



C. PCT 1123
– 07.2

August 31, 2007

Madam,
Sir,

1. This Circular concerns proposed modifications of Annex F of the Administrative Instructions under the Patent Cooperation Treaty (PCT). It is being sent, for the purposes of consultation pursuant to Rule 89.2(b), to the national and regional Offices of, or acting for, all PCT Contracting States, including all receiving Offices, International Searching Authorities, International Preliminary Examining Authorities, and designated and elected Offices. It is also being sent to the Consultative Group established under section 2.5 of Annex F of the Administrative Instructions, to interested intergovernmental organizations, and to certain non-governmental organizations representing users of the PCT system.
2. This Circular concerns proposed modifications of the change procedure for the standard for the filing and processing in electronic form of international applications set out in Annex F.
3. It is proposed to modify the Annex F “proposal for change” system so that it would become the normal method for consultation on any changes to Annex F, regardless of whether the changes are specifically of a technical nature. In this respect, it should be recalled, firstly, that all the content of Annex F, save for the general introductory passage and the change procedure itself, is of at least a partly technical nature; and, secondly, that proposals for change to Annex F are notified to the Offices of all States by a Circular, delivered in the same way as for consultations on proposals to modify any other part of the Administrative Instructions. Consequently, the proposal to modify the “proposal for change” system will not remove the opportunity for States to comment, even if they have chosen not to join the Consultative Group.

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4. Furthermore, it is proposed to modify the Annex F “proposal for change” system so as to ensure that the Consultative Group on proposals for change to Annex F of the Administrative Instructions is made aware of consultations relating to proposed changes of other parts of the Administrative Instructions where the adoption of such changes may have technical consequences, in addition to proposals for technical changes per se.

5. It is also proposed to base eligibility to become a member or observer of the Consultative Group on eligibility to participate in the PCT Assembly, instead of the Committee for Administrative and Legal Matters, since the latter body has not met since 1999 and its list of observers may now be dated. Other changes relate to minor clarifications, among others, the addition of a recommendation that Contracting States include both legal and technical specialists as representatives to the Consultative Group in order to ensure that complete consideration is given to proposals for change.

6. The International Bureau would appreciate receiving any comments on the proposed modifications of the Administrative Instructions contained in the Annex to this Circular by October 12, 2007. Comments on those proposed modifications should be sent to Mr. Claus Matthes, Acting Director, PCT International Cooperation Division (e-mail: claus.matthes@wipo.int; fax: 41-22-338 8780).

Yours sincerely,



Francis Gurry
Deputy Director General

Enclosure: Annex: Proposed modifications of section 2.5 of Annex F of the Administrative Instructions under the PCT

ANNEX

PROPOSED MODIFICATIONS OF SECTION 2.5 OF ANNEX F
OF THE ADMINISTRATIVE INSTRUCTIONS UNDER THE PCT

2.5 *Change procedure*

2.5.1 *Scope*

It is necessary to modify the standard from time to time in the light of practical experience and of new technical developments, ~~and bearing in mind that the standard will be used for the operation of existing systems and the development of new systems by a variety of developers, including some patent Offices.~~ The change procedure outlined in this section constitutes the usual means by which the Director General undertakes consultation pursuant to PCT Rule 89.2(b) concerning proposals to modify the contents of technical requirements contained in Annex F (including its Appendices) ~~and, where appropriate, in Part 7 and other parts of the Administrative Instructions~~ (“proposals for change”), before deciding whether to promulgate such modifications. The procedures outlined in this section shall also be used as an additional means of information when changes are proposed to other parts of the Administrative Instructions which may have consequences for the technical requirements in this Annex.

~~Proposed modifications related to the standard but going beyond technical requirements (for example, proposed modifications which would affect the legal principles supporting electronic filing and processing) are not dealt with under the change procedure set out in this section but are the subject of ordinary consultation by the International Bureau as for other proposed modifications of the Administrative Instructions. A proposal being dealt with under the change procedure set out in this section will be withdrawn by the International Bureau from the procedure if it appears in retrospect to go beyond the technical requirements of the standard.~~

2.5.2 *Web site; information list; Consultative Group*

The International Bureau maintains a Web site for the processing of proposals for change. The Web site provides for interested persons to register their e-mail addresses on the e-filing information list of persons who wish to be informed when proposals for change (or other materials relating to PCT electronic filing) are made available on the site.

The national Office of any State, and any PCT Authority, any intergovernmental organization (including any regional Office) and any non-governmental organization, that is invited to participate in meetings of the PCT Assembly Committee for Administrative and Legal Matters may register, via the Web site, to participate in the work of a Consultative Group which considers proposals for change. It is strongly encouraged that the participants nominate as their representatives in the Consultative Group both technical and legal specialists to ensure

that proposals for change are fully considered. Participants should preferably register at an early stage in the annual change management cycle outlined in section 2.5.4, below. ~~All persons registered to represent participants in the Consultative Group are also automatically included on the e-filing information list.~~

National Offices of PCT Contracting States and PCT International Authorities which register to participate in the Consultative Group do so as members, and other participants as observers. All Consultative Group members and observers are also automatically included in the e-filing information list. The International Bureau, as secretariat, coordinates the activities of the Group. Consideration of matters by the Group is informal and takes place via the Web site and e-mail and, where necessary, via other means of telecommunication; meetings of the Group in person are not envisaged.

~~The main function of the~~ Consultative Group members and observers are invited ~~is~~ to discuss, and make recommendations on, how proposals for change should be handled and, in particular, whether changes should be promulgated and with what effective date, as outlined further below. It is expected that the Group would operate on the basis of consensus.

Consultative Group members and observers shall be informed by the International Bureau of any proposed modifications submitted under the ordinary consultation pursuant to PCT Rule 89.2(b) which include changes to Annex F, or which appear likely to the International Bureau to require consequential changes to Annex F if adopted.

2.5.3 Proposals for change

Proposals for change may be submitted to the International Bureau by any Office or Authority entitled to register as a member of the Consultative Group, and may be initiated by the International Bureau. An Office or Authority or the International Bureau may, if it wishes, submit a proposal for change that has been suggested to it by a third party. Proposals for change may be submitted, preferably via the Web site, at any time during the year.

A proposal for change may be modified or withdrawn by the Office or Authority that submitted it. Each proposal for change is published by the International Bureau on the Web site as a “Proposal for Change” (PFC) file to which comments, modifications, etc., are annexed. Exchanges of views on a proposal for change, if not annexed to the PFC file concerned, are stored in an archive accessible via the Web site.

Each proposal for change must set forth the requested modifications of the text and/or figures concerned, a list of items that may be impacted, the reason, including processing or policy issues involved, and the proposed date of implementation, including, if appropriate, a request for expedited handling, and should also, if possible, include a draft implementation (for example, a new XML DTD). It shall preferably

also indicate if, in the view of the person making the proposal, the proposal is of a mere technical nature, or of a legal and technical nature.

Consideration of proposals for change would ordinarily proceed under the (standard) annual change management cycle in accordance with section 2.5.4. If needed, generally on request by the proposer, the International Bureau may determine, after consultation with the Consultative Group, that consideration of a proposal for change should be expedited in accordance with section 2.5.5. It is to be understood that consideration of any proposal for change resulting from a change to a PCT Contracting State's national law relating to the standards contained in this Annex would be expedited.

2.5.4 Annual change management cycle

1. Each proposal for change received by the International Bureau is published on the Web site, forthwith after its receipt, in a PFC file together with an indication that comments on the proposal may be sent to the International Bureau. That publication is promptly notified by e-mail to the e-filing information list.
2. Any comments received from interested parties following the publication and notification of a proposal for change referred to in section 2.5.3 are promptly published on the Web site in the PFC file and notified by e-mail to the e-filing information list.
3. Further consideration of the proposal does not take place until the following February, unless expedited consideration is accorded to the proposal under section 2.5.5.
4. On or promptly after February 15, the International Bureau publishes on the Web site a list of all pending standard proposals for change and references to the relevant PFC files, with an indication that comments may be sent to the International Bureau by March 31, and sends a notification by e-mail to the e-filing information list. The International Bureau also sends a written circular to all PCT Offices and Authorities, interested intergovernmental organizations and certain non-governmental organizations representing users, referring to the Web site, inviting comments by March 31 and advising that paper copies of the proposals for change are available from the International Bureau.
5. Any further comments received by the International Bureau are published, forthwith after their receipt, in the PFC file on the Web site and notified by e-mail to the e-filing information list.
6. Promptly after March 31, the International Bureau invites the Consultative Group to consider the pending proposals for change and comments, and the Consultative Group makes recommendations to the International

Bureau by May 15. The recommendations are published forthwith in the PFC file on the Web site and notified by e-mail to the e-filing information list.

7. Taking into account the comments received and the recommendations of the Consultative Group, and after any necessary revision, the International Bureau publishes on the Web site, by June 30, modifications intended to come into force on January 1 of the following year or, exceptionally, before that date, and sends a notification by e-mail to the e-filing information list.
8. The usual procedures for promulgation of modifications of the Administrative Instructions apply (written circular and publication in the PCT Gazette).
9. If applicable, new or revised requirements of Offices are notified to the International Bureau, as provided for in Section 710 of the Administrative Instructions, for publication in the PCT Gazette.

2.5.5 Expedited consideration of change proposals

1. At any time, on request or at its own initiative, the International Bureau may decide that a proposal for change should be accorded expedited consideration, even if the proposal for change has so far been treated as standard.
2. Each proposal for change which is accorded expedited consideration is published on the Web site for comment and notified by e-mail to the e-filing information list, as outlined in section 2.5.4, paragraphs 1 and 2, except that comments are invited within six weeks. At the same time as that publication, the International Bureau sends the written circular referred to in section 2.5.4, paragraph 4, inviting comments within six week. Any comments received within six weeks are published, forthwith after their receipt, in the PFC file on the Web site and notified by e-mail to the e-filing information list.
3. In parallel to the actions referred to in paragraph 2, the International Bureau invites the Consultative Group members and observers to consider the proposal for change and any subsequent comments received during the six week period referred to in paragraph 2, and to make any recommendation before the end of that six week period, including a recommendation, if applicable, as to the appropriate date of entry into force of the proposed modifications. The recommendations are published forthwith in the PFC file on the web site and notified by e-mail to the e-filing information list.

4. Taking into account the comments received and the recommendations of the Consultative Group members and observers, and after any necessary revision, the International Bureau publishes the modifications, and their date of entry into force, on the Web site, and sends a notification by e-mail to the e-filing information list.
5. The modifications are promulgated, and any new requirements of Offices are notified and published, as outlined in section 2.5.4, paragraphs 8 and 9.

2.5.6 Version handling

Where the practice and the technical systems of the recipient Office so permit, earlier versions of certain aspects of the standard (notably, DTDs and the E-filing interoperability protocol) may operate simultaneously for a limited period of time. Each version should be clearly identified by the appropriate version number.

[End of Annex and of Circular]