

# WIPO



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(PCT UNION)

WORKING GROUP ON REFORM OF THE PATENT  
COOPERATION TREATY (PCT)

**Eighth Session**  
**Geneva, May 8 to 12, 2006**

MINIMUM REQUIREMENTS FOR INTERNATIONAL SEARCHING  
AND PRELIMINARY EXAMINING AUTHORITIES

*Document prepared by the International Bureau*

1. The Meeting of International Authorities under the PCT (PCT/MIA) held its twelfth session in Geneva from December 12 to 14, 2005. In the context of its discussions on the common quality framework for international search and preliminary examination, PCT/MIA discussed a proposal to amend Rule 36<sup>1</sup> to add a reference to the standards for quality set forth in Chapter 21 of the PCT International Search and Preliminary Examination Guidelines to the list of minimum requirements referred to in Article 16(3)(c) which any Office or organization must satisfy before it can be appointed and must continue to satisfy while it remains appointed as International Searching Authority.
2. The discussions at the twelfth session of PCT/MIA are outlined in document PCT/MIA/12/10, paragraphs 17 to 19, reproduced in the following paragraphs:

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<sup>1</sup> References in this document to “Articles” and “Rules” are to those of the Patent Cooperation Treaty (PCT) and the Regulations under the PCT (“the Regulations”), or to such provisions as proposed to be amended or added, as the case may be. References to “national laws”, “the national phase”, etc., include reference to regional laws, the regional phase, etc.

“17. The United States Patent and Trademark Office suggested to the Meeting that a proposal be developed for the amendment of Rule 36.1 by adding a new item (v) to the effect that, in order to satisfy the minimum requirements under Article 16(3)(c), “an Office or organization [seeking or holding appointment as an International Searching Authority] must adhere to the standards for ‘A Common Quality Framework for International Search and Preliminary Examination’ as set forth in Chapter 21 of the PCT International Search and Preliminary Examination Guidelines”. The Office believed that such an amendment would attach proper importance to the quality of international search and preliminary examination, thereby building confidence in the PCT system among Contracting States and encouraging Offices to rely on the results of the work of the International Authorities. The amendment would more clearly commit Authorities to the quality standards set out in Chapter 21 and would send a clear signal as to that commitment.

“18. Several Authorities indicated their support for a proposal along the lines suggested by the United States Patent and Trademark Office, some noting that further work on the detailed drafting of the proposed amendment would be needed. For example, one Authority suggested that it may not be appropriate to refer to “standards” in this context. Another Authority suggested that a more general reference to the Guidelines, mentioning the relevant particular requirements (resources, administrative procedures, feedback and communication channels), would be more appropriate in the Regulations.

“19. The Meeting agreed that a proposal along the lines of that set out in paragraph 17 should be further developed with a view to its submission by the Secretariat to the next session of the Working Group on Reform of the PCT, expected to be held in May 2006, and thence to the PCT Assembly for consideration at its next session, expected in autumn 2006. Interested Authorities were invited to make suggestions as to the drafting via the PCT/MIA electronic forum.”

3. The Annex to this document contains proposals to amend Rule 36 (“Minimum Requirements for International Searching Authorities”) and Rule 63 (“Minimum Requirements for International Preliminary Examining Authorities”) accordingly.

4. *The Working Group is invited to consider the proposals contained in the Annex.*

[Annex follows]

ANNEX

PROPOSED AMENDMENTS OF THE PCT REGULATIONS:<sup>2</sup>

MINIMUM REQUIREMENTS FOR INTERNATIONAL SEARCHING  
AND PRELIMINARY EXAMINING AUTHORITIES

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<sup>2</sup> Proposed additions and deletions are indicated, respectively, by underlining and striking through the text concerned. Certain provisions that are not proposed to be amended may be included for ease of reference.

## Rule 36

### Minimum Requirements for International Searching Authorities

#### 36.1 *Definition of Minimum Requirements*

The minimum requirements referred to in Article 16(3)(c) shall be the following:

(i) to (iii) [No change]

(iv) [that Office or organization must have in place a quality management system and internal review arrangements in accordance with the common rules of international search;](#)

[COMMENT: The common rules of international search must be applied and observed by all International Searching Authorities; see Article 16(3)(b); the agreements with the International Bureau, as approved by the PCT Assembly, under which all Authorities operate; and the PCT International Search and Preliminary Examination Guidelines, which form part of those common rules, and particularly Chapter 21 thereof which sets forth a Common Quality Framework for International Search and Preliminary Examination.]

(v) [that Office or organization must hold an appointment as an International Preliminary Examining Authority.](#)

### **Rule 63**

## **Minimum Requirements for International Preliminary Examining Authorities**

### *63.1 Definition of Minimum Requirements*

The minimum requirements referred to in Article 32(3) shall be the following:

(i) to (iii) [No change]

(iv) that Office or organization must have in place a quality management system and internal review arrangements in accordance with the common rules of international preliminary examination;

[COMMENT: The common rules of international preliminary examination must be applied and observed by all International Preliminary Examining Authorities; see Article 16(3)(b); the agreements with the International Bureau, as approved by the PCT Assembly, under which all Authorities operate; and the PCT International Search and Preliminary Examination Guidelines, which form part of those common rules, and particularly Chapter 21 thereof which sets forth a Common Quality Framework for International Search and Preliminary Examination.]

(v) that Office or organization must hold an appointment as an International Searching Authority.

[End of Annex and of document]