an industrial truck, such as a fork-lift truck, the use of this technique to control the electric propulsion motor of the truck being already known.

8. Introduction to National Phase (AG-NP)

Requirements and actions before the Designated and Elected Offices from the applicant's point of view.

PATENT COOPERATION TREATY (PCT)

PCT APPLICANT'S GUIDE INTRODUCTION TO THE NATIONAL PHASE

(6 Aug 2020)

1. This part of the PCT Applicant's Guide (the Guide) contains information on the "national phase" of the PCT procedure, namely the procedure before the designated (or elected) Offices. It follows on from information on the "international phase".
2. This is supplemented by a number of National Chapters, relating to all designated (or elected) Offices. These are NOT INCLUDED. See: www.wipo.int/pct. These Chapters contain:
 - Summary of the specific requirements for that Office
 - Outline of the main procedural steps once the national phase has started, further details about certain particular requirements referred to in the Summary, and info about forms that may be required for entry and/or during the national phase
 - Annexes with a schedule of the fees referred to in the National Chapter, an explanation on how payment of fees can be made to the Office and samples or models of forms
3. Since 2006, the Guide is only available via the Internet at www.wipo.int/pct/. An e-mail update service is also available which provides users of the Guide with a weekly notice informing them which Guide information has been updated that week.

Source:

Extracted from "INTRODUCTION TO THE NATIONAL PHASE"
as in force from 6 Aug 2020

Amended by Fireball Patents (1 Sep 21):

- Standard contents replaced by "Detailed Table of Contents" with page numbers
- Blank pages added

8.1 Detailed Table of Contents

Major changes

2017
2019
2020

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8.2 Applicant's Guide (National Phase)

CHAPTER 1: HOW TO USE NATIONAL PHASE OF PCT APPLICANT'S GUIDE

1.001. This part of the *PCT Applicant's Guide* (the *Guide*) contains information on the “national phase” of the PCT procedure, namely the procedure before the designated (or elected) Offices. It follows on from information on the “international phase” of the PCT procedure.

1.002. This part consists of two elements. First, this **text which** explains in detail what must be done by the applicant in connection with entry into the national phase.

1.003. Following this are **National Chapters** relating to all designated (or elected) Offices. Each National Chapter is structured as follows:

- (i) **Title page**—containing a table of contents and a list of abbreviations;
- (ii) **Summary**—containing a listing of the specific requirements of each designated (or elected) Office which must be complied with in connection with entry into the national phase as outlined below;
- (iii) **The procedure in the national phase**—containing an outline of the main procedural steps before the Office concerned once the national phase has started, further details relating to certain particular requirements referred to in the Summary and information about the fees that must be paid and national forms that may or must be used by the applicant in connection with entry into the national phase or during the national phase;
- (iv) **Annexes**—containing a schedule of the fees referred to in the National Chapter, an explanation on how payment of fees can be made to the Office and samples or models of forms for use by the applicant in the national phase (photocopies of those forms are accepted by the Offices concerned).

1.004. In the text of the *Guide*, “Article” refers to Articles of the PCT, “Rule” refers to the PCT Regulations and “Section” refers to the PCT Administrative Instructions. Any use of those expressions in the text of the National Chapters is followed by an indication of whether they relate to the PCT or to national legislation. References to a “paragraph” relate, unless otherwise specified, to the text of the National Phase.

1.005. The Office that is competent for each PCT Contracting State which may be designated (or elected) is usually the national Office of the State concerned. For States party to the ARIPO Harare Protocol, the Eurasian Patent Convention or the European Patent Convention, the national phase procedure takes place before the national Office and/or the regional Office concerned (the ARIPO Office, the Eurasian Patent Office or the European Patent Office, respectively), depending on the kind of designations (for national protection and/or for a regional patent) which were made. (As to regional patent systems, see International Phase, paragraphs 4.022 to 4.026). For certain States party to the ARIPO Harare Protocol or the European Patent Convention which have “closed the national route,” the national phase takes place exclusively before the ARIPO Office or the European Patent Office, respectively (see paragraph 2.002 of this part). Where the national law of a PCT Contracting State provides for patent protection through the extension of a European patent, the national phase takes place, in effect, before the European Patent Office (see International Phase, paragraph 5.054). For all States party to the OAPI Agreement the national phase takes place exclusively before the OAPI Office (see International Phase, paragraphs 4.022 to 4.026 and paragraph 2.002 below). Annexes B contain information as to the competent designated Offices for each Contracting State.

1.006. The draft of each Chapter dealing with an Office (national or regional) in its capacity as designated (and elected) Office has been approved by that Office. Naturally, the Chapters still may not deal with all the questions that could emerge. Moreover, practices and rules may change, and in any case, the only authentic sources are the laws, rules and regulations. While any correction, completion or updating will be effected as soon as possible, applicants are nevertheless advised to use the services of local patent attorneys or patent agents, whose expert knowledge and experience cannot be replaced by any written text.

CHAPTER 2: ENTRY INTO NATIONAL PHASE

(GENERAL)

- Article 11(3)
23
40
- 2.001. **What is the national phase?** The national phase is the second of the two main phases of the PCT procedure. It follows the international phase and consists in the processing of the international application before each Office of or acting for a Contracting State that has been designated in the international application (see International Phase). In each designated State the international application has the effect of a national (or regional) application as from the international filing date, and the decision to grant protection for the invention is the task of the Office of or acting for that State (the “designated Office”). The national phase of processing the international application by the designated Office is generally delayed until the termination of the international phase on the expiration of the time limits indicated in paragraphs 3.001 and 3.002.
- Article 2(xiii)
4
- 2.002. **When is an Office a designated Office?** The national Office of a Contracting State is a “designated Office” if the State is “designated” in the international application for national protection. The filing of a request constitutes the designation of all Contracting States that are bound by the Treaty on the international filing date. However, some States may be excluded from this all-inclusive designation where they have notified the International Bureau that Rule 4.9(b) applies to them (see International Phase, paragraph 5.053). Where a PCT Contracting State is party to the ARIPO Harare Protocol, the Eurasian Patent Convention or the European Patent Convention and is designated for a regional (ARIPO, Eurasian or European) patent, the regional Office concerned (the ARIPO Office, the Eurasian Patent Office or the European Patent Office) is the designated Office. Where a State party to the ARIPO Harare Protocol, the Eurasian Patent Convention or the European Patent Convention is designated twice, namely both for national protection and for a regional patent, there are two designated Offices for that State—the national Office of the State itself and the regional Office concerned. However, certain States party to the ARIPO Harare Protocol or the European Patent Convention have “closed the national route” whereby patent protection can be obtained in those countries via an international application *only* by way of a designation for a regional (ARIPO or European) patent. If any of the States that have “closed the national route” are designated, the designated Office concerned is always the ARIPO Office or the European Patent Office, respectively (see International Phase, paragraphs 4.022 to 4.026). The European Patent Office is also, in effect, the designated Office where patent protection is desired for a designated State through the extension of a European patent to that State, a possibility which is only available for countries which have a corresponding agreement with the European Patent Organisation (see Annex B(EP) and the National Chapter (Summary) relating to the European Patent Office). Where States party to the OAPI Agreement are designated, the OAPI Office, by virtue of the provisions of that Agreement, is always the designated Office (see International Phase, paragraphs 4.022 to 4.026). The competent designated Office(s) for each Contracting State is (are) set out in Annexes B.
- Article 24(1)(i)
and (ii)
Rule 90bis.2
- 2.003. Where the applicant, before the expiration of the time limit for entering the national phase, voluntarily withdraws a designation, the Office of or acting for the State whose designation is withdrawn ceases to be a designated Office.
- Article 2(xiv)
31
- 2.004. **When is an Office an elected Office?** Where a demand for international preliminary examination is filed, the term “elected Office” is used—instead of the term “designated Office”—to denote the Office of or acting for a State in which the applicant intends to use the results of the international preliminary examination. Since only designated States can be elected, all elected Offices are necessarily also designated Offices.
- Article 37
Rule 90bis.4
- 2.005. Where the demand is withdrawn prior to the date on which examination or processing may start in the national phase, or where the applicant fails to pay the preliminary examination fee or the handling fee and, consequently, the demand is

considered as if it had not been submitted, the Office of or acting for the State which has been elected in the demand ceases to be an elected Office.

Article 22(1)
23
39(1)(a)
40

2.006. **How does the national phase start?** The national phase starts only if the applicant performs certain acts, either before the expiration of a certain time limit or together with an express request that it start earlier. The applicant should not expect any notification inviting him to perform those acts. He has sole responsibility for performing them in due time. The consequences of failure to do so are fatal to the application in a number of designated States (see paragraphs 4.003 and 4.004). It should be noted that the acts must be performed in due time even if, for some reason, the international search report and the written opinion of the International Searching Authority or the international preliminary report on patentability (Chapter I or II of the PCT) are not yet available. Details of the acts to be performed and the applicable time limits are given in the following paragraphs.

CHAPTER 3: TIME LIMIT FOR ENTERING NATIONAL PHASE

GENERAL

Article 2(xi)
22

3.001. What is the time limit for entering the national phase before a designated Office? Subject to what is said below, no designated Office may normally process or examine the international application prior to the expiration of 30 months from the priority date and any fees due to a designated Office and any translation of the international application to be furnished to a designated Office will have to be paid and furnished, respectively, only by the expiration of that 30-month period ("priority date" means, where the international application contains a priority claim, the filing date of the application whose priority is claimed, and, where it does not contain such a claim, the filing date of the international application. Where the international application contains two or more claims, "priority date" means the filing date of the earliest application whose priority is claimed). In respect of certain designated Offices, the applicable time limit is 20 months, not 30 months because of the incompatibility, for the time being, of the modified PCT provision (PCT Article 22(1)) with the relevant national law; those Offices made a declaration of incompatibility which will remain in effect until it is withdrawn by the respective Offices. Furthermore, certain designated Offices have fixed time limits expiring even later than 30 months, or 20 months, as the case may be. For regular updates on these applicable time limits, refer to the relevant National Chapters; a cumulative table is also available from WIPO's website at https://www.wipo.int/pct/en/texts/time_limits.html.

Article 2(xi)
39(1)
64(2)
Rule 54b/s

3.002. What is the time limit for entering the national phase before an elected Office? The time limit is normally 30 months from the priority date, the same time limit for entering the national phase as that which applies in the case of a designated Office which has not been elected (see paragraph 3.001). In respect of the designated Offices, for which the 20-month time limit applies (see paragraph 3.001), the time limit is 30 months from the priority date if the applicant files a demand for international preliminary examination prior to the expiration of 19 months from the priority date. The national law applied by each elected Office may fix a time limit which expires later than 30 months from the priority date. The National Chapter (Summary) relating to each elected Office in respect of which an extended time limit applies indicates the length of that time limit as does the table referred to in paragraph 3.001. It should be noted that some Offices apply different time limits depending on whether the applicant enters the national phase under Chapter I (Article 22) or Chapter II (Article 39(1)) (for details see the table referred to in paragraph 3.001). In those cases, it is recommended that applicants enter the national phase before elected Offices no later than 30 months from the priority date in order to ensure timely national phase entry.

3.003. Are reminders to enter the national phase sent to the applicant by the designated Offices? What happens if the international search report or the international preliminary examination report is late? Designated Offices usually do not issue any reminder to applicants that the time limit for entering the national phase is about to expire (or has just expired). It is therefore the applicant's responsibility to monitor the applicable time limit(s) in order for the application not to lose its effect before the designated Offices. The applicant is responsible for timely performance of the acts required for entry into the national phase even if the international search report and the written opinion of the International Searching Authority or the international preliminary report on patentability (Chapter I or II of the PCT) have not been established by the time the applicant has to make a decision about how to proceed (see International Phase, paragraphs 7.023, 7.027, 7.031 and 10.074).

REQUEST FOR EARLIER START OF THE NATIONAL PHASE

Article 23
40

3.004. Can the national phase start before the expiration of the time limit for entering it? The PCT provides, in Articles 23 and 40, that national processing may not start before the expiration of the time limits indicated in paragraphs 3.001 and 3.002

8.3 Citation Index (Articles, Rules & Administrative Instructions)

<u>Articles</u>	<u>AG-NP Paragraph</u>		
Article 2(xi)	3.001, 3.002	Article 31	2.004
Article 2(xiii)	2.002	Article 33(5)	6.001
Article 2(xiv)	2.004	Article 34	4.019
Article 4	2.002	Article 34(2)(b)	6.013
Article 11(3)	2.001	Article 36(2)(b)	4.019
Article 13(2)(b)	4.028	Article 37	2.005
	4.014 - 4.020, 4.028,		
Article 19	6.013	Article 39	4.029
Article 20	4.001, 4.027	Article 39(1)	3.002, 4.019, 6.024
	3.001, 3.002, 4.029,		2.006, 4.005, 4.008,
Article 22	6.007, 6.024	Article 39(1)(a)	4.027, 4.028
	2.006, 3.001, 4.001,		
	4.005, 4.008, 4.027,		
Article 22(1)	4.028, 4.030, 5.001	Article 39(2)	4.003
Article 23	2.001, 2.006, 3.004	Article 40	2.001, 2.006, 3.004
Article 23(2)	4.028, 6.007	Article 40(2)	4.028
Article 24(1)(i)	2.003	Article 41	6.013
Article 24(1)(ii)	2.003	Article 43	4.029
Article 24(1)(iii)	4.003	Article 44	4.029
Article 24(2)	6.021, 6.026	Article 46	6.003
Article 25	6.018, 6.019	Article 48(1)	6.027
			4.004, 6.021, 6.022,
Article 25(1)(b)	6.019	Article 48(2)	6.024, 6.025, 6.026
Article 25(2)(a)	6.018, 6.019, 6.021	Article 64(2)	3.002
Article 27	5.001	Article 41	6.013
Article 27	5.001	Article 43	4.029
Article 27(1)	4.002, 5.001	Article 44	4.029
Article 27(2)	4.002, 5.001	Article 46	6.003
Article 27(2)(ii)	4.031	Article 48(1)	6.027
			4.004, 6.021, 6.022,
Article 27(5)	6.001	Article 48(2)	6.024, 6.025, 6.026
Article 27(6)	4.002, 5.001, 6.001	Article 64(2)	3.002
	4.002, 5.001, 5.006,		
Article 27(7)	5.007, 5.008		
Article 28	6.013		

<u>Rules</u>	<u>AG-NP Paragraph</u>		
Rule 4.9(b)	2.002	Rule 26bis.1(a)	6.008
Rule 4.17	4.013A, 5.003, 5.005	Rule 26bis.3(c)	6.008
Rule 4.17(i)	5.005	Rule 26bis.3(e)	6.008
Rule 4.17(ii)	5.005	Rule 26bis.3(j)	6.006
Rule 4.17(iii)	5.005	Rule 46	6.013
Rule 4.17(iv)	5.005	Rule 47.1(a)	4.027
Rule 4.17(v)	5.005	Rule 47.4	4.028
Rule 4.18	5.010	Rule 49.1(a)(i)	4.008, 4.009
Rule 13ter	6.033	Rule 49.1(a)(ii)	4.005
Rule 13.ter.1(a)	6.033	Rule 49.1(a-bis)	4.027
Rule 13.ter.1(b)	6.033	Rule 49.1(a-ter)	4.027
Rule 13.ter.3	6.033	Rule 49.4	4.032
Rule 17.2(a)	5.009, 5.010		
Rule 20.6	5.010		
Rule 20.8(b)	6.012		
Rule 20.8(c)	6.012		

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