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AND FOR INTERNATIONAL PRELIMINARY EXAMINATION

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DRAFT GUIDELINES
FOR INTERNATIONAL PRELIMINARY EXAMINATION
TO BE CARRIED OUT UNDER THE PATENT COOPERATION TREATY (PCT)

prepared by the International Bureau

Background

1. At its first session (February 14 to 18, 1977), this Working Group (PCT Working Group on Guidelines for International Search and for International Preliminary Examination) had before it document PCT/TCO/VI/9 entitled "Guidelines for International Preliminary Examination to be Carried Out under the Patent Cooperation Treaty (PCT)". This document contained a compilation of comments received from the State Committee for Inventions and Discoveries of the USSR Council of Ministers, the Patent Office of the United Kingdom and the United States Patent and Trademark Office on Draft Guidelines for Substantive Examination in the European Patent Office (hereinafter referred to as "the EPO Examination Guidelines") arranged according to the chapters and paragraphs of the EPO Examination Guidelines, together with a comparative analysis of the said comments.
2. The Working Group, in its session referred to above, held only a general discussion of the subject covered by document PCT/TCO/VI/9, limited to a consideration of the procedure that should be adopted to advance the work of finalizing the PCT Guidelines for International Preliminary Examination to be Carried Out under the Patent Cooperation Treaty (hereinafter referred to as the "PCT Examination Guidelines"). The Working Group agreed that, since document PCT/TCO/VI/9 was more in the nature of a compilation of comments on provisions considered by various Authorities as appropriate for inclusion in guidelines for international preliminary examination under the PCT than of actual guidelines, it was desirable, in order to provide a better basis for the establishment of the PCT Examination Guidelines, that a single draft text be prepared by the International Bureau. The Working Group requested the International Bureau to take into account such provisions of the latest (published) text of the EPO Guidelines as were appropriate to international preliminary examination under the PCT, as well as the responses from Authorities set out in document PCT/TCO/VI/9 and the observations contained in document PCT/WG/GSE/I/3 (see the report of the said session, document PCT/WG/GSE/I/7, paragraph 88).

The Present Document

3. Annexed to the present document are Chapters I to III of the draft PCT Examination Guidelines. Chapters IV to VI will be issued in a separate document.

4. The basis of preparation of Chapters I to V of the draft PCT Examination Guidelines is the amendment of the EPO Examination Guidelines in accordance with the proposals of the Authorities. In those Chapters including the provisions where the Authorities indicated general agreement as to the inclusion of the particular provisions, the text prepared by the International Bureau includes such provisions subject to minor changes of a drafting nature in order to bring the language of the text into conformity with that of the PCT. However, in the case where the proposals contained in the responses cannot be reconciled, proposals of the International Bureau are presented together with the reasons therefor and a compilation of the said responses following the particular provision or provisions of the Chapters involved (see document PCT/WG/GSE/I/7, paragraph 89).

5. In response to the wishes expressed by the Working Group at the said session, Chapter VI (dealing with international preliminary examination procedure) includes new provisions, prepared by the International Bureau, in the case where the international preliminary examination procedure would require provisions substantially different from those contained in the EPO Examination Guidelines. However, those provisions of Chapter VI of the EPO Examination Guidelines with which the Authorities indicated general agreement are retained subject, of course, to minor amendment to bring the language of the provisions into conformity with that of the PCT.

6. The Working Group is invited to consider the draft PCT Examination Guidelines and give its advice to the International Bureau so that the PCT Examination Guidelines may be established.

[Annex follows]

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DRAFT GUIDELINES FOR INTERNATIONAL PRELIMINARY EXAMINATION
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EXPLANATORY NOTE

1. The Patent Cooperation Treaty has two phases which correspond to Chapters I and II, respectively, of the Treaty. The present document contains guidelines relating to the second phase (Chapter II of the Treaty) which comprises international preliminary examination.
2. The preceding phase (Phase I) has three main features: international application, international search and international publication. Phase I is mandatory in the sense that every State becoming party to the Treaty must apply it and that, in the normal situation, an international application is the subject of an international search and, subsequently, of international publication.
3. The second phase (Phase II) is optional since any Contracting State may decide not to adhere to Chapter II and the applicant, even if entitled to have his international application subjected to international preliminary examination, may decide for himself whether or not he wants to take advantage of this possibility.

Steps constituting the second phase

4. Under Chapter II an applicant may file a "demand" for an international preliminary examination report by an International Preliminary Examining Authority for use in one or more States (elected States) in which the applicant wishes to obtain protection for an invention. The applicant is entitled to amend his international application before an International Preliminary Examining Authority which will then issue an advisory opinion on novelty, inventive step (non-obviousness), and industrial applicability of the claimed invention. Copies of the report are then sent to the applicant and the elected Offices. National fees and translations in respect of the international application are not due, nor can national processing begin without applicant's request, before the 25th month. Under this Chapter, the applicant is also given the opportunity to amend the claims, the description and the drawings of his application before each elected Office.

Effects of the second phase

5. The only legal effect of using Phase II is--as already indicated--that the processing of the international application before the national Offices is delayed--that is, it cannot start--at least until the expiration of the 25th month after the priority date when, normally, the international preliminary examination report has become available.
6. Using the Phase II also has the practical effect that national processing starts under much more advantageous conditions both for the applicant and the national Offices than would be the case without the PCT or if Phase I only is used. The applicant has, thanks to the international preliminary examination report, a strong indication of his chances of obtaining protection. The elected Offices save most, if not practically all, of the effort of examination. All that remains for them to do, under normal circumstances is to draw conclusions from the said report on the question of patentability in the light of the national laws.

Contents of the present document

7. The present draft Guidelines for International Preliminary Examination have been drafted for, and apply to international preliminary examination under Chapter II of the PCT and the Regulations and the Administrative Instructions under the PCT as it will be carried out by the examiners of the International Preliminary Examining Authority. It is intended that these Guidelines should apply to all International Preliminary Examining Authorities to the largest extent possible since international preliminary examination under the PCT will be carried out by several International Preliminary Examining Authorities and "the maximum degree of uniformity in their working methods and the maximum degree of uniformly high quality in their reports" (Article 56(3)(ii)) is needed in order to ensure a successful implementation of the international preliminary examination system.

8. It will be noted that the text (apart from the Introduction) has been divided into Chapters, each sub-divided into numbered Sections which are further sub-divided into paragraphs. Cross references to other paragraphs are in a standard form quoting in each case the Chapter, Section and the paragraph number (thus, Chapter III, paragraph 6.9 means paragraph 9 in Section 6 of Chapter III). Marginal references indicate the Article or Rule which provides authority for what is stated. Such references avoid the need for extensive quotation from the PCT itself, but where the Treaty, the Regulations or the Administrative Instructions have been directly quoted this has been indicated by the use of quotation marks.

CHAPTER I

INTRODUCTION

1. The establishment of the International Preliminary Examining Authorities represents a major development in the history of the protection of inventions. However, it will be on the basis of well-reasoned international preliminary examination (and especially on how examiners deal with such difficult questions as inventive step) that its success will be judged.

2. Moreover, it is important to remember that all examiners in the various International Preliminary Examining Authorities will be working under a common system as laid down in the PCT and they should all apply the same standards.

3. The Guidelines give instructions as to the practice to be followed in the various stages of the international preliminary examination of international applications. They are addressed to the examiners in the International Preliminary Examining Authorities but it is hoped that they will also be of assistance to applicants and patent practitioners. The Guidelines are intended to cover typical occurrences. They should therefore be considered only as general directives; examiners will have to go beyond the instructions in exceptional cases. Nevertheless, applicants can expect the International Preliminary Examining Authorities to act, as a general rule, in accordance with the Guidelines until such time as they are revised. It should be noted also that the Guidelines do not have the binding authority of a legal text. For the ultimate authority on questions concerning international preliminary examination, it is necessary to refer to the PCT itself interpreted, where necessary, by reference to the Minutes of the Washington Diplomatic Conference.

4. The attitude of the examiner is very important. He should always try to be constructive and helpful. While it would of course be quite wrong for an examiner to overlook any major deficiency in an international application, he should have a sense of proportion. He should bear in mind that, subject to the requirements of the PCT, the drafting of the description and claims of an international application is the responsibility of the applicant or his authorized representative.

5. Finally, it should hardly need stating that all international applications, regardless of their country of origin and the language in which they are written, should receive equal treatment.

CHAPTER II

CONTENT OF THE INTERNATIONAL APPLICATION (OTHER THAN THE CLAIMS)

1. General

Art. 3(2) 1.1 The requirements of the international application are set out in Article 3. The application must contain:

- "(a) a request
- (b) a description
- (c) one or more claims
- (d) one or more drawings (where required)
- (e) an abstract."

This Chapter deals with all these requirements in so far as they are the concern of the International Preliminary Examining Authority, with the exception of item (c) which is the subject of Chapter III. Item (e) is dealt with first.

Art. 31 1.2 The International Preliminary Examining Authority must receive copies of the demand (Form PCT/IPEA/401) submitted by the applicant as a requirement to enter Phase II of the PCT (see Chapter VI, paragraphs 2.1 and 3.1).

2. Abstract

Art. 3(2) and 2.1 The international application must contain an abstract. The purpose of the (3) abstract is to give brief technical information about the disclosure as contained in the description, claims and any drawings.

2.2 Rules 8 and 38.2 delineate the requirements for the abstract and it is for the International Searching Authority to establish its final form (see Chapter XI, paragraphs 1 to 5 of the Guidelines for International Searches to be Carried Out under the PCT). The examiner in the International Preliminary Examining Authority will not normally be concerned with seeking any amendment of the abstract. He should, however, note that the abstract has no legal effect on the international application containing it; for instance, it cannot be used to interpret the scope of protection or to justify the addition to the description of new subject-matter. The abstract, upon its publication, constitutes part of the prior art as from its publication date.

Art. 3(3)

3. Request and title of the international application

3.1 The items making up the request (Form PCT/RO/101) are dealt with in PCT Rule 4. They do not normally concern the International Preliminary Examining Authority.

Rule 4.3

3.2 The title of the invention disclosed in the international application "shall be short (preferably from two to seven words when in English or translated into English) and precise." While any obvious failures to meet these requirements are likely to be noted by the International Searching Authority (see Chapter XI, paragraph 6 of the Guidelines for International Searches to be Carried Out under the PCT), the examiner in the International Preliminary Examining Authority should review the title in the light of his reading of the description and claims and any amendments thereto, to make sure that the title, as well as being concise, gives a clear and adequate indication of the subject of the invention.

3.3 Also, if the international application contains claims in different categories (product, process, apparatus, use), this must be evident from the preciseness of the title. Thus, if any amendments are made which change the categories of claims, the examiner in the International Preliminary Examining Authority should check whether a corresponding amendment is needed in the title (see also Chapter II, paragraph 4.2).

4. Description

Art. 5

4.1 The international application must "disclose the invention in a manner sufficiently clear and complete for the invention to be carried out by a person skilled in the art." The meaning of "person skilled in the art" is discussed in Chapter IV, paragraph 9.6. This requirement of disclosure should be met by the description with the aid of drawings, if any. The provisions relating to the content of the description are set out in Rule 5. The purposes of these provisions are:

(i) to ensure that the international application contains all the technical information required to enable a skilled person to put the invention into practice; and

(ii) to enable the reader to understand the contribution to the art which the inventor has made.

Rule 5.1(a)

4.2 The description should start with the same title that appears in the request (Form PCT/RO/101). Thus, if the title is deficient (see Chapter II, Section 3), it should be amended in both the request and the description. The description should contain subheadings corresponding to those contained in Section 205 of the Administrative Instructions. Although such subheadings are not rigidly mandatory in number or wording, their use is highly recommended in order to provide uniformity in publication and to facilitate access to the information contained in the international application. The recommended subheadings are discussed in the following paragraphs.

Rule 5.1(a)(i)

4.3 Technical field. The invention should be placed in its setting by specifying the technical field to which it relates.

Rule 5.1(a)
(ii)

4.4 Background art. The description should also indicate any background art which, as far as known to the applicant, can be regarded as useful for the understanding, searching and examination of the claimed invention, and should, preferably, cite the documents reflecting such art (especially patent specifications). This applies in particular to the background art corresponding to the first or "prior art" portion of the independent claim or claims (see Chapter III, paragraph 2.2). The insertion into the statement of prior art of references to some of the documents cited in the international search report should be considered by the examiner if these are necessary to put the claimed invention in proper perspective. For instance, while the originally filed description of background prior art may give the impression that the inventor has developed the claimed invention from a certain point, the cited documents may show that certain stages in, or aspects of, this alleged development were already known. In such a case the examiner should invite the applicant to include a reference to, and a brief summary of the relevant contents of these documents.

4.5 Since the examiner in the International Preliminary Examining Authority is presumed to have the general background and technical knowledge appropriate to the art, the examiner should not invite the applicant to insert anything in the nature of a treatise or research report or explanatory matter which is obtainable from textbooks or is otherwise well known. Likewise the examiner should not invite the applicant to provide a detailed description of the content of cited prior documents. It is sufficient that the reason for the inclusion of the reference is indicated, unless in a particular case a more detailed description is necessary for a full understanding of the claimed invention. Lists of several reference documents relating to the same feature or aspect of the prior art are not required; only the most appropriate ones need to be referred to. On the other hand, the examiner should not invite the applicant to excise any such unnecessary matter, except when it is very extensive.

Rule 5.1(a)
(iii)

4.6 Disclosure of invention. The invention as claimed should be disclosed by the applicant in such a way that the technical problem, or problems, with which it deals and the solution it provides can be understood. To meet this requirement, only such details should be included in the disclosure as are necessary for elucidating the claimed invention. It is not necessary, moreover, that the claimed invention be presented explicitly in problem and solution form. Any advantageous effects which the applicant considers the claimed invention to have in relation

Rule 9.1(iii)

to the prior art should be stated, but this should not be done in such a way as to disparage any particular prior product or process. Furthermore, neither the prior art nor the applicant's claimed invention should be referred to in a manner likely to mislead. This might be done, e.g., by an ambiguous presentation which gives the impression that the prior art had solved less of the problem than was actually the case.

- Rule 5.1(a)(iv) 4.7 Brief description of drawings. If drawings are included they should first be briefly described, in a manner such as: "Figure 1 is a plan view of the transformer housing; Figure 2 is a side elevation of the housing; Figure 3 is an end elevation looking in the direction of the arrow 'X' of Figure 2; Figure 4 is a cross-section taken through AA of Figure 1." When it is necessary to refer in the description to elements of the drawings, the name of the element should be referred to as well as its number, i.e., the reference should not be in the form: "3 is connected to 5 via 4" but, "resistor 3 is connected to capacitor 5 via switch 4."
- Rule 11.13(1) 4.8 The description and drawings shall be consistent with one another, especially and (n) in the matter of reference numbers and other signs (see Chapter II, paragraph 5.1)
- Rule 5.1(a)(v) 4.9 Best mode for carrying out the invention. A detailed description of at least the best mode contemplated by the applicant for carrying out the invention must be given. This shall be done in terms of examples, where appropriate, and with reference to the drawings, if any; "where the national law of the [elected State] does not require the description of the best mode but is satisfied with the description of any mode (whether it is the best contemplated or not), failure to describe the best mode contemplated shall have no effect in that State." In many cases a single example or single embodiment will suffice, but where the claims cover a broad field the description should not usually be regarded as satisfying the requirements of Article 5 unless it gives a number of examples or describes alternative embodiments or variations extending over the area protected by the claims.
- 4.10 It is the responsibility of the applicant to ensure that he supplies, when he first files his international application, a sufficient disclosure, i.e., one that meets the requirements of Article 5 in respect of the invention, as claimed, in all of the claims. If the disclosure is seriously insufficient, such a deficiency cannot be cured subsequently by adding further examples or features without offending against Article 34(2)(b) which requires that the subject-matter content of the application must not be extended (see Chapter VI, paragraphs 4.11 and 7.7).
- 4.11 Two instances where there is a fundamental insufficiency in the international application, and thus a failure to satisfy the requirements of Article 5, deserve special mention. The first is where the successful performance of the invention is dependent on chance. That is to say, a person skilled in the art, in following the instructions for carrying out the invention, finds either that the alleged results of the invention are not reproducible or that success in obtaining these results is achieved in a totally unreliable way. An example where this may arise is a microbiological process involving mutations. Such a case should be distinguished from one where repeated success is assured even though accompanied by a proportion of failures as can arise, e.g., in the manufacture of small magnetic cores or electronic components; in this latter case, provided the satisfactory parts can be readily sorted by a non-destructive testing procedure, no objection necessarily arises under Article 5. The second instance is where successful performance of the invention is inherently impossible because it would be contrary to well-established physical laws--this applies, e.g., to a perpetual motion machine. If the claims for such a machine are directed to its function, and not merely to its structure, an objection arises, not only under Article 5 but also under Article 33(4), that the invention is not susceptible of industrial application (see Chapter IV, paragraph 4.1).
- Rule 5.1(a)(vi) 4.12 Industrial applicability. The description should indicate explicitly the way in which the invention is "capable of exploitation in industry," if this is not obvious from the description or from the nature of the invention. The expression "capable of exploitation in industry" means the same as susceptible of industrial application. It is to be expected that, in most cases, the way in which the invention can be exploited in industry will be self-evident, so that no more explicit description on this point will be required; but there may be a few instances, e.g., in relation to methods of testing, when the way in which the invention is capable of exploitation in industry and the way in which it can be made and/or used are not obvious from the description or the nature of the invention and must be made so; the term "industry" is to be understood in its broadest sense as in the Paris Convention for the Protection of Industrial Property.

- Rule 5.1(b) 4.13 The manner and order of presentation of the various parts of the description should be that specified in Rule 5.1(b) and Section 205 of the Administrative Instructions, "unless, because of the nature of the invention, a different manner or a different order would result in a better understanding and a more economic presentation." Since the responsibility for a clear and complete description of the invention lies with the applicant, the examiner should exercise his discretion as to whether to object to the presentation. Some departure from the requirements of Rule 5.1(a) is acceptable, provided the description is clear and orderly and all the requisite information is present. For example, the requirements of Rule 5.1(a)(iii), may be waived where the invention is based on a fortuitous discovery, the practical application of which is recognized as being useful, or where the invention breaks entirely new ground. Also certain technically simple inventions may be fully comprehensible with the minimum of description and but slight reference to prior art.
- 4.14 Although the description should be clear and straightforward with avoidance of unnecessary technical jargon, the use of recognized terms of art is acceptable, and will often be desirable. Little known or specially formulated technical terms may be allowed, provided that they are adequately defined and that there is no generally recognized equivalent. This discretion may be extended to foreign terms when there is no equivalent in the language of the proceedings. Terms already having an established meaning should not be allowed to be used to mean something different if this is likely to cause confusion. There may, however, be circumstances where a term may legitimately be borrowed from an analogous art. Terminology and signs must be consistent throughout the international application.
- Rule 10.2 4.15 When the properties of a material are referred to, the relevant units should be specified if quantitative considerations are involved. If this is done by reference to a published standard (e.g. a standard of sieve sizes), and such standard is referred to by a set of initials or similar abbreviation, it should be adequately identified in the specification. The metric system of units of weight and measures must be used or, if another system is used, the units must also be expressed in the metric system. Similarly, temperature must be expressed at least in degrees Celsius or, in cryogenics, in degrees Kelvin. Other physical values (i.e. other than those having units directly derivable from length, mass, time and temperature) must be expressed in the units recognized in international practice; e.g., for electric units the MKSA system should be used. Chemical and mathematical symbols, atomic weights and molecular formulae should be those in general use and technical terms, signs and symbols should be those "generally accepted in the art." In particular, if there are any agreed international standards in the art in question, these should be adopted wherever practicable.
- Rule 10.1(a) 4.16 The use of proper names or similar words to refer to materials or articles is undesirable in so far as such words merely denote origin or where they relate to a range of different products. If such a word is used, then in order to satisfy the requirements of Article 5, the product must normally be sufficiently identified, without reliance upon the word, to enable the invention to be carried out by a person skilled in the art. However, where such words have become internationally accepted as standard descriptive terms and have acquired a precise meaning (e.g. "Bowden" cable, "Bellville" washer), they may be allowed without further identification of the product to which they relate.
- Rule 10.1(b) 4.17 If the examiner has reason to suspect that a word used in the description is a registered trademark, at least in certain States, he should ask the applicant either to acknowledge the word as such or to state that, so far as the latter is aware, the word is not a registered trademark. If, on the other hand, an applicant states that a word is a registered trademark in certain States and the examiner happens to know that this statement is incorrect, he should invite the applicant to amend his statement accordingly.
- Rule 10.1(d) 4.18 References to previously (i.e., before the filing date) published material including patent applications and specifications of granted patents, textbooks and periodicals, are allowable and often desirable (see Chapter II, paragraph 4.4 above). A reference to an unpublished (i.e., not published before the filing date) document should not be regarded as adding anything to the content of the disclosure unless publication of the document referred to occurs on or before the date of international publication of the international application containing the reference. In the case of any document published on or before the publication date, there can be no objection to the reference being supplemented or replaced by an indication of the subject matter contained in the document. In the case of any document published later, or not published at all (including applications filed after the priority date), the examiner should require the reference to be deleted as being irrelevant.
- Rule 10.1(e)

Compilation of responses in respect of paragraph 4.18

- (i) Agree with the opinion expressed in the EPO Guidelines; do not understand why the last part of this paragraph is deleted by GB (NL).
- (ii) Maintain the original proposal (GB).

Note:

The International Bureau has proposed a text according to which the supplementing of the descriptions by reference to a document (beyond what is already explicitly contained in the international application as originally filed), is acceptable if the document is published on or before the publication date of the international application, on the basis that a person skilled in the art would at the time of publication of the international application, be able to carry out the invention with the knowledge of a document published before that date. Perhaps a basic discussion is needed of the questions involved.

5. Drawings

Rule 7

5.1 The formal requirements relating to drawings are set down in Rule 11.10 to 11.13. The only question likely to cause difficulty is whether the textual matter included on the drawings is absolutely indispensable. In the case of circuit diagrams, block schematics and flow sheets, identifying catchwords for functional integers of complex system (e.g., "magnetic core store," "speed integrator") may be regarded as indispensable from a practical point of view if they are necessary to enable a diagram to be interpreted rapidly and clearly.

6. Inventions relating to microorganisms

6.1 International applications relating to microorganisms are subject to special provisions. If an invention concerns a microbiological process or the product thereof and involves the use of a microorganism which is not available to the public, the disclosure is not considered to have satisfied the requirements of Article 5 unless the culture of the microorganism has been deposited in a culture collection not later than the date of filing of the international application.

6.2 The examiner must form an opinion as to whether or not the microorganism is available to the public. There are several possibilities. The applicant may have given sufficient information as to the identifying characteristics of the microorganism and as to the prior availability in a recognized culture collection to satisfy the examiner. Alternatively, the microorganism may be known to be readily available to those skilled in the art, e.g., a microorganism such as baker's yeast or *Bacillus natto* which is commercially available; or it may be to a standard preserved strain, or other microorganism which the examiner knows to have been preserved in a recognized depository and to be available to the public. In any of these cases, no further action is called for. If, however, the applicant has given no information, or insufficient information, on public availability and the microorganism is a particular strain not falling within the known categories already mentioned, then the examiner must assume that the microorganism is not available to the public.

6.3 If the microorganism is not available to the public, the examiner must check:

(i) whether the application as filed gives relevant information on the characteristics of the microorganism, and

(ii) whether the identity of the culture collection, the date of deposit in that collection and the file number of the deposit have been supplied not later than two months after filing.*

* Included on the basis of an appropriate amendment to the Regulations being made.

Art. 34(4)(a)
(ii)

In addition, the culture collection which is identified must be one which is held by an institution having the status of an International Depositary Authority under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure. If any of these requirements are not satisfied the examiner in the International Preliminary Examining Authority should inform the applicant that an inadequate disclosure of the microorganism has been presented in the international application as filed and that a meaningful international preliminary examination cannot be carried out.*

Compilation of responses in respect of paragraphs 6.1 to 6.3

(i) Do not agree with the opinion expressed by GB; the US addition "no microorganism should have been deposited in a culture collection not later than the date of filing of the application" goes beyond the EPO Guidelines (NL).

(ii) Maintain our view that paragraphs 6.1 to 6.3 should be deleted (GB).

Note

The International Bureau has retained an amended text as a basis for further consideration of the issues relating to microorganisms.

7. Expressions, etc., not to be used

Rule 9.1(i)
and (ii)

7.1 There are four categories of matter which should not be used specified in Rule 9.1 (see also Chapter IV, section 3). Examples of the kind of matter coming within the first and second categories--contrary to public order ("ordre public") or morality--are: incitement to riot or to acts of disorder; incitement to criminal acts; racial, religious or similar discriminatory propaganda; and grossly obscene matter. The purpose of Rule 9 is to prohibit the kind of matter likely to induce riot or public disorder, or lead to criminal or other generally offensive behaviour. This Rule is likely to be invoked by the examiner only in rare cases.

Rule 9.1(iii)

7.2 It is necessary to discriminate in the third category--disparaging statements--between libellous or similarly disparaging statements, which are not allowed, and fair comment, e.g., in relation to obvious or generally recognized disadvantages, or disadvantages stated to have been found by the applicant, which, if relevant, is permitted.

Rule 9.1(iv)

7.3 The fourth category is irrelevant matter. It should be noted, however, that such matter is specifically prohibited under the Rule only if it is "obviously irrelevant or unnecessary," e.g., if it has no bearing on the subject-matter of the invention or its background of relevant prior art.

7.4 Generally, the receiving Office or the International Searching Authority will deal with matter falling under Rule 9.1. If any such matter has not been so recognized, it may be invited to be removed during international preliminary examination of the international application together with any other prohibited matter. The applicant should be informed of the category under which the prohibited matter is to be removed.

* Included on the basis of an appropriate amendment to the Regulations being made.

CHAPTER III

THE CLAIMS

1. General

Art. 3(2) 1.1 The international application must contain "one or more claims."

Art. 6 1.2 These must:

(i) "define the matter for which protection is sought";

(ii) "be clear and concise";

(iii) "be fully supported by the description."

Art. 6 1.3 Since the terms of the claims determine the extent of the protection conferred by a patent or an international application, clarity and conciseness of the claims is of the utmost importance. The claims do not, however, stand in isolation and are not to be interpreted in a strictly literal sense. (see also Chapter III, Section 4).

2. Form and content of claims

Rule 6.3(a) 2.1 The claims must be drafted in terms of the "technical features of the invention." This means that claims should not contain any statements relating, for example, to commercial advantages or other non-technical matters, but statements of purpose may be permitted if they assist in defining the invention. Claims to the use of the invention in the sense of the technical application thereof are permissible.

2.2 Rule 6.3, paragraph (b), defines the two-part form which a claim should take "whenever appropriate." The first part should contain a statement indicating "those technical features of the invention which are necessary for the definition of the claimed subject matter but which, in combination, are part of the prior art", i.e., the general technical class of apparatus, process, etc., to which the claimed invention relates, followed by a statement of "those technical features which are necessary for the definition of the claimed subject-matter but which, in combination, are part of the prior art." It is clear from this wording that it is necessary only to refer to those prior art features which are relevant to the invention. For example, if the invention relates to a photographic camera but the claimed inventive step relates entirely to the shutter, it would be sufficient for the first part of the claim to read: "A photographic camera including a focal plane shutter having ..." (here recite the known combination of features which is utilized) and there is no need to refer also to the other known features of a camera such as the lens and view-finder. The second part or "characterizing portion" should state the technical features which, in combination with the features stated under the first part (Rule 6.3(b)(i)), it is desired to protect, i.e., the features which the invention adds to the prior art. If the international search report reveals that any feature in the second part of the claim was, in fact, already known in combination with all the features in the first part of the claim and in that combination have the same effect as they have in the full combination according to the claimed invention, the examiner should invite the applicant to transfer such feature or features to the first part. Where, however, a claim relates to a novel combination, and where the division of the features of the claim between the prior art part and the characterizing part could be made in more than one way without inaccuracy, the applicant should not be pressed, unless there are very substantial reasons, to adopt a different division of the features from that which he has chosen, if his version is not incorrect. Section 206 of the Administrative Instructions provides the applicant and the International Preliminary Examining Authority with the necessary instructions for numbering of claims upon their amendment.

Rule 6.3(c)

2.3 The applicant should be invited to follow the above two-part formulation where, for example, it is clear that his invention resides in a distinct improvement in an old combination of parts or steps. However, as is indicated by Rule 6, this form need only be used in appropriate cases. The nature of the invention may be such that this form of claim is unsuitable, e.g., because it would give a distorted or misleading picture of the invention or the prior art. Examples of the kind of invention which may require a different presentation are:

(i) the combination of known integers of equal status, the inventive step lying solely in the combination;

(ii) the modification of, as distinct from addition to, a known chemical process, e.g., by the substitution of one substance for another; and

(iii) a complex system of functionally inter-related parts, the inventive step concerning changes in several of these parts or in their inter-relationships.

In examples (i) and (ii) the Rule 6.3(b) form of claim may be artificial and inappropriate, whereas in example (iii) it might lead to an inordinately lengthy and involved claim. Another example in which the Rule 6.3(b) claim may sometimes be inappropriate is where the claimed invention is a new chemical compound or group of compounds which constitutes a new departure and does not fall within a known class. It is also likely that other cases will arise in which the applicant is able to adduce convincing reasons for formulating the claim in a different form.

Compilation of responses in respect of paragraph 2.3

(i) This paragraph be retained as it gives a useful explanation of "whenever appropriate" used in Rule 6.3(b) (NL).

(ii) Accept the US version, but example (iii) should be deleted (GB).

Note:

The International Bureau has not cancelled claim format example (iii) since this example illustrates a further different claim format permissible under PCT Rule 6.3(b).

Rule 11.10(a)
and (b)
Rule 11.10(c)

2.4 The claims, as well as the description, "may contain chemical or mathematical formulae" but not drawings. "The claims may contain tables" but "only if the subject-matter of the claims makes the use of tables desirable." In view of the use of the word "desirable," the International Preliminary Examining Authority should not object to the use of tables in claims where this form is convenient.

3. Kinds of claim

Categories

Rule 13.2

3.1 The PCT refers to different "categories" of claim ("product, process, apparatus or use"). However, the main purpose of this classification is to provide a convenient way of indicating specific combinations permitted in accordance with Rule 13 (see Chapter III, paragraph 7.2). In fact, there are only two basic kinds of claim, viz., claims to a physical entity (product, apparatus) and claims to an activity (process, use). The first basic kind of claim ("product claim") includes a substance or composition (e.g., chemical compound or a mixture of compounds) as well as any physical entity (e.g., object, article, apparatus, machine, or system of cooperating apparatus) which is produced by a man's technical skill. Examples are "steering mechanism incorporating an automatic feedback circuit ..."; "a woven garment comprising ..."; "an insecticide consisting of X, Y, Z;" or "a communication system comprising a plurality of transmitting and receiving stations." The second basic kind of claim ("process claim") is applicable to all kinds of activities in which the use of some material product for effecting the process is implied; the activity may be exercised upon material products, upon energy, upon other processes (as in control processes) or upon living things (see, however, Chapter IV, paragraph 2.6).

3.2 It should be noted that claims which are worded differently may, in reality, fall within the same category and have effectively the same scope. For example, a claim referring to a "system" and a claim referring to "apparatus" may both be in the "apparatus" category. It should be further noted that it is permitted to include in the same international application claims of the said different categories provided that they are limited according to PCT Rule 13.2 (see Chapter VI, paragraphs 5.4 to 5.8). The examiner in the International Preliminary Examining

Authority should bear in mind that the presence of such different claims may assist an applicant in later obtaining full protection for his invention in all the elected Offices since infringement of a patent is dealt with by national law. Consequently, while the examiner should not allow an unnecessary proliferation of independent claims (see Chapter III, Section 5), he should not adopt an over-academic or rigid approach to the presence of a number of claims which are differently worded but apparently of similar effect.

Independent and dependent claims

3.3 Subject to the conditions for unity of invention being satisfied (see Chapter III, Section 7, Chapter VI, paragraphs 5.4 to 5.8) Rule 13.3 states that an international application may contain "two or more independent claims of the same category (i.e., product, process, apparatus or use) which cannot readily be covered by a single generic claim." This means that while the examiner should not allow an unnecessary proliferation of independent claims, he may allow two or more independent claims in the same category in appropriate cases, provided that there is a unifying inventive concept and that the claims as a whole satisfy the requirement of Article 6 that they should be "concise" (see Chapter III, paragraph 5.1). In applying this principle, the examiner should have regard to the remarks made in Chapter III, paragraph 3.2 concerning claims of apparently similar scope. However, there are other circumstances where it may not be appropriate to cover the subject-matter of an invention by a single independent claim in a particular category, e.g., where the invention relates to an improvement in two separate but inter-related articles which may be sold separately, such as an electric plug and socket or transmitter and receiver or where an invention is concerned with electrical bridge-rectifier circuits, it might be necessary to include separate independent claims to a single-phase and to poly-phase arrangements incorporating such circuits since the number of circuits needed per phase is different in the two arrangements; and (3) where a known substance is disclosed for a number of distinct medical uses (see Chapter IV, paragraph 2.4, item (d)).

3.4 All international applications will contain one or more independent main claims directed to the essential features of the invention. Any such claim may be followed by one or more claims concerning specific forms of that invention. It is evident that any claim relating to a specific form must effectively include also the essential features of the invention, and hence must include all the features of at least one independent claim. The specific forms should be construed broadly as meaning any more specific definition or specifically different embodiments of the invention than that set out in the main claim or claims. It should be noted that, subject to Rule 13.1, it is permitted to include a reasonable number of dependent claims claiming specific forms of the claimed invention in the independent claim, even where the features of any dependent claim could be considered as constituting in themselves an invention.

Rule 6.4(a)
and (b)

3.5 Any dependent claim must be construed as including all the limitations contained in the claim to which it refers. Such a claim which refers to more than one other claim should refer to them only alternatively. Moreover, a claim, whether independent or dependent, can refer to alternatives, provided those alternatives are of a similar nature and can fairly be substituted one for another, and provided also, that the number and presentation of alternatives in a single claim does not make the claim obscure or difficult to construe (see also Chapter III, paragraphs 7.4). Multiple dependent claims cannot form a basis for other multiple dependent claims. A multiple dependent claim includes all the limitations contained in the particular claim in relation to which it is considered.

Rule 6.4(c)

3.6 All dependent claims, however referred back, should be grouped together to the extent and in the most practical way possible. The arrangement must therefore be one which enables the association of related claims to be readily determined and their meaning in association to be readily construed. The examiner should invite the applicant to submit a suitable amendment if the arrangement of claims is such that it creates obscurity in the definition of the subject-matter to be protected.

4. Clarity and interpretation of claims

Article 6

4.1 The requirement that the claims shall be clear applies to individual claims and also to the claims as a whole. The clarity of the claims is of the utmost importance in view of their function in defining the scope of the protection afforded by the patent when granted.

4.2 Each claim should be studied by the examiner giving the words the meaning and scope which they normally have in the relevant art, unless in particular cases the description gives the words a special meaning by explicit definition or otherwise. Moreover, if such a special meaning applies, the examiner should, so far as possible, invite the applicant to amend the claim so that the meaning is clear from the wording of the claim alone. The claim should also be read with an attempt to make technical sense out of it.

Rule 66.2(a)
(iii) and (c)

4.3 Where there is any serious inconsistency between claims and description, amendments to remove this should be invited from the applicant. For example, the description may state, or may imply, that a certain technical feature not mentioned in the claims is essential to the performance of the invention. In such a case, the examiner in the International Preliminary Examining Authority should invite amendment of the claims to include this feature. However, if the applicant can show convincingly by way of response that it would be clear to a person skilled in the art that the description was incorrect in suggesting that the feature in question was essential, amendment of the description should be invited instead. Another form of inconsistency is that in which the description and drawings include one or more embodiments of the invention which appear to fall outside the subject-matter covered by the claims (e.g. the claims all specify an electric circuit employing electronic tubes and one of the embodiments employs semi-conductors as an alternative). Here again the applicant should be invited to amend the claims or the description and drawings to remove the inconsistency and thus avoid any possible uncertainty which could arise later as to the meaning of the claims. However, inconsistencies which do not cause doubt as to the meaning of the claims may be overlooked.

4.4 An independent claim should clearly specify all of the essential features needed to define the invention except in so far as such features are implied by the generic terms used, e.g., a claim to a "bicycle" does not need to mention the presence of wheels. If a claim is to a process for producing the product of the invention, then the process as claimed should be one which necessarily has as its end result that particular product; otherwise, there is an internal inconsistency and therefore lack of clarity in the claim. In the case of a product claim, if the product is of a well-known kind and the invention lies in modifying it in a certain respect, it is sufficient if the claim clearly identifies the product and specifies what is modified and in what way. Similar considerations apply to claims for an apparatus.

4.5 A claim should not include vague or equivocal forms of wording which leave the reader in doubt as to the exact scope of a feature. Examples of this are relative terms such as "thin," "wide," "strong." If such terms appear in a claim it is usually necessary to invite the applicant to either define or excise the terms. No objection arises, however, if the relative term has a precise meaning in the art, e.g., "high-frequency amplifier", and this is the meaning intended. The use of trademarks and similar expressions in claims should not be allowed unless their use is unavoidable; they may be allowed exceptionally if they are generally recognized as having a precise meaning (see also Chapter II, paragraph 4.16).

4.6 Expressions, like "preferably," "for example," "such as" or "more particularly" should be looked at carefully to ensure that they do not introduce ambiguity. The examiner should regard expressions of this kind as having no limiting effect on the scope of a claim; that is to say, the feature following any such expression should be regarded as entirely optional.

4.7 Claims which attempt to define the invention, or a feature thereof, by a result to be achieved should not be allowed unless the invention cannot be clearly defined in a more direct way and the result is one which can be directly and positively verified by tests or procedures adequately specified in the description and involving nothing more than trial and error.

4.8 If a claim commences with such words as: "Apparatus for carrying out the process etc ..." this must be construed as meaning merely apparatus suitable for carrying out the process. Apparatus which otherwise possesses all of the features specified in the claim, but which would be unsuitable for the stated purpose or which would require modification to enable it to be so used, should not normally be considered as coming within the scope of the claim. Similar considerations apply to a claim for a product for a particular use. For example if a claim refers to "A hook for a crane" this implies, e.g., particular dimensions and strength in

the hook. Therefore, a fish-hook could never come within the claim but a hook, having the necessary dimensions and strength and possessing all the other features specified in the claim would deprive the claim of novelty whether it was stated to be for use in a crane or not. Similarly, a claim to a substance or composition for a particular use should be construed as relating to the substance or composition per se provided that it is not in a form which would render it unsuitable for the stated use. An exception to this general principle of interpretation is where the claim is to a known substance or composition for use in a surgical, therapeutic or diagnostic method (see Chapter IV, paragraph 2.4, item (d)).

4.9 For the purposes of international preliminary examination, a "use" claim of a form such as "the use of substance X as an insecticide" should be regarded as equivalent to a "process" claim of the form "a process of killing insects using substance X."

Rule 6.2(a)

4.10 The claims must not, in respect of the technical features of the invention, rely on references to the description or drawings "except where absolutely necessary." In particular, they must not normally rely on references such as: "as described in part ... of the description" or "as illustrated in Figure 2 of the drawings." The emphatic wording of the excepting clause should be noted. Thus, the applicant should be invited to show that it is "absolutely necessary" to rely on reference to the description or drawings in appropriate cases. An example of an allowable exception would be that in which the invention involved some peculiar shape illustrated in the drawings but which could not be readily defined either in words or by a simple mathematical formula. Another special case is that in which the invention relates to chemical products whose features can be defined only by means of graphs or diagrams.

Rule 6.2(b)

4.11 If there are drawings and the technical features of the claims would be rendered more intelligible by relating these features to the corresponding features of the drawings (where a complete machine has been illustrated), this should preferably be done by placing the appropriate reference signs in parentheses after the features in the claims. This should be done in both parts of claims having the preferred form specified in Rule 6.3 (see also Chapter III, paragraph 2.2 above). These reference signs are not, however, to be construed as limiting the scope of a claim, but merely as aids to an easier understanding of the defined subject-matter.

5. Conciseness, number of claims

5.1 The requirement that the claims shall be concise refers to the claims in their entirety as well as to the individual claims. The number of claims must be reasonable when considered in relation to the nature of the invention claimed, and undue repetition of wording, e.g., between one claim and another, should be avoided by the use of the dependent form. Regarding independent claims in the same category, see Chapter III, paragraphs 3.2 and 3.4).

6. Support in description

Art. 6

6.1 The claims "shall be fully supported by the description." This means that there must be a basis in the description for the subject-matter of every claim and that the scope of the claims must not be broader than is justified by the description and drawings.

6.2 Most claims are generalizations from one or more particular examples. The extent of generalization permissible is a matter which the examiner must judge in each particular case in the light of the relevant prior art. Thus, an invention which opens up a whole new field is entitled to more generality in the claims than one which is concerned with advances in a known technology. An appropriate claim is one which is not so broad that it goes beyond the invention nor yet so narrow as to deprive the applicant of a just reward for the disclosure of his invention. The examiner in the International Preliminary Examining Authority should allow the applicant to cover all obvious modifications and uses of and equivalents to that which he has described. In particular, if it is reasonable to predict that all the variants covered by the claims have the properties or uses the applicant ascribes to them in the description, he should be allowed to draw his claims accordingly.

6.3 When claims are speculative, in that their scope extends beyond the description to embrace possibilities not yet explored by the applicant, the effects of which cannot readily be predetermined or assessed, the examiner in the International Preliminary Examining Authority should bring to the attention of the applicant the fact that the claims are not fully supported by the description as required by Article 6. For example, a broad claim for "a process for influencing substances by high-frequency electrical energy" may not be adequately supported by the disclosure of a single example of such an influence (e.g., removing dust from a gas) nor of influences on a single substance. Likewise, a broad claim for a process for treating "plant seedlings" by subjecting them to a controlled cold shock of such duration and intensity that specified results would follow may not be supported by a description disclosing the process applied to one kind of plant only. Such a claim might be permissible if it were made clear in the description that the conditions, set forth in relation to that plant, applied to other plants generally; but otherwise the claim would not be regarded as adequately supported unless the description gave a sufficient range of examples, relating to different kinds of plants, to enable a horticulturist to deduce how the process should be applied to virtually any plant.

6.4 A claim in generic form, i.e., relating to a whole class, e.g., of materials or machines, may be acceptable even if of broad scope, if there is fair support in the description and there is no reason to suppose that the invention cannot be worked through the whole of the field claimed. Where there is doubt about this, i.e., where the information given appears insufficient to enable a man skilled in the art to extend the teaching of the description to parts of the field claimed but not explicitly described by using routine methods of experimentation or analysis, the examiner in the International Preliminary Examining Authority should invite the applicant to establish, by suitable response, that the invention can in fact be readily applied on the basis of the information given over the whole field claimed or, failing this, to restrict the claim to accord with the description. An example of this might be a claim to a specified method of treating "synthetic resin moulding" to obtain certain changes in physical characteristics. If all of the examples described related to thermoplastic resins, and the method was such as to appear inappropriate to thermosetting resins, then restriction of the claims to thermoplastic resins might be necessary.

7. Unity of invention

Independent claims

Rule 13.1

7.1 The international application must "relate to one invention only or to a group of inventions so linked as to form a single general inventive concept." The second of these alternatives, i.e., the single-concept linked group, may give rise to a plurality of independent claims in the same category (as in the examples given in Chapter III, paragraph 3.2), but the more usual case is a plurality of independent claims in different categories as permitted by Rule 13.2 (see also Chapter VI, paragraphs 5.4 to 5.8).

7.2 A plurality of independent claims in different categories may constitute a group of inventions linked to form a single general inventive concept, the link being, e.g., that between a product and the process that produces it; or between a process and an apparatus for carrying out the process. Rule 13.2 sets out two specific combinations of different categories that Rule 13.1 must be construed as permitting. The wording of Rule 13.2, however, indicates that these combinations do not limit the application of the general principles set out in Rule 13.1 so that other combinations may be permissible; however, more extensive combinations should be looked at carefully to ensure that the requirements of both Rule 13 (unity of invention) and Article 6 (conciseness) are satisfied. In particular, while a single set of independent claims according to one of the subparagraphs of Rule 13.2 is always permissible, Rule 13.2 does not require the International Preliminary Examining Authority to accept a plurality of such sets which could arise by combining the provisions of Rule 13.3 (which permits, subject to Rule 13.1, two or more independent claims of the same category which cannot readily be covered by a single generic claim) with Rule 13.2 (thus resulting in a set under Rule 13.2 based on each of a number of independent claims in the same category under Rule 13.3 (see Chapter III, paragraph 3.2)). The proliferation of claims arising from a combined effect of this kind should be accepted only exceptionally. For example, where in accordance with Rule 13.3 independent claims

are permissible for two related articles such as a transmitter and receiver, it does not follow that, under Rule 13.2 an applicant may include also, in the one international application, four additional independent claims: two for a process for the manufacture of the transmitter and the receiver, respectively, and two for use of the transmitter and receiver, respectively.

7.3 It is essential that a common inventive concept links the claims in the various categories and in this connection the wording of Rule 13.2 should be carefully noted. The link between product and process in sub-paragraph (i) is that the latter must be "specially adapted for the manufacture of" the former (see Chapter III, paragraph 4.4). Similarly, in Rule 13.2, sub-paragraph (ii), the apparatus or means claimed must be "specifically designed for" carrying out the process. In combination (i) of Rule 13.2 the emphasis is on, and the essence of the invention should primarily reside in, the product whereas in combination (ii) the emphasis is on, and the invention should primarily reside in, the process.

Compilation of responses in respect of paragraphs 7.2 and 7.3

(i) Redraft paragraphs 7.2 and 7.3 in terms of Rule 13.2 which contains only two combinations (although the effect is the same as EPC Rule 30) (GB)

(ii) Agree with the GB that Rule 13.2 contains only two combinations (NL).

Note:

Paragraphs 7.2 and 7.3 have been retained in a redrafted form taking into account the latest (published) text of the EPO Guidelines and differences between the provisions of the PCT and the corresponding provisions of the EPC.

7.4 Alternative forms of an invention may be claimed either in a plurality of independent claims, as indicated in Chapter III, paragraph 7.1, or in a single claim (but see Chapter III, paragraph 3.4). In the latter case, the presence of the two alternatives as independent forms may not be immediately apparent. In either case, however, the same criteria should be applied in deciding whether or not there is unity of invention, and lack of unity of invention may then also exist within a single claim.

7.5 Although lack of unity of invention should certainly be raised in clear cases, it should neither be raised nor persisted in on the basis of a narrow, literal or academic approach. This is particularly so where the possible lack of unity of invention does not necessitate a further search. There should be a broad, practical consideration of the degree of interdependence of the alternatives presented, in relation to the state of the art as revealed by the international search report. If the common matter of the independent claims is well-known and the remaining subject matter of each claim differs from that of the others without there being any unifying novel inventive concept common to all, then clearly there is lack of unity of invention. If, on the other hand, there is a common inventive concept which appears novel and involves inventive step then objection of lack of unity does not arise. For determining the action to be taken by the examiner in the International Preliminary Examining Authority

between these two extremes, rigid rules cannot be given and each case should be considered on its merits, the benefit of any doubt being given to the applicant. For the particular case of claims for a known substance for a number of distinct medical uses, see Chapter IV, paragraph 4.2.

Dependent claims

7.6 Lack of unity of invention should not be raised due to the fact that a dependent claim in itself or in connection with the claim to which it refers, contains an independent invention. For example, suppose claim 1 claims a turbine rotor blade shaped in a specified manner, while claim 2 is for a "turbine rotor blade as claimed in claim 1" and produced from alloy Z. Then no objection under Rule 13 arises either because alloy Z was new and its composition was not obvious and thus the alloy itself already contains the essential features of an independent possibly later patentable invention, or because, although alloy Z was not new, its application in respect of turbine rotor blades was not obvious, and thus represents an independent invention in conjunction with turbine rotor blades.

Unity of invention in relation to international search

Article 17(3) (a)

7.7 The procedure before the International Preliminary Examining Authority regarding lack of unity of invention is governed by Article 34(3) (a) to (c) and Rule 68 (see also Rules 69.1 (a) (ii) and 70.13). This procedure is more fully explained in Chapter VI, paragraphs 5.4 to 5.8. It should be noted that in most instances lack of unity of invention will have been noted and reported upon by the International Searching Authority which will have drawn up an international search report based on those parts of the international application relating to the invention, or unified linked group of inventions, first mentioned in the claims ("main invention") unless the applicant has paid additional fees. The International Searching Authority may not hold the application withdrawn for lack of unity of invention, nor require amendment of the claims; but must inform the applicant that, if the international search report is to be drawn up in respect of those inventions present other than the first mentioned, then the additional fees must be paid within a stipulated period.

7.8 If the applicant has not availed himself of the opportunity to have the international search report issued on the other inventions, this may be taken as an indication that the applicant is prepared for the international application to proceed on the basis that it relates to the invention first mentioned in the claims.

7.9 Whether or not the question of unity of invention has been raised by the International Searching Authority, it may be considered by the examiner in the International Preliminary Examining Authority. In his consideration he should take into account the international search report.

Compilation of responses in respect of paragraphs 7.7, 7.8
and 7.9 (formerly paragraphs 7.8, 7.10 and 7.11, respectively)

Paragraphs 7.8 to 7.11 should either be deleted or related to ISAs and PCT procedure (GB).

Paragraphs 7.8 to 7.11 should be retained (NL)

Note:

The International Bureau has retained these paragraphs (other than paragraph 7.9) in an amended form so as to relate to the PCT procedure, since the general information contained therein would appear important to the examiner in the International Preliminary Examining Authority. In respect of fees under unity of invention and the procedure before the International Preliminary Examining Authorities, Chapter VI, paragraphs 5.4 to 5.8 and 7.6, item (i) have been drafted to cover these subjects more fully.