

International Patent Cooperation Union (PCT Union)

Assembly

Forty-Seventh (20th Ordinary) Session
Geneva, October 5 to 14, 2015

PROPOSED AMENDMENTS TO THE PCT REGULATIONS

Document prepared by the International Bureau

CORRECTIONS RELATING TO DOCUMENT PCT/A/47/4

This document reproduces the text of document PCT/A/47/4 with the addition of some minor corrections concerning the proposals for entry into force and transitional arrangements in respect of the proposed amendments to Rules 12*bis*, 23*bis* and 41 set out in Annex I to the present document.

Following comments by one delegation, received by the International Bureau after the publication of document PCT/A/47/4, suggesting a later entry into force date in respect of the proposed amendments to Rules 12*bis*, 23*bis* and 41 set out in Annex I to the present document, so as to give Offices more time to implement necessary changes to internal systems, it is proposed that the amendments to those Rules shall enter into force on July 1, 2017 (rather than July 1, 2016, as had been proposed in document PCT/A/47/4). The proposed decisions set out in paragraphs 2, 6 and 7, below, concerning entry into force and transitional arrangements in respect of the proposed amendments of the Regulations, as well as paragraph 14, below, have been modified accordingly (paragraphs 2, 6 and 14 have been modified, a new paragraph 7 has been added, and previous paragraphs 7 to 13 have been renumbered accordingly). Furthermore, the “clean” text of the relevant provisions as they would stand after amendment has been moved from Annex VI (which sets out the clean text of the provisions as they would stand after amendment with effect from July 1, 2016) to Annex VII (which sets out the clean text of the provisions as they would stand after amendment with effect from July 1, 2017).

SUMMARY

1. This document contains proposals for amendment of the Regulations under the Patent Cooperation Treaty (PCT)¹, as agreed by the PCT Working Group (“the Working Group”) with a view to their submission to the Assembly for consideration at its present session.
2. It is proposed that all of the amendments should enter into force in July 2016, save for those relating to providing information concerning search or classification results from earlier applications and those relating to providing information concerning the national phase entry, publication and grant of international applications, which should enter into force in July 2017. Designated Offices which do not already provide the relevant information are nevertheless requested to do so as soon as possible and not to wait for the new Rules to enter into force.
3. As recommended by the Working Group, the Assembly is also invited to adopt two Understandings. First, with regard to the provision to excuse a delay in meeting a time limit due to failure in electronic communication services, the Assembly is invited to adopt an Understanding that this should be interpreted as applying to outages that affect widespread geographical areas or many individuals, as distinct from localized problems associated with a particular building or single user. Second, with regard to the provisions relating to providing information concerning national phase entry, publication and grant, the Assembly is invited to adopt an Understanding emphasizing that the data should be made available in bulk format for use by national Offices and patent information service providers, as is the case for other information concerning published international applications which presently appears in the PCT Gazette.

PROPOSED AMENDMENTS

4. Annexes I to VI contain proposed amendments to the Regulations under the Patent Cooperation Treaty, as agreed by the PCT Working Group. The effects of the amendments are as follows:
 - (a) *Annex I* – [Rules 12*bis*, 23*bis* and 41] Where permitted to do so under national law, receiving Offices would usually forward details of search or classification results from earlier applications to the International Searching Authority (ISA), in general without the express permission of the applicant. However, an option would provide for receiving Offices to notify the International Bureau (IB) that they will forward those results only with the permission of the applicant. For further information, see document PCT/WG/8/18 and paragraphs 60 to 70 of document PCT/WG/8/25.
 - (b) *Annex II* – [Rules 9, 48 and 94] Applicants would be able to request that information be omitted from the published version of an international application or the associated files if it does not obviously serve the purpose of informing the public about the international application, it would prejudice the personal or economic interests of any person and there is no prevailing public interest to have access to that information. This would allow the removal of certain irrelevant information, normally included accidentally in the international application or associated documents. For further information, see document PCT/WG/8/12 and paragraphs 130 to 135 of document PCT/WG/8/25.
 - (c) *Annex III* – [Rules 26*bis* and 48] Receiving Offices would normally be required to forward to the International Bureau copies of documents submitted in connection with a request for restoration of the right of priority. However, under the same conditions as

¹ References in this document to “Articles” and “Rules” are to those of the PCT and the Regulations under the PCT (“the Regulations”), or to such provisions as proposed to be amended or added, as the case may be. References to “national laws”, “national applications”, “the national phase”, etc., include references to regional laws, regional applications, the regional phase, etc.

apply in the proposed amendments described in paragraph (b), above, the applicant could request that certain documents not be forwarded. The main difference is that it is more likely in this case that the relevant information would have been provided deliberately, to establish that the conditions for “due care” had been met. Applicants should note that if key information is not made available, it is more likely that their request for restoration of the right of priority will be reviewed and that they will be required to provide equivalent information again to the designated Offices in the national phase. For further information, see document PCT/WG/8/14 and paragraphs 136 to 139 of document PCT/WG/8/25.

(d) *Annex IV* – [Rule 82*quater*] The *force majeure* provisions would be extended to clearly allow time limits to be extended where a time limit had been missed because of a general failure of electronic communications services in the area where the interested party resides. Such an outage would not automatically excuse a failure to meet a time limit. It would be necessary to provide evidence of the outage, that the outage prevented the time limit being met, and that the relevant action was subsequently taken as soon as reasonably possible. For further information, see document PCT/WG/8/22 and paragraphs 140 to 146 of document PCT/WG/8/25.

(e) *Annex V* – [Rule 92] An enabling provision would be included, allowing the IB to allow applicants to write to the IB in languages other than English and French. The intention is initially to permit correspondence in the language of publication (or English or French, as at present) where that correspondence is made through ePCT. The arrangements would be extended to all communications once the IB was certain that it had the capacity to handle the work efficiently and that there would be no adverse consequences for designated Offices or third parties. For further information, see document PCT/WG/8/23 and paragraphs 148 to 151 of document PCT/WG/8/25.

(f) *Annex VI* – [Rules 86 and 95] Designated Offices would be required to send timely information to the IB concerning national phase entries, national publications and grants. That information would be made available in PATENTSCOPE and in bulk format to other patent information service providers, allowing significantly improved information concerning where national rights may be pending or granted. For further information, see document PCT/WG/8/8 and paragraphs 77 to 83 of document PCT/WG/8/25.

5. A number of minor drafting changes beyond the text agreed by the Working Group are proposed. These are explained in footnotes in the Annexes.

ENTRY INTO FORCE AND TRANSITIONAL ARRANGEMENTS

6. It is proposed that the Assembly adopt the following decisions concerning entry into force and transitional arrangements in respect of the proposed amendments of the Regulations set out in Annex I to this document:

"The amendments of Rules 12*bis*, 23*bis* and 41 shall enter into force on July 1, 2017, and shall apply to any international application whose international filing date is on or after July 1, 2017."

7. It is proposed that the Assembly adopt the following decisions concerning entry into force and transitional arrangements in respect of the proposed amendments of the Regulations set out in Annexes II to V to this document:

"The amendments of Rules 9, 26*bis*, 48, 82*quater*, 92 and 94 shall enter into force on July 1, 2016, and shall apply to any international application whose international filing date is on or after July 1, 2016.

“The amendments of Rule 82*quater* shall also apply to international applications whose international filing date is before July 1, 2016, where the event referred to in Rule 82*quater*.1(a), as amended, occurs on or after July 1, 2016.

“The amendments of Rule 92.2(d) shall also apply to correspondence received by the International Bureau on or after July 1, 2016, in respect of international applications whose international filing date is before July 1, 2016, to the extent provided at the time of promulgation of any Administrative Instructions made under that Rule.”

8. It is proposed that the Assembly adopt the following decisions concerning entry into force and transitional arrangements in respect of the proposed amendments of the Regulations set out in Annex VI to this document:

“The amendments of Rules 86 and 95 shall enter into force on July 1, 2017 and shall apply to any international application in respect of which the acts referred to in Article 22 or Article 39 are performed on or after July 1, 2017.”

9. It is also proposed that the Assembly adopt the following Understanding concerning the provisions regarding the excuse of a delay in meeting a time limit due to a general unavailability of electronic communication services in accordance with the amended Rule 82*quater*.1 set out in Annex IV:

“In adopting the amendments to Rule 82*quater*.1, the Assembly noted that the receiving Office, the International Searching Authority, the Authority specified for supplementary search, the International Preliminary Examining Authority or the International Bureau should, in considering a request under Rule 82*quater*.1 to excuse a delay in meeting a time limit that has not been met due to a general unavailability of electronic communication services, interpret general unavailability of electronic communications to apply to outages that affect widespread geographical areas or many individuals, as distinct from localized problems associated with a particular building or single user.”

10. It is further proposed that the Assembly adopt the following Understanding concerning the information which is to be provided in accordance with the amended Rules set out in Annex VI:

“In adopting the amendments to Rule 86.1(iv), the Assembly noted that the information concerning national phase entry will be made available to the public not only by way of inclusion in the Gazette on the PATENTSCOPE website but also as part of the bulk PCT bibliographic data offered to Offices and other subscribers to the PATENTSCOPE subscription data services.”

11. Annexes VII and VIII contain “clean” versions of the proposed Rules which would enter into force July 1, 2016 and July 1, 2017, respectively.

REQUIRED FURTHER ACTIONS BY NATIONAL OFFICES

12. National Offices are reminded that adoption of the Rules will require the following actions on their part:

(a) If the national law of an Office which acts as receiving Office is not compatible with sending information concerning the search or classification results of earlier applications without the express permission of the applicant, the Office should notify the International Bureau to that effect in accordance with new Rule 23*bis*.2(e) by April 14, 2016 (the date proposed, being 6 months from the date of closing of the PCT Assembly).

(b) If an Office which acts as receiving Office wishes to allow its applicants the option of requesting that earlier search or classification results not be transmitted to the International Searching Authority, the Office should notify the International Bureau to that effect in accordance with new Rule 23bis.2(b) by April 14, 2016.

(c) Offices which act as designated Office should ensure that systems are in place to send information concerning national phase entry, publication and grant of international applications to the International Bureau by July 1, 2017 at the latest and are encouraged to do so earlier if possible.

13. In respect of the final point, the International Bureau reminds Offices:

(a) that the information concerning national phase entry, publication and grant does not necessarily have to be provided in a feed of information specifically for that purpose – the International Bureau is willing to extract the information from data supplied for other purposes, provided that the data is sufficient to reliably identify the international application and all the necessary items of information, and is supplied on terms such that it is permitted to be redistributed, in line with the Understanding set out under paragraph 9, above; and

(b) the International Bureau can offer assistance to Offices using the WIPO Industrial Property Automation System (IPAS) to configure that software to automatically send the required information.

*14. The Assembly of the PCT
Union is invited:*

(i) to adopt the proposed amendments to the Regulations under the PCT set out in Annexes I to VI to document PCT/A/47/4 Rev. and the proposed decisions set out in paragraphs 6 to 8 of document PCT/A/47/4 Rev. relating to entry into force and transitional arrangements; and

(ii) to adopt the proposed Understandings set out in paragraphs 9 and 10 of document PCT/A/47/4 Rev.

[Annexes follow]

DRAFT AMENDMENTS TO THE PCT REGULATIONS
TRANSMITTAL BY THE RECEIVING OFFICE OF EARLIER
SEARCH AND/OR CLASSIFICATION RESULTS
TO THE INTERNATIONAL SEARCHING AUTHORITY

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Rule 12bis

Submission by the Applicant of Documents Relating to Earlier Search

~~Copy of Results of Earlier Search and of Earlier Application; Translation~~

12bis.1 Furnishing by the Applicant of Documents Related to Earlier Search in Case of

Request under Rule 4.12 ~~Copy of Results of Earlier Search and of Earlier Application; Translation~~

(a) Where the applicant has, under Rule 4.12, requested the International Searching Authority to take into account the results of an earlier search carried out by the same or another International Searching Authority or by a national Office, the applicant shall, subject to paragraphs (b) to (d) ~~(e) to (f)~~, submit to the receiving Office, together with the international application, a copy of the results of the earlier search, in whatever form (for example, in the form of a search report, a listing of cited prior art or an examination report) they are presented by the Authority or Office concerned.

~~(b) The International Searching Authority may, subject to paragraphs (c) to (f), invite the applicant to furnish to it, within a time limit which shall be reasonable under the circumstances:~~

~~(i) a copy of the earlier application concerned;~~

~~(ii) where the earlier application is in a language which is not accepted by the International Searching Authority, a translation of the earlier application into a language which is accepted by that Authority;~~

~~(iii) where the results of the earlier search are in a language which is not accepted by the International Searching Authority, a translation of those results into a language which is accepted by that Authority;~~

[Rule 12bis.1, continued]

~~(iv) — a copy of any document cited in the results of the earlier search.~~

(b) ~~(e)~~ Where the earlier search was carried out by the same Office as that which is acting as the receiving Office, the applicant may, instead of submitting the copy ~~copies~~ referred to in paragraph (a) ~~paragraphs (a) and (b)(i) and (iv)~~, indicate the wish that the receiving Office prepare and transmit it ~~them~~ to the International Searching Authority. Such request shall be made in the request and may be subjected by the receiving Office to the payment to it, for its own benefit, of a fee.

(c) ~~(d)~~ Where the earlier search was carried out by the same International Searching Authority, or by the same Office as that which is acting as the International Searching Authority, no copy ~~or translation~~ referred to in paragraph (a) ~~paragraphs (a) and (b)~~ shall be required to be submitted under that paragraph ~~those paragraphs~~.

~~(e) Where the request contains a statement under Rule 4.12(ii) to the effect that the international application is the same, or substantially the same, as the application in respect of which the earlier search was carried out, or that the international application is the same, or substantially the same, as that earlier application except that it is filed in a different language, no copy or translation referred to in paragraphs (b)(i) and (ii) shall be required to be submitted under those paragraphs.~~

(d) ~~(f)~~ Where a copy ~~or translation~~ referred to in paragraph (a) ~~paragraphs (a) and (b)~~ is available to the receiving Office or the International Searching Authority in a form and manner acceptable to it, for example, from a digital library ~~or in the form of the priority document~~, and the applicant so indicates in the request, no copy ~~or translation~~ shall be required to be submitted under that paragraph ~~those paragraphs~~.

12bis.2 Invitation by the International Searching Authority to Furnish Documents Related to
Earlier Search in Case of Request under Rule 4.12

(a) The International Searching Authority may, subject to paragraphs (b) and (c)
~~paragraphs (e) to (f)~~, invite the applicant to furnish to it, within a time limit which shall be
reasonable under the circumstances:

(i) a copy of the earlier application concerned;

(ii) where the earlier application is in a language which is not accepted by the
International Searching Authority, a translation of the earlier application into a
language which is accepted by that Authority;

(iii) where the results of the earlier search are in a language which is not accepted by
the International Searching Authority, a translation of those results into a language
which is accepted by that Authority;

(iv) a copy of any document cited in the results of the earlier search.

(b) Where the earlier search was carried out by the same International Searching
Authority, or by the same Office as that which is acting as the International Searching Authority,
or where a copy or translation referred to in paragraph (a) is available to the International
Searching Authority in a form and manner acceptable to it, for example, from a digital library, or
in the form of the priority document, no copy or translation referred to in paragraph (a) shall be
required to be submitted under that paragraph.

[Rule 12bis.2, continued]

(c) Where the request contains a statement under Rule 4.12(ii) to the effect that the international application is the same, or substantially the same, as the application in respect of which the earlier search was carried out, or that the international application is the same, or substantially the same, as that earlier application except that it is filed in a different language, no copy or translation referred to in paragraphs (a)(i) and (ii) ~~paragraphs (b)(i) and (ii)~~ shall be required to be submitted under those paragraphs.

Rule 23bis

Transmittal of Documents Relating to Earlier Search or Classification²

23bis.1 Transmittal of Documents Relating to Earlier Search in Case of Request under

Rule 4.12

(a) The receiving Office shall transmit to the International Searching Authority, together with the search copy, any copy referred to in Rule 12bis.1(a) related to an earlier search in respect of which the applicant has made a request under Rule 4.12, provided that any such copy:

(i) has been submitted by the applicant to the receiving Office together with the international application;

(ii) has been requested by the applicant to be prepared and transmitted by the receiving Office to that Authority; or

(iii) is available to the receiving Office in a form and manner acceptable to it, for example, from a digital library, in accordance with Rule 12bis.1(d).

(b) If it is not included in the copy of the results of the earlier search referred to in Rule 12bis.1(a), the receiving Office shall also transmit to the International Searching Authority, together with the search copy, a copy of the results of any earlier classification effected by that Office, if already available.

² Further drafting changes have been made to Rule 23bis beyond the text agreed by the Working Group. The references in Rule 23bis.1(a) to a translation have been deleted to reflect the fact that Rule 12bis.1 deals only with copies of the search results "in whatever form they are presented by the Authority or Office concerned" (translations requested by the International Searching Authority are dealt with under Rule 12bis.2). The words "it is" have also been inserted for clarity at the start of Rule 23bis.1(b) and "form or manner" has been changed to "form and manner" in Rule 23bis.2(d).

23bis.2 Transmittal of Documents Relating to Earlier Search or Classification for the Purposes of Rule 41.2

(a) For the purposes of Rule 41.2, where the international application claims the priority of one or more earlier applications filed with the same Office as that which is acting as the receiving Office and that Office has carried out an earlier search in respect of such an earlier application or has classified such earlier application, the receiving Office shall, subject to paragraphs (b), (d) and (e), transmit to the International Searching Authority, together with the search copy, a copy of the results of any such earlier search, in whatever form (for example, in the form of a search report, a listing of cited prior art or an examination report) they are available to the Office, and a copy of the results of any such earlier classification effected by the Office, if already available. The receiving Office may also transmit to the International Searching Authority any further documents relating to such an earlier search which it considers useful to that Authority for the purposes of carrying out the international search.

(b) Notwithstanding paragraph (a), a receiving Office may notify the International Bureau by April 14, 2016 that it may, on request of the applicant submitted together with the international application, decide not to transmit the results of an earlier search to the International Searching Authority. The International Bureau shall publish any notification under this provision in the Gazette.

(c) At the option of the receiving Office, paragraph (a) shall apply *mutatis mutandis* where the international application claims the priority of one or more earlier applications filed with an Office different from the one which is acting as the receiving Office and that Office has carried out an earlier search in respect of such an earlier application or has classified such earlier application, and the results of any such earlier search or classification are available to the receiving Office in a form and manner acceptable to it, for example, from a digital library.

[Rule 23bis.2 continued]

(d) Paragraphs (a) and (c) shall not apply where the earlier search was carried out by the same International Searching Authority or by the same Office as that which is acting as the International Searching Authority, or where the receiving Office is aware that a copy of the earlier search or classification results is available to the International Searching Authority in a form and manner acceptable to it, for example, from a digital library.

(e) To the extent that, on October 14, 2015, the transmission of the copies referred to in paragraph (a), or the transmission of such copies in a particular form, such as those referred to in paragraph (a), without the authorization by the applicant is not compatible with the national law applied by the receiving Office, that paragraph shall not apply to the transmission of such copies, or to the transmission of such copies in the particular form concerned, in respect of any international application filed with that receiving Office for as long as such transmission without the authorization by the applicant continues not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by April 14, 2016. The information received shall be promptly published by the International Bureau in the Gazette.

Rule 41

Taking into Account Results of Earlier Search and Classification³

41.1 *Taking into Account Results of Earlier Search in Case of a Request under Rule 4.12*

Where the applicant has, under Rule 4.12, requested the International Searching Authority to take into account the results of an earlier search and has complied with Rule 12*bis*.1 and:

(i) the earlier search was carried out by the same International Searching Authority, or by the same Office as that which is acting as the International Searching Authority, the International Searching Authority shall, to the extent possible, take those results into account in carrying out the international search;

(ii) the earlier search was carried out by another International Searching Authority, or by an Office other than that which is acting as the International Searching Authority, the International Searching Authority may take those results into account in carrying out the international search.

41.2 *Taking into Account Results of Earlier Search and Classification in Other Cases*

(a) Where the international application claims the priority of one or more earlier applications in respect of which an earlier search has been carried out by the same International Searching Authority, or by the same Office as that which is acting as the International Searching Authority, the International Searching Authority shall, to the extent possible, take the results of any such earlier search into account in carrying out the international search.

³ Further drafting changes have been made to Rule 41 beyond the text agreed by the Working Group. The words “and Classification” have been inserted into the heading of Rule 41 and Rule 41.2 for consistency with the extended scope of the Rule.

[Rule 41.2, continued]

(b) Where the receiving Office has transmitted to the International Searching Authority a copy of the results of any earlier search or of any earlier classification under Rule 23bis.2(a) or (b), or where such a copy is available to the International Searching Authority in a form and manner acceptable to it, for example, from a digital library, the International Searching Authority may take those results into account in carrying out the international search.

[Annex II follows]

DRAFT AMENDMENTS TO THE PCT REGULATIONS
OMISSION OF CERTAIN INFORMATION FROM PUBLIC ACCESS

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Rule 9

Expressions, Etc., Not to Be Used

9.1 [No change] Definition

The international application shall not contain:

- (i) expressions or drawings contrary to morality;
- (ii) expressions or drawings contrary to public order;
- (iii) statements disparaging the products or processes of any particular person other than the applicant, or the merits or validity of applications or patents of any such person (mere comparisons with the prior art shall not be considered disparaging *per se*);
- (iv) any statement or other matter obviously irrelevant or unnecessary under the circumstances.

9.2 *Noting of Lack of Compliance*

The receiving Office, ~~and~~ the International Searching Authority, the Authority specified for supplementary search and the International Bureau may note lack of compliance with the prescriptions of Rule 9.1 and may suggest to the applicant that he voluntarily correct his international application accordingly, in which case the receiving Office, the competent International Searching Authority, the competent Authority specified for supplementary search and the International Bureau, as applicable, shall be informed of the suggestion. ~~If the lack of compliance was noted by the receiving Office, that Office shall inform the competent International Searching Authority and the International Bureau; if the lack of compliance was noted by the International Searching Authority, that Authority shall inform the receiving Office and the International Bureau.~~

9.3 *[No change] Reference to Article 21(6)*

"Disparaging statements," referred to in Article 21(6), shall have the meaning as defined in Rule 9.1(iii).

Rule 48

International Publication

48.1 [No change]

48.2 *Contents*

(a) to (k) [No change]

(l) The International Bureau shall, upon a reasoned request by the applicant received by the International Bureau prior to the completion of technical preparations for international publication, omit from publication any information, if it finds that:

(i) this information does not obviously serve the purpose of informing the public about the international application;

(ii) publication of such information would clearly prejudice the personal or economic interests of any person; and

(iii) there is no prevailing public interest to have access to that information.

Rule 26.4 shall apply *mutatis mutandis* as to the manner in which the applicant shall present the information which is the subject of a request made under this paragraph.

[Rule 48.2, continued]

(m) Where the receiving Office, the International Searching Authority, the Authority specified for supplementary search or the International Bureau notes any information meeting the criteria set out under paragraph (l), that Office, Authority or Bureau may suggest to the applicant to request the omission from international publication in accordance with paragraph (l).

(n) Where the International Bureau has omitted information from international publication in accordance with paragraph (l) and that information is also contained in the file of the international application held by the receiving Office, the International Searching Authority, the Authority specified for supplementary search or the International Preliminary Examining Authority, the International Bureau shall promptly notify that Office and Authority accordingly.

48.3 to 48.6 *[No change]*

Rule 94

Access to Files⁴

94.1 *Access to the File Held by the International Bureau*

(a) [No change] At the request of the applicant or any person authorized by the applicant, the International Bureau shall furnish, subject to reimbursement of the cost of the service, copies of any document contained in its file.

(b) The International Bureau shall, at the request of any person but not before the international publication of the international application and subject to Article 38 [and paragraphs \(d\) to \(g\)](#), furnish, ~~subject to the reimbursement of the cost of the service,~~ copies of any document contained in its file. [The furnishing of copies may be subject to reimbursement of the cost of the service.](#)

(c) [No change] The International Bureau shall, if so requested by an elected Office, furnish copies of the international preliminary examination report under paragraph (b) on behalf of that Office. The International Bureau shall promptly publish details of any such request in the Gazette.

[\(d\) The International Bureau shall not provide access to any information contained in its file which has been omitted from publication under Rule 48.2\(l\) and to any document contained in its file relating to a request under that Rule.](#)

⁴ Further drafting changes have been made to Rule 94.1(e) beyond the text agreed by the Working Group. The words “the request” have been changed to “a request” for clarity.

[Rule 94.1, continued]

(e) Upon a reasoned request by the applicant, the International Bureau shall not provide access to any information contained in its file and to any document contained in its file relating to such a request, if it finds that:

(i) this information does not obviously serve the purpose of informing the public about the international application;

(ii) public access to such information would clearly prejudice the personal or economic interests of any person; and

(iii) there is no prevailing public interest to have access to that information.

Rule 26.4 shall apply *mutatis mutandis* as to the manner in which the applicant shall present the information which is the subject of a request made under this paragraph.

(f) Where the International Bureau has omitted information from public access in accordance with paragraphs (d) or (e), and that information is also contained in the file of the international application held by the receiving Office, the International Searching Authority, the Authority specified for supplementary search or the International Preliminary Examining Authority, the International Bureau shall promptly notify that Office and Authority accordingly.

(g) The International Bureau shall not provide access to any document contained in its file which was prepared solely for internal use by the International Bureau.

94.1 bis Access to the File Held by the Receiving Office

(a) At the request of the applicant or any person authorized by the applicant, the receiving Office may provide access to any document contained in its file. The furnishing of copies of documents may be subject to reimbursement of the cost of the service.

(b) The receiving Office may, at the request of any person, but not before the international publication of the international application and subject to paragraph (c), provide access to any document contained in its file. The furnishing of copies of documents may be subject to reimbursement of the cost of the service.

(c) The receiving Office shall not provide access under paragraph (b) to any information in respect of which it has been notified by the International Bureau that the information has been omitted from publication in accordance with Rule 48.2(I) or from public access in accordance with Rule 94.1(d) or (e).

94.1 ter Access to the File Held by the International Searching Authority

(a) At the request of the applicant or any person authorized by the applicant, the International Searching Authority may provide access to any document contained in its file. The furnishing of copies of documents may be subject to reimbursement of the cost of the service.

(b) The International Searching Authority may, at the request of any person, but not before the international publication of the international application and subject to paragraph (c), provide access to any document contained in its file. The furnishing of copies of documents may be subject to reimbursement of the cost of the service.

[Rule 94.1ter, continued]

(c) The International Searching Authority shall not provide access under paragraph (b) to any information in respect of which it has been notified by the International Bureau that the information has been omitted from publication in accordance with Rule 48.2(I) or from public access in accordance with Rule 94.1(d) or (e).

(d) Paragraphs (a) to (c) shall apply *mutatis mutandis* to the Authority specified for supplementary search.

94.2 Access to the File Held by the International Preliminary Examining Authority

(a) At the request of the applicant or any person authorized by the applicant, ~~or, once the international preliminary examination report has been established, of any elected Office,~~ the International Preliminary Examining Authority shall provide access to any document ~~furnish, subject to reimbursement of the cost of the service, copies of any document~~ contained in its file. The furnishing of copies of documents may be subject to reimbursement of the cost of the service.

(b) At the request of any elected Office, but not before the establishment of the international preliminary examination report and subject to paragraph (c), the International Preliminary Examining Authority shall provide access to any document contained in its file. The furnishing of copies of documents may be subject to reimbursement of the cost of the service.

(c) The International Preliminary Examining Authority shall not provide access under paragraph (b) to any information in respect of which it has been notified by the International Bureau that the information has been omitted from publication in accordance with Rule 48.2(I) or from public access in accordance with Rule 94.1(d) or (e).

94.2bis Access to the File Held by the Designated Office

If the national law applicable by any designated Office allows access by third parties to the file of a national application, that Office may allow access to any documents relating to the international application, contained in its file, to the same extent as provided by the national law for access to the file of a national application, but not before the earliest of the dates specified in Article 30(2)(a). The furnishing of copies of documents may be subject to reimbursement of the cost of the service.

94.3 *Access to the File Held by the Elected Office*

If the national law applicable by any elected Office allows access by third parties to the file of a national application, that Office may allow access to any documents relating to the international application, including any document relating to the international preliminary examination, contained in its file, to the same extent as provided by the national law for access to the file of a national application, but not before the earliest of the dates specified in Article 30(2)(a) ~~the international publication of the international application~~. The furnishing of copies of documents may be subject to reimbursement of the cost of the service.

[Annex III follows]

DRAFT AMENDMENTS TO THE PCT REGULATIONS

TRANSMITTAL TO THE INTERNATIONAL BUREAU OF COPIES OF DOCUMENTS
RECEIVED IN THE CONTEXT OF A REQUEST FOR RESTORATION OF RIGHT OF
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Rule 26bis

Correction or Addition of Priority Claim

26bis.1 and 26bis.2 [No change]

26bis.3 *Restoration of Right of Priority by Receiving Office*

(a) to (e) [No change]

(f) The receiving Office may require that a declaration or other evidence in support of the statement of reasons referred to in paragraph (b)(ii)(b)(iii) be filed with it within a time limit which shall be reasonable under the circumstances. ~~The applicant may furnish to the International Bureau a copy of any such declaration or other evidence filed with the receiving Office, in which case the International Bureau shall include such copy in its files.~~

(g) [No change]

(h) The receiving Office shall promptly:

(i) [no change] notify the International Bureau of the receipt of a request under paragraph (a);

(ii) [no change] make a decision upon the request;

(iii) notify the applicant and the International Bureau of its decision and the criterion for restoration upon which the decision was based;

[Rule 26bis.3(h), continued]

(iv) subject to paragraph (h-bis), transmit to the International Bureau all documents received from the applicant relating to the request under paragraph (a) (including a copy of the request itself, any statement of reasons referred to in paragraph (b)(ii) and any declaration or other evidence referred to in paragraph (f)).

(h-bis) The receiving Office shall, upon a reasoned request by the applicant or on its own decision, not transmit documents or parts thereof received in relation to the request under paragraph (a), if it finds that:

(i) this document or part thereof does not obviously serve the purpose of informing the public about the international application;

(ii) publication or public access to any such document or part thereof would clearly prejudice the personal or economic interests of any person; and

(iii) there is no prevailing public interest to have access to that document or part thereof.

Where the receiving Office decides not to transmit documents or parts thereof to the International Bureau, it shall notify the International Bureau accordingly.

(i) and (j) *[No change]*

Rule 48

International Publication

48.1 [No change]

48.2 *Contents*

(a) [No change]

(b) Subject to paragraph (c), the front page shall include:

(i) to (vi) [No change]

(vii) where applicable, an indication that the published international application contains information concerning a request under Rule 26*bis*.3 for restoration of the right of priority and the decision of the receiving Office upon such request;

~~(viii) [deleted] where applicable, an indication that the applicant has, under Rule 26*bis*.3(f), furnished copies of any declaration or other evidence to the International Bureau.~~

(c) to (k) [No change]

48.3 to 48.6 [No change]

[Annex IV follows]

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Rule 82^{quater}

Excuse of Delay in Meeting Time Limits

82^{quater}.1 Excuse of Delay in Meeting Time Limits

(a) Any interested party may offer evidence that a time limit fixed in the Regulations for performing an action before the receiving Office, the International Searching Authority, the Authority specified for supplementary search, the International Preliminary Examining Authority or the International Bureau was not met due to war, revolution, civil disorder, strike, natural calamity, [a general unavailability of electronic communications services](#) or other like reason in the locality where the interested party resides, has his place of business or is staying, and that the relevant action was taken as soon as reasonably possible.

(b) [No change] Any such evidence shall be addressed to the Office, Authority or the International Bureau, as the case may be, not later than six months after the expiration of the time limit applicable in the given case. If such circumstances are proven to the satisfaction of the addressee, delay in meeting the time limit shall be excused.

(c) [No change] The excuse of a delay need not be taken into account by any designated or elected Office before which the applicant, at the time the decision to excuse the delay is taken, has already performed the acts referred to in Article 22 or Article 39.

[Annex V follows]

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Rule 92
Correspondence

92.1 *[No change]*

92.2 *Languages*

(a) *[No change]* Subject to Rules 55.1 and 55.3 and to paragraph (b) of this Rule, any letter or document submitted by the applicant to the International Searching Authority or the International Preliminary Examining Authority shall be in the same language as the international application to which it relates. However, where a translation of the international application has been transmitted under Rule 23.1(b) or furnished under Rule 55.2, the language of such translation shall be used.

(b) *[No change]* Any letter from the applicant to the International Searching Authority or the International Preliminary Examining Authority may be in a language other than that of the international application, provided the said Authority authorizes the use of such language.

(c) *[Remains deleted]*

(d) Any letter from the applicant to the International Bureau shall be in English, ~~or~~ French [or any other language of publication as may be permitted by the Administrative Instructions.](#)

(e) *[No change]* Any letter or notification from the International Bureau to the applicant or to any national Office shall be in English or French.

92.3 and 92.4 *[No change]*

[Annex VI follows]

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Rule 86
The Gazette

86.1 *Contents*

The Gazette referred to in Article 55(4) shall contain:

(i) to (iii) *[no change]*

(iv) information, ~~if and to the extent furnished to the International Bureau by the designated or elected Offices, on the question whether the requirements provided for in Articles 22 or 39 have been complied with in respect of the international applications designating or electing the Office concerned~~ concerning events at the designated and elected Offices notified to the International Bureau under Rule 95.1 in relation to published international applications;

(v) *[no change]*

86.2 to 86.6 *[No change]*

Rule 95

~~Availability of Translations~~

Information and Translations from Designated and Elected Offices

95.1 Information Concerning Events at the Designated and Elected Offices

Any designated or elected Office shall notify the International Bureau of the following information concerning an international application within two months, or as soon as reasonably possible thereafter, of the occurrence of any of the following events:

(i) following the performance by the applicant of the acts referred to in Article 22 or Article 39, the date of performance of those acts and any national application number which has been assigned to the international application;

(ii) where the designated or elected Office explicitly publishes the international application under its national law or practice, the number and date of that national publication;

(iii) where a patent is granted, the date of grant of the patent and, where the designated or elected Office explicitly publishes the international application in the form in which it is granted under its national law, the number and date of that national publication.

~~95.1~~ 95.2 *Furnishing of Copies of Translations*

(a) *[No change]* At the request of the International Bureau, any designated or elected Office shall provide it with a copy of the translation of the international application furnished by the applicant to that Office.

(b) *[No change]* The International Bureau may, upon request and subject to reimbursement of the cost, furnish to any person copies of the translations received under paragraph (a).

[Annex VII follows]

DRAFT AMENDMENTS TO THE PCT REGULATIONS
PROPOSED TO ENTER INTO FORCE JULY 1, 2016

(CLEAN TEXT)

Proposed amendments of the PCT Regulations are set out in Annexes II to V, in which additions and deletions are shown, respectively, by underlining and striking-through of the text concerned. This Annex contains, for convenient reference, a “clean” text of the relevant provisions as they would stand after amendment.

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Rule 9 **Expressions, Etc., Not to Be Used**

9.1 *[No change] Definition*

The international application shall not contain:

- (i) expressions or drawings contrary to morality;
- (ii) expressions or drawings contrary to public order;
- (iii) statements disparaging the products or processes of any particular person other than the applicant, or the merits or validity of applications or patents of any such person (mere comparisons with the prior art shall not be considered disparaging *per se*);
- (iv) any statement or other matter obviously irrelevant or unnecessary under the circumstances.

9.2 *Noting of Lack of Compliance*

The receiving Office, the International Searching Authority, the Authority specified for supplementary search and the International Bureau may note lack of compliance with the prescriptions of Rule 9.1 and may suggest to the applicant that he voluntarily correct his international application accordingly, in which case the receiving Office, the competent International Searching Authority, the competent Authority specified for supplementary search and the International Bureau, as applicable, shall be informed of the suggestion.

9.3 *[No change] Reference to Article 21(6)*

"Disparaging statements," referred to in Article 21(6), shall have the meaning as defined in Rule 9.1(iii).

Rule 26bis
Correction or Addition of Priority Claim

26bis.1 and 26bis.2 [No change]

26bis.3 *Restoration of Right of Priority by Receiving Office*

(a) to (e) [No change]

(f) The receiving Office may require that a declaration or other evidence in support of the statement of reasons referred to in paragraph (b)(ii) be filed with it within a time limit which shall be reasonable under the circumstances.

(g) [No change]

(h) The receiving Office shall promptly:

- (i) [no change] notify the International Bureau of the receipt of a request under paragraph (a);
- (ii) [no change] make a decision upon the request;
- (iii) notify the applicant and the International Bureau of its decision and the criterion for restoration upon which the decision was based;
- (iv) subject to paragraph (h-bis), transmit to the International Bureau all documents received from the applicant relating to the request under paragraph (a) (including a copy of the request itself, any statement of reasons referred to in paragraph (b)(ii) and any declaration or other evidence referred to in paragraph (f)).

[Rule26bis.3, continued]

(h-bis) The receiving Office shall, upon a reasoned request by the applicant or on its own decision, not transmit documents or parts thereof received in relation to the request under paragraph (a), if it finds that:

- (i) this document or part thereof does not obviously serve the purpose of informing the public about the international application;
- (ii) publication or public access to any such document or part thereof would clearly prejudice the personal or economic interests of any person; and
- (iii) there is no prevailing public interest to have access to that document or part thereof.

Where the receiving Office decides not to transmit documents or parts thereof to the International Bureau, it shall notify the International Bureau accordingly.

(i) and (j) *[No change]*

Rule 48
International Publication

48.1 [No change]

48.2 *Contents*

(a) [No change]

(b) Subject to paragraph (c), the front page shall include:

(i) to (vi) [No change]

(vii) where applicable, an indication that the published international application contains information concerning a request under Rule 26*bis*.3 for restoration of the right of priority and the decision of the receiving Office upon such request;

(viii) [deleted]

(c) to (k) [No change]

(l) The International Bureau shall, upon a reasoned request by the applicant received by the International Bureau prior to the completion of technical preparations for international publication, omit from publication any information, if it finds that:

(i) this information does not obviously serve the purpose of informing the public about the international application;

(ii) publication of such information would clearly prejudice the personal or economic interests of any person; and

(iii) there is no prevailing public interest to have access to that information.

Rule 26.4 shall apply *mutatis mutandis* as to the manner in which the applicant shall present the information which is the subject of a request made under this paragraph.

(m) Where the receiving Office, the International Searching Authority, the Authority specified for supplementary search or the International Bureau notes any information meeting the criteria set out under paragraph (l), that Office, Authority or Bureau may suggest to the applicant to request the omission from international publication in accordance with paragraph (l).

[Rule 48.2, continued]

(n) Where the International Bureau has omitted information from international publication in accordance with paragraph (l) and that information is also contained in the file of the international application held by the receiving Office, the International Searching Authority, the Authority specified for supplementary search or the International Preliminary Examining Authority, the International Bureau shall promptly notify that Office and Authority accordingly.

48.3 to 48.6 *[No change]*

Rule 82^{quater}
Excuse of Delay in Meeting Time Limits

82^{quater}.1 Excuse of Delay in Meeting Time Limits

(a) Any interested party may offer evidence that a time limit fixed in the Regulations for performing an action before the receiving Office, the International Searching Authority, the Authority specified for supplementary search, the International Preliminary Examining Authority or the International Bureau was not met due to war, revolution, civil disorder, strike, natural calamity, a general unavailability of electronic communications services or other like reason in the locality where the interested party resides, has his place of business or is staying, and that the relevant action was taken as soon as reasonably possible.

(b) [No change] Any such evidence shall be addressed to the Office, Authority or the International Bureau, as the case may be, not later than six months after the expiration of the time limit applicable in the given case. If such circumstances are proven to the satisfaction of the addressee, delay in meeting the time limit shall be excused.

(c) [No change] The excuse of a delay need not be taken into account by any designated or elected Office before which the applicant, at the time the decision to excuse the delay is taken, has already performed the acts referred to in Article 22 or Article 39.

Rule 92

Correspondence

92.1 *[No change]*

92.2 *Languages*

(a) *[No change]* Subject to Rules 55.1 and 55.3 and to paragraph (b) of this Rule, any letter or document submitted by the applicant to the International Searching Authority or the International Preliminary Examining Authority shall be in the same language as the international application to which it relates. However, where a translation of the international application has been transmitted under Rule 23.1(b) or furnished under Rule 55.2, the language of such translation shall be used.

(b) *[No change]* Any letter from the applicant to the International Searching Authority or the International Preliminary Examining Authority may be in a language other than that of the international application, provided the said Authority authorizes the use of such language.

(c) *[Remains deleted]*

(d) Any letter from the applicant to the International Bureau shall be in English, French or any other language of publication as may be permitted by the Administrative Instructions.

(e) *[No change]* Any letter or notification from the International Bureau to the applicant or to any national Office shall be in English or French.

92.3 and 92.4 *[No change]*

Rule 94
Access to Files

94.1 *Access to the File Held by the International Bureau*

(a) [No change] At the request of the applicant or any person authorized by the applicant, the International Bureau shall furnish, subject to reimbursement of the cost of the service, copies of any document contained in its file.

(b) The International Bureau shall, at the request of any person but not before the international publication of the international application and subject to Article 38 and paragraphs (d) to (g), furnish copies of any document contained in its file. The furnishing of copies may be subject to reimbursement of the cost of the service.

(c) [No change] The International Bureau shall, if so requested by an elected Office, furnish copies of the international preliminary examination report under paragraph (b) on behalf of that Office. The International Bureau shall promptly publish details of any such request in the Gazette.

(d) The International Bureau shall not provide access to any information contained in its file which has been omitted from publication under Rule 48.2(l) and to any document contained in its file relating to a request under that Rule.

(e) Upon a reasoned request by the applicant, the International Bureau shall not provide access to any information contained in its file and to any document contained in its file relating to such a request, if it finds that:

- (i) this information does not obviously serve the purpose of informing the public about the international application;
- (ii) public access to such information would clearly prejudice the personal or economic interests of any person; and
- (iii) there is no prevailing public interest to have access to that information.

Rule 26.4 shall apply *mutatis mutandis* as to the manner in which the applicant shall present the information which is the subject of a request made under this paragraph.

(f) Where the International Bureau has omitted information from public access in accordance with paragraphs (d) or (e), and that information is also contained in the file of the international application held by the receiving Office, the International Searching Authority, the Authority specified for supplementary search or the International Preliminary Examining Authority, the International Bureau shall promptly notify that Office and Authority accordingly.

[Rule 94.1, continued]

(g) The International Bureau shall not provide access to any document contained in its file which was prepared solely for internal use by the International Bureau.

94.1 bis *Access to the File Held by the Receiving Office*

(a) At the request of the applicant or any person authorized by the applicant, the receiving Office may provide access to any document contained in its file. The furnishing of copies of documents may be subject to reimbursement of the cost of the service.

(b) The receiving Office may, at the request of any person, but not before the international publication of the international application and subject to paragraph (c), provide access to any document contained in its file. The furnishing of copies of documents may be subject to reimbursement of the cost of the service.

(c) The receiving Office shall not provide access under paragraph (b) to any information in respect of which it has been notified by the International Bureau that the information has been omitted from publication in accordance with Rule 48.2(l) or from public access in accordance with Rule 94.1(d) or (e).

94.1 ter *Access to the File Held by the International Searching Authority*

(a) At the request of the applicant or any person authorized by the applicant, the International Searching Authority may provide access to any document contained in its file. The furnishing of copies of documents may be subject to reimbursement of the cost of the service.

(b) The International Searching Authority may, at the request of any person, but not before the international publication of the international application and subject to paragraph (c), provide access to any document contained in its file. The furnishing of copies of documents may be subject to reimbursement of the cost of the service.

(c) The International Searching Authority shall not provide access under paragraph (b) to any information in respect of which it has been notified by the International Bureau that the information has been omitted from publication in accordance with Rule 48.2(l) or from public access in accordance with Rule 94.1(d) or (e).

(d) Paragraphs (a) to (c) shall apply *mutatis mutandis* to the Authority specified for supplementary search.

94.2 Access to the File Held by the International Preliminary Examining Authority

(a) At the request of the applicant or any person authorized by the applicant, the International Preliminary Examining Authority shall provide access to any document contained in its file. The furnishing of copies of documents may be subject to reimbursement of the cost of the service.

(b) At the request of any elected Office, but not before the establishment of the international preliminary examination report and subject to paragraph (c), the International Preliminary Examining Authority shall provide access to any document contained in its file. The furnishing of copies of documents may be subject to reimbursement of the cost of the service.

(c) The International Preliminary Examining Authority shall not provide access under paragraph (b) to any information in respect of which it has been notified by the International Bureau that the information has been omitted from publication in accordance with Rule 48.2(l) or from public access in accordance with Rule 94.1(d) or (e).

94.2bis Access to the File Held by the Designated Office

If the national law applicable by any designated Office allows access by third parties to the file of a national application, that Office may allow access to any documents relating to the international application, contained in its file, to the same extent as provided by the national law for access to the file of a national application, but not before the earliest of the dates specified in Article 30(2)(a). The furnishing of copies of documents may be subject to reimbursement of the cost of the service.

94.3 Access to the File Held by the Elected Office

If the national law applicable by any elected Office allows access by third parties to the file of a national application, that Office may allow access to any documents relating to the international application, including any document relating to the international preliminary examination, contained in its file, to the same extent as provided by the national law for access to the file of a national application, but not before the earliest of the dates specified in Article 30(2)(a). The furnishing of copies of documents may be subject to reimbursement of the cost of the service.

[Annex VIII follows]

DRAFT AMENDMENTS TO THE PCT REGULATIONS
PROPOSED TO ENTER INTO FORCE JULY 1, 2017

(CLEAN TEXT)

Proposed amendments of the PCT Regulations are set out in Annexes I and VI, in which additions and deletions are shown, respectively, by underlining and striking-through of the text concerned. This Annex contains, for convenient reference, a “clean” text of the relevant provisions as they would stand after amendment.

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Rule 12bis
Submission by the Applicant of Documents Relating to Earlier Search

12bis.1 Furnishing by the Applicant of Documents Related to Earlier Search in Case of Request under Rule 4.12

(a) Where the applicant has, under Rule 4.12, requested the International Searching Authority to take into account the results of an earlier search carried out by the same or another International Searching Authority or by a national Office, the applicant shall, subject to paragraphs (b) to (d), submit to the receiving Office, together with the international application, a copy of the results of the earlier search, in whatever form (for example, in the form of a search report, a listing of cited prior art or an examination report) they are presented by the Authority or Office concerned.

(b) Where the earlier search was carried out by the same Office as that which is acting as the receiving Office, the applicant may, instead of submitting the copy referred to in paragraph (a), indicate the wish that the receiving Office prepare and transmit it to the International Searching Authority. Such request shall be made in the request and may be subjected by the receiving Office to the payment to it, for its own benefit, of a fee.

(c) Where the earlier search was carried out by the same International Searching Authority, or by the same Office as that which is acting as the International Searching Authority, no copy referred to in paragraph (a) shall be required to be submitted under that paragraph.

(d) Where a copy referred to in paragraph (a) is available to the receiving Office or the International Searching Authority in a form and manner acceptable to it, for example, from a digital library, and the applicant so indicates in the request, no copy shall be required to be submitted under that paragraph.

12bis.2 Invitation by the International Searching Authority to Furnish Documents Related to Earlier Search in Case of Request under Rule 4.12

(a) The International Searching Authority may, subject to paragraphs (b) and (c), invite the applicant to furnish to it, within a time limit which shall be reasonable under the circumstances:

- (i) a copy of the earlier application concerned;
- (ii) where the earlier application is in a language which is not accepted by the International Searching Authority, a translation of the earlier application into a language which is accepted by that Authority;
- (iii) where the results of the earlier search are in a language which is not accepted by the International Searching Authority, a translation of those results into a language which is accepted by that Authority;

[Rule 12bis.2(a), continued]

(iv) a copy of any document cited in the results of the earlier search.

(b) Where the earlier search was carried out by the same International Searching Authority, or by the same Office as that which is acting as the International Searching Authority, or where a copy or translation referred to in paragraph (a) is available to the International Searching Authority in a form and manner acceptable to it, for example, from a digital library, or in the form of the priority document, no copy or translation referred to in paragraph (a) shall be required to be submitted under that paragraph.

(c) Where the request contains a statement under Rule 4.12(ii) to the effect that the international application is the same, or substantially the same, as the application in respect of which the earlier search was carried out, or that the international application is the same, or substantially the same, as that earlier application except that it is filed in a different language, no copy or translation referred to in paragraphs (a)(i) and (ii) shall be required to be submitted under those paragraphs.

Rule 23bis
Transmittal of Documents Relating to Earlier Search or Classification

23bis.1 Transmittal of Documents Relating to Earlier Search in Case of Request under Rule 4.12

(a) The receiving Office shall transmit to the International Searching Authority, together with the search copy, any copy referred to in Rule 12bis.1(a) related to an earlier search in respect of which the applicant has made a request under Rule 4.12, provided that any such copy:

- (i) has been submitted by the applicant to the receiving Office together with the international application;
- (ii) has been requested by the applicant to be prepared and transmitted by the receiving Office to that Authority; or
- (iii) is available to the receiving Office in a form and manner acceptable to it, for example, from a digital library, in accordance with Rule 12bis.1(d).

(b) If it is not included in the copy of the results of the earlier search referred to in Rule 12bis.1(a), the receiving Office shall also transmit to the International Searching Authority, together with the search copy, a copy of the results of any earlier classification effected by that Office, if already available.

23bis.2 Transmittal of Documents Relating to Earlier Search or Classification for the Purposes of Rule 41.2

(a) For the purposes of Rule 41.2, where the international application claims the priority of one or more earlier applications filed with the same Office as that which is acting as the receiving Office and that Office has carried out an earlier search in respect of such an earlier application or has classified such earlier application, the receiving Office shall, subject to paragraphs (b), (d) and (e), transmit to the International Searching Authority, together with the search copy, a copy of the results of any such earlier search, in whatever form (for example, in the form of a search report, a listing of cited prior art or an examination report) they are available to the Office, and a copy of the results of any such earlier classification effected by the Office, if already available. The receiving Office may also transmit to the International Searching Authority any further documents relating to such an earlier search which it considers useful to that Authority for the purposes of carrying out the international search.

(b) Notwithstanding paragraph (a), a receiving Office may notify the International Bureau by April 14, 2016 that it may, on request of the applicant submitted together with the international application, decide not to transmit the results of an earlier search to the International Searching Authority. The International Bureau shall publish any notification under this provision in the Gazette.

[Rule 23bis.2, continued]

(c) At the option of the receiving Office, paragraph (a) shall apply *mutatis mutandis* where the international application claims the priority of one or more earlier applications filed with an Office different from the one which is acting as the receiving Office and that Office has carried out an earlier search in respect of such an earlier application or has classified such earlier application, and the results of any such earlier search or classification are available to the receiving Office in a form and manner acceptable to it, for example, from a digital library.

(d) Paragraphs (a) and (c) shall not apply where the earlier search was carried out by the same International Searching Authority or by the same Office as that which is acting as the International Searching Authority, or where the receiving Office is aware that a copy of the earlier search or classification results is available to the International Searching Authority in a form and manner acceptable to it, for example, from a digital library.

(e) To the extent that, on October 14, 2015, the transmission of the copies referred to in paragraph (a), or the transmission of such copies in a particular form, such as those referred to in paragraph (a), without the authorization by the applicant is not compatible with the national law applied by the receiving Office, that paragraph shall not apply to the transmission of such copies, or to the transmission of such copies in the particular form concerned, in respect of any international application filed with that receiving Office for as long as such transmission without the authorization by the applicant continues not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by April 14, 2016. The information received shall be promptly published by the International Bureau in the Gazette.

Rule 41
Taking into Account Results of Earlier Search and Classification

41.1 Taking into Account Results of Earlier Search in Case of a Request under Rule 4.12

Where the applicant has, under Rule 4.12, requested the International Searching Authority to take into account the results of an earlier search and has complied with Rule 12*bis*.1 and:

(i) the earlier search was carried out by the same International Searching Authority, or by the same Office as that which is acting as the International Searching Authority, the International Searching Authority shall, to the extent possible, take those results into account in carrying out the international search;

(ii) the earlier search was carried out by another International Searching Authority, or by an Office other than that which is acting as the International Searching Authority, the International Searching Authority may take those results into account in carrying out the international search.

41.2 Taking into Account Results of Earlier Search and Classification in Other Cases

(a) Where the international application claims the priority of one or more earlier applications in respect of which an earlier search has been carried out by the same International Searching Authority, or by the same Office as that which is acting as the International Searching Authority, the International Searching Authority shall, to the extent possible, take the results of any such earlier search into account in carrying out the international search.

(b) Where the receiving Office has transmitted to the International Searching Authority a copy of the results of any earlier search or of any earlier classification under Rule 23*bis*.2(a) or (b), or where such a copy is available to the International Searching Authority in a form and manner acceptable to it, for example, from a digital library, the International Searching Authority may take those results into account in carrying out the international search.

Rule 86
The Gazette

86.1 *Contents*

The Gazette referred to in Article 55(4) shall contain:

(i) to (iii) *[no change]*

(iv) information concerning events at the designated and elected Offices notified to the International Bureau under Rule 95.1 in relation to published international applications;

(v) *[no change]*

86.2 to 86.6 *[No change]*

Rule 95
Information and Translations from Designated and Elected Offices

95.1 Information Concerning Events at the Designated and Elected Offices

Any designated or elected Office shall notify the International Bureau of the following information concerning an international application within two months, or as soon as reasonably possible thereafter, of the occurrence of any of the following events:

- (i) following the performance by the applicant of the acts referred to in Article 22 or Article 39, the date of performance of those acts and any national application number which has been assigned to the international application;
- (ii) where the designated or elected Office explicitly publishes the international application under its national law or practice, the number and date of that national publication;
- (iii) where a patent is granted, the date of grant of the patent and, where the designated or elected Office explicitly publishes the international application in the form in which it is granted under its national law, the number and date of that national publication.

95.2 Furnishing of Copies of Translations

(a) *[No change]* At the request of the International Bureau, any designated or elected Office shall provide it with a copy of the translation of the international application furnished by the applicant to that Office.

(b) *[No change]* The International Bureau may, upon request and subject to reimbursement of the cost, furnish to any person copies of the translations received under paragraph (a).

[End of Annex VIII and of document]