

FORMALITIES CHECKING IN THE PCT

(Proposed Amendments to the PCT Regulations, showing changes from those set out in the Annex to PCT/WG/16/3 Rev.)

Following comments informally received in advance of the session, this paper sets out a revised set of proposed amendments to the PCT Regulations to those presented in the Annex to document PCT/WG/16/3 Rev. The changes from the proposed amendments in that document are highlighted and relate to Rules 26.3(b)(i), 26.5 and 28.1(b)(i). Proposed amendments and deletions from the present PCT Regulations are indicated, respectively, by underlining and striking through the text concerned.

Rule 26

**Checking by, and Correcting before, the Receiving Office
of Certain Elements of the International Application**

26.1 to 26.2bis [No change]

26.3 *Checking of Physical Requirements under Article 14(1)(a)(v)*

(a) The receiving Office shall check the international application and any translation furnished under Rules 12.3 or 12.4 for compliance with the physical requirements referred to in Rule 11 at least to the extent necessary to permit the record copy to be transmitted to the International Bureau.

(b) Where the receiving Office finds defects under Rule 11, the invitation to correct provided for in Article 14(1)(b) shall not require the applicant to correct a defect:

(i) in a document to form part of the international publication unless **the** correction **by the applicant** is necessary for the purpose of reasonably uniform international publication, or

(ii) in any other document referred to in paragraph (a) unless the correction is necessary for the purpose of satisfactory reproduction.

(c) Where the receiving Office finds defects under Rule 11 that are not required to be corrected according to paragraph (b), the invitation to correct provided for in Article 14(1)(b) may nevertheless offer the applicant an opportunity to furnish corrections within the time limit under Rule 26.2.

~~(a) Where the international application is filed in a language of publication, the receiving Office shall check:~~

~~(i) the international application for compliance with the physical requirements referred to in Rule 11 only to the extent that compliance therewith is necessary for the purpose of reasonably uniform international publication;~~

~~(ii) any translation furnished under Rule 12.3 for compliance with the physical requirements referred to in Rule 11 to the extent that compliance therewith is necessary for the purpose of satisfactory reproduction.~~

~~(b) Where the international application is filed in a language which is not a language of publication, the receiving Office shall check:~~

~~(i) the international application for compliance with the physical requirements referred to in Rule 11 only to the extent that compliance therewith is necessary for the purpose of satisfactory reproduction;~~

~~(ii) any translation furnished under Rule 12.3 or 12.4 and the drawings for compliance with the physical requirements referred to in Rule 11 to the extent that compliance therewith is necessary for the purpose of reasonably uniform international publication.~~

~~26.3bis Invitation under Article 14(1)(b) to Correct Defects under Rule 11~~

~~The receiving Office shall not be required to issue the invitation under Article 14(1)(b) to correct a defect under Rule 11 where the physical requirements referred to in that Rule are complied with to the extent required under Rule 26.3.~~

26.3ter Invitation to Correct Defects under Article 3(4)(i)

(a) Where the abstract or any text matter of the drawings is filed in a language which is different from the language of the description and the claims, the receiving Office shall, unless

(i) a translation of the international application is required under Rule 12.3(a), or

(ii) the abstract or the text matter of the drawings is in the language in which the international application is to be published,

invite the applicant to furnish a translation of the abstract or the text matter of the drawings into the language in which the international application is to be published. Rules 26.1, 26.2, 26.3, ~~26.3bis~~, 26.5 and 29.1 shall apply *mutatis mutandis*.

(b) to (d) [No change]

26.4 [No change]

26.5 Decision of the Receiving Office

[No change] The receiving Office shall decide whether the applicant has submitted the correction within the applicable time limit under Rule 26.2, and, if the correction has been submitted within that time limit, whether the international application so corrected is or is not to be considered withdrawn, provided that no international application shall be considered withdrawn for lack of compliance with the physical requirements referred to in Rule 11 if it complies with those requirements to the extent necessary for the purpose of reasonably uniform international publication or satisfactory reproduction, as appropriate.

Rule 28

Checking of Defects Noted by the International Bureau

28.1 ~~Note on Certain~~ Checking of Defects by the International Bureau

(a) If, following the checks under Article 14(1)(a) by the receiving Office, the International Bureau considers that the international application contains any of the defects referred to in Article 14(1)(a)(i), (ii) or (v), the International Bureau shall, subject to paragraphs (b) and (c), invite the applicant to correct the defect on behalf of the receiving Office and give the applicant the opportunity to make observations within two months from the date of the invitation. The time limit may be extended by the International Bureau at any time before a decision is taken.

(b) The International Bureau shall not require the applicant to correct a defect under Rule 11:

(i) in a document to form part of the international publication unless **the** correction **by the applicant** is necessary for the purpose of reasonably uniform international publication, or

(ii) in any other document referred to in paragraph (a) unless the correction is necessary for the purpose of satisfactory reproduction.

(c) Where the International Bureau finds defects under Rule 11 that are not required to be corrected according to paragraph (b), the International Bureau may offer the applicant an opportunity to furnish corrections in an invitation under paragraph (a).

(d) The applicant shall submit any correction to the International Bureau as a replacement sheet embodying the correction. A letter accompanying the replacement sheet shall draw attention to the differences between the replaced sheet and the replacement sheet.

(e) The International Bureau shall decide whether the applicant has submitted the correction within the applicable time limit under paragraph (a). If no required correction has been timely submitted or if a submitted correction does not remedy the defect to the extent necessary for the purpose of reasonably uniform international publication or satisfactory reproduction, as appropriate, the international application shall be considered withdrawn under Article 14(1)(b) and the International Bureau shall so declare on behalf of the receiving Office under Rule 26.5. Rule 29.1 shall apply *mutatis mutandis*.

~~(a) If, in the opinion of the International Bureau, the international application contains any of the defects referred to in Article 14(1)(a)(i), (ii) or (v), the International Bureau shall bring such defects to the attention of the receiving Office.~~

~~(b) The receiving Office shall, unless it disagrees with the said opinion, proceed as provided in Article 14(1)(b) and Rule 26.~~

[End of paper]