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INTERIM ADVISORY COMMITTEE FOR ADMINISTRATIVE QUESTIONS

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COMPLETION OF
GUIDELINES FOR APPLICANTS FILING
UNDER THE PATENT COOPERATION TREATY (PCT)

prepared by the International Bureau

1. Guidelines for Applicants filing under the Patent Cooperation Treaty (PCT), limited, as regards a more detailed explanation of the PCT procedure, to the first phase (Chapter I) of that procedure, were issued on August 5, 1977, as document PCT/INT/3. It was indicated in the Guidelines, however, that they would be completed subsequently by the inclusion of the more detailed explanation of the second phase of the PCT procedure.
2. Having regard to the probable entry into force of Chapter II of the PCT within a short period after the entry into force of the Treaty itself, that is, at an earlier time than was envisaged when the work on the preparation of Guidelines essentially limited to the first phase of the PCT procedure was started, the International Bureau took the initiative of engaging a consultant to prepare a first draft of the more detailed explanation of the procedure in the second phase.
3. In view of the need for completion of the Guidelines in due time before Chapter II becomes operational, the said draft is presented in a provisional form in the annex to this document with a view to obtaining advice from the Interim Committee at this stage, if so desired by the Committee. The said draft deals fully with all aspects of the procedure in the second phase of the PCT and the International Bureau is of the opinion that it constitutes a good basis for establishing a final text of the relevant part of the Guidelines for Applicants, taking into account any observations made by the Interim Committee during this session.
4. The Interim Committee is invited to consider the annex to this document and to provide its advice thereon.

[Annex follows]

Phase II of the international procedure
(Chapter II).

Art.64 (1)(a)

201. It is important to note that the Contracting States, parties to the Treaty, are not necessarily bound by Chapter II. When ratifying or accessing to the Treaty or at a later moment any Contracting State may declare that it shall not be bound by the provisions of Chapter II and the corresponding provisions of the Regulations. A list of the Contracting States, which did not make such declaration and are consequently bound by Chapter II, is set forth in Appendix XXI.

Introduction.

202. Chapter II relates to the fourth main feature of the Treaty, referred to already in paragraph 12 of these Guidelines, i.e. international preliminary examination of international applications.

Art.15 (1)

203. It is recalled that normally any international application is subjected to an international search conducted by an International Searching Authority. As explained in paragraph 78 the objective of international search is to discover relevant prior art, which is capable of being of assistance in determining whether the invention claimed in the international application is novel and whether it involves an inventive step (is not obvious). Such determination is not made by any Authority under the Treaty but has ultimately to be made by the competent Authorities of the designated States after the international application has gone through the international procedure and has entered the national phase.

Art.15 (2)
Rule 33.1

Nature of international preliminary examination

Art.31 (1)

204. In order to assist the applicant and the national Authorities of Contracting States in evaluating resp. determining the patentability of the invention claimed in the international application Chapter II opens the possibility to subject international applications, after completion of Phase I, to an international preliminary examination carried out by an International Preliminary Examining Authority.

Art.32 (1)

Art.33 (1)

205. The objective of such international preliminary examination is to formulate an opinion on the questions whether the claimed invention appears to be novel, to involve an inventive step (non-obviousness) and to be industrially applicable.

Art.33 (1)

206. The opinion formulated by the International Preliminary Examining Authority is preliminary and not binding on anybody, neither on the applicant nor on the national Authorities which have to determine the patentability of the invention claimed in the international application after this has entered the national phase. Such national Authorities must of course apply their national laws whose criteria may be different from the criteria applied by the International Preliminary Examining Authority when carrying out the international preliminary examination. Moreover the national Authorities are not bound, even where such criteria are the same, to consider the results of the international preliminary examination as determinative for the decisions they have to make.

Art.33 (5)

Art.33 (2)(3)(4)

Competent International Preliminary
Examining Authority

Art.32

207. International Preliminary Examining Authorities carrying out international preliminary examinations are those national or regional industrial property Offices which have been appointed for that purpose by the Assembly, i.e. the highest administrative body set up under the Treaty.

Art.32 (2)
Rule 59.1

208. The receiving Office of each State bound by Chapter II will specify one or more of the appointed examining Authorities as being competent for the international preliminary examination of those international applications which were filed with it. Where a receiving Office specifies more than one competent examining Authority it will declare either that said Authorities are all competent for the examination of any international application filed with it or that the competency of any of said examining Authorities is restricted to certain kinds of international applications filed with it; if for all or certain kinds of international applications more than one examining Authority is declared competent, the choice is left to the applicant.

The names and addresses of the various International Preliminary Examining Authorities are listed in Appendix XXII, together with the indication for each of them for which receiving Office and, as the case may be, for which kinds of international applications they carry out international preliminary examinations.

Subject matter not required to be examined

Rule 67.1

209. No International Preliminary Examining Authority is required (but may still admit)

to examine international applications in so far these relate to the subject matter listed already in paragraph 80.

Appendix XXIII specifies for which of that subject matter the various International Preliminary Examining Authorities do not accept to examine international applications.

Right to ask for international preliminary examination.

Art.31(2)(a)
Rule 54

210. To be entitled to have his international application subjected to international preliminary examination the applicant must be a resident or a national of a Contracting State bound by Chapter II and his international application must have been filed with the receiving Office of the same State or of another Contracting State bound by Chapter II. Thus, an applicant who is a national of a State bound by Chapter II, but has his residency in a Contracting State not bound by Chapter II, can only obtain international preliminary examination when he files his international application with the receiving Office of the State of which he is a national. The applicant should be aware that such filing, instead of a filing with the national Office of the State of his residency, may be subjected to specific provisions in the national law of the State of his residency.

Art.31 (2)(b)

211. The Treaty also provides for the possibility of allowing persons having under Chapter I the right to file international applications to ask for an international preliminary examination thereof even if they are residents or nationals of a State not party to the Treaty or not bound by Chapter II. A list of such persons is set forth in Appendix XXIV, together with an indi-

Art.32 (2)
Rule 59.2

cation of the International Preliminary Examining Authority which is competent for the preliminary examination of their international applications.

Rules 54.2
and 54.3

212. Where with respect to any "elected" State (see paragraph 214) there are several applicants at least one of them must be entitled as described in paragraph 210 and 211.

Optional demand for international preliminary examination

Art.31 (1)
Art.31 (3)
Art.31 (6)(a)

213. Any applicant entitled to international preliminary examination has a free choice to ask for such examination or not to do so. If he wants to have his international application examined the applicant must submit a "demand" for international preliminary examination. This demand must be made separately from the international application and must be submitted to a competent International Preliminary Examining Authority.

Election of States

Art.31 (4)(a)
Rule 56
Art.31 (6)(b)
Art.31 (4)(b)

214. The demand for international preliminary examination of an international application must indicate one or more Contracting States bound by Chapter II, in which the applicant "intends to use" the results of said examination; these States are called "elected States". Additional States (bound by Chapter II) may be elected later by a notice signed by the applicant and submitted to the International Bureau. Contracting States which were not "designated" in the international application as filed (see paragraph 26) can not be elected, but otherwise the applicant has a free choice to elect any of the designated States bound by Chapter II.

Art.31 (4)(b)

215. The persons referred to in paragraph 211 can elect only those Contracting States bound by Chapter II which have declared to be prepared to be elected by such persons. A list of the States having made such a declaration is set forth in Appendix XXV.

Effects of the election of States

Art.39 (1)(a)
Art.40 (i)
Art.39 (1)(b)

216. The provisions of Article 22 (furnishing of a copy of the international application and a translation thereof and the payment of the national fee not later than the expiration of the 20th month from the priority date) do normally not apply in Phase II. If the election of the State concerned is effected prior to the expiration of the 19th month from the date of priority applicant may perform those acts until the expiration of 25 months from the date of priority; moreover processing of the application by the national Office of said State may start only upon the expiration of the same time limit. Any national law may even provide for a longer time limit. Further information on such provisions is given in Appendix XXVI.

Art.64 (2)(a)(i)
Art.64 (2)(a)(ii)

217. However any Contracting State bound by Chapter II, may declare that it shall not be bound by the provisions of Article 39(1) with respect to the furnishing of a copy of the international application and a translation thereof (said State remaining bound to the 25 months time limit for the payment of the national fee). Such declaration made by said Contracting State may also provide that the obligation to start national processing only after expiration of the 25th month from the date of priority, shall not prevent the publication, by the national Office of said State, of the international application or the translation thereof.

A list of Contracting States bound by Chapter II, having made such declaration is set forth in Appendix XXVII.

218. The applicant should be aware that, although following Phase II, he must furnish a copy of the international application and a translation thereof and possibly pay the national fee not later than the expiration of the 20th month from the priority date, in the following cases:

- Art. 64 (2)(a)(i) 1) the elected state made a declaration as referred to in paragraph 217 (does not apply to the payment of the national fee).
- Art. 39 (1)(a) 2) the election was made later than the expiration of the 19th month from the date of priority.
- 3) the State concerned was designated but not elected.

Fees to be paid with respect to demand for international preliminary examination.

Art. 31 (5) 219. There are prescribed fees, which an applicant has to pay when making a demand. These fees are as follows:

- Rule 57.1 (i)(a): a "handling fee" for the benefit of the International Bureau but collected from the applicant by the International Preliminary Examining Authority. The amount of the handling fee and the currency (prescribed by the Examining Authority), in which that fee must be paid, are indicated in Appendix XXVIII. The amount indicated in that Appendix is augmented with the same amount for each language into which the international preliminary examination report must be translated by the International Bureau (see paragraph 275).
- Rule 57.3 (a) The handling fee is due at the time that the demand is submitted to the
- Rule 57.3 (a)
- Rule 57.2 (a)
- Rule 57.3 (c)
- Rule 57.3 (a)
- Rule 57.3 (a)

Rule 57.3 (b)

Rule 57.2 (b)

Rule 57.3 (b)

Rule 57.3 (d)

Rule 58.1 (a)(c)

Rule 58.1 (b)

Art. 37(1)

Rule 75.1(a)

Rule 75.1(a)

Art. 40(1)

Rule 75.1(b)

examining Authority.

- (i)(b): a "supplement" to the handling fee, for the benefit of the International Bureau and collected from the applicant by this Bureau, for any later election which require the International Bureau to translate the examination report into one or more additional languages. The supplement is equal to the amount indicated in Appendix XXVIII for each additional language. The supplement is due at the time the later election is submitted to the International Bureau and is payable in Swiss currency.

- (ii): a "preliminary examination fee", directly payable to the International Preliminary Examining Authority for carrying out the international preliminary examination and for performing the other tasks entrusted to this Authority under the Treaty and the Regulations. The amount and the due date of the preliminary examination fee charged by each examining Authority are indicated in Appendix XXIX.

Withdrawal of demand or election.

220. The demand or all the elections may be withdrawn prior to the expiration of 25 months from the priority date, except as to any elected state in which national processing or examination has already started.

221. The election of any elected state may be withdrawn prior to the date on which examination and processing may start in that state (see paragraph 216).

222. Withdrawal is effected by a notice signed

by the applicant and submitted to the International Bureau.

Art. 37(4)(a)

223. Applicant's withdrawal of the election of any elected state is considered to be withdrawal of the international application as far as that state is concerned, unless the national law of that state provides otherwise and except where the withdrawal of the election is effected prior to the expiration of the time limit prescribed by Article 22 (normally 20 months from the priority date). Any Contracting State may provide in its national law that the exception is only applicable if a copy of the international application, a translation thereof (if required) and the national fee are received by its national Office prior to the expiration of the time limit prescribed by Article 22. The relevant provisions of the national laws referred to in the first and second sentence of this paragraph are set forth in Appendix XXX.

Art. 37(4)(b)

Advantages of Phase II.

224. Under phase I of the international procedure entering the national fase in the designated countries is considerably delayed (normally until the end of the 20th month from the priority date), giving the applicant a number of advantages already explained in Part I of these Guidelines.

225. When making use of Phase II the applicant effects a further delay of entering the national phase (normally until the end of the 25th month from the priority date), increasing the advantages already obtained in Phase I.

226. Moreover the applicant obtains the opinion of the Examining Authority (an expert body in the field of the examination of patent applications)

on the crucial questions whether his invention is novel, involves an inventive step and is industrial applicable. Moreover he gets the examining Authority's observations on many other points which generally play a part in patent granting procedures.

227. This will facilitate the task of applicant when considering the question whether his interests are served by the continuation of his efforts to obtain an adequate protection of his invention.

228. Applicant can use the results of the international examination to bring his application in a form most suited to the national procedures before the national Offices, whereby those national procedures will be simplified.

229. A positive examination report will enhance applicant's possibilities to achieve in the national procedures the grant of the protection he is aiming at.

230. Phase II is also of advantage to the national Offices. When disposing not only of the prior art uncovered by the international search, but also of the examining Authority's considered opinion on the questions examined by that Authority, the national Offices may find their tasks considerably reduced.

Representation.

231. Contrary to the receiving Office (see paragraph 46) the International Preliminary Examining Authority is not entitled to require that the applicant be represented by an agent; any applicant is free to prosecute himself the international application before the examining

Rule 53.2 (a)(ii)
Rule 90.3 (a)(b)

Authority. If however the applicant wishes to be represented in Phase II by an agent, he can designate an agent in the demand or appoint an agent in a separate signed power of attorney, to be submitted to the receiving Office or the International Bureau.

Rules 53.5
and 4.8 (a)

232. If there are several applicants and the applicants designate an agent in the demand or appoint an agent for Phase II by a separate power of attorney signed by all applicants then that agent is their common agent, that is he represents all the applicants.

Rules 53.5
and 4.8 (a)

233. If the several applicants do not wish to be represented in Phase II by a common agent they should at least designate in the demand one among them having the right to submit a demand to act as the common representative for all the applicants. If they fail to designate a common representative then the applicant first named in the demand having the right to submit a demand automatically becomes the common representative for Phase II.

The demand

Rule 53.1

234. The demand must be made on a printed form obtainable from the receiving Office and must be submitted in two copies to the competent International Preliminary Examining Authority, together with the prescribed fees (see paragraph 219). If more than one Authority^{is} competent to examine the international application the applicant has to make a choice (see paragraph 208). The data to be filled in on the printed form can easily be determined from the specimen of this form added as Appendix XXXI.

Rule 55.1

235. The demand must be in the language of the international application or, when a translation is required as referred to in the next paragraph, in the language of that translation.

Translation of the International Application required.

Rule 55.2 (a)

236. If the international application is in a language other than the language or one of the languages agreed upon by the International Bureau and the International Preliminary Examining Authority, and moreover this Authority is not part of the Office which acted as searching Authority for the international application, the examining Authority may require that the applicant submits a translation of the international application. Such translation must contain a statement, signed by the applicant, that to the best of the applicant's knowledge it is complete and faithful. Appendix XXII specifies the language or languages in which the different Examining Authorities carry out international examination.

236a. Applicant is recommended to submit the required translation of the international application in the form of a page for page translation, i.e. in such a lay-out that any page of the translation is identical, except that it is in another language, with the corresponding page of the application as filed. Otherwise, the translation, into the original language of the application, of amendment sheets filed in the working language of the examining Authority (see paragraph 264) might not be fit to replace sheets of the application as filed. In order to facilitate such a page for page translation it is advisable to start each page of the international application as filed with a new sentence and to end it with a full stop.

Time limit to submit translation.

Rule 55.2 (b) 237. The translation referred to in the preceding paragraph must be submitted by the applicant within a prescribed time limit, namely not later than 2 months (in special cases 3 months) from the date on which the search report was transmitted to the applicant or not later than the date on which the demand is filed; the time limit which expires latest is applicable.

Possible defects with respect to the demand.

Rules 53 and 55.1 238. If the International Preliminary Examining Authority finds that
..... the demand does not comply with the requirements as to form, contents and language, or
..... the translation of the international application, if required, was not timely submitted or does not contain applicant's statement referred to in paragraph 236, or
Rule 55.2
Rule 57.3
..... the handling fee was not paid at the due date or was not paid in the prescribed currency,
it will invite the applicant to correct the defect(s) within one month from the date of invitation.
Rules 57.4 (a) and 60.1 (a)

Rules 57.4 (b) and 60.1 (b) 239. If the applicant timely complies with the invitation the demand is considered to have been received at the date the examining Authority receives the required corrections. The Examining Authority will inform the applicant of the date of receipt of the demand.
Rule 61.1 (b)

Rules 57.4(c) and 60.1(c)

Rule 61.1 (b)

Rules 57.5 and 60.2

Rule 62.2 (a)

240. If the applicant does not timely comply with the invitation the demand is considered not to have been submitted. The examining Authority will notify the applicant accordingly.

241. The applicant should take into account that if the demand is considered not to have been submitted or the date of receipt of the demand, as determined by the examining Authority is later than the expiration of the 19th month from the priority date, the international application has to enter the national phase before the elected offices prior to the expiration of the time limit prescribed in Article 22 (normally 20 months from the priority date).

Possible defects with respect to later elections.

242. What is stated in the paragraphs 238-241 about the demand and its date of receipt applies mutatis mutandis to any notice of later election submitted to the International Bureau, it being understood that as to the application of those paragraphs the International Bureau takes the place of the examining Authority.

Amendment under Article 19.

243. If in Phase I of the international procedure the applicant files under Article 19 (see paragraph 90) any amendment to the claims with the International Bureau at a time the demand for international preliminary examination has already been submitted, he must send a copy of such amendment to the examining Authority at the same time he files the amendment with the International Bureau.

Amendment before start of examination.

Art.34 (2)(b)
Rule 66.1

244. Before the international preliminary examination starts the applicant may make of his own volition amendments to the claims, the description and the drawings. These amendments have to be filed with the examining Authority.

Start of examination.

Rule 69.1 (b)(i)
(ii)

245. Where a demand has been made the international preliminary examination normally starts when the claims as amended under Article 19 (See paragraph 243) have reached the Examining Authority or the time limit for making such amendment has expired or applicant declared not to wish to make such amendment.

Rule 69.1 (b)(iii)

246. Where the international search report is already in the possession of the examining Authority the applicant may request said Authority to start the examination at an earlier moment and to direct the examination to the claims specified in such request.

Rule 69.1 (b)(iv)

247. Where the International Searching Authority made a declaration under Article 17 (2)(a) that no international search report will be established (see paragraph 79) the examining Authority will start the examination after having received said declaration.

Rule 69.1 (c)

248. If the competent International Preliminary Examining Authority is part of the same Office as the competent International Searching Authority, it may - if it so wishes - start the examination at the same time the international search is started (telescoped procedure).

Priority document and translation thereof.

Rule 66.7 (a)(c)

249. If the examining Authority needs a copy of an earlier application, whose priority is claimed in the international application, and the applicant has not yet sent the priority document to the International Bureau, the applicant must on request of the examining Authority furnish a copy of the priority document within 2 months from the date of such request.

Rule 66.7 (b)(c)

250. The examining Authority may invite the applicant to furnish a translation of the priority document into one of its languages within 2 months from the date of the invitation.

Rule 66.7 (c)

251. If the applicant fails to furnish the priority document or the translation within the prescribed time limit, the examining Authority will carry on the examination as if the priority had not been claimed.

Basis of the Examination.

Rule 66.1

252. The international preliminary examination is initially directed to the claims, the description and the drawings as contained in the international application at the time the examination starts.

Objectives of the Examination.

Art. 33 (1)
Rule 66.2 (a)(ii)

253. As explained already in paragraph 205 the objective of the international preliminary examination is to formulate an opinion about novelty, inventive step and industrial applicability of the claimed invention. By giving full attention, when making amendments referred to in paragraph 243 and 244, to the prior art cited in the international search report the applicant may achieve, unless the examining Authority cites additional prior art, that the examination is directed above all to the requirement of inventive step.

Rule 66.2 (a)(iii)

254. The examination encompasses also possible lack of compliance with other requirements indicated in the Treaty and the Regulations, such as the requirements regarding unity of invention, form and contents of the application, clarity of the claims, the description and the drawings, support of the claims by the description. Other provisions to be considered are the questions whether any amendment goes beyond the disclosure in the international application as filed and whether the subject matter to which the international application relates, needs not to be examined (see paragraph 209). The questions, considered by the examining Authority are discernable from the form of the examination report; a specimen of this form is added as Appendix XXXII.

Rule 66.2 (a)(iv)

Art.34 (4)
Rule 66.2 (a)(i)

Lack of unity of invention.

Art.34 (3)(a)
Rule 68.2

255. Where the examining Authority finds that the claims of the international application do not show the required unity of invention, it will normally invite the applicant to restrict the claims or to pay additional fees within the time limit fixed in the invitation. Appendix XXXIII indicates the amount of this additional fee charged by the various International Preliminary Examining Authorities.

Rule 68.3 (a)(b)

Rule 68.1

256. There are cases of lack of unity of invention, where, compared with the procedure of inviting the applicant to restrict the international application or to pay additional fees, no or little additional effort is involved in carrying out the examination for the entire international application. For reasons of economy the examining Authority may choose in such cases not to invite the applicant to restrict the claims or to pay additional fees.

Rule 68.3 (c)(d)

257. The applicant having received an invitation as referred to in paragraph 255, may pay the additional fee under protest, arguing that the requirement of unity of invention is wrongly applied or the required additional fee is excessive. Such protest is examined by a special instance in the examining Authority and may lead to a partial or total refund of the paid additional fee.

Art.34 (3)(b)

258. The applicant must take into account that, if he restricts the claims after having been invited thereto by the examining Authority, certain parts of his international application will not be subjected to international preliminary examination. Any elected State may provide in its national law that such non-examined parts of the international

application are considered withdrawn (in so far as said elected State is concerned) unless a special fee is paid by the applicant to the national Office of that State.

Art.34 (3)(c)
Rules 68.4
and 68.5

259. If the applicant does not timely comply with the invitation to restrict the claims or to pay additional fees, only the "main" invention will be subjected to international preliminary examination. Any elected State may provide in its national law that, if its national Office finds that the invitation was justified, those parts of the international application which do not relate to the main invention are considered withdrawn (in so far as said elected State is concerned) unless a special fee is paid by the applicant to the national Office of that State. The Contracting States bound by Chapter II, whose national laws contain provisions as referred to in the paragraphs 258 and 259 are listed in Appendix XXXIV, together with the indication of the amount of the relevant special fees.

Written opinion.

Art.34 (2)(c)
Rule 66.2 (a)(b)
Rule 66.2 (c)(d)

260. The International Preliminary Examining Authority will inform the applicant, in a written opinion, of its objections to the international application, fully stating the reasons for its opinion. The notification will invite the applicant to submit a written reply within the time limit fixed in the notification.

Rule 66.3
Art.34 (2)(b)

261. In his response the applicant may argue the opinion of the examining Authority and may make amendments or corrections to his international application.

Rule 66.4

262. The examining Authority may continue the

Art.34 (2)(a)

written dialogue with applicant, who has also the right to communicate orally with said Authority.

263. It is emphasized here that, whatever the objections and suggestions, made by the examining Authority might be, the drafting of the international application is applicant's responsibility. The applicant is free not to follow any suggestion of the examining Authority although he should realize that such an attitude might lead to an international examination report which is wholly or partly negative. The applicant might be willing to accept this consequence in order to defend, before the national Authorities of the elected States, the drafting which he considers preferable.

Form of amendments

Rule 66.5
and 66.8 (a)

264. Where the applicant wishes to make changes in his international application he must submit to the examining Authority a replacement sheet for every sheet of the application, which on account of a correction or amendment, differs from the sheet originally filed. The replacement sheets must be accompanied by a letter drawing attention to the differences between the replaced sheets and the replacement sheets. Where an amendment results in the cancellation of an entire sheet, such amendment must be communicated in a letter.

Language of amendments

265. Where the examining Authority did not require a translation of the international application, the correspondence between the

Rule 92.2 (a)

examining Authority and the applicant will normally be conducted in the language in which the international application was filed; applicant has then to submit amendments in that language.

If the examining Authority required a translation of the international application the correspondence will normally be conducted in the language of the translation. The amendments will then be made in the language of the translation. At the time the examination report is established applicant will have to translate any replacement sheet, which is to be attached to the report, into the language of the application as filed and also into the language of publication if it is different from the original language or the language in which the examination was carried out.

Time limit for international preliminary examination.

Rule 69.1 (a)

266. The international preliminary examination report, which is the finish of the examination, must be established within a time limit (the same for all examining Authorities) fixed by agreement between the International Bureau and any examining Authority. This time limit is calculated from the start of the examination (see paragraph 245 ff) and will not exceed 6 months or (where the applicant is invited to restrict the claims or to pay additional fees because of lack of unity of invention, see paragraph 255) 8 months.

Rule 69.1 (c)

Art. 35 (2)

Rules 70.2 (a)

and 70.6

267. For the applicant the importance of the examination report is greatest if he receives the report at such a time prior to the expiration of the 25th month from the priority date, that he has still the possibility to give due attention to this report when preparing his application to enter the national phase before the elected Offices. Applicant can be of assistance in reaching this goal by timely filing the demand and by performing the acts which he is required to do (such as the submission of translations and priority documents or replying to written opinions) as quickly as possible.

268. In the case of the "telescoped" procedure referred to in paragraph 248 the time limit for establishing the international examination report is 6 months from the expiration of the time limit allowed under Article 19 for amending the claims (see Rule 46.1). Thus in this case the time limit for establishing the examination report will be 8 or 9 months from the date of transmittal of the search report to the applicant.

The international preliminary examination report.

269. The results of the international preliminary examination are recorded by the examining Authority in an international preliminary examination report. In view of the primary objective of the examination the report will contain a special statement in respect of each claim (as amended by the applicant as the case may be) whether the claim appears to satisfy the criteria of novelty, inventive step and industrial applicability.

Art. 35 (2)
Rule 70.7 (a) 270. The report will cite all documents which are relevant for supporting the statement. The statement will be accompanied, specifically when it is negative, by such explanations as may be required by the circumstances.

Art. 35 (2) 271. The report will contain other observations the nature of which will become clear when reading the printed form of the report, a specimen of which is added as Appendix XXXV.

Rule 70.16 272. Where the applicant amended the international application before the examining Authority, any (not superseded) replacement sheet will be annexed to the examination report in the languages specified in the next paragraph.

Languages of the report and the annexes.

Rule 70.17 (a) 273. The examination report established by the examining Authority will be in the language in which the international application is published. Any annex to the report will be in the language in which the application was filed and also, if it is different, in the language in which the application is published, (but not in the language of the translation required by the examining Authority under Rule 55.2, if this language is different from the language of publication). The translation of any annex must be prepared by the applicant.

Rule 70.17 (b)

Art. 36 (2)(b)

Transmittal of examination report by examining Authority.

Art. 36 (1)
Rule 71.1 274. The examining Authority will transmit one copy of the report with its annexes to the International Bureau and one copy to the applicant.

Translation of examination report and its annexes prior to communication to elected Offices.

Art. 36(2)(a)
Rule 72.1 (a) 275. Any elected State may require that the examining report and its annexes be translated into English, French, German, Japanese, Russian or Spanish, if the report is established in a language which is different from the official language(s) of its national Office. The Contracting States bound by Chapter II, which require a translation of the examining report (and its annexes) as referred to above are listed in Appendix XXXVI with an indication of the language(s) of the translation required by each State.

Art. 36(2)(b)
Rule 72.2
Rule 72.3 276. The translations of the report itself (without its annexes) are prepared under the responsibility of the International Bureau. This Bureau will send a copy of each translation also to the applicant, which may make written observations on possible errors of translation. Applicant must send such observations to each of the interested elected Offices and to the International Bureau.

Art. 36 (2)(b) 277. The translations of the Annexes of the examination report into the languages indicated in paragraph 275 must be prepared by the applicant.

Communication of examination report and its Annexes to elected Offices.

Art. 36 (3)(a)
Rule 73 278. The International Bureau transmits a copy of the examination report with annexes as received from the examining Authority and a copy of the required translation (if any) of the report itself to each elected Office as promptly as possible.

Rule 74.1

279. The translations of the annexes referred to in paragraph 277 must be transmitted by the applicant to the elected Offices within the time limit prescribed in Rule 74.1, that is normally together with the furnishing of a copy of the international application and a translation thereof as required under Article 39 (1) or, where Article 64 (2)(a)(i) is applicable, under Article 22. However, this time limit is at least 1 month from the date on which the relevant amendment is submitted to the examining Authority.

Entering the national phase.

Art. 39 (1)

280. When entering the national phase in the elected Offices applicant must perform similar acts as described in paragraph 96 with respect to international applications following Phase I only. That means that the applicant must furnish a copy of the international application (when no communication under Article 20 has taken place) and a translation thereof into an official language of the elected Office (if required); furthermore he has to pay the national fee (if any).

Rule 76

The time limits within which these acts must be performed however are different, as set forth already in the paragraphs 216 and 217. The applicant should be aware that these time limits are applicable even when at the time of their expiration he has not yet received the examination report.

281. Where the election of any State was effected prior to the expiration of the 19th month from the priority date, the applicant is entitled to amend the claims, the descriptions and the drawings. Such amendments must be filed with the elected Office:

Art. 41 (1)

[End of Annex a
of document]

Rule 78.1 (a)

Rule 78.1 (a)

Rule 78.1 (b)

Art. 41 (4)

Art. 41 (2)

Rule 78.2

(i) before the expiration of the time limit prescribed by Article 39, even if at the expiration of this time limit the examination report has not yet been transmitted to the applicant;

(ii) at any other time permitted by the national law of the elected State concerned; Appendix XXXVII indicates the Contracting States bound by Chapter II which made such provisions in their national laws,

(iii) where, in the elected State concerned, examination (of national applications) starts only on special request, within the same time limit as applicable to the filing of amendments of national applications, provided that said time limit does not expire prior to the expiration of the time limit under Article 39.

282. The amendments referred to in the preceding paragraph, must be in the language of the translation of the international application (as required by the elected Office) and must not go beyond the disclosure in the international application as filed, unless the national law of the elected State permits otherwise.

283. Where the election was effected after the expiration of the 19th month from the priority date, the time limit to make amendments as referred to in paragraph 281, is the same as the time limit for making amendments under Article 28, i.e. amendments which can be made before the designated Offices in case no demand is submitted. (see paragraph 102).