



C.PCT 1074/C.SCIT 2624
– 07.2

April 24, 2006

Madam,
Sir,

1. This Circular is addressed to your Office in its capacity:
 - (i) as a receiving Office, International Searching Authority, International Preliminary Examining Authority and/or designated or elected Office under the Patent Cooperation Treaty (PCT) with regard to proposed modifications of the Administrative Instructions under the PCT; and/or
 - (ii) as a member of the Standards and Documentation Working Group of WIPO's Standing Committee on Information Technologies (SCIT) with regard to WIPO Standard ST.25 "Standard for the Presentation of Nucleotide and Amino Acid Sequence Listings in Patent Applications" (see paragraph 17, below).
2. This Circular is also being sent to interested intergovernmental organizations as well as certain non-governmental organizations representing users of the PCT system.
3. This Circular concerns proposed modifications of the Administrative Instructions relating to the filing and processing of sequence listings (as further outlined in paragraph 8, below), "mixed mode sequence listing applications" (as further outlined in paragraphs 10, below) and copies of international applications in a "pre-conversion format" (as further outlined in paragraphs 11 and 12, below).
4. Comments on those proposed modifications are invited by *June 30, 2006* (see paragraphs 16 and 17, below).
5. For the present text of the Administrative Instructions and Annex F thereto, see documents PCT/AI/3 (dated October 20, 2005) and PCT/AI/ANF/2 (dated October 20, 2005) (available from WIPO's Web site at <http://www.wipo.int/pct/en/texts/index.htm>).

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SECOND ROUND OF CONSULTATIONS

6. In 2005, the International Bureau consulted with your Office, in accordance with Rule 89.2, on proposed modifications of Parts 1, 2, 3, 7 and 8, and to Annexes C, C-*bis* and F of the Administrative Instructions (see Circular C. PCT 1014/C. SCIT 2609, Annexes II to VI, dated February 7, 2005). Following those consultations, certain modifications of the Administrative Instructions (including Annex F) proposed by Circular C. PCT 1014/C. SCIT 2609 were promulgated with effect from October 1, 2005 (see Circular C. PCT 1044, dated September 6, 2005).

7. On the other hand, as indicated in Circular C. PCT 1044, based on the comments received, it was determined that certain other modifications of the Administrative Instructions proposed by Circular C. PCT 1014/C. SCIT 2609 were not ready for promulgation and required further consultations. The purpose of the present Circular is thus to enter into a second round of consultations under Rule 89.2(b) on some of those proposed modifications. The Annexes to this Circular contain further revised proposals, taking into account the comments received on Circular C. PCT 1014/ C. SCIT 2609, as outlined in the following paragraphs (further explanations are set out in the Annexes under Comments relating to the provisions concerned).

Sequence Listings

8. Further to comments received on modifications of the Administrative Instructions proposed by Circular C. PCT 1014/C. SCIT 2609 relating to the filing and processing of sequence listings, it is now proposed to modify the Administrative Instructions to make a clear distinction between, on the one hand, provisions applicable to sequence listings forming part of the application and, on the other hand, provisions applicable to sequence listings not forming part of the application but furnished for the purposes of the international search and preliminary examination (see Sections 101, 204, 207, 208, 513 and 610 as proposed to be modified, and proposed new Sections 208*bis* and 208*ter*).

9. Furthermore, it is proposed to modify Annex C (Standard for the Presentation of Nucleotide and Amino Acid Sequence Listings in International Patent Applications under the PCT) so as to move to the main parts of the Administrative Instructions those provisions which apply only to either sequence listings forming part of the application or sequence listings not forming part of the application, so that all provisions of Annex C (with the exception of paragraph 36) would generally apply to all sequence listings, whether or not forming part of the application.

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Mixed mode sequence listings applications

10. Circular C. PCT 1014/C. SCIT 2609 contained proposals to further consolidate the Administrative Instructions relating to the filing and processing in electronic form of international applications, irrespective of whether they have been filed on paper, or wholly or partly in electronic form, by incorporating the provisions of present Part 8 (allowing for the filing, processing and publication in electronic form of sequence listings and tables related thereto where the remainder of the application is filed and processed on paper) into Part 7, and to delete Part 8 and Annex C-*bis* (Technical Requirements for the Presentation of Tables Related to Nucleotide and Amino Acid Sequence Listings in International Applications Under the PCT) accordingly. These proposals are maintained (see, in particular, proposed new Section 715 “Mixed mode sequence listing applications”) but have been further revised to take into account the comments received.

Filing of a copy of the international application in a “pre-conversion format”

11. Circular C. PCT 1014/C. SCIT 2609 contained proposals relating to the means by which, and the formats in which, applicants may file a backup copy (on paper and/or in electronic form) of an international application filed in electronic form (see present Section 706). Further to comments received during the first round of consultations, and noting that, under present Section 706, among the receiving Offices which accept the filing of international applications in electronic form, there is only one receiving Office (apart from the International Bureau as receiving Office) which accepts the filing of backup copies on paper or in electronic form on a physical medium, it is now proposed to modify Section 706 so as to no longer provide for the option of filing backup copies either on paper or in electronic form.

12. Instead, noting that many international applications which are filed in electronic form are established in one electronic document format (for example, MS-Word) and subsequently converted, for the purposes of filing, into another electronic document format (for example, PDF or XML), and noting concerns that, in that conversion process, the international application data may accidentally be modified or altered, it is proposed to expressly provide for the filing of a copy of the international application in the “pre-conversion” format. Should, in the conversion process, data have been accidentally modified or altered, the applicant would have the opportunity to correct the international application as filed so as to bring it into conformity with the copy of the international application in the pre-conversion format (see Section 706 as proposed to be modified and the proposed modifications of Annex F to the Administrative Instructions).

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Miscellaneous proposals

13. Other proposed modifications of the Administrative Instructions concern clarifications of the wording of a number of provisions, as well as a clarification concerning the calculation of the international filing fee where the international application is filed in electronic form (see Section 707(a) as proposed to be modified).

PROPOSALS REQUIRING FURTHER CONSIDERATION

14. Based on comments received during the consultations, certain modifications of the Administrative Instructions proposed by Circular C. PCT 1014/C. SCIT 2609, Annexes II to VI, require further consideration and are not included in the Annexes to this Circular. These concern , in particular:

(a) provisions concerning the determination of the date of receipt of international applications filed in electronic form and by electronic means of transmissions (“online filings”) (see Circular C. PCT 1014/C. SCIT 2609, paragraphs 14 and 15, and in particular the modifications of Sections 704 and 710 proposed in Annex III of that Circular);

(b) provisions for correction, amendment and rectification of the description or the claims in relation to an international application which has been filed in electronic form in character coded format (see Circular C. PCT 1014/C. SCIT 2609, paragraphs 17 and 18, and in particular the addition of Section 706*bis* proposed in Annex III of that Circular);

(c) provisions which would allow for the filing not only of sequence listings and tables related thereto in electronic form but also of computer program listings and tables related thereto (see Circular C. PCT 1014/C. SCIT 2609, paragraph 22, and in particular the modifications of Sections 202, 204, 207, 707 and 714 proposed in Annexes II and III of that Circular).

15. A separate Circular, inviting comments on any proposed further modification of the provisions referred to in paragraph 14, above, will be sent in due course.

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CONSULTATIONS PURSUANT TO RULE 89.2(b)

16. The International Bureau would appreciate receiving any comments on the other proposed modifications of the Administrative Instructions contained in Annexes II to VI to this Circular by June 30, 2006. Comments on those proposed modifications should be sent to Mr. Claus Matthes, Acting Director, PCT Reform Division, Office of the PCT (e-mail: claus.matthes@wipo.int; fax: 41-22-338 8780).

WIPO STANDARD ST.25

17. Noting that WIPO Standard ST.25 recommends that “Offices apply the provisions set out in the “Standard for the Presentation of Nucleotide and Amino Acid Sequence Listings in International Applications Under the Patent Cooperation Treaty (PCT)” as set out in Annex C to the Administrative Instructions under the PCT *mutatis mutandis* to all patent applications other than the PCT international applications ...”, comments on the proposed modifications of Annex C to the Administrative Instructions (see Annex V to this Circular) are also invited by June 30, 2006, from Members of the Standards and Documentation Working Group of the WIPO Standing Committee on Information Technologies (SCIT).

Sincerely yours,



Francis Gurry
Deputy Director General

Enclosures: - Annex I: Proposed modifications of Parts 1 to 6 of the Administrative Instructions
- Annex II: Proposed modifications of Part 7 of the Administrative Instructions
- Annex III: Proposed deletion of Part 8 of the Administrative Instructions
- Annex IV: Proposed modifications of Annex C and proposed deletion of Annex C-bis of the Administrative Instructions
- Annex V: Proposed modifications of Annex F of the Administrative Instructions

PROPOSED MODIFICATIONS OF THE
ADMINISTRATIVE INSTRUCTIONS UNDER THE PCT¹

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¹ For the present text of the Administrative Instructions and the Annexes thereto, see documents PCT/AI/3 (dated October 20, 2005) and PCT/AI/ANF/2 (dated October 20, 2005) (available from WIPO's Web site at <http://www.wipo.int/pct/en/texts/index.htm>). Proposed additions and deletions are indicated, respectively, by underlining and striking through the text concerned. The editor's notes appearing in the published version of Part 7 have been omitted here in order to focus on the substance of the changes proposed. They would be included, with any necessary modifications, in the final version of the present modifications.

ANNEX I

PROPOSED MODIFICATIONS OF PARTS 1 TO 6
OF THE ADMINISTRATIVE INSTRUCTIONS

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Section 101

Abbreviated Expressions and Interpretation

(a) In these Administrative Instructions:

(i) to (x) [No change]

(xi) “electronic” technology includes that having electrical, digital, magnetic, optical or electromagnetic capabilities;

(xii) “sequence listing” has the same meaning as defined in paragraph 2 of Annex C to these Administrative Instructions.

[COMMENT: Noting that the term “sequence listing” is used throughout the main part of the Administrative Instructions, it is proposed to include a definition of that term in Section 101 and to refer to the definition given in paragraph 2 of Annex C of the Administrative Instructions.]

(b) [No change]

Section 204

Headings of the Parts of the Description

The headings of the parts of the description shall preferably ~~should~~ be as follows:

[COMMENT: It is proposed to modify the chapeau of Section 204 so as to align its wording with that used in Rule 5.1(c).]

(i) to (vi) [No change]

(vii) for matter referred to in Section 208(b), “Tables Related to Sequence Listing”;

(viii) ~~(vii)~~ for matter referred to in Rule 5.2(a), “Sequence Listing”;

(ix) ~~(viii)~~ for matter referred to in Rule 5.2(b), “Sequence Listing Free Text.”

[COMMENT: The proposed modification of Section 204 (addition of a new heading for any tables related to a sequence listings) is consequential on the proposed addition of new Section 208(b) (see below). As to the proposed arrangement of elements of the description, see the proposed modifications of Section 207, below.]

Section 207

Arrangement of Elements and Numbering of

Sheets of the International Application

(a) In effecting the sequential numbering of the sheets of the international application in accordance with Rule 11.7, the elements of the international application shall be placed in the following order:

(i) the request;~~;~~

(ii) the description (including any sequence listing free text referred to in Rule 5.2(b) but excluding ~~other than~~ any elements referred to in items (vi) and (vii) of this paragraph ~~sequence listing part thereof~~);~~;~~

[COMMENT: The proposed modification of (proposed new) item (ii) is consequential on the proposed addition of new Section 208(b), pursuant to which tables related to a sequence listing should preferably be presented in a separate part of the description).]

(iii) the claims;~~;~~

(iv) the abstract;~~;~~

(v) if applicable, the drawings;~~;~~

(vi) if applicable, preferably, the tables related to the sequence listing;

[COMMENT: The proposed addition of item (vi) is consequential on the proposed addition of new Section 208(b), pursuant to which tables related to a sequence listing should preferably be presented in a separate part of the description.]

[Section 207(a), continued]

(vii) if applicable, the sequence listing ~~part of the description (where applicable)~~.

[COMMENT: It is proposed to continue to require that the sequence listing itself be placed at the end of the description, noting that only the sequence listing part of the description may not require translation upon national phase entry if that part complies with Rule 12.1(d) and if the description complies with Rule 5.2(d) (see Rule 49.5(a-bis)).]

(b) The sequential numbering of the sheets shall be effected by using the following separate series of numbering:

(i) the first series applying to the request only and commencing with the first sheet of the request~~;~~

(ii) the second series commencing with the first sheet of the description (as referred to in item (ii) of paragraph (a) ~~other than any sequence listing part thereof~~) and continuing through the claims until the last sheet of the abstract~~;~~

[COMMENT: The proposed modification of item (ii) is consequential on the proposed modification of Section 207(a)(ii) (see above).]

(iii) if applicable, a further series applying to the sheets of the drawings only and commencing with the first sheet of the drawings; the number of each sheet of the drawings shall consist of two Arabic numerals separated by a slant, the first being the sheet number and the second being the total number of sheets of drawings (for example, 1/3, 2/3, 3/3)~~;~~ ~~and~~

(iv) if applicable, preferably, a further series applying to the tables related to the sequence listing, commencing with the first sheet of such tables;

[Section 207(b)(iv), continued]

[COMMENT: The proposed modification of item (iv) is consequential on the proposed addition of new Section 208(b), pursuant to which tables related to a sequence listing should preferably be presented in a separate part of the description).]

(v) ~~(iv)~~ if applicable, ~~preferably~~, a further series applying to the sequence listing ~~part of the description~~, commencing with the first sheet of that part.

[COMMENT: It is proposed to delete the term “preferably” and thus to make it mandatory for the applicant to use a separate series of numbering for the sequence listing part of the description, noting that the presentation of a sequence listing in a separate part of the description is a mandatory requirement (see Rule 5.2(a)).]

Section 208

Sequence Listings; Tables Related to Sequence Listings

(a) Any ~~nucleotide and/or amino acid sequence listing~~ (“sequence listing”), whether on paper or in electronic form, whether forming ~~filed as~~ part of the international application, or not forming part of the international application ~~furnished together with the international application or subsequently~~, shall comply with Annex C.

[COMMENT: The proposed modifications of (newly numbered) paragraph (a) are consequential on the proposed inclusion of a definition of the term “sequence listing” in Section 101 (see above), and on the proposal to introduce a clear distinction between sequence listings forming part of the application and sequence listings not forming part of the application but furnished for the purposes of the international search and preliminary examination (see proposed new Sections 208*bis* and 208*ter* and the proposed modifications of Annex C, below).]

(b) Tables related to a sequence listing shall preferably be presented as a separate part of the description.

[COMMENT: The use of the words “shall preferably” is consequential on the fact that PCT Rule 5.2 only provides for the sequence listing but not for any other part of the description to be presented as a separate part of the description. However, separation from the remainder of the description not only of the sequence listing but also of any tables related thereto appears essential where the sequence listing and any tables related thereto are filed in electronic form so as to be able to calculate the international filing fee payable under Section 707(a-*bis*) as proposed to be modified (see below). Moreover, such separation appears essential where the sequence listing and any tables related thereto are filed in electronic form under proposed new Section 715, whereas the remainder of the application is filed on paper. It is thus proposed to provide an incentive for applicants to present such tables in a separate part of the description through the fee schedule under Section 707(a-*bis*) as proposed to be modified: the lower international filing fee would be applicable only if the sequence listing and any related tables are each presented as separate parts of the description.]

Section 208bis

Sequence Listings Forming Part of the International Application

(a) “Sequence listing forming part of the international application” means a sequence listing which is contained in the international application as filed (whether the application is filed on paper, in electronic form under Section 703 or as a mixed mode sequence listing application under Section 715), or a sequence listing (whether on paper or in electronic form) furnished as a correction under Rule 26 or as a rectification under Rule 91 of a sequence listing contained in the application as filed, or furnished as an amendment of the description in relation to a sequence listing pursuant to Article 34(2)(b).

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular.]

(b) Any sequence listing forming part of the application shall:

(i) where it is contained in the application as filed, be presented as a separate part of the description and placed at the end of the application in accordance with Section 207(a); this part shall be entitled “Sequence Listing” in accordance with Section 204, begin on a new page and have independent page numbering in accordance with Section 207(b);

(ii) where it is not contained in the application as filed, be entitled “Sequence Listing” and have independent page numbering; where applicable, the original numbering of the sequences in the international application as filed (as referred to in paragraph 5 of Annex C to these Instructions) shall be maintained; otherwise, the sequences shall be numbered in accordance with paragraph 5 of Annex C to these Instructions.

[Section 208bis(b), continued]

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular. It is proposed to move (parts of) the contents (further modified) of present paragraphs 3 and 4 of Annex C of the Administrative Instructions (which are proposed to be deleted, see Annex IV of this Circular, below), as far it relates to sequence listings forming part of the application, to proposed new Section 208bis(b).]

(c) Any sequence listing forming part of the international application which is presented as a separate part of the description forms an integral part of the description; it is therefore unnecessary, subject to paragraph 36 of Annex C to these Instructions, to describe the sequences elsewhere in the description.

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular. It is proposed to move the contents (further modified) of present paragraph 3 of Annex C of the Administrative Instructions (which is proposed to be deleted, see Annex IV of this Circular, below), to proposed new Section 208bis(c).]

(d) Any correction, amendment or rectification submitted in respect of a sequence listing in electronic form contained in an international application filed in electronic form under Section 703 or filed in the form of a mixed mode sequence listing application under Section 715 or submitted in respect of any tables in electronic form related to such sequence listing shall be submitted in the form of a replacement listing or tables in electronic form, comprising the entire listing or tables with the relevant correction, amendment or rectification.

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular. It is proposed to move the contents (further modified) of present paragraph 46 of Annex C of the Administrative Instructions (which is proposed to be deleted, see Annex IV of this Circular, below), as far as it relates to sequence listings forming part of the applications, to proposed new Section 208bis(d). Note that, as at present, Rules 26.4, 46.5, 66.8 and 91.1(d) would continue to require the applicant to furnish a letter (which may, of course, also be in electronic form) drawing attention to the differences between the replaced and the replacement sequence listing or tables. See also present Section 802(d), which is proposed to be deleted (see Annex III of this Circular, below).]

[Section 208bis, continued]

(e) The use of physical media for the submission of a sequence listing in electronic form forming part of the application shall be in accordance with Appendix IV of Annex F.

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular. It is proposed to deal with the issue of “use of physical media” for the submission of sequence listings in electronic form forming part of the application (which at present is dealt with in paragraphs 44 and 45 of Annex C of the Administrative Instructions, which are proposed to be deleted, see Annex IV of this Circular, below), in proposed new Section 208bis(e), and to refer to the requirements set out in Appendix IV of Annex F (see Annex V to this Circular, below).]

Section 208^{ter}

Sequence Listings Not Forming Part of the International Application

(a) “Sequence listing not forming part of the international application” means a sequence listing which is not contained in the international application as filed but is furnished under Rule 13^{ter} or paragraph (b) of this Section, whether on paper or in electronic form, for the purposes of the international search or preliminary examination together with the application or subsequently to the filing of the application; any such sequence listing does not form part of the international application.

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular.]

(b) Any correction which is submitted under PCT Rule 26 of a sequence listing contained in the international application as filed, any rectification of an obvious error in the sequence listing contained in the international application as filed which is submitted under PCT Rule 91, and any amendment of the description submitted in relation to a sequence listing pursuant to PCT Article 34(2)(b) shall be accompanied, for the purposes of the international search or preliminary examination, by a copy in electronic form comprising the entire sequence listing including any such correction, rectification or amendment, whenever this is required by the International Searching or Preliminary Examining Authority, unless such listing in electronic form is already available to that Authority in a form and manner acceptable to it. Where such replacement sequence listing is not available to that Authority, any such correction, rectification or amendment need not be taken into account by that Authority for the purposes of the international search or preliminary examination.

[Section 208ter(b), continued]

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular. It is proposed to move the contents (further modified) of present paragraph 46 of Annex C of the Administrative Instructions (which is proposed to be deleted, see Annex IV of this Circular, below), as far as it relates to sequence listings not forming part of the application, to proposed new Section 208ter(b).]

(c) Any sequence listing not contained in the international application as filed but furnished for the purposes of the international search or preliminary examination shall not go beyond the disclosure in the international application as filed and shall be accompanied by a statement to that effect. This means that any such sequence listing shall contain only those sequences that were disclosed in the international application as filed.

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular. It is proposed to move the contents (further modified) of present paragraph 37 of Annex C of the Administrative Instructions (which is proposed to be deleted, see Annex IV of this Circular, below), to proposed new Section 208ter(c).]

(d) Any sequence listing not forming part of the international application but furnished for the purposes of the international search or preliminary examination shall:

- (i) be furnished by the means of transmittal accepted by the International Searching Authority or International Preliminary Examining Authority, as the case may be;
- (ii) be entitled “Sequence Listing Furnished for the Purposes of International Search” or “Sequence Listing Furnished for the Purposes of International Preliminary Examination”, as the case may be; and
- (iii) have independent page numbering.

[Section 208ter(d), continued]

Where applicable, the original numbering of the sequences in the international application as filed (as referred to in paragraph 5 of Annex C to these Instructions) shall be maintained; otherwise, the sequences shall be numbered in accordance with paragraph 5 of Annex C to these Instructions.

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular. It is proposed to move the contents (further modified) of present paragraph 4 of Annex C of the Administrative Instructions (which is proposed to be deleted, see Annex IV of this Circular, below), to proposed new Section 208ter(d). The file naming convention in Annex F (see section 4.3) is proposed to be modified accordingly (see Annex V to this Circular, below) to ensure that sequence listings in electronic form which do not form part of the international application but are furnished for the purposes of the international search or preliminary examination are named accordingly.]

(e) Paragraphs 2(d) and (e) of Appendix IV of Annex F shall apply *mutatis mutandis* with regard to the furnishing on physical media of sequence listings for the purposes of the international search or preliminary examination.

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular. It is proposed to deal with the issue of “use of physical media” for the submission of sequence listings in electronic form not forming part of the application but furnished for the purposes of international search or preliminary examination (which at present is dealt with in paragraphs 44 and 45 of Annex C of the Administrative Instructions, which are proposed to be deleted, see Annex IV of this Circular, below), in proposed new Section 208ter(e), and to refer to the requirements set out in paragraph 2(d) and (e) of Appendix IV of Annex F (see Annex V to this Circular, below).

Section 313

Documents Filed with the International Application;

Manner of Marking the Necessary Annotations in the Check List

(a) and (b) [No change]

(c) [No change] Any sequence listing not forming part of the international application, whether on paper or in electronic form, that is furnished for the purposes of the international search to the receiving Office together with the international application or subsequent to the filing of the international application, shall be transmitted to the International Searching Authority together with the search copy. Where such a sequence listing is received by the receiving Office after the transmittal of the search copy, that sequence listing shall be promptly transmitted to the International Searching Authority.

[COMMENT: No change appears to be needed to paragraph (c) of Section 313.]

Section 513

Sequence Listings

(a) [No change]

(b) Where the international search report and the written opinion of the International Searching Authority are based on a sequence listing ~~that was~~ not forming part of the international application contained in the international application as filed but ~~was~~ furnished ~~subsequently to the International Searching Authority~~ for the purposes of the international search, the international search report and the written opinion of the International Searching Authority shall so indicate.

[COMMENT: Clarification only.]

(c) [No change] Where a meaningful international search cannot be carried out and a meaningful written opinion, as to whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious) and to be industrially applicable, cannot be established because a sequence listing is not available to the International Searching Authority in the required form, that Authority shall so state in the international search report or declaration referred to in Article 17(2)(a), and in the written opinion.

(d) The International Searching Authority shall indelibly mark, in the upper right-hand corner of the first sheet of any sequence listing on paper which does ~~was~~ not form part of the international application contained in the international application as filed but was furnished for the purposes of the international search ~~subsequently to that Authority~~, the words

[Section 513(d), continued]

“~~SUBSEQUENTLY FURNISHED~~ SEQUENCE LISTING NOT FORMING PART OF THE INTERNATIONAL APPLICATION” or their equivalent in the language of publication of the international application.

[COMMENT: Clarification only. The file naming convention in Annex F (see section 4.3) is proposed to be modified accordingly (see Annex V to this Circular, below) to ensure that sequence listings in electronic form which do not form part of the international application but are furnished for the purposes of the international search are named accordingly.]

(e) The International Searching Authority shall keep in its files:

(i) any sequence listing, whether on paper or in electronic form, which does ~~was~~ not form part of ~~contained in~~ the international application ~~as filed~~ but was furnished for the purposes of the international search. ~~to that Authority; and~~

~~(ii) any sequence listing in electronic form furnished for the purposes of the international search.~~

[COMMENT: Clarification only.]

(f) Any International Searching Authority which requires the furnishing of a sequence listing, for the purposes of the international search, in electronic form in accordance with Annex C of these Instructions shall notify the International Bureau accordingly. In that notification, the Authority shall specify the means of transmittal of the sequence listing in electronic form in accordance with Annex F where the sequence listing in electronic form is not contained in the international application as filed but is furnished for the purposes of the

[Section 513(f), continued]

international search together with the international application or subsequently to the filing of the international application. The International Bureau shall promptly publish in the Gazette any requirements and information notified to it.

[COMMENT: It is proposed to add new paragraph (f) to Section 513 so as to fill an apparent gap in the present Administrative Instructions: at present, there is no provision requiring the International Searching Authorities to notify the International Bureau of their requirements concerning the furnishing of sequence listings in electronic form for the purposes of the international search (for example, whether sequence listings can be transmitted online or on physical media only, and the types of physical media that are accepted).]

Section 610

Sequence Listings ~~[Deleted]~~

(a) Where the written opinion of the International Preliminary Examining Authority or the international preliminary examination report is based on a sequence listing not forming part of the international application but furnished for the purposes of the international search or preliminary examination, the written opinion of the International Preliminary Examining Authority and the international preliminary examination report shall so indicate.

(b) Where a meaningful international preliminary examination cannot be carried out and a meaningful written opinion cannot be established because a sequence listing is not available to the International Preliminary Examining Authority in the required form, that Authority shall so state in the written opinion and in the international preliminary examination report.

(c) The International Preliminary Examining Authority shall indelibly mark, in the upper right-hand corner of the first sheet of any sequence listing on paper which does not form part of the international application but was furnished to it for the purposes of the international preliminary examination, the words “SEQUENCE LISTING NOT FORMING PART OF THE INTERNATIONAL APPLICATION” or their equivalent in the language of publication of the international application.

[COMMENT: The file naming convention in Annex F (see section 4.3) is proposed to be modified accordingly (see Annex V to this Circular, below) to ensure that sequence listings in electronic form which do not form part of the international application but are furnished for the purposes of the international preliminary examination are named accordingly.]

[Section 610, continued]

(d) The International Preliminary Examining Authority shall keep in its files any sequence listing not forming part of the international application but furnished to it for the purposes of the international preliminary examination.

(e) Any International Preliminary Examining Authority which requires the furnishing of a sequence listing, for the purposes of the international preliminary examination, in electronic form in accordance with Annex C of these Instructions shall notify the International Bureau accordingly. In that notification, the Authority shall specify the means of transmittal of the sequence listing in such electronic form in accordance with Annex F where the sequence listing in electronic form is not contained in the international application as filed but furnished for the purposes of the international preliminary examination together with the international application or subsequently to the filing of the international application. The International Bureau shall promptly publish in the Gazette any requirements and information notified to it.

[COMMENT: It is proposed to add a new Section (Section 610) so as to fill an apparent gap in the present Administrative Instructions: at present, there is no provision governing the procedure in case the International Preliminary Examining Authority requires the furnishing of a sequence listing in electronic form for the purposes of international preliminary examination. Proposed new Section 610 is modeled on Section 513 as proposed to be modified (see above).]

[Annex II follows]

ANNEX II

PROPOSED MODIFICATIONS OF PART 7
OF THE ADMINISTRATIVE INSTRUCTIONS:

INSTRUCTIONS RELATING TO THE FILING AND PROCESSING
IN ELECTRONIC FORM OF INTERNATIONAL APPLICATIONS

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Section 702

**Filing, Processing and Communication of International Applications
in Electronic Form**

(a) and (b) [No change]

~~(c) [Deleted] This Part and Annex F do not apply to an international application containing a sequence listing part which is filed in electronic form under Section 801(a), except that Section 705bis shall apply *mutatis mutandis* to such an application to the extent that it is filed on paper.~~

[COMMENT: The proposed deletion of Section 702(c) is consequential on the proposed addition of new Section 715 and the proposed deletion of Part 8 (see Annex III to this Circular, below).]

Section 706

Copy of International Application in Pre-Conversion Format

Backup Copies

(a) Where, for the purposes of filing in electronic form, an international application ~~was filed in electronic form~~ has been converted from the original electronic document format in which it was created (“pre-conversion format”) into the electronic document format in which it is filed, the applicant may, if the receiving Office so permits, submit, together with the international application, a copy of the international application in the pre-conversion format, provided that the pre-conversion format is accepted for that purpose by the receiving Office, in which case ~~and within 16 months from the priority date, file a backup copy of the application on paper or on a physical medium in accordance with Annex F, provided that:~~

(i) the copy of the international application in the pre-conversion format ~~backup copy~~ shall be identified as such and shall be accompanied by a statement by the applicant that ~~it the content of the backup copy is~~ a complete and accurate copy ~~identical to that~~ of the international application prior to its conversion into the electronic document format in which it is as filed ~~in electronic form~~;

(ii) the request shall preferably contain an indication that a copy of the international application in the pre-conversion format is submitted under Section 706 together with the international application.

[COMMENT: See paragraphs 11 and 12 in the main body of this Circular. Note that it would be up to the receiving Office to determine which pre-conversion formats it would be willing to accept (for example, the Office may wish to determine an exhaustive list of acceptable pre-conversion formats or have a more flexible approach, such as accepting any pre-conversion format, provided that the applicant informs the Office how it can within reason verify the contents of the pre-conversion data).]

[Section 706, continued]

(b) Where it is found that the international application as filed in electronic form is not in fact a complete and accurate copy of the copy of the international application in the pre-conversion format submitted under paragraph (a), the applicant may, within 30 months from the priority date, request the receiving Office to correct the international application so as to bring it into conformity with the copy of the international application in the pre-conversion format. Rule 26.4 shall apply *mutatis mutandis* to the manner in which corrections shall be requested. Where such correction is made after the completion of the technical preparations for international publication, the International Bureau shall promptly publish any international application so corrected together with a revised front page. ~~Where an international application was filed in electronic form, the receiving Office may, of its own volition or at the request of the applicant, prepare a backup copy of the application on paper or on a physical medium in accordance with Annex F, provided that the content of the backup copy shall be identical to that of the application as filed in electronic form. The Office shall, upon request by the applicant and subject to the payment of a fee, send to the applicant a copy of such a backup copy.~~

[COMMENT: See Comment on paragraph (a), above. Noting that, under present Section 706(b), among the receiving Offices which accept the filing of international applications in electronic form, only the International Bureau as receiving Office is prepared to prepare a backup copy of the application on paper or on a physical medium, it is proposed to delete the text of present paragraph (b).]

[Section 706, continued]

(c) Paragraphs (a) and (b) shall apply *mutatis mutandis* to the submission in the pre-conversion format of any element of the international application referred to in Article 3(2). ~~The receiving Office shall mark any backup copy filed or prepared on paper with the words “BACKUP COPY” or their equivalent in the language of publication of the international application on the bottom of the first page of the request and of the first page of the description.~~

[COMMENT: Under paragraph (c) as proposed to be modified, the applicant would have the option not only to submit a copy of the entire international application in the pre-conversion format but also of certain elements thereof only, for example, the description and/or the claims. The proposed deletion of the present text of paragraph (c) is consequential on the proposed deletion of the present text of paragraph (b).]

~~(d) [Deleted] The applicant may, within 16 months from the priority date, request the receiving Office to substitute a backup copy filed in accordance with paragraph (a), or prepared in accordance with paragraph (b), for the application in electronic form, in which case the backup copy shall be considered to be replacement sheets effecting a correction under Rule 26. The replacement sheets shall be considered to have been received by the receiving Office on the date on which it received the applicant's request.~~

[COMMENT: The proposed deletion of paragraph (d) is consequential on the proposed modification of paragraph (a) and the proposed deletion of the present text of paragraph (b).]

Section 707

Calculation of International Filing Fee and Fee Reduction

(a) Where an international application is filed in electronic form, the international filing fee shall, subject to paragraph (a-bis), be calculated on the basis of the number of sheets, as calculated by the electronic filing software and indicated in the request, that the application would contain if presented as a print-out complying with the physical requirements prescribed in Rule 11.

[COMMENT: It is proposed to modify paragraph (a) so as to clarify that there is no need for receiving Offices to print-out an international application filed in electronic form in order to determine the number of sheets of the application and thus the amount of the international filing fee. Rather, the amount of the international filing fee would be determined on the basis of the number of pages as (automatically) calculated by the electronic filing software used for the filing of the international application in electronic form and the indication of that number in the request, as (automatically) indicated by the electronic filing software. The different electronic filing software available to applicants for the filing of international applications in electronic form would have to be “synchronized” accordingly to ensure an identical count of sheets.]

(a-bis) Where an international application filed in electronic form contains a sequence listing ~~as referred to in Rule 5.2(a)~~, the calculation of the international filing fee shall not take into account any sheet of the sequence listing nor any sheet of any tables related thereto in excess of 400 sheets if that listing and those tables are each presented as a separate part of the description in accordance with Sections 204, 207 and 208.

[COMMENT: It is proposed to modify paragraph (a-bis) so as to grant the fee reduction only where both the sequence listing and any tables related thereto are presented as separate parts of the description in accordance with Sections 204, 207 and 208 as proposed to be modified (see Annex I to this Circular, above).]

(b) [No change]

Section 710

Notification and Publication of Receiving Offices' Requirements and Practices

(a) A notification by a receiving Office to the International Bureau under Rule 89*bis*.1(d) and Section 703(a) that it is prepared to receive international applications in electronic form shall indicate, where applicable:

(i) the electronic document formats (including, where applicable, any versions of such electronic document formats), means of transmittal, types of electronic packages, electronic filing software and types of electronic signature specified by it under Section 703(b)(i) to (iv) and (c), and any options specified by it under the basic common standard;

[COMMENT: Clarification only.]

(ii) and (iii) [No change]

(iv) whether and under what conditions the Office accepts the filing of copies of the international application in pre-conversion formats ~~backup copies~~ under Section 706(a) and the electronic document formats (including, where applicable, any versions of such electronic document formats) accepted by it under that Section;

[COMMENT: The proposed modification of item (iv) is consequential on the proposed modification of Section 706 (see above). It would be up to the receiving Office to determine which pre-conversion formats it would be willing to accept (for example, the Office may wish to determine an exhaustive list of acceptable pre-conversion formats or have a more flexible approach, such as accepting any pre-conversion format, provided that the applicant informs the Office how it can within reason verify the contents of the pre-conversion data).]

(v) to (vii) [No change]

[Section 710, continued]

(a-bis) A notification by a receiving Office to the International Bureau under Rule 89bis.1(d) and Section 715 that it is prepared to receive mixed mode sequence listing applications shall indicate:

(i) the electronic document formats (including, where applicable, any versions of such electronic document formats) and types of physical media specified by it under Section 715(d)(i) and (ii);

(ii) the procedures relating to access to the files of mixed mode sequence listing applications filed or stored in electronic form.

[COMMENT: The proposed addition of new paragraph (a-bis) is consequential on the proposed addition of new Section 715. See also present Section 801(b), which is proposed to be deleted (see Annex III to this Circular, below).]

(b) The receiving Office shall notify the International Bureau of any change in the matters previously indicated by it in a notification under Section 705bis(a) or paragraph (a) or (a-bis) of this Section.

(c) The International Bureau shall promptly publish in the Gazette any notification received by it under Section 705bis(a) or paragraph (a), (a-bis) or (b) of this Section.

[COMMENT: The proposed modification of paragraphs (b) and (c) is consequential on the proposed addition of new paragraph (a-bis) (see above).]

[Section 710, continued]

(d) [No change] The effective date of any change notified under paragraph (b) shall be as specified by the receiving Office in the notification, provided that any change which restricts filing options shall not be effective earlier than two months after the date of publication of the notification of the change in the Gazette.

Section 713

Application of Provisions to International Authorities and the International Bureau, and to Notifications, Communications, Correspondence and Other Documents

(a) The provisions of this Part, other than Sections 703(c), 704(c) to (g), 706, 707, 708(b)(iii) to (v), 710(a)(iv), ~~and~~ 714(b) and 715, shall, if they are capable of applying but do not expressly apply to the International Searching Authorities, the International Preliminary Examining Authorities and the International Bureau, apply *mutatis mutandis* to those Authorities and that Bureau.

[COMMENT: The proposed modification of paragraph (a) is consequential on the proposed addition of new Section 715 (see below).]

(b) The provisions of this Part, other than Sections 702(c), 703(c), 704(c) to (f), 705, 705bis(b) to (e), 706, 707, 708(b)(iii) to (v), ~~and~~ 710(a)(iv) and 715, shall, if they are capable of applying but do not expressly apply to notifications, communications, correspondence or other documents relating to international applications that are filed, processed or communicated in electronic form, ~~shall~~ apply *mutatis mutandis* to such notifications, communications, correspondence or other documents relating to international applications.

[COMMENT: The proposed modification of paragraph (b) is consequential on the proposed addition of new Section 715 (see below).]

Section 715

International Applications Filed on Paper
with Sequence Listing and Tables Related Thereto in Electronic Form
(“Mixed Mode Sequence Listing Applications”)

(a) An international application containing a sequence listing may, subject to this Section, be filed in mixed mode, that is, the sequence listing and any tables related thereto being in electronic form and the remainder of the application being on paper (“mixed mode sequence listing application”), if the receiving Office has notified the International Bureau in accordance with Rule 89bis.1(d) that it is prepared to receive international applications in such form.

[COMMENT: See paragraph 10 in the main part of this Circular. See also proposed new Section 710(a-bis), above.]

(b) A receiving Office which has not made a notification under paragraph (a) may nevertheless decide in a particular case to accept a mixed mode sequence listing application, in which case this Section shall apply accordingly.

[COMMENT: See present Section 801(c), which is proposed to be deleted (see Annex III to this Circular, below).]

(c) Where a mixed mode sequence listing application is filed with a receiving Office which is not prepared, under paragraph (a) or (b), to accept such filings, Rule 19.4(a)(iii) and Section 333(b) and (c) shall apply.

[COMMENT: See present Section 801(e), which is proposed to be deleted (see Annex III to this Circular, below).]

[Section 715, continued]

(d) A sequence listing and any tables related thereto in electronic form contained in a mixed mode sequence listing application shall be:

(i) in an electronic document format that has been specified by the receiving Office in accordance with Annex F;²

[COMMENT: See the Editor's Note at the bottom of this page.]

(ii) filed, in the number of copies required by the receiving Office under Rule 11.1(b), on a physical medium that has been specified by the receiving Office in accordance with Annex F;

[COMMENT: Note that, under Rule 11.1(b), a receiving Office could require a different number of copies of the "paper part" and of the "electronic part" of a mixed mode sequence listing application (for example, just one copy of the paper part and three copies of the electronic part). With regard to the requirements for the use of physical media, see Appendix IV to Annex F (see Annex V to this Circular, below). Note that Appendix IV as proposed to be modified requires the filing of the sequence listing and any related tables thereto on separate physical media.]

²

Editor's note: Where the international application is filed in the form of a mixed mode sequence listing application under Section 715, while the sequence listing in electronic form contained in the application as filed may be in any electronic document format that has been specified by the receiving Office for the purposes of filing of applications in the form of mixed mode sequence listing applications, applicants are strongly encouraged to file such sequence listing in the electronic document format referred to in paragraphs 41 and 42 of Annex C of the Administrative Instructions, noting that, if not filed in that format, the competent International Searching Authority may, for the purposes of the international search, invite the applicant to furnish to it a sequence listing in such format.

[Section 715(d), continued]

(iii) free of viruses and other forms of malicious logic in accordance with Annex F.

(e) In the case of a mixed mode sequence listing application:

(i) the request shall contain an indication that the application is a mixed mode sequence listing application filed under Section 715;

(ii) the part of the description filed on paper shall preferably contain a statement that the sequence listing and any tables related thereto filed in electronic form are part of the description, identifying the names of the files contained on each of the physical media containing the sequence listing and any tables related thereto, their date of creation and their sizes in bytes.

[COMMENT: A clear indication by the applicant of the fact that the international application is filed in the form of a mixed mode sequence listing application will greatly facilitate the processing of the application by the receiving Office, the International Searching Authority and the International Bureau.]

(f) Where the sequence listing and any tables related thereto in electronic form are filed in less than the number of copies required by the receiving Office under Rule 11.1(b), that Office shall either:

(i) promptly prepare any additional copies required, in which case it shall have the right to fix a fee for performing that task and to collect such fee from the applicant; or

[COMMENT: The proposed wording of item (i) is modeled on Rule 21.1(c).]

[Section 715(f), continued]

(ii) invite the applicant to promptly furnish the additional number of copies required, accompanied by a statement that the sequence listing and any tables related thereto in electronic form contained in those copies are identical to the listing and tables in electronic form as filed.

[COMMENT: See present Section 804(c), which is proposed to be deleted (see Annex III to this Circular, below).]

(g) The international filing fee payable in respect of a mixed mode sequence listing application shall comprise the following two components:

(i) a basic component, calculated as provided in the Schedule of Fees, in respect of the part of the application that is submitted on paper; and

(ii) an additional component, in respect of the sequence listing and any tables related thereto in electronic form, equal to 400 times the fee per sheet as referred to in item 1 of the Schedule of Fees, regardless of the actual length of the listing and any tables.

[COMMENT: See present Section 803, which is proposed to be deleted (see Annex III to this Circular, below).]

(h) In the case of a mixed mode sequence listing application, the home copy, the record copy and the search copy shall, subject to Section 705bis, similarly be in mixed mode. In addition to proceeding under Section 305 with respect to the parts of the international application filed on paper, the receiving Office shall:

[Section 715(h), continued]

- (i) mark the words “RECORD COPY—SEQUENCE LISTING—SECTION 715”
or “RECORD COPY—TABLES RELATED TO SEQUENCE LISTING—
SECTION 715”, as the case may be, on the original physical medium and
transmit that part of the record copy to the International Bureau together with
the paper part of the record copy;
- (ii) mark the words “SEARCH COPY—SEQUENCE LISTING—SECTION 715”
or “SEARCH COPY—TABLES RELATED TO SEQUENCE LISTING—
SECTION 715”, as the case may be, on a copy of the physical medium and
transmit that part of the search copy to the International Searching Authority
together with the paper part of the search copy;
- (iii) mark the words “HOME COPY—SEQUENCE LISTING—SECTION 715” or
“HOME COPY—TABLES RELATED TO SEQUENCE LISTING—
SECTION 715”, as the case may be, on a copy of the physical medium and
keep that part of the home copy in its files together with the paper part of the
home copy.

The receiving Office may, when so marking a physical medium, use, instead of the words
referred to in items (i) to (iii), the equivalent of those words in the language of publication of
the international application.

[COMMENT: See present Section 804(d) and (f), which is proposed to be deleted (see Annex III to this Circular, below).]

[Section 715, continued]

(i) The provisions of this Part, other than Sections 703(a) to (c) and (f), 704(a) to (d) and (f) and (g), 705, 707, 709, 710(a), 713(a) and (b) and 714(b), shall, if they are capable of applying but do not expressly apply to a mixed mode sequence listing application to the extent that it is filed in electronic form, apply *mutatis mutandis* to such a mixed mode sequence listing application to the extent that it is filed in electronic form, provided that Sections 703(e) and 704(e) shall apply as though the references therein to paragraph (b) of Section 703 were references to paragraph (d) of this Section.

[COMMENT: Paragraph (i) would clarify which provisions of Part 7 of the Administrative Instructions would apply to the “electronic part” of mixed mode sequence listing applications filed under Section 715 (that is, to the sequence listing and any tables related thereto filed in electronic form).]

(j) Section 705bis shall apply *mutatis mutandis* to a mixed mode sequence listing application to the extent that it is filed on paper.

[COMMENT: Paragraph (j) would allow Offices to process the “paper part” of mixed mode sequence listing applications filed under Section 715 as copies in electronic form.]

(k) This Section does not prevent an international application containing a sequence listing and any tables related thereto from being filed in its entirety in electronic form under Section 703(a).

[COMMENT: Clarification only.]

[Annex III follows]

ANNEX III

PROPOSED DELETION OF PART 8
OF THE ADMINISTRATIVE INSTRUCTIONS

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~~INSTRUCTIONS RELATING TO
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~~Section 801~~

~~Filing of International Applications~~

~~Containing Sequence Listings and/or Tables~~

~~(a) Pursuant to Rules 89bis and 89ter, where an international application contains disclosure of one or more nucleotide and/or amino acid sequence listings (“sequence listings”), the receiving Office may, if it is prepared to do so, accept that the sequence listing part of the description, as referred to in Rule 5.2(a) and/or any table related to the sequence listing(s) (“sequence listings and/or tables”), be filed, at the option of the applicant:~~

~~(i) only on an electronic medium in the computer readable form referred to in Section 802; or~~

~~(ii) both on an electronic medium in that computer readable form and on paper in the written form referred to in Section 802;~~

~~provided that the other elements of the international application are filed as otherwise provided for under the Regulations and these Instructions.~~

[COMMENT: See proposed new Section 715(a) (see Annex II to this Circular, above.)]

~~(b) Any receiving Office which is prepared to accept the filing in computer readable form of the sequence listings and/or tables under paragraph (a) shall notify the International Bureau accordingly. The notification shall specify the electronic media on which the receiving Office will accept such filings. The International Bureau shall promptly publish any such information in the Gazette.~~

[COMMENT: See proposed new Section 710(a-bis) (see Annex II to this Circular, above).]

~~(c) A receiving Office which has not made a notification under paragraph (b) may nevertheless decide in a particular case to accept an international application the sequence listings and/or tables of which are filed with it under paragraph (a).~~

[COMMENT: See proposed new Section 715(b) (see Annex II to this Circular, above).]

~~(d) Where the sequence listings and/or tables are filed in computer readable form under paragraph (a) but not on an electronic medium specified by the receiving Office under paragraph (b), that Office shall, under Article 14(1)(a)(v), invite the applicant to furnish to it replacement sequence listings and/or tables on an electronic medium specified under paragraph (b).~~

[COMMENT: See proposed new Section 715(i): it is proposed to apply Sections 703(e) and 704(e) *mutatis mutandis* (see Annex II to this Circular, above).]

~~(e) Where an international application containing sequence listings and/or tables in computer readable form is filed under paragraph (a) with a receiving Office which is not prepared, under paragraph (b) or (c), to accept such filings, Section 333(b) and (c) shall apply.~~

[COMMENT: See proposed new Section 715(c) (see Annex II to this Circular, above).]

~~Section 802~~

~~Format and Identification Requirements Relating to
International Applications Containing Sequence Listings and/or Tables~~

~~(a) Paragraphs 40 to 45 of Annex C shall apply mutatis mutandis to the sequence listing part of an international application filed in computer readable form.~~

[COMMENT: See proposed new Section 715(e), where reference is made to Annex F with regard to the allowable electronic document formats of sequence listings and any tables related thereto, and to the allowable physical media for the furnishing of such listings and tables (see Annex II to this Circular, above).]

~~(b) Tables filed in computer readable form under Section 801(a) shall comply with Annex C-bis.~~

[COMMENT: See the comment on paragraph (a), above.]

~~(b-bis) Any International Searching Authority which requires that sequence listings be furnished in computer readable form shall select from the technical requirements contained in Annex C-bis those which it will apply and it shall notify the International Bureau accordingly. The International Bureau shall promptly publish any such information in the Gazette.~~

[COMMENT: It is proposed to delete paragraph (b-bis), noting that, unlike in the case of sequence listings, there is neither a requirement for the applicant to furnish tables in electronic form nor a need for International Searching Authorities to receive such tables in electronic form for the purposes of international search.]

~~(b-ter) Where sequence listings and tables are both filed in computer readable form under Section 801(a), such listings and tables shall, respectively, be contained on separate electronic carriers which shall contain no other programs or files.~~

[Section 802(b-ter), continued]

[COMMENT: It is proposed to delete present Section 802(b-ter) and instead to rely on Appendix IV of Annex F, dealing with the requirements for the use of physical media for the filing of documents in electronic form. Appendix IV is proposed to be modified accordingly (see Annex V to this Circular, below).]

~~(b-quater) Rule 13ter.1 shall apply *mutatis mutandis* to any tables not complying with Annex C-bis and paragraph (b-ter).~~

[COMMENT: It is proposed to delete present Section 802(b-quater), noting that, unlike in the case of sequence listings, there is neither a requirement for the applicant to furnish tables in electronic form nor a need for International Searching Authorities to receive such tables in electronic form for the purposes of international search.]

~~(e) The label provided for in paragraph 44 of Annex C shall, in respect of the sequence listings and/or tables, also include, as the case may be, the following indications:~~

~~(i) that the sequence listings and/or tables are filed under Section 801(a);~~

~~(ii) where the sequence listings and/or tables in computer readable form are contained on more than one electronic carrier, the numbering of each such carrier (for example, "DISK 1/3," "DISK 2/3," "DISK 3/3");~~

~~(iii) where more than one copy of the sequence listings and/or tables in computer readable form has been filed, the numbering of each copy (for example, "COPY 1," "COPY 2," "COPY 3").~~

[COMMENT: It is proposed to delete present Section 802(c) and instead to rely on Appendix IV of Annex F, dealing with the requirements (including labeling) for the use of physical media for the filing of documents in electronic form. Appendix IV is proposed to be modified accordingly (see Annex V to this Circular, below).]

[Section 802, continued]

~~(d) Where any correction under Rule 26.3, any rectification of an obvious error under Rule 91, or any amendment under Article 34 is submitted in respect of the sequence listings and/or tables filed, under Section 801(a)(i) or (ii), in computer readable form, replacement sequence listings and/or tables in computer readable form containing the entirety of the sequence listings and/or tables with the relevant correction, rectification or amendment shall be furnished and the label referred to in paragraph (c) shall be marked accordingly (for example, “SUBMITTED FOR CORRECTION,” “SUBMITTED FOR RECTIFICATION,” “SUBMITTED FOR AMENDMENT”). Where the sequence listings and/or tables were filed both in computer readable form and in written form under Section 801(a)(ii), replacement sheets containing the correction, rectification or amendment in question shall also be submitted in written form.~~

[COMMENT: See proposed new Sections 208~~bis~~(d) and 208~~ter~~(b) (see Annex I to this Circular, above). With regard to the labeling requirements, see Appendix IV of Annex F as proposed to be modified (see Annex V to this Circular, below).]

~~Section 803~~

**~~Calculation of International Filing Fee for
International Applications Containing Sequence Listings and/or Tables~~**

~~Where sequence listings and/or tables are filed in electronic form under Section 801(a), the international filing fee payable in respect of that application shall include the following two components:~~

~~(i) a basic component calculated as provided in the Schedule of Fees in respect of all pages filed on paper (that is, all pages of the request, description (excluding sequence listings and/or tables if also filed on paper), claims, abstract and drawings), and~~

~~(ii) an additional component, in respect of sequence listings and/or tables, equal to 400 times the fee per sheet as referred to in item 1 of the Schedule of Fees, regardless of the actual length of the sequence listings and/or tables filed in computer readable form and regardless of the fact that sequence listings and/or tables may have been filed both in written form and in computer readable form.~~

[COMMENT: See proposed new Section 715(g) (see Annex II to this Circular, above).]

~~Section 804~~

**~~Preparation, Identification and Transmittal of Copies
of International Applications Containing Sequence Listings and/or Tables~~**

~~(a) Where sequence listings and/or tables are filed only in electronic form under Section 801(a)(i), the record copy for the purposes of Article 12 shall, subject to Sections 702(c) and 705bis, consist of those elements of the international application filed on paper together with the sequence listings and/or tables filed in electronic form.~~

[COMMENT: See proposed new Section 715(h) (see Annex II to this Circular, above).]

~~(b) Where sequence listings and/or tables are filed both in electronic form and on paper under Section 801(a)(ii), the record copy for the purposes of Article 12 shall, subject to Sections 702(c) and 705bis, consist of all the elements of the international application filed on paper, including the sequence listings and/or tables filed on paper.~~

[COMMENT: It is proposed to delete Section 804(b), noting that it is proposed to no longer permit the applicant to file a sequence listing under new Section 715 in both electronic form and on paper (see Annex II to this Circular, above).]

~~(c) Where sequence listings and/or tables are filed in computer readable form under Section 801(a)(i) or (ii) in less than the number of copies required for the purposes of this Section, the receiving Office shall either:~~

~~(i) promptly prepare any additional copies required, in which case it shall have the right to fix a fee for performing that task and to collect such fee from the applicant; or~~

[Section 804(c), continued]

~~(ii) invite the applicant to promptly furnish the additional number of copies required, accompanied by a statement that the sequence listings and/or tables in computer readable form contained in those copies are identical to the sequence listings and/or tables in computer readable form as filed;~~

[COMMENT: See proposed new Section 715(f) (see Annex II to this Circular, above).]

~~provided that, where those sequence listings and/or tables were also filed in written form under Section 801(a)(ii), the receiving Office shall not, notwithstanding Rule 11.1(b), require the applicant to file additional copies of the sequence listings and/or tables in written form.~~

[COMMENT: It is proposed to delete the proviso in present Section 804(c), noting that it is proposed to no longer permit the applicant to file a sequence listing under new Section 715 both in electronic form and on paper (see Annex II to this Circular, above).]

~~(d) Where the sequence listings and/or tables are filed under Section 801(a)(i), the receiving Office shall, subject to Sections 702(c) and 705bis, in addition to proceeding under Section 305 with respect to the parts of the international application filed on paper:~~

~~(i) mark the words “RECORD COPY—SEQUENCE LISTINGS AND/OR TABLES” on the original electronic medium containing the sequence listings and/or tables in computer readable form and transmit that part of the record copy to the International Bureau together with the paper part of the record copy;~~

[Section 804(d), continued]

~~(ii) mark the words “SEARCH COPY—SEQUENCE LISTINGS AND/OR TABLES” on one additional copy of the electronic medium containing the sequence listings and/or tables in computer readable form and transmit that part of the search copy to the International Searching Authority, for the purposes of Rule 13ter.1, together with the paper part of the search copy;~~

~~(iii) mark the words “HOME COPY—SEQUENCE LISTINGS AND/OR TABLES” on the other such copy of the electronic medium containing the sequence listings and/or tables in computer readable form and keep that part of the home copy in its files together with the paper part of the home copy.~~

[COMMENT: See proposed new Section 715(h) (see Annex II to this Circular, above).]

~~(e) Where the sequence listings and/or tables are filed under Section 801(a)(ii), the receiving Office shall, subject to Sections 702(e) and 705bis, in addition to proceeding under Section 305 with respect to the parts of the international application filed on paper:~~

~~(i) mark the words “RECORD COPY—SEQUENCE LISTINGS AND/OR TABLES” in the upper left hand corner of the first page of the first sequence listing and of the first page of the first table in written form and transmit that part of the record copy to the International Bureau together with the paper part of the record copy; it shall also mark the words “COPY FOR INTERNATIONAL BUREAU—SEQUENCE LISTINGS AND/OR TABLES” on one copy of the electronic medium containing the sequence listings and/or tables in computer readable form and transmit that copy with the record copy;~~

[Section 804(e), continued]

~~(ii) mark the words “SEARCH COPY—SEQUENCE LISTINGS AND/OR TABLES” on one additional copy of the electronic medium containing the sequence listings and/or tables in computer readable form and transmit that part of the search copy to the International Searching Authority, for the purposes of Rule 13ter.1, together with the paper part of the search copy;~~

~~(iii) mark the words “HOME COPY—SEQUENCE LISTINGS AND/OR TABLES” on the other such copy of the electronic medium containing the sequence listings and/or tables in computer readable form and keep that part of the home copy in its files together with the paper part of the home copy.~~

[COMMENT: It is proposed to delete present Section 804(e), noting that it is proposed to no longer permit the applicant to file a sequence listing under new Section 715 both in electronic form and on paper (see Annex II to this Circular, above).]

~~(f) The receiving Office may, when marking the copies referred to in paragraphs (d) and (e), use, instead of the words referred to in those paragraphs, the equivalent of those words in the language of publication of the international application.~~

[COMMENT: See proposed new Section 715(h) (see Annex II to this Circular, above).]

~~Section 805~~

~~Publication and Communication of International Applications~~

~~Containing Sequence Listings and/or Tables; Copies; Priority Documents~~

~~(a) Notwithstanding Section 406, an international application containing sequence listings and/or tables may be published under Article 21, in whole or in part, in electronic form as determined by the Director General.~~

~~(b) Paragraph (a) shall apply *mutatis mutandis* in relation to:~~

~~(i) the communication of an international application under Article 20;~~

~~(ii) the furnishing of copies of an international application under Rules 87 and 94.1;~~

~~(iii) the furnishing under Rule 17.1, as a priority document, of a copy of an international application containing sequence listings and/or tables filed under Section 801(a);~~

~~(iv) the furnishing under Rules 17.2 and 66.7 of copies of a priority document.~~

[COMMENT: See Section 406, allowing generally for the publication of international applications wholly or partly in electronic form.]

~~Section 806~~

~~Sequence Listings and/or Tables for Designated Office~~

~~(a) Where sequence listings and/or tables were filed only in computer readable form under Section 801(a)(i), any designated Office which does not accept the filing of sequence listings and/or tables in computer readable form may require that the applicant furnish to it, for the purposes of the national phase, a copy on paper of such sequence listings in written form complying with Annex C and a copy on paper of such tables in written form, accompanied by a statement that the sequence listings and/or tables in written form are identical to the sequence listings and/or tables in computer readable form.~~

[COMMENT: It is proposed to delete present Section 806(a), noting that designated Offices which do not accept the filing of mixed mode sequence listing applications always have the option of obtaining from the International Bureau a copy on paper of any sequence listing filed in electronic form (see proposed new Section 715(i), pursuant to which Section 714(a) applies *mutatis mutandis* to a mixed mode sequence listing application to the extent that it is filed in electronic form) (see Annex II to this Circular, above).]

~~(b) Rule 13ter.2 shall apply *mutatis mutandis* to any tables filed under Section 801(a).~~

[COMMENT: It is proposed to delete present Section 806(b), noting that, unlike in the case of sequence listings, there is no requirement for the applicant to furnish tables in electronic form to designated Offices.]

~~(c) For the purposes of Rule 49.5, any designated Office may require that the applicant furnish to it a translation of any text matter contained in any tables filed under Section 801(a), if that text matter is not in the language-neutral vocabulary referred to in Annex C and if it does not appear in the main part of the description in the language thereof.~~

[COMMENT: Noting that tables related to sequence listings usually contain text matter and data, and that translation of the text matter only, separate from the data, would render the information contained in the table almost useless, it is proposed to delete present Section 806(c). Instead, it is proposed that any table related to a sequence listing, which

[Section 806(c), continued]

preferably is to be presented as a separate part of the description (see Section 208(b) as proposed to be modified in Annex II to this Circular, above), should, as the remainder of the application, be translated “in its entirety”: any text matter contained in the table (which is to be translated) should remain together with the accompanying data (which is not to be translated).]

[Annex IV follows]

ANNEX IV

PROPOSED MODIFICATION OF ANNEX C
AND PROPOSED DELETION OF ANNEX C-*bis*
OF THE ADMINISTRATIVE INSTRUCTIONS

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ANNEX C

STANDARD FOR THE PRESENTATION OF NUCLEOTIDE AND AMINO ACID SEQUENCE LISTINGS IN INTERNATIONAL PATENT APPLICATIONS UNDER THE PCT

Introduction

1. [No change]

Definitions

2. For the purposes of this Standard:

(i) the expression “sequence listing” means a nucleotide and/or amino acid sequence listing ~~part of the description of the application as filed or a document filed subsequently to the application,~~ which gives a detailed disclosure of the nucleotide and/or amino acid sequences and other available information;

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular. It is proposed to modify item (i) of paragraph 2 so that it becomes applicable to all sequence listings, whether or not forming part of the application.]

- (ii) to (vii) [No change]

(viii) “competent Authority” is the International Searching Authority that is to carry out the international search and to establish the written opinion of the International Searching Authority on the international application, or the International Preliminary Examining Authority that is to carry out the international preliminary examination on the international application, ~~or the designated/elected Office before which the processing of the international application has started.~~

[Annex C, paragraph 2(viii), continued]

[COMMENT: The proposed modification of item (viii) is consequential on the amendment of Rule 13~~ter~~ as in force from April 1, 2005 (Rule 13~~ter~~ is no longer applied *mutatis mutandis* to designated Offices).]

Sequence Listing

3. ~~[Deleted] The sequence listing as defined in paragraph 2(i) shall, where it is filed together with the application, be placed at the end of the application. This part shall be entitled “Sequence Listing,” begin on a new page and preferably have independent page numbering. The sequence listing forms an integral part of the description; it is therefore unnecessary, subject to paragraph 36, to describe the sequences elsewhere in the description.~~

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular. It is proposed to delete paragraph 3 and to move its contents to proposed new Section 208~~bis~~(b) (see Annex I to this Circular, above).]

4. ~~[Deleted] Where the sequence listing as defined in paragraph 2(i) is not contained in the application as filed but is a separate document furnished subsequently to the filing of the application (see paragraph 37), it shall be entitled “Sequence Listing and shall have independent page numbering. The original numbering of the sequences (see paragraph 5) in the application as filed shall be maintained in the subsequently furnished sequence listing.~~

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular. It is proposed to delete paragraph 4 and to move its contents to proposed new Section 208~~ter~~(c) (see Annex I to this Circular, above).]

5. to 25. [No change]

26. In addition to the data elements identified in paragraph 25, above, when a sequence listing is ~~filed at the same time as the application to which it pertains or~~ furnished at any time prior to the assignment of an application number, the following data element shall be included in the sequence listing:

<130>	File reference
-------	----------------

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular. It is proposed to modify paragraph 26 to clarify that it is applicable to all sequence listings, whether or not forming part of the application.]

27. In addition to the data elements identified in paragraph 25, above, when a sequence listing is ~~furnished~~ ~~filed in response to a request from a competent Authority or~~ at any time following the assignment of an application number, the following data elements shall be included in the sequence listing:

<140>	Current patent application
<141>	Current filing date

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular. It is proposed to modify paragraph 27 to clarify that it is applicable to all sequence listings, whether or not forming part of the application.]

28. to 35. [No change]

36. Where the sequence listing forming part of the application is contained in the application as filed and contains free text, any such free text shall be repeated in the main part of the description in the language thereof. It is recommended that the free text in the language of the main part of the description be put in a specific section of the description called “Sequence Listing Free Text.”.

[Annex C, paragraph 36, continued]

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular. Unlike all other provisions contained in Annex C as proposed to be modified, paragraph 36 would not apply to all sequence listings, whether or not forming part of the application, but would apply only to sequence listings forming part of the application which are contained in the application as filed. It would appear that there is a need to include this provision in Annex C and not in proposed new Section 208*bis*, noting that WIPO Standard ST.25 recommends that Offices apply the provisions set out in Annex C *mutatis mutandis* to all patent applications other than the PCT international applications and that there is a need for this provision to be applied to such national applications.]

~~Subsequently Furnished Sequence Listing~~

37. ~~[\[Deleted\]](#) Any sequence listing which is not contained in the application as filed but which is furnished subsequently shall not go beyond the disclosure in the application as filed and shall be accompanied by a statement to that effect. This means that a sequence listing furnished subsequently to the filing of the application shall contain only those sequences that were disclosed in the application as filed.~~

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular. It is proposed to delete paragraph 37 and move its contents to proposed new Section 208*ter*(c) (see Annex I to this Circular, above).]

38. ~~[\[Deleted\]](#) Any sequence listing not contained in the application as filed does not form part of the application. However, the provisions of PCT Rules 13*ter*, 26.3 and 91 and PCT Article 34 would apply, so that it may be possible, subject to the applicable provisions, for a sequence listing contained in the application as filed to be corrected under PCT Rules 13*ter* or 26.3, rectified under PCT Rule 91 (in the case of an obvious error), or amended under PCT Article 34, or for a sequence listing to be submitted under PCT Article 34 as an amendment to the application.~~

[Annex C, paragraph 38, continued]

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular. It is proposed to delete paragraph 38 and move its contents (further modified) to proposed new Sections 208~~bis~~(a) and 208~~ter~~(a) (see Annex I to this Circular, above).]

Electronic Form of the Sequence Listing

39. ~~[Deleted] A copy of the sequence listing shall also be submitted in electronic form, in addition to the sequence listing as contained in the application, whenever this is required by the competent Authority.~~

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular. It is proposed to delete paragraph 39 and move its contents (further modified) to proposed new Sections 208~~ter~~(a), 513 and 610 (see Annex I to this Circular, above).]

40. ~~[Deleted] Any sequence listing in electronic form submitted in addition to the sequence listing as contained in the application shall be identical to the sequence listing as contained in the application and shall be accompanied by a statement that “the information recorded in electronic form is identical to the sequence listing as contained in the application.”~~

[COMMENT: It is proposed to delete the text of present paragraph 40, requiring the applicant to furnish a statement confirming the “identity” of the sequence listing in electronic form and the sequence listing as contained in the application as filed. The furnishing of such a statement would appear to be meaningful only where the sequence listing in electronic form (furnished for the purposes of the international search or preliminary examination) is indeed identical to the sequence listing contained in the application as filed (for example, if both are furnished at the same time or if the sequence listing contained in the application as filed fully complies with the Annex C standard but an identical sequence listing in electronic form is needed for the purposes of the search or preliminary examination). It would not appear to be meaningful (and indeed false) in the case where the competent Authority invites the applicant, under Rule 13~~ter~~, to furnish a sequence listing in electronic form because the sequence listing contained in the application as filed (be it on paper or in electronic form) did not comply with the Annex C standard. In any case, it would appear that the statement to be furnished by the applicant under proposed new Section 208~~ter~~(c) (present paragraph 37 of Annex C) (“sequence listing in electronic form furnished for the purposes of the international search or

[Annex C, paragraph 40, continued]

preliminary examination does not go beyond the disclosure of the application as filed”) is sufficient to ensure that the sequence listing in electronic form furnished for the purposes of the international search or preliminary examination contains only those sequences that were disclosed in the application as filed.]

*Electronic Document Format*³

[COMMENT: See the Editor’s Note at the bottom of this page.]

41. ~~Any The entire printable copy of the~~ sequence listing in electronic form shall be contained within one electronic file ~~preferably on a single diskette or any other electronic medium that is acceptable to the competent Authority. The file recorded on the diskette or any other electronic medium that is acceptable to the competent Authority shall be~~ encoded as a text file using IBM Code Page 437, IBM Code Page 932 or a compatible code page to represent the sequence listing as set out in paragraphs 5 to 36 with no other codes included. A compatible code page, as would be required for, for example, Japanese, Chinese, Cyrillic, Arabic, Greek or Hebrew characters, is one that assigns the Roman alphabet and numerals to the same hexadecimal positions as do the specified code pages.

³ Editor’s note: Where the international application is filed in electronic form under Section 703 or in the form of a mixed mode sequence listing application under Section 715, any sequence listing in electronic form forming part of the application (see Section 208bis(a)) shall preferably be in the electronic document format referred to in paragraphs 41 and 42 but may be in any other electronic document format that has been specified by the receiving Office for the purposes of filing of applications in electronic form or in the form of mixed mode sequence listing applications in accordance with Annex F, provided that, irrespective of the electronic document format in which the sequence listing is presented, the spatial relationship (e.g., columns and rows) of the data elements included in the sequence listing and the format of the actual nucleotide and/or amino acid sequence, as specified in Annex C of the Administrative Instructions, is maintained.

[Annex C, paragraph 41, continued]

[COMMENT: Clarification only. With regard to the physical media types acceptable to the International Searching and Preliminary Examining Authority, see proposed new Sections 208*bis*(e) and 208*ter*(e), in Annex I to this Circular, above.]

42. Any sequence listing in ~~The~~ electronic form referred to in paragraph 41 shall preferably be created by dedicated software such as PatentIn or other custom computer programs. ~~It it~~ may be created by any means, as long as such ~~the~~ sequence listing ~~on a submitted diskette or any other electronic medium that is acceptable to the competent Authority~~ is readable under a Personal Computer Operating system that is acceptable to the competent Authority.

[COMMENT: Clarification only. With regard to the physical media types acceptable to the International Searching and Preliminary Examining Authority, see proposed new Sections 208*bis*(e) and 208*ter*(e), in Annex I to this Circular, above.]

File Compression

43. File compression for the submission of a sequence listing in electronic form is acceptable if done using the ZIP standard. The software used to create the ZIP file must conform to the ZIP file format specification as published in the PKWARE® PKZIP® Application Note (Revised: 08/01/1998). All ZIP files must have a flat directory structure. The ZIP standard allows the compression software to select from among a number of compression algorithms. The compression method must be “deflation” with the normal compression option ~~when using diskette media, so long as the compressed file is in a self-extracting format that will decompress on a Personal Computer Operating system that is acceptable to the competent Authority.~~

[COMMENT: It is proposed to modify paragraph 43 by aligning its wording to that used in section 4.1.1 of Annex F.]

44. ~~[Deleted] The diskette or any other electronic medium that is acceptable to the competent Authority shall have a label permanently affixed thereto on which has been hand-printed, in block capitals or typed, the name of the applicant, the title of the invention, a reference number, the date on which the data were recorded, the computer operating system, and the name of the competent Authority.~~

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular. It is proposed to delete paragraph 44 and instead to deal with the issue of “use of physical media” for the submission of sequence listings in electronic form in proposed new Section 208*bis*(e) (with regard to sequence listings forming part of the application) and proposed new Section 208*ter*(e) (with regard to sequence listings not forming part of the application) (see Annex I to this Circular, above).]

45. ~~[Deleted] If the diskette or any other electronic medium that is acceptable to the competent Authority is submitted after the date of filing of an application, the labels shall also include the filing date of the application and the application number.~~

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular. It is proposed to delete paragraph 45 and instead to deal with the issue of “use of physical media” for the submission of sequence listings in electronic form in proposed new Section 208*bis*(e) (with regard to sequence listings forming part of the application) and proposed new Section 208*ter*(e) (with regard to sequence listings not forming part of the application) (see Annex I to this Circular, above).]

46. ~~[Deleted] Any correction of the sequence listing as contained in the application which is submitted under PCT Rules 13*ter*.1(b) or 26.3, any rectification of an obvious error in the sequence listing as contained in the application which is submitted under PCT Rule 91, or any amendment which includes a sequence listing as contained in the application and which is submitted under PCT Article 34, shall be accompanied by a copy in electronic form of the sequence listing including any such correction, rectification or amendment.~~

[Annex C, paragraph 46, continued]

[COMMENT: See paragraphs 8 and 9 in the main body of this Circular. It is proposed to delete paragraph 46 and to move its contents to proposed new Section 208*bis*(d) (with regard to sequence listings forming part of the application) and proposed new Section 208*ter*(b) (with regard to sequence listings not forming part of the application) (see Annex I to this Circular, above).

Annex C, Appendices 1 and 2 [No change]

~~ANNEX C-bis~~

~~DELETED~~

~~TECHNICAL REQUIREMENTS FOR THE PRESENTATION OF
TABLES RELATED TO NUCLEOTIDE AND AMINO ACID SEQUENCE LISTINGS
IN INTERNATIONAL PATENT APPLICATIONS UNDER THE PCT~~

Introduction

~~1. — These technical requirements have been elaborated so as to provide standardization of the presentation of tables related to nucleotide and amino acid sequence listings or computer program listings in international patent applications. These technical requirements are intended to allow the applicant to draw up such tables in a manner which is acceptable to all receiving Offices, International Searching Authorities, International Preliminary Examining Authorities and to the International Bureau for the purposes of the international phase and to all designated and elected Offices for the purposes of the national phase.~~

Definition

~~2. — For the purposes of these technical requirements, “competent Authority” is the International Searching Authority that is to carry out the international search on the international application, or the International Preliminary Examining Authority that is to carry out the international preliminary examination on the international application, or the designated/elected Office before which the processing of the international application has started.~~

[Annex C-bis, paragraph 2, continued]

[COMMENT: Unlike sequence listings, tables in electronic form related to sequence listings are not required by the International Searching Authority or the International Preliminary Examining Authority for the purposes of the international search or preliminary examination (and are, consequently, also not covered by Rule 13*ter*). As regards the technical requirements for the filing of “mixed mode sequence listing applications” (including tables in electronic form related to sequence listings), focus must thus be on the requirements of the receiving Office in respect of filing of mixed mode sequence listing applications rather than on the requirements of the “competent authority” (that is, the International Searching or Preliminary Examining Authority).]

~~Tables related to sequence listings~~

~~3. Tables filed in computer readable form under Section 801(a) shall one of the following character formats:~~

~~(i) UTF 8 encoded Unicode 3.0; or~~

~~(ii) XML format conforming to the “Application Body” Document Type Definition referred to in Appendix I of Annex F;~~

~~at the option of the competent Authority.~~

[COMMENT: See the Comment on paragraph 2, above. Noting that tables in electronic form related to sequence listings are not required in electronic form by the International Searching Authority or the International Preliminary Examining Authority for the purposes of the international search or preliminary examination, proposed new Section 715 (see Annex II to this Circular, above) refers to Annex F with regard to the allowable electronic document formats for the filing of mixed mode sequence listing applications, including tables in electronic form related to sequence listings. Consequently, tables in electronic form related to sequence listings may be filed in any electronic document format specified by the receiving Office for the filing of mixed mode sequence listing applications in accordance with Annex F.]

~~4. — The spatial relationships (e.g., columns and rows) of the table elements shall be maintained.~~

[COMMENT: See section 3.1 (at the end) of Annex F.]

~~5. — At the option of the competent Authority, file compression is acceptable, so long as the compressed file is in a self-extracting format that will decompress on a Personal Computer Operating system that is acceptable to the competent Authority and to the International Bureau.~~

[COMMENT: See the Comment on paragraph 2, above. Noting that tables in electronic form related to sequence listings are not required in electronic form by the International Searching Authority or the International Preliminary Examining Authority for the purposes of the international search or preliminary examination, proposed new Section 715 (see Annex II to this Circular, above) refers to Annex F with regard to technical requirements, including the question of file compression, for the filing of mixed mode sequence listing applications, including tables in electronic form related to sequence listings. As concerns the question of “file compression”, the general provisions are to be found in section 4.1.1 of Annex F.]

~~6. — Each table shall be contained within a separate electronic file on any electronic medium that is acceptable to the competent Authority. The file recorded on the electronic medium that is acceptable to the competent Authority shall be encoded using IBM Code Page 437, IBM Code Page 932 or a compatible code page. A compatible code page, as would be required for, for example, Japanese, Chinese, Cyrillic, Arabic, Greek or Hebrew characters, is one that assigns the Roman alphabet and numerals to the same hexadecimal positions as do the specified code pages.~~

[COMMENT: See the Comments on paragraph 2 and 3, above. Noting that tables in electronic form related to sequence listings are not required in electronic form by the International Searching Authority or the International Preliminary Examining Authority for the purposes of the international search or preliminary examination, proposed new Section 715 (see Annex II to this Circular, above) refers to Annex F with regard to the

[Annex C-bis, paragraph 6, continued]

allowable electronic document formats for the filing of mixed mode sequence listing applications, including tables in electronic form related to sequence listings. Consequently, tables in electronic form related to sequence listings may be filed in any electronic document format specified by the receiving Office for the filing of mixed mode sequence listing applications in accordance with Annex F. With regard to the requirements for the filing of mixed mode sequence listing applications (including tables) on physical media see, in particular, Appendix IV to Annex F in Annex V to this Circular, below.]

~~7. — Tables filed in computer readable form may be created by any means, as long as the table on an electronic medium that is acceptable to the competent Authority is readable under a Personal Computer Operating system that is acceptable to the competent Authority and to the International Bureau.~~

[COMMENT: See the Comment on paragraph 6, above.]

~~8. — If the electronic medium that is acceptable to the competent Authority is submitted after the date of filing of an application, the labels shall also include the filing date of the application and the application number.~~

[COMMENT: See the Comment on paragraph 2, above. Tables in electronic form related to sequence listings are not required in electronic form by the International Searching Authority or the International Preliminary Examining Authority for the purposes of the international search or preliminary examination, are thus not covered by the invitation procedure under Rule 13^{ter} and consequently cannot be submitted after the date of filing of the international application under that Rule.]

[Annex V follows]

ANNEX V

PROPOSED MODIFICATIONS OF
ANNEX F OF THE ADMINISTRATIVE INSTRUCTIONS:

STANDARD FOR THE FILING AND PROCESSING
IN ELECTRONIC FORM OF INTERNATIONAL APPLICATIONS

1. and 2 [No change]

3. E-PCT SUBMISSION STRUCTURE AND FORMAT

3.1 *Allowable electronic document formats*

3.1.1 to 3.1.3 [No change]

3.1.4 *Pre-conversion formats*

[COMMENT: The proposed addition of new section 3.1.4 is consequential on the proposed modification of Section 706 (see Annex II of this Circular, above).]

Any document in a pre-conversion format referred to in Section 706(a) must be included as a referenced document.

For the Applicant-Office (international phase) communication sector, receiving Offices shall notify the International Bureau whether they will accept documents in pre-conversion formats and, if so, which pre-conversion format(s) they will accept (see AIs Section 710(a)(iv)).

[COMMENT: See Section 706(a) as proposed to be modified in Annex II to this Circular, above. Note that it would be up to the receiving Office to determine which pre-conversion formats it would be willing to accept (for example, the Office may wish to determine an exhaustive list of acceptable pre-conversion formats or have a more flexible approach, such as accepting any pre-conversion format, provided that the applicant informs the Office, when filing the application, where it can within reason acquire the corresponding software).]

[Annex F, section 3.1.4, continued]

For the purposes of the procedure under AIs Section 706(b), any receiving Office which chooses to accept a copy of the international application (or any element thereof, see Section 706(c)) in a pre-conversion format which the International Bureau cannot process must transmit the document concerned (that is, the copy of the international application or any element thereof) to the International Bureau in both an electronic document format which the International Bureau can process and the original pre-conversion format.

[COMMENT: Where the International Bureau cannot process the pre-conversion format accepted by the receiving Office, the receiving Office would be required to transmit it to the International Bureau in both an electronic document format in which the International Bureau can process it (for example, any of the Annex F compliant electronic document format, or paper) and in the pre-conversion format. The International Bureau would keep the document concerned in both formats in its files in accordance with Rule 93.2.]

3.2 to 3.4 [No change]

4. IA DOCUMENTS PACKAGING

4.1 and 4.2 [No change]

4.3 *File naming convention*

[No change to the introductory text]

4.3.1 *Tables*

Tables 1 to 5 [No change]

[Annex F, section 4.3.1, continued]

Table 6

<i>Document and package types currently accepted for initial ePCT filing</i>	
<i>Document type</i>	<i>Code</i>
record copy (package)	reco
home copy (package)	home
package header	pkgh
package data	pkda
request	requ
receiving office information	rrri
declarations	decl
application body	appb
fee sheet	fees
original separate power of attorney	poat
original general power of attorney	gpoa
copy of general power of attorney	cgpa
statement explaining the lack of signature	lacs
priority documents	pdoc
translation of application	tapp
biological deposit	biod
sequence listing (ST.25)	seq1
sequence listing not forming part of the application	seqn
sequence listing table	seqt
table external	tabx
record copy	reco
home copy	hoco
transmission receipt	xmre
application receipt list	aprl
dispatch list	dspl
amendment request	amnd
change of bibliographic material	bibc
ex-officio correction	exoc
correspondence	crsp
notification	noti
demand	dmnd
IPEA demand receiving information	idri
fee-sheet-chapter2	fee2
international search report (ISR)	isre
international preliminary examination report (IPER)	iper
international search opinion (ISO)	isop
translation of international search report	isrt
translation of preliminary examination report	ipet
translation of international search opinion	isot
published application	papp
office specific document types	[2-position country code]AA
table exceeding fifty printed pages	mtbl

[Annex F, section 4.3.1, table 6, continued]

[COMMENT: It is proposed to add a code for the document “sequence listing not forming part of the application” to the file naming convention to ensure that sequence listings in electronic form which do not form part of the international application but are furnished for the purposes of the international search or preliminary examination are identified and named appropriately.]

Tables 7 and 8 [No change]

4.3.2 and 4.3.3 [No change]

5. to 9. [No change]

APPENDICES I to III [No change]

APPENDIX IV USE OF PHYSICAL MEDIA FOR THE E-PCT STANDARD

1. INTRODUCTION

(a) This Appendix defines the requirements for applicants for the submission of documents in electronic form using physical media where the receiving Office has notified the International Bureau under AIs Section 710(a) or (a-bis), as the case may be, that it is prepared to accept the filing in electronic form on physical media of:

(i) international applications under AIs Section 703 (see AIs Section 710(a)(i));

~~or~~

(ii) other kinds of documents under AIs Section 703 (see AIs Section 710(a)(iii));

or

[Annex F, Appendix IV, paragraph 1(a), continued]

(iii) sequence listings and tables related thereto under AIs Section 715 (see Section 710(a-bis)).

[COMMENT: The proposed modifications of paragraph (a) are consequential on the proposed addition of new Sections 710(a-bis) and 715 (see Annex II to this Circular, above).]

(b) A receiving Office which has notified the International Bureau under AIs Section 710(a) or (a-bis) that it is prepared to accept the filing of documents in electronic form on physical media shall, in addition to the indications required under those Sections, indicate the physical media types, ~~the electronic document formats (including, where applicable, any versions of such electronic document formats)~~ and ~~the electronic packages acceptable to it. The receiving Office shall also indicate~~ the number of copies of the physical media that are required under Rule 11.1(b).

[COMMENT: The proposed modifications of paragraph (a) are consequential on the proposed addition of new Section 710(a-bis) and the fact that Section 710(a) and (a-bis) already require the receiving Office to specify the electronic document formats and electronic packages acceptable to it (see Annex II to this Circular, above).]

(c) ~~(b) cont.~~ The acceptable physical media types and formats shall be limited to those described in section 4 of this Appendix, below, provided that any receiving Office which has notified the International Bureau under AIs Section 710(a) or (a-bis) that it is prepared to accept the filing the filing in electronic form on physical media of international applications under AIs Section 703 or sequence listings and tables related thereto under AIs Section 715 shall, where the International Searching Authority, or, if applicable, at least one of the International Searching Authorities competent for the international searching of international applications filed with that receiving Office has notified the International Bureau under

[Annex F, Appendix IV, paragraph 1(c), continued]

Section 513(f) that it requires the furnishing of sequence listings in electronic form on physical media for the purposes of the international search, accept at least one physical media type that is accepted by that Authority, or, if applicable, by at least one of those Authorities.

[COMMENT: It is proposed to oblige receiving Offices to accept at least one physical media type which is accepted by the International Searching Authority competent to carry out the international search for applications filed with that Office so as to ensure that, where the applicant files, under Section 703, an international application in electronic form on a physical medium which contains a sequence listing, or files, under Section 715, a sequence listing in electronic form on a physical medium as part of a mixed mode sequence listing application, the physical medium containing the sequence listing in electronic form is acceptable to both the receiving Office (for the purposes of filing of the application) and the International Searching Authority (for the purposes of the international search) and thus has to be furnished by the applicant only once.]

(d) ~~(b) cont.~~ Electronic document formats are limited to those described in the main body of this Annex.

2. REQUIREMENTS FOR ELECTRONIC FILING USING PHYSICAL MEDIA

(a) to (c) [No change]

(d) Each physical medium shall be enclosed in a hard case within an unsealed padded and protective mailing envelope and accompanied by a transmittal letter on paper. The transmittal letter shall state the contents of the physical medium (for example: “international application filed under Section 703”, ~~or~~ “[name of other kind of document] filed under Section 703”, “sequence listing filed under Section 715” or “table(s) related to a sequence listing filed under Section 715”). The transmittal letter shall also list for each physical medium the machine format (e.g., IBM-PC), the operating system compatibility (e.g., MS-DOS, MS-Windows, Unix), a list of the files contained on the physical medium including

[Annex F, Appendix IV, paragraph 2(d), continued]

their names, sizes in bytes, and dates of creation, plus any other special information that is necessary to identify, maintain, and interpret the information on the physical medium.

Physical media submitted to the Office will not be returned to the applicant. ~~If the physical medium contains a backup copy to an international application filed in electronic form under AIs Section 706(a), then the transmittal letter must state that the content of the backup copy is identical to that of the application as filed in electronic form, and indicate the number referred to in AIs Section 704(a)(iii).~~

[COMMENT: The proposed modifications of paragraph (d) are consequential on the proposed addition of new Section 715 and the proposed modification of Section 706 (see Annex II to this Circular, above).]

(e) [No change]

(f) A physical medium must also be physically labeled with the following information:

(i) to (vi) [No change]

(vii) an indication of the content of the physical medium (for example:

“INTERNATIONAL APPLICATION—SECTION 703”; “[SEQUENCE](#)

[LISTING—SECTION 715](#) ~~BACKUP COPY—SECTION 706~~”;

[“TABLES—SECTION 715”](#), “ARTICLE 19 AMENDMENTS”;

“ARTICLE 34 AMENDMENTS”; ~~“SEQUENCE LISTING—RULE 13ter”~~;

“REPLACEMENT SEQUENCE LISTING”).

[COMMENT: The proposed modifications of paragraph (f) are consequential on the proposed modification of Section 706 and the proposed addition of new Section 715 (see Annex II to this Circular, above). The proposed deletion of the words “Sequence Listings-Rule 13ter” is consequential on the proposal to make a clear distinction

[Annex F, Appendix IV, paragraph 2(f), continued]

between, on the one hand, provisions applicable to sequence listings forming part of the application and, on the other hand, provisions applicable to sequence listings not forming part of the application but furnished for the purposes of the international search and preliminary examination (Appendix IV generally applies only to the former, except that paragraph 2(e) and (f) apply *mutatis mutandis* also to the latter, see proposed new Section 208ter(e), in Annex II to this Circular, above).]

(g) In the case of a mixed mode listing application filed under AIs Section 715, where a sequence listing and tables related thereto are both filed in electronic form, such listing and tables shall, respectively, be contained on separate physical media which shall contain no other programs or files.

[COMMENT: The proposed addition of new paragraph (g) is consequential on the proposed addition of new Section 715.]

3. and 4. [No change]

[End of Annex V and of Circular]