

WIPO



PCT/MIA/13/8

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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

INTERNATIONAL PATENT COOPERATION UNION
(PCT UNION)

MEETING OF INTERNATIONAL AUTHORITIES
UNDER THE PATENT COOPERATION TREATY (PCT)

Thirteenth Session
Geneva, May 3 to 5, 2006

REPORT

adopted by the Meeting

INTRODUCTION

1. The Meeting of International Authorities under the PCT (“the Meeting”) held its thirteenth session in Geneva from May 3 to 5, 2006.
2. All of the 12 International Searching and Preliminary Examining Authorities were represented at the session: the Austrian Patent Office, the Canadian Intellectual Property Office, the European Patent Office, the Federal Service for Intellectual Property of the Russian Federation, IP Australia, the Japan Patent Office, the Korean Intellectual Property Office, the National Board of Patents and Registration of Finland, the Spanish Patent and Trademark Office, the State Intellectual Property Office of the People’s Republic of China, the Swedish Patent and Registration Office, and the United States Patent and Trademark Office.
3. The list of participants is contained in Annex I.

OPENING OF THE SESSION

4. Mr. Francis Gurry, Deputy Director General, on behalf of the Director General, opened the session, welcomed the participants and chaired the session.

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ADOPTION OF THE AGENDA

5. The Meeting adopted for its agenda the draft contained in document PCT/MIA/13/1.

PCT SEARCH AND EXAMINATION GUIDELINES

6. Discussions were based on documents PCT/MIA/13/2 and 2 Add.1.

7. The Meeting recognized that it was necessary to consider the provisions of the PCT International Search and Preliminary Examination Guidelines (“the Guidelines”) as a whole and that individual paragraphs would require careful review in that light. Furthermore, it was necessary to ensure that changes to the Guidelines were consistent with modifications to the Administrative Instructions, for which drafts in respect of the changes due to come into force April 1, 2007, were not yet available. Some Authorities also stated that they needed more time to consider the changes which had been proposed. Consequently, the comments noted below were incomplete and provisional in nature.

Proposals in Annex I of Document PCT/MIA/13/2

8. *Paragraph 9.19:* One Authority expressed doubt as to whether it was consistent with Rule 43.9 to include in the international search report, rather than the written opinion, an indication of the reasons for which an international search had not been established in respect of certain claims. Another Authority expressed the view that, if the reasons were to be given in the search report, it would be necessary to modify the Administrative Instructions and the international search report form. It was noted that the information might be beneficial to third parties (since the international search report is made available earlier than the international preliminary report on patentability), but that to change the location of the reasons would involve significant changes to automated systems.

Proposals in Annex I of Document PCT/MIA/13/2 Add.1

9. *Paragraph 11.04(ii):* One Authority suggested replacing the words “such application” with the words “such earlier application” so as to clarify which application was referred to.

10. *Paragraph 16.67:* One Authority stated that there was no requirement to cite category “E” documents in the international search report which were relevant to the question of inventive step.

11. The Meeting noted that several of the provisions which are due to come into force on April 1, 2007, were the subject of special provisions relating to incompatibility with national laws and agreed that it was essential to ensure that the Guidelines and the Administrative Instructions set up procedures which allowed Offices (in all of their capacities) to identify those cases easily and to take appropriate action.

Other Comments

12. The Meeting noted the following comments and suggestions:

(a) It was suggested that the use of the terms “international preliminary examination report” and “international preliminary report on patentability” should be reviewed throughout the Guidelines for consistency.

(b) It was proposed to modify paragraph 3.02 and Chapter 2 (possibly paragraph 2.03) to emphasize that the primary and secondary objectives of international preliminary examination listed in paragraph 3.02 now also apply to the search stage, which includes preparation of the written opinion of the International Searching Authority.

(c) In relation to the determination of unity of invention *a posteriori*, it was suggested that the final sentence of paragraph 10.03 should begin “However, if it can be established that A is known or obvious ...”. More consideration of this proposal was required since it may not clearly follow from Rule 13.2 and paragraph (b) of Annex B of the Administrative Instructions. If such a change was considered appropriate, it might also be necessary to modify the Administrative Instructions.

(d) A discrepancy was noted between paragraph 16.66 and the definition of category “T” citations shown in Form PCT/ISA/210. The possible use implied by the Guidelines in respect of documents published before the international filing date might be useful. It was observed that the definition in Form PCT/ISA/210 was correct according to the definition in Section 507(e) of the Administrative Instructions and that any proposal to change this should properly be considered by the Standards and Documentation Working Group of the Standing Committee on Information Technologies since it reflects WIPO Standard ST.14.

(e) In relation to modifications of the Forms for written opinions and international preliminary reports on patentability which entered in to force in April 2005, a number of consequential changes were required:

(i) paragraph 17.15 should reflect the fact that Box No. I now always needs to be completed since an indication is given in each case as to the language version of the international application used for international search and preliminary examination;

(ii) the reference to “Box No. III, item 3” in paragraph 17.35 should refer simply to “Box No. III”;

(iii) paragraph 17.37 should reflect the additional possibilities relating to protest fees in Form PCT/IPEA/409.

(f) Paragraph 17.44 required review to consider the need to cite “P” category documents under Rule 64.3. However, it was suggested that there may be little benefit in actually writing the category letter in the relevant part of a written opinion or international preliminary report on patentability in view of the other information included there and of the fact that the use of the relevant box itself highlighted the citations as a special category of document.

(g) Paragraph 17.45 may need to be modified to refer to the validity of the priority claim of an earlier application (Rule 70.10). The priority claim of the international application being examined is covered in the proper place by paragraphs 17.25 to 17.28.

(h) It may be desirable to modify paragraphs 17.47 and 17.48 to bring out more clearly that, while it might sometimes be difficult to categorize particular issues perfectly, Box No. VII of a written opinion generally covers matters under Rules 5 to 11 and Box No. VIII covers matters of clarity and support under Articles 5 and 6.

(i) It was proposed to delete the word “then” preceding “forwarded” in the final sentences of paragraphs 18.04 and 18.09.

13. The Meeting agreed that International Authorities should provide further comments and proposals concerning modification of the Guidelines by July 1, 2006, using the PCT/MIA electronic forum, and accepted an offer by the United States Patent and Trademark Office to present revised draft proposals by September 1, 2006, to be considered in conjunction with draft Administrative Instructions, for further comment by November 1, 2006, noting that promulgation of the revised Guidelines was envisaged to take place in early 2007, with effect from April 1, 2007.

14. With regard to the divergent practices identified in Appendices to certain Chapters of the Guidelines, the Meeting recalled that it had, at its twelfth session, agreed that “the opportunity should be taken to address certain matters on which it had not been possible to arrive at a common approach when the current Guidelines were drafted” (see paragraph 48 of document PCT/MIA/12/10).

15. The Meeting agreed that Authorities should attempt to identify matters where convergence of practice might be possible and that comments or proposals should be posted accordingly on the PCT/MIA electronic forum. These could be considered either as part of the revision of the Guidelines or else in parallel as separate subjects.

QUALITY FRAMEWORK

16. Discussions were based on document PCT/MIA/13/3 and a revised draft template, reproduced in Annex II of this report, replacing the one appearing in Annex I of that document, as proposed by the European Patent Office. The draft template from Annex II of document PCT/MIA/13/3 is reproduced in Annex III of this document.

17. The European Patent Office observed that the structure of the draft templates in Annexes I and II of document PCT/MIA/13/3 had undergone considerable changes from the proposals presented to the twelfth session of the Meeting as a result of the comments provided. In particular, the structure had moved away from questions relating to individual paragraphs of Chapter 21 of the Guidelines towards questions devoted to the sections of that Chapter more broadly. It had been possible to avoid a great deal of duplication. In response to further comments received after document PCT/MIA/13/3 had been drafted, the Office had provided the slightly revised version of the first template that is reproduced in Annex II of this report.

18. The European Patent Office noted that the reference to “Activities” under the heading “Quality Assurance Procedures” of the draft template set out in Annex II of this report was only intended to indicate a need to provide general information relating to the quality assurance procedures in place in the reporting Authority.

19. The European Patent Office further noted that, as a result of comments received, it had provided a glossary of terms (see Annex IV of document PCT/MIA/13/3), which was largely based on ISO 9000 terminology. It was emphasized that this was not intended to mean that Authorities should necessarily be using ISO 9000 methodology but was an attempt to encourage Authorities to report their systems using common language which would be understood in the same way by all readers. A checklist had also been provided (see Annex V of document PCT/MIA/13/3), which the European Patent Office had found useful in conducting its own reviews of its quality assurance systems. The checklist was not intended to be a part of the templates or to govern the preparation of reports by Authorities but might be found useful by them as an internal check while conducting reviews.

20. The Meeting adopted the templates reproduced in Annexes II and III of this report for use by Authorities in preparing reports under paragraphs 21.17 and 21.18 of the Guidelines, respectively.

21. The Meeting agreed that the next report by all Authorities should be a complete report under paragraph 21.17 of the Guidelines. Since it would be impractical for Authorities to prepare complete reports in time for the Meeting to discuss them and present a progress report to the PCT Assembly in September 2006, it was agreed that the next reports to be based on the template reproduced in Annex II of this report should be submitted by the end of 2006.

22. The Meeting also agreed that, to avoid difficulties in understanding a series of updating reports under paragraph 21.18 of the Guidelines, Authorities should in future present a new complete report under paragraph 21.17 every five years.

23. It was noted that further work had been planned on a number of other matters relating to the development of quality systems on which a common approach might be desirable, including quality standards, manuals and documentation, examiner skills and training, and metrics useful for measuring quality, and that the European Patent Office had offered to lead that further work (see documents PCT/MIA/12/8, paragraph 8, and PCT/MIA/12/10, paragraph 15).

24. The Meeting agreed that further work should be undertaken, led by the European Patent Office, on the matters referred to in paragraph 23. That work should proceed using the PCT/MIA electronic forum, via which Authorities could comment on proposals to be developed by the European Patent Office or make new proposals.

25. The Meeting agreed that modifications of Chapter 21 of the Guidelines, taking into account the matters set out in paragraphs 16 to 24, above, should be considered as part of revision work on the Guidelines.

PCT REFORM PROPOSALS WITH RELEVANCE TO THE INTERNATIONAL AUTHORITIES

Supplementary International Searches

26. Discussions were based on documents PCT/MIA/13/4 and PCT/R/WG/8/4. Document PCT/R/WG/8/4 set out two main alternatives: alternative I, under which supplementary searches would be available only after completion of the main international search (“sequential only system”), and alternative II, under which supplementary searches could be made available, at the option of each Authority performing such searches, either concurrently with or after completion of the main international search or both (“optional sequential/concurrent system”).

27. After considerable discussion there remained, as on previous occasions, no consensus among Authorities as to the most desirable or appropriate approach to be taken on the question of supplementary international searches.

28. The general idea of introducing a supplementary international search system was supported by eight Authorities and opposed by three Authorities. Reasons favoring introduction of the system are set out in document PCT/R/WG/8/4, and some delegations reiterated the strong desire of users for the introduction of such a system. Two of the Authorities opposing introduction stated their concern that the proposed system would represent a move away from the goal of a single search of high quality that could be accepted as sufficient by all designated Offices for the purposes of the national phase. The other felt that introduction would be premature at this stage, and expressed the view that the role of the PCT in the wider patent system was to provide a preliminary opinion which each designated Office could decide to supplement in the national phase by a further search as it found necessary.

29. Alternative I (sequential only system) was supported by five Authorities, was the only alternative acceptable to two of the Authorities which would prefer that the system not be introduced at all, could be accepted by one Authority which preferred alternative II, and was opposed by three Authorities. Alternative II (optional sequential/concurrent system) was supported by three Authorities, could be accepted by one Authority which preferred alternative I, and was opposed by seven Authorities.

30. Authorities preferring alternative I to alternative II considered that a sequential system would be simpler and would avoid duplication of work, both in examiner time and in terms of the general administration of the system. A number opposed alternative II on the basis of their view that duplication of work would, in effect, be institutionalized if that alternative were to be adopted. Some expressed concern that confusion would arise from the inclusion in supplementary international search reports of views on the relevance of documents which differed from those appearing in the main international search report.

31. Authorities preferring alternative II felt that it would provide more flexibility for each Authority to offer a service best suited to its particular circumstances, thus enabling more Authorities to participate in the system. They considered that the further (concurrent) option available under alternative II would not add significantly to the complexity of the system, but rather believed that more difficulties would arise under alternative I, particularly noting that many main international search reports are established late, which would lead to unacceptable delays in the issuance of sequential supplementary reports. They believed that there would be

no more duplication of work or conflict in opinions than occurred at present between international search reports and subsequent national phase reports, but suggested that applicants would benefit from receiving supplementary reports at an earlier stage and crucially, the extremely tight time limit for completing the supplementary international search under alternative I would be avoided.

32. A number of Authorities stated that progress on this matter would be highly desirable in view of the strong desire of applicant users for such a service.

33. The following more specific comments were made on the draft Rules in Annexes I and II to document PCT/R/WG/8/4 and would be taken into account by the Secretariat in the event that further revised proposals were to be prepared following the eighth session of the Working Group on Reform of the PCT:

– *Annex I*

(a) *Rule 45bis*: It was observed that the draft Rules did not have the effect stated in paragraph 7(a). In fact, applicants would be permitted to request supplementary search of claims which had not been the subject of a main search for reasons other than a lack of unity of invention, provided that a main search report had been established for at least one claim. One Authority suggested that it would be useful for a supplementary search system to allow a full search to be carried out on claims where, due to subject matter restrictions, the main Authority had not carried out a search but another Authority would be prepared to do so.

(b) *Rule 45bis.5(d)*: It seems necessary to address the case where the applicant did not provide sufficient supplementary search fees for the number of Authorities from which supplementary search had been requested, in addition to the case of insufficient additional supplementary search fees in cases of lack of unity of invention.

(c) *Rule 45bis.11(b)*: In relation to a query from one Authority, it was indicated that the types of limitation set out were examples of conditions which could be placed in an agreement between the International Bureau and an Authority prepared to carry out supplementary international searches, rather than an exhaustive list.

(d) *Rule 68.2(v)*: Further clarification may be desirable that, where supplementary search was carried out by an International Preliminary Examining Authority, the search would be made taking into account any amendments of the claims which were being considered as part of international preliminary examination and that the question of unity of invention in such cases would be governed by Rule 68.

– *Annex II*

(e) *Rule 45bis.1*: One Authority agreed that, in a system where concurrent searches were possible, it seemed appropriate for the requests to be made to the supplementary Authority rather than to the International Bureau, but considered that this emphasized the disadvantages of concurrent searches since it would remove the benefit of the PCT system where, in general, requests and fees for a particular action could be provided by an applicant once, to a single point. To make requests to different Authorities would require more requests to be made, payments to be made in multiple currencies, the need for multiple checking for defects, with different times for response, and the International Bureau needing to deal with

requests for document individually for different Authorities instead of preparing all the documents at the same time.

(f) *Rule 45bis.1(e)*: The word “may” should be replaced by “shall” for situations where the request for supplementary search is made after the establishment of the international search report.

(g) *Rule 45bis.3(c)*: One Authority considered that the proposals should permit the Authority to request payment of additional fees before the search is begun if insufficient fees had been paid, as would be done by the International Bureau under the proposals in Annex I. Furthermore, it should be clear that payment of the additional fees is mandatory in cases where the request is made after establishment of the international search report.

(h) *Rule 45bis.8(a)*: One Authority commented that a reference to “Rule 40” was more appropriate than “Rule 40(i) and (ii)”, since the protest procedure was considered an important safeguard for applicants.

(i) *Rule 45bis.9(a)*: One Authority considered that the period for establishing a supplementary search report should be three months from receipt of the required documents from the International Bureau, rather than three months from receipt of the request from the applicant. It also seemed inappropriate to set the same periods for establishing sequential and concurrent searches since it would permit an Authority to charge a higher fee for a concurrent search and nevertheless wait until after the main search report had been established to conduct the supplementary search.

International Publication in Multiple Languages

34. Discussions were based on documents PCT/MIA/13/4 and PCT/R/WG/8/3.

35. One Authority opposed the proposed provisions which would allow Contracting States to opt out, for a limited period, of the system of publication in multiple languages, noting that the effects ensuing from international publication in an additional language should be the same as the effects ensuing from international publication in the “main” language, with regard to all international applications published under that system and in all designated States. The Authority expressed its concern about setting the precedent of limiting such opt-out provisions in time, and of establishing a link between the notification by a Contracting State that it wished to continue to require, upon national phase entry, the furnishing of a translation of the international application even where that application had been published in an additional language which was the same as the, or one of the, official languages of that State, with the right of applicants from that State to request publication of an international application in an additional language.

36. One Authority noted that, in its capacity as a designated and elected Office, it would comment in detail on the proposals during the upcoming meeting of the Working Group on Reform of the PCT.

37. The following more specific comments were made on the draft Rules in the Annex to document PCT/R/WG/8/3 and would be taken into account by the Secretariat in the event that further revised proposals were to be prepared following the eighth session of the Working Group on Reform of the PCT:

(a) Following a query by one Authority as to which of the different language versions of an international application would prevail in case of an incorrect translation into an additional language of publication, the International Bureau expressed the view that, in such a case, the international application in the original language would be the authentic version.

(b) *Rule 48.2(i)*: One Authority raised a question as to the sanction, if any, where the applicant did not furnish a translation into the additional language of the elements referred to in Rule 48.2(i) (elements to be translated into the additional language where the authorization of a rectification of an obvious mistake is received by or, where applicable, given by the International Bureau after completion of technical preparations for international publication). Furthermore, if there were a sanction, the question was raised of whether there might be difficulties caused if the obvious mistake only concerned the international application in the original language but not in the additional language furnished for the purposes of publication under proposed new Rule 48.3(b-*bis*), so that the rectification would not be relevant to that translation.

(c) *Rule 49.2(c)*: Following a query by one Authority as to the consequences where a designated Office would, after the expiration of the proposed five year period, continue not to apply Rule 49.2(a)(iii), the Secretariat expressed the view that such a case would have to be treated as any other case in which a Contracting State did not comply with its obligation to apply the Treaty and its Regulations.

PCT MINIMUM DOCUMENTATION

38. Discussions were based on document PCT/MIA/13/5, which included an update on the activities of the comprehensive review task force since the twelfth session of the Meeting. The circulation of a document from the task force Chair (from the European Patent Office), which provided more detail on the questions that needed to be addressed and proposals on the way forward, had resulted in the receipt of comments from two members but little further advancement. Consideration had been given as to how the work to be undertaken could be divided, with specific lead responsibility being given to individual task force members. A physical meeting of the task force had been arranged for May 5, 2006, in parallel with this session of the Meeting.

39. The European Patent Office commented on the importance that PCT minimum documentation played as part of necessary infrastructure, underlining its effect on the quality of searching, not only within the International Authorities but in the whole patent system. For many years the countries whose patents formed part of the initial PCT minimum documentation definition had continued to be responsible for the major part of patents filed worldwide. That situation had now changed as witnessed by the recent addition to the minimum documentation of the patent documents of the Republic of Korea and the growing importance of patent documentation of other countries. Language was a significant issue, as also was the detailed consideration of, for example, the form of, and access to, the documentation. There was essential work to be undertaken, and the planned physical meeting of the task force would enable an exchange of views on the options to be pursued.

40. The Meeting noted the update on the activities of the task force and reiterated the importance of the comprehensive review to respond to the changes in technology used to support the patent system and the linguistic diversity of the prior art as well as in ensuring that the patent system takes into consideration the full range of prior art. The Meeting noted the further steps planned.

RECORDATION AND PUBLICATION OF SEARCH STRATEGIES

41. Discussions were based on document PCT/MIA/13/6.

42. The United States Patent and Trademark Office and IP Australia outlined the systems used for recording search strategies in relation to their national applications and making them available to the public, as outlined in Annexes I and II of document PCT/MIA/13/6. IP Australia acknowledged that the information given in its “search information statements” may not always permit a perfect understanding of what the examiner had done, but considered that it was better to have this limited information available than nothing. Similar, though not identical, records were also kept for international searches under the PCT.

43. The Swedish Patent and Registration Office stated that it also provided similar information. The examiner records details of the search, including a description of the problem addressed and the solution, deficiencies in the application, databases used, fields of search, F-terms and the like. The main purpose of the record was as part of a quality assurance system where a second examiner checked to see whether the search terms and the opinion of the examiner were considered correct, but the document was also available for public inspection on request.

44. A number of other Authorities indicated that they recorded search strategies to various extents and in different manners for quality assurance and other internal purposes. However, while some were interested in the idea of providing further information at least to designated and elected Offices, there were reservations by some Authorities about making the information public. Search strategies could be difficult to understand, particularly by a person who was not familiar with the particular search tools used by the Authority which carried out the search. Publication of such information could lead to many complaints and queries, which would be difficult to handle. Furthermore, providing information in a form which would be of benefit to the public might be a significant burden on examiners. There would be a particular burden if this required a common format and translations, as might be required if the information were to be included in the international search report.

45. The Meeting agreed that it was not appropriate at this time to introduce mandatory recording and disclosure or uniformity in the recording of search strategies. Furthermore, it was not desirable to routinely record full search strategy details in the international search report in view of the burden of preparing translations and the difficulties of putting the information into an appropriate format.

46. The Meeting agreed that the International Bureau should investigate options with interested International Authorities, permitting search strategies to be recorded by Authorities in a form convenient to them and transmitted to the International Bureau, to be made available through the PatentScope website in the same way as other documents from the files of the International Bureau relating to the international application.

SEARCH GUIDANCE IPDL

47. Discussions were based on document PCT/MIA/13/7, which provided a status report on the Search Guidance IPDL (SGIPDL) project, and on a presentation on the SGIPDL prototype given by the Secretariat¹. The Meeting noted that, since its previous session, there had continued to be a healthy exchange of views between the task force members and the Secretariat.

48. Several Authorities expressed their appreciation of the work done by the Secretariat in determining the requirements of the SGIPDL and the degree of progress made in this regard. Some Authorities suggested that emphasis should now be given to content. There were many sources to be included and the process would require a significant cooperation effort.

49. The Meeting noted the status report and the presentation and confirmed its continuing support for the SGIPDL development, including the proposed emphasis that would now be given to SGIPDL content and arrangements for implementation and future maintenance.

PCT STATISTICS

50. The Secretariat presented statistics concerning filing trends and the processing of international applications, together with an overview of new IP-related statistics available on the PatentScope website².

51. There continued to be a steady increase in filings of international applications, with particularly strong increases in applications from the People's Republic of China, the Republic of Korea and Japan. The distribution of figures relating to applications in 2006 was distorted by the different lengths of time taken for record copies to be received by the International Bureau for paper, PCT-EASY and online filings. Growth was predicted to continue at a rate of 5 to 8% over the next two years. Demands for international preliminary examination continued to fall. Detailed reports on the timeliness of PCT procedures that had recently been made available on the PatentScope website³, showed difficulties in a number of areas.

52. Work was proceeding well on the collection and consolidation of aggregate data on national phase entry, figures for which now cover many more Offices than previously. Many new statistics were available relating to patents in national systems as well as in the PCT, including details concerning applications, grants and patents in force in different States, broken down by country of origin and other criteria. New statistics relating to trademarks and designs would be available soon.

53. In response to a query from an Authority, the Secretariat explained that the forecasts were based on trend analysis, analyzing the trends for the largest receiving Offices and groups of smaller Offices separately, before calculating overall predictions. Back-analysis of results

¹ The presentation is available at
http://www.wipo.int/meetings/en/details.jsp?meeting_code=pct/mia/13.

² The presentation is available at
http://www.wipo.int/meetings/en/details.jsp?meeting_code=pct/mia/13.

³ See <http://www.wipo.int/ipstats/en/statistics/patents/>.

showed that the methodology produced very accurate results for past years. The Secretariat, in cooperation with other organizations such as the Organisation for Economic Co-operation and Development, was experimenting with the use of economic factors in models, but as yet no reliable methodology had been found.

54. The Meeting noted the Secretariat's presentation on statistics.

FUTURE WORK

55. The Meeting noted that it was envisaged that the next session would be held around the end of the first quarter of 2007, when Authorities would have had the opportunity to view the next round of quality reports (see paragraph 21, above).

56. *The Meeting unanimously adopted this report on May 5, 2006.*

[Annexes follow]

ANNEX I

LIST OF PARTICIPANTS

I. INTERNATIONAL AUTHORITIES

(in the English alphabetical order of their names)

AUSTRIAN PATENT OFFICE

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[Annex II follows]

ANNEX II

T21-17

TEMPLATE FOR RESPONSES TO PCT/GL/ISPE CHAPTER 21
CHAPTER 21.17 - STAGE 1 REPORTING

REPORT UNDER CHAPTER 21.17

Each Authority must provide information with respect to its Quality Management System (QMS) arranged under the main headings as set forth in this template. The descriptions in this template below each main heading should be considered examples of the type and arrangement of information that should be included under each heading. Each Authority may provide additional information beyond that set forth in this template as desired.

INTRODUCTION (Chapter 21.01 - 21.02)

The Authority should provide general background information relevant to the quality management system (QMS). The following may be included, if applicable:

- Recognised normative reference or basis for quality management system besides Chapter 21, e.g. ISO 9000.
- An organigram showing at least the organisational units responsible for implementation of the Authority's QMS. It could be referred to in the rest of the report, as necessary.

QUALITY MANAGEMENT SYSTEM (Chapter 21.03 - 21.09)

Establishment and maintenance of QMS (Chapter 21.03)

The Authority should show that it has established and is maintaining, or is establishing, a QMS which:

- (a) sets out basic requirements regarding resources, administrative procedures, feedback and communication channels required to underpin search and examination (S&E);
- (b) incorporates a quality assurance scheme for monitoring compliance with these basic requirements and with PCT/GL/ISPE.

Resources - infrastructure (Chapter 21.05)

Provide information about the infrastructure in place which ensures the following:

- (a) Adequate quantity of search and examination (S&E) staff, including:
 - (i) means for matching the quantity of S&E staff to the inflow of work;
 - (ii) means for ensuring that recruited S&E staff have the necessary technical qualifications;
 - (iii) means for ensuring that S&E staff have language skills, or have access to supporting translation arrangements, as necessary to meet Rule 34.

- (b) Adequate quantity and skills of administrative staff to support S&E.
- (c) Provision of appropriate equipment and facilities to support S&E.
- (d) Provision of the minimum documentation supporting S&E, as referred to in Rule 34.
- (e) Provision of up-to-date work manuals. These must include explanations of:
 - (i) quality criteria and standards;
 - (ii) descriptions of work procedures;
 - (iii) instructions ensuring that the work procedures are adhered to.
- (f) Provision of an effective training and development program for all staff involved in S&E, including means to ensure the acquisition and maintenance of the necessary experience, skills and familiarity with work manuals.
- (g) Continuously monitoring and identifying resources, other than staff, required to deal with demand and comply with quality standards for S&E.

Administration - procedures (Chapter 21.06(a) and (b))

Provide information on those administrative procedures and control mechanisms which ensure the following:

- (a) Timeliness of S&E and related functions, to quality standards in accordance with PCT/GL/ISPE.
- (b) Coping with fluctuations in demand and backlog management.

Quality Assurance Procedures (Chapter 21.07)

Provide information on procedures which ensure that S&E reports of a quality standard in accordance with PCT/GL/ISPE are issued. In particular, provide information on:

- (a) Activities related to verification, validation and monitoring; as carried out in order to assess compliance of S&E work with PCT/GL/ISPE.
- (b) Processes for measuring, recording, monitoring and analysing performance of the QMS to assess its conformity with the requirements of Chapter 21 and, if applicable, any other normative reference for the QMS.
- (c) Activities related to verifying the effectiveness of actions taken to deal with deficiencies, including:
 - (i) those actions taken to eliminate, correct or authorise release of deficient S&E work which does not comply with the quality standards;
 - (ii) those actions taken to eliminate the causes of deficient S&E work and prevent the deficiencies from recurring.

(d) Activities ensuring the continuous improvement of established processes underpinning the issue of S&E reports.

Feedback arrangements (Chapter 21.08)

Give information on arrangements to:

(a) Provide feedback to staff informing them of results of verification, validation and monitoring carried out in order to assess compliance of S&E work, so that:

- (i) deficient S&E work is corrected;
- (ii) corrective action, i.e. action necessary to prevent recurrence, is identified and implemented;
- (ii) best practice is identified, disseminated and adopted.

(b) Accommodate prompt feedback from WIPO, designated and elected offices; so that potential systemic issues, e.g. recurring deficiencies of S&E work, as identified by these bodies, are evaluated and addressed.

Communication, Guidance and Responses to Users (Chapter 21.06(c), 21.09)

Give information on arrangements to:

(a) Provide communication channels for dealing promptly with enquiries and enabling appropriate two-way communication between applicants and examiners.

(b) Provide concise and comprehensive guidance and information to users (particularly unrepresented applicants) on the S&E process using the website of your Authority, guidance literature, and other means.

(c) Monitor and react to user needs and feedback, including:

- (i) measuring user satisfaction and perception;
- (ii) handling complaints;
- (iii) correcting deficiencies identified by users;
- (iv) taking corrective action, i.e. action to eliminate the cause of deficiencies, in response to recurring or systematic deficiencies identified by users.
- (v) taking preventive action, i.e. action to eliminate the cause of potential deficiencies, in response to potential deficiencies or problems identified by users;
- (vi) ensuring needs and legitimate expectations of users are met.

INTERNAL REVIEW (Chapter 21.10 - 21.15)

Chapter 21.10 specifies that, in addition to a “quality assurance system for checking and ensuring compliance with the requirements set out in its QMS” [c.f. Chapter 21.03, 21.07], “each Authority should establish its own internal review arrangements to determine the extent to which it has established a QMS based on the above model”. This model is set out by Chapter 21 as a whole [c.f. Chapter 21.02]. Since a QMS which does not contain this provision for internal review would not meet the requirements of Chapter 21, the report under 21.17 should contain at least the information on the extent to which arrangements for internal review required by 21.10 are in place. These are:

Required Arrangements for Internal Review (Chapter 21.10)

The Authority should show that arrangements are in place to ensure that:

- (a) An internal review is carried out to determine:
 - (i) the extent to which a QMS complying with the model of Chapter 21 has been established;
 - (ii) the extent to which the Authority complies with the requirements of its QMS;
 - (iii) the extent to which the Authority complies with PCT/GL/ISPE.
- (b) The internal review demonstrates whether or not the requirements of the QMS and PCT/GL/ISPE are being applied consistently and effectively.
- (c) The internal review takes place at least once a year.

OPTIONAL INFORMATION UNDER CHAPTER 21.17

Guide to Internal Review Arrangements (Chapter 21.11 - 21.15)

Chapter 21.11 states that 21.12 - 21.15 are “proposed as a guide to the basic components of an internal review mechanism and reporting system”, and are thus optional. Authorities may respond to the following points to indicate the provisions they have in place for Internal Review.

The Authority may show that the following arrangements are in place and will be used for the purpose of internal review:

- (a) Arrangements providing information on conformity of S&E work; i.e. information from activities related to verification, validation and monitoring, as carried out in order to assess compliance of S&E work with PCT/GL/ISPE [c.f. point (a) under “Quality Assurance” above].
- (b) Arrangements providing information on the effectiveness, and the extent of implementation, of the QMS and its processes; whereby it can be established to which extent the QMS complies with the requirements of Chapter 21 and, if applicable, any other normative reference for the QMS.

- (c) Arrangements for compiling information received as feedback from users, including designated offices, elected offices, and applicants.
- (d) Arrangements for compiling information on actions for eliminating the causes of deficiencies, undertaken since the last review. This information arises from:
- (i) corrective action, i.e. actions taken to eliminate the causes of deficiencies and prevent the deficiencies from recurring [e.g. point (c)(ii) under “Quality Assurance” and point (c)(iv) under “Communication, Guidance and Responses to Users” above];
 - (ii) preventive action, i.e. actions taken to eliminate the causes of potential deficiencies and prevent the deficiencies from occurring [e.g. point (c)(v) under “Communication, Guidance and Responses to Users” above].
- (e) Arrangements for providing information on follow-up action from previous reviews.
- (f) Arrangements for providing information relating to any other recommendations for improvement received from e.g. the MIA, external auditors.
- (g) Arrangements for internal review by Senior Management (c.f. Chapter 21.14) The Authority may show that the information is presented in such a way as to allow senior management to:
- (i) gain an objective appreciation of performance regarding compliance of S&E work with PCT/GL/ISPE and how it can be improved;
 - (ii) gain an objective appreciation of performance regarding compliance with QMS requirements and how it can be improved;
 - (iii) identify whether changes are needed and where they are needed;
 - (iv) identify opportunities for improvement;
 - (v) record decisions taken regarding the implementation of the improvements identified above, as a reference for future internal reviews.

[Annex III follows]

ANNEX III

T21-18
TEMPLATE FOR RESPONSES TO PCT/GL/ISPE CHAPTER 21
CHAPTER 21.18 - STAGE 2 REPORTING

REPORT UNDER CHAPTER 21.18

This supplemental report relates to the QMS established by

(NAME OF AUTHORITY)

as set forth in our report under PCT/GL/ISPE section 21.17 on

(DATE OF LAST REPORT UNDER 21.17)

and as modified in the supplemental report(s) under PCT/GL/ISPE section 21.18 on

(DATE OF SUPPLEMENTAL REPORT(S) IN WHICH CHANGES WERE PREVIOUSLY INDICATED).

As a result of our most recent internal review under PCT/GL/ISPE sections 21.10-21.15, this Authority has made modifications to its QMS as discussed below.

The modifications are given with reference to the sections of the revised template for responses to PCT/GL/ISPE Chapter 21.17 to which the changes relate.

(The Authority should describe any changes made to its QMS making reference to the specific sections of the template proposed by EPO to the MIA, dated April 2006 and entitled "Revised Template for Responses to PCT/GL/ISPE Chapter 21.17", and / or making reference to any supplemental report(s) under PCT/GL/ISPE section 21.18 compiled in accordance with the present document.

If no changes have been made to its QMS since the last report, the Authority should indicate such.)

[End of Annex III and of document]