



SUBJECT: Revised Data Policy

SUBMITTED BY: President of the European Patent Office

ADDRESSEES: 1. Administrative Council (for decision)
2. Technical and Operational Support Committee (for information)

SUMMARY

Document CA/77/22 received a unanimous positive opinion from the Technical and Operational Support Committee on 9 November 2022. Considering the feedback from the Committee, a revised version, CA/77/22 Rev. 1 replaces CA/77/22 dated 21 October 2022. The amendments are indicated by grey hatching.

At the 90th meeting of the TOSC, with document CA/T 23/21 the Office provided the delegations with a comprehensive state of play of the EPO's data policy, addressing in particular the legal framework, data coverage, data dissemination and the current fees and pricing policy. The document further outlined some potential orientations for the review of the data policy.

Building on the feedback received, the present document entails a comprehensive, consolidated revision of the current data policy to make it fit for the future. It is submitted for decision by the Administrative Council.

This document has been issued in electronic form only.

TABLE OF CONTENTS

Subject	Page
I. STRATEGIC/OPERATIONAL	1
II. RECOMMENDATION	1
III. MAJORITY NEEDED	1
IV. CONTEXT	1
A. PRIOR ART DATA MANAGEMENT: A CORE MISSION OF THE EPO	1
B. REVIEW AND CONSULTATION PROCESS IN THE CONTEXT OF SP2023	4
C. LINKS WITH OTHER EPO POLICIES AND INITIATIVES	5
V. ARGUMENTS	7
A. GENERAL ORIENTATIONS	7
(a) Fostering the EPO's role as a provider of high-quality data in a very accessible manner	7
(b) Anchoring EPO data policy in the broader societal context	8
(c) Developing EPO data policy in close liaison with stakeholders	8
(d) Facilitating access to NPL	9
(e) Improving the performance and accessibility of the examiner search tools	9
B. POLICY RULES FOR DATA ACQUISITION	10
C. POLICY RULES FOR DATA ACCESS AND DISSEMINATION – GENERAL CONDITIONS	11
D. POLICY RULES FOR DATA ACCESS AND DISSEMINATION – SPECIFIC CONDITIONS	13
(a) Specific conditions for EP patent data	13
(b) Specific conditions for non-EP patent data	13
E. POLICY RULES FOR ACCESS TO DATA THROUGH THE PRIOR-ART SEARCH TOOL	13
F. LEGAL FRAMEWORK	14
VI. NEXT STEPS	15
VII. ALTERNATIVES	16

VIII.	FINANCIAL IMPLICATIONS	16
IX.	LEGAL BASIS	16
X.	DOCUMENTS CITED	16
XI.	RECOMMENDATION FOR PUBLICATION	16
ANNEX 1	GLOSSARY	17
ANNEX 2	ILLUSTRATIVE LIST OF EPO DATA AND SERVICES	19

I. STRATEGIC/OPERATIONAL

1. Strategic

II. RECOMMENDATION

2. The Administrative Council, after having heard the opinion of the TOSC, is requested to adopt the revised policy described in this document, to enter into force on 1 January 2023. It supersedes existing CA documents dealing with data policy, as specified in Part F of this document.

III. MAJORITY NEEDED

3. Simple majority.

IV. CONTEXT

A. PRIOR ART DATA MANAGEMENT: A CORE MISSION OF THE EPO

4. The European Patent Organisation (EPO) has long been committed to maintaining the highest scope and quality of prior-art information that it is able to access. Further, it has long been the EPO's policy to collaborate with worldwide NPOs to enhance their access to prior-art information. Moreover, the EPO has a long-standing policy of openness with patent data vis-à-vis the public, industry, academia and a broad range of additional stakeholders.
5. Whilst the internet was emerging as a major factor in information distribution at the time of the 2007 revision of the EPO's patent information policy, the situation today has evolved much further than many could have imagined at that time. Now we have ultrafast internet, which is different not only in terms of its capacity but also in terms of the substance of the way that it is used. Today the internet is the foundation of a vast number of communities of experts and best practice and is an essential element of the fabric of many business ecosystems. Furthermore, we are now seeing the ever-broader adoption of machine learning and artificial intelligence to the extent that it has become routine in areas such as machine translation. The proposed data policy must be fit for this landscape as it further evolves in the coming years.
6. The Office acquires and maintains very comprehensive prior-art collections to perform its official patent grant function, and these are also shared to a certain extent with the public, other NPOs and commercial information service providers. This data is core to the mission of the Office to examine and grant patents, and core to the mission of the EPO in its many dealings with its member states, other international organisations, commercial providers of information in the field of IP and the general public with its broad diversity of users and needs. Even though maintaining this prior art is expensive and complex, the Office currently provides a wide range of high-quality patent data sets and patent data services to the public for free. As a result, the Office has become widely recognised as a key distributor of high-quality patent data, which is an essential input for a number of information providers and processors.



At a glance:

2.2 billion technical records in 182 databases

140 million patent documents

65 million Asian patent documents

Over 610 000 traditional knowledge documents from India, China and Korea

Over 10 000 journal titles covering all areas of technology, subscription-only external databases and collections

4.4 million standards documents

7. This distribution role has resulted in the creation of an ecosystem of companies and other entities that not only transform and repackage the information delivered by the Office, but also undertake ever more innovative analysis and processing to provide enhanced value. This information is in most cases used to further support additional innovation activities and technical progress in general and is also used for legal and business purposes. Further, those companies and other entities have a multiplying positive effect on innovation as they reach actors that do not have direct contact with the Office in this regard.
8. Consequently, the Office has developed dynamic data acquisition activities vis-à-vis NPOs and other data suppliers covering both patent and NPL data, with key requirements being state-of-the-art technical means, standards, data quality and data timeliness. These requirements are not new; they are based on long-standing practice and will be even more important in the future, for example in the framework of the Unitary Patent and "top-up searches".
9. Such data dissemination activities have a major positive impact on innovation and are complementary to the patent granting role of the Office. By giving access to relevant prior-art technical information, the Office enables innovative entities to base their research on existing knowledge and to file quality patents taking into account existing technical prior art. Such activities also support a transparent IP environment in which all economic players have ready access to information about whether inventions are protected by patent rights or not. High-quality open data is a key driver for the sustainability of this ecosystem, and this revised policy will be an important contributor to ensuring that this remains the case.

Usage statistics for patent knowledge products (monthly average)

Espacenet	717 000	visitors
Patent Translate	454 000	requests
Open Patent Services	279 000	visitors
European Patent Register	1 509 000	visitors
European Publication Server	995 000	visits
PATSTAT Online	1 500	visits
GPI	633 000	visits
Official Journal	33 000	visitors
Legal text	100 000	visitors

Source: EPO

10. Furthermore, exchanges of industrial property information also result from international agreements such as Article 12 of the Paris Convention, which stipulates the obligation for NPOs to communicate information to the public. In that publication context, offices have exchanged their patent data with each other for many years. These mutual exchanges have evolved in the digital age towards the creation of a central patent database maintained by the Office and open to other NPOs and to the public. Exchange of information is further provided for in Article 130 of the European Patent Convention (EPC).
11. In view of this long-standing shared mission of the EPO and NPOs to maintain and distribute high-quality prior-art collections, there have been numerous consultations and collaborations that date back decades. At European level, some highlights of this journey include:
 - the decision of the Administrative Council of 10 June 1988 on a European patent information policy, and subsequent multiple updates and refinements to that policy
 - the long-standing exchange of data between the Office and the EPO member states
 - the long-standing sharing of tools for prior-art search and data retrieval between the Office and the EPO member states
 - the long-standing co-operation between the Office and the member states in many areas from the building of stronger communities of best practice, such as PATLIB, through seminars, workshops, training and far more

12. These countless collaborative activities over the years have been accompanied by substantial consultations along the way. They have been part of our collective journey for many years and have led us to build together the solid foundation upon which we now plan to go even further. In order to be prepared for future evolutions, the SP2023 provides for an in-depth review of the EPO's data policy, with the objective of suggesting improvements to the key functions in data management (collect, process, disseminate) at the EPO.

B. REVIEW AND CONSULTATION PROCESS IN THE CONTEXT OF SP2023

13. The review process started with an in-depth internal analysis conducted by the Office in 2020-2021, in order to present the most accurate state of play to member states. For the first time, this review exercise also included an estimation of the value of the EPO's data dissemination activities by an external consultant (see main conclusions presented in CA/T 23/21, paragraphs 56-63).
14. The EPO delegations were presented with the progress on the review process on three occasions:
 - TOSC 90 (9-10 November 2021): with CA/T 23/21, the Office provided the delegations with a comprehensive state of play with regard to the legal framework, data coverage, data dissemination and the current fees and pricing policy. The document further outlined some potential orientations for the review of the data policy. Reactions from the TOSC participants were supportive and did not raise concerns about what was reported and proposed. Possible improved access to databases was welcomed. It also appeared that the participants did not consider it appropriate to aim for major changes to the current policy, but that some evolutions in line with the leading and supporting roles the Office has in the data area were expected. The specific topics highlighted by the participants related to the Office's facilitating role for access to NPL, the access to additional databases through the prior-art search tool and a simplified pricing policy for the Office's search tool.
 - TOSC 91 (6-7 April 2022): on the basis of the feedback received during TOSC 90, the Office presented some possible evolutions of its data policy under four pillars: data coverage, data dissemination, legal framework, pricing policy (CA/T 13/22). The aim of these proposals was to improve the comprehensiveness of EPO databases (e.g. improving the collection of legal events related to patents) and the range of data sets accessible by our stakeholders (e.g. expanding the number of internal EPO databases accessible via the search tool), to group together in a single document the EPO data policy principles, currently spread over multiple legal instruments, and to simplify the pricing system of the search tool (in particular moving from a fee-per-usage system to a fixed fee per user).
 - Annual meeting on co-operation (4 May 2022): this provided the opportunity to present more on the main orientations and proposals according to which the data policy will be revised.

15. The present document takes up all proposals and issues raised and furthermore contains a comprehensive, consolidating revision of the present policy to make it fit for the future, keeping in mind its potential interrelations with other policies and initiatives undertaken by the Office.

C. LINKS WITH OTHER EPO POLICIES AND INITIATIVES

16. The review of the EPO data policy and the possible evolutions to be envisaged need to be carried out in close connection with other policies or initiatives which the Office has recently developed or undertaken, in particular:

- **Data Protection Rules (DPR)**

17. With the approval of CA/26/21 "Modernisation of the data protection framework of the European Patent Office under the Strategic Plan 2023" by the Administrative Council in June 2021, the EPO has transitioned towards a solid and future-proof system of data protection that is on a par with the data protection standards of other international organisations, and in particular the EU data protection regime applicable to EU institutions and in most EPC contracting states.

18. Although the scope of this new data protection framework is limited to the processing of personal data by the Office (see Article 2(1) DPR), it might have an impact on the publication of information accessible via EPO databases. For example, the EPO stopped publishing the full address of the inventor in the European Patent Register in November 2021 (amended Rule 143(1)(g) EPC). The Rules relating to Unitary Patent Protection (UPR) were brought into line with this change (new Rule 16(1)(i) UPR adopted in December 2021 by the Select Committee).

- **Co-operation with EPO member states**

19. In the context of the new co-operation policy, especially the "IT Co-operation" pillar, some important projects foster quality and efficiency in data acquisition and data dissemination activities, namely:

- Co-operation Search project: The project has resulted in an adapted form of ANSERA, known as *Search*, that NPO examiners are using. On the basis of the technology demonstrator delivered in 2020, a working minimum viable product was successfully built in April 2021. Over the year, this was upgraded to an improved version of ANSERA with greater stability, hosted on a private cloud. Following the successful experience at this level and extensive working group testing, the project inspired a major discussion with NPOs and industry on the cloud. This led to the deployment of the software on a major cloud platform using public data only, which was successfully delivered in December 2021. *Search* is now used by more than 170 examiners across multiple different NPOs.

- Data Quality: with the aim of improving frontfile deliveries of patent data, the Data Quality project collaborates with member states to implement a technological platform and support data transfer between the member states and the Office. The automation of this data flow aids this exchange and creates opportunities to increase data quality by structuring data according to the standardised XML format. Additionally, in terms of correctness and completeness of data, automation is of superior quality. To uphold this high level, the Data Quality project also supports the objective of completeness by improving backfile data for NPOs in member states. At the same time, it provides quality assessments of current data files for member states.
- Cooperative Patent Classification: the CPC project develops and supports a unified classification for patents, building IT tooling to implement it. The project aims to extend the use of the CPC system in the European Patent Network (EPN) and encourages international co-operation to achieve greater availability of prior art for EPO member and non-member states. Throughout 2021, several NPOs joined the CPC standard, including those of Morocco, Romania and Bulgaria. The use of CPC in EPO publications was achieved for the European Patent Register, European Publication Server, EP bibliographic data and the European Patent Bulletin in 2021. Successful deployment of the External Classification Portal in the test environment in early November 2021 offered an opportunity to test the Contact Information Service tool and the CPC Reclassification Service. This portal was integrated into the single access portal in December 2021 and moved into production with these two services. The pilot phase is currently ongoing with the seven working group members.
- Information Security: Information Security is fundamental to the management of data by an NPO, taking into consideration the confidentiality requirements during several phases of the patent grant process. It has further gained in importance over the last few years for an increasingly digital organisation like the EPO. This is why the Office substantially increased its investments in order to reinforce the level of security of its IT tools, supported by high-standard software and encryption technologies. In the context of the EPN, it prompted the Office to hold its first EPN cloud event on 15 September 2021, which attracted a great deal of interest among member states.

20. The revised data policy will provide the adequate platform for the management and development of data-related services, in smooth harmony with other policies and initiatives of the Office.

V. ARGUMENTS

A. GENERAL ORIENTATIONS

21. This CA document focuses on policy aspects. Following its adoption by the Administrative Council, the new data policy for its implementation will lead to subsequent adjustments of an administrative, operational or technical nature over time, to be approved by the Administrative Council (e.g. new pricing policy for the search tool) or the President of the Office.
22. The data policy provides a framework in support of the EPO's business goals for the acquisition of and/or access to patent data and related information in Europe and abroad for NPOs, industry – in particular SMEs – and the general public in order to stimulate innovative activity, through the NPOs and other entities. The following general orientations support the review of the data policy.
 - (a) **Fostering the EPO's role as a provider of high-quality data in a very accessible manner**
23. In the context set out above, the proposed new policy aspects aim to improve accessibility of patent data by increasing the range of data that is made available at no cost. The Office endeavours to ensure the optimal availability of data which is considered necessary for the respective statutory duties as laid down in the EPC.
24. By giving access to relevant prior-art technical information, the Office enables innovative entities to base their research on existing knowledge and file quality patents taking account of existing technical prior art, supporting a transparent IP environment. Therefore, the Office will continue acting as a public worldwide patent data provider through its search tools and data products, both for worldwide patent data and its own Office-produced data. It will continue disseminating public patent collections using free modern online tools.
25. Whenever judged relevant and possible, the Office will consider the consolidation of search tools under a search platform offering modular search features and data sets that can be added or removed depending on the user profile.
26. The data acquired and disseminated in accordance with the revised policy as proposed has been set up so that the Office and the NPOs can continue to make this data available to the public under patent information policies and programmes, either directly or via patent information centres and libraries, ensuring barrier-free public access to the information contained in patent documents, especially for SMEs, universities and research centres, industry, and bodies involved in filing patent applications, granting patents and disseminating patent information.
27. Under such policies and programmes, this will also allow the development and refinement of tools to make the data collections accessible to users and to organise related training.

(b) Anchoring EPO data policy in the broader societal context

28. As an international organisation, the EPO has an obligation to consider the wider impact of its actions when contemplating how to meet future challenges. Inevitably the Office has to pursue an approach that creates long-term value, not only in terms of its financial sustainability, but also in terms of environmental and social sustainability, supporting the UN Sustainable Development Goals. In implementing this data policy, with measures such as the digital transformation, the Office is committed to the long-term sustainability in its activities.
29. Furthermore, the EPO is committed to act ethically with integrity, to embody its values and to develop actions to promote diversity and inclusion, both internally and externally. In terms of data policy, the EPO additionally endeavours to promote appropriate, responsible data use and inclusive support for the users of data.

(c) Developing EPO data policy in close liaison with stakeholders

30. The Office will remain in constant dialogue with NPOs and users, as the case may be, to ensure that the search tools and services remain up to date and fit for the future, from a technical and content-level perspective. Recognising the dynamic nature of the global patent system, the Office will maintain a deep understanding of the stakeholders' priorities and embed their feedback into a continuous improvement cycle.
31. In the era of machine translation, which has emerged in recent years, the role of NPOs and local information centres remains critical. Whilst some aspects may have changed, such as local language access to patent document content, new and important roles in the building of communities of practice and regional ecosystems have become even more important. It is anticipated that new ways of using patent data will continue to create a range of new tasks for NPOs and patent information/innovation centres.
32. On the basis of this policy, the Office will continue to provide a diverse range of publications, data and services in support of the business value proposition. The Office will maintain this portfolio of publications, data and services so as to evolve dynamically over time, as it has in the past, to meet user needs. There are typically synergies between the portfolio elements, which lead to information being presented conceptually under more than one portfolio category. Further services may dynamically create data sets tailored to detailed user needs (e.g. a search query, download). Moreover, a number of the portfolio elements are the product of collaboration between the Office and NPOs/other entities. The quality of EPO services is often dependent on the timely delivery of complete data sets by external partners.
33. An illustrative list of examples of data collections and access services, based on the situation at the date of this document, is included in annex 2 to this document.

34. What is proposed is an overall policy approach that will guide the evolution of these categories and access possibilities over the coming years by supporting a coherent business framework that brings value to users of the European patent system and European society and supports economic growth. This business value-driven view of the data strategy framework will be built on the foundations of quality, sustainability, transparency, and collaboration and co-operation. The business strategy will additionally be leveraged through communities of practice that enrich existing structures, and by building topic-specific ecosystems.

(d) Facilitating access to NPL

35. In order to be in a position to add NPL sources to its prior art data set searched by examiners, the Office will keep analysing all available NPL sources:

- NPL acquired in bulk from commercial publishers and IP owners
- subscription-based scientific and technical journals and databases
- individual NPL resources (e.g. university theses, technical manuals, books, conference proceedings) either freely available (without legal restrictions such as a licence agreement being required, or free of any fees) or acquired for a fee

36. The Office will make NPL data from commercial providers available to NPOs provided they have acquired the relevant licences from the data providers, thus granting easy and harmonised access; however, authors' rights and other forms of intellectual property or usage rights must be respected.

37. When acquiring NPL, the Office will foster its policy of acting as a facilitator in communications with the NPL data providers, in order to assist the NPOs in concluding agreements to access NPL data. The Office will also examine those NPL databases which are presently not externally accessible through the Office's public search tools to determine if the data can be included in the data sets made available to NPOs.

38. The Office will endeavour to further facilitate access for NPOs by informing them regularly about new (commercial) NPL acquisitions, and the Office will offer support to NPOs in defining their own needs and approaching commercial NPL providers. In addition, the Office will inform NPOs about particularly relevant open or free sources of NPL prior art.

(e) Improving the performance and accessibility of the examiner search tools

39. As indicated, data can also be accessed by the NPOs through the Office's examiner prior art search tool. This kind of access is quite distinct from access by users through the provision to them of (bulk) data sets or data products. It is therefore considered appropriate to set up additional policy rules for the access to data through the prior art search tool, where these differ from the general access rights.

40. The Office will continue to deliver an examiner prior-art search tool based on its internal prior-art search tool. The current prior-art search tool is being replaced with a new modern web-based Common Search Tool.
41. The current pricing policy, which introduced a method of price calculation for accessing and using the prior-art search tool, was based on an IT cost model which is not up to date anymore and cannot be applied to the future replacement of the legacy system.
42. It is therefore proposed to develop a new pricing policy based on a flat fee per user per year. This would allow for full predictability of the yearly cost for NPOs and would be easier to administer both for the Office and the NPOs. The new pricing policy, when in force, will apply to the legacy and future search tools whilst avoiding double charging.
43. In respect of the above-mentioned flat fee, special financial support by the Office may be provided to NPOs and other co-operation partners. The financial support for NPOs of member states will be in line with the co-operation framework with member states.
44. At regular intervals, both the Office and an NPO using the Common Search Tool will have bilateral meetings to monitor how the licences, the available NPL data and the data consumption are used with the aim of optimising both the operational use made and the financial impact of the Common Search Tool. If, during these bilateral monitoring meetings, it appears that there is room for improvement to reach the goal of optimised use (e.g. there is a high number of unused licences, or the use made needs to be corrected in order to comply with the data policy), a transition period will be granted to the NPO to reach the goal of optimised use. The Office will also continue to assist the NPOs with appropriate training in this respect.

B. POLICY RULES FOR DATA ACQUISITION

45. (B1) The acquisition of a worldwide comprehensive patent collection requires all NPOs to provide their patent data to the Office through the most modern digital and barrier-free means, conforming to agreed format and quality standards and in a regular and timely manner.
46. (B2) The patent data acquired is processed and standardised, and this standardisation effort makes it possible to offer a solid patent family system reliably linking equivalent patents (those that share the same priorities).
47. (B3) The Office will continue creating and maintaining a comprehensive prior-art collection containing patent and NPL data using modern IT systems for the EPO's statutory duties.
48. (B4) The Office will maintain worldwide patent databases containing:
(1) bibliographic patent data (database presently referred to as DOCDB);
(2) full-text coded data; (3) original patent images (database presently referred to as MOSES); and (4) legal status data (database commonly referred to as INPADOC).

49. (B5) The Office will maintain its own specific EP data-related patent databases that cover both the Office's official statutory publication obligations and its data dissemination activities.
50. (B6) The Office will promote quality patent data deliveries by other NPOs, WIPO and other relevant regional, national and international organisations publishing intellectual property data, under its various co-operation activities. Quality involves timeliness, correctness and completeness of data.
51. (B7) The Office will promote open access to all patent data produced by NPOs. In the spirit of reciprocity, this requires that all NPOs worldwide open up their patent data in an unrestricted manner that allows the Office to use and disseminate it in a similarly open manner.
52. (B8) The Office will reinforce its efforts in seeking out and acquiring access to the most relevant NPL prior art for use in the patent grant procedure. Those constant efforts involve examiners who are at the forefront of technical developments and aware of new relevant sources through their daily work. New relevant additions may also develop from feedback and requests received from external parties, such as an NPO detecting new relevant sources of information.
53. (B9) When acquiring patent or NPL data, the Office will consider the necessary applicable conditions for a possible further dissemination of that data. It will, whenever possible, strive for the highest possible degree of openness for that data. This mainly applies to non-commercial data for which access conditions are sometimes open to negotiation.
54. (B10) The present policy will not affect existing legal obligations arising out of international conventions and treaties.

C. POLICY RULES FOR DATA ACCESS AND DISSEMINATION – GENERAL CONDITIONS

55. (C1) Through its public search tools, the Office will offer the public the worldwide patent data collections it acquires and processes from other NPOs, WIPO and other relevant regional, national and international organisations publishing intellectual property data. This provision is subject to the requirement that the Office is free of constraints on any such offerings.
56. (C2) The Office will explore whether additional public collections could be offered to the public under its public search tools, such as open NPL collections or technical field-specific collections that could enrich its search offering.
57. (C3) The Office will facilitate end-user interaction with data via appropriate technical tools and will disseminate its data through advanced digital means, endeavouring to offer the most advanced qualitative content.

58. (C4) The Office will provide NPOs with seamless access to a consolidated set of data through its examiner prior-art search tool. This set includes a combination of patent and NPL databases of a public and commercial nature. For databases available via this tool that require the NPO to obtain an access authorisation from the provider, the Office may act as a facilitator to assist NPOs in obtaining access agreements.
59. (C5) In addition to the specific access conditions for data as set out in parts D and E below, supplementary conditions and pricing may be applied for usage of the technical data delivery platforms such as access tools, web services, web portals, etc.
60. (C6) The Office will endeavour to ensure high standards of quality in data made available, and to correct errors and oversights in a timely manner.
61. (C7) The Office will endeavour to be transparent in its data dissemination activities, to apply accessible solutions in its data distribution activities and to be non-discriminatory in implementing the data policy.
62. (C8) The Office will give due consideration to the EPO Data Protection Rules, taking into consideration the legal obligations of the EPO arising out of the EPC and PCT as regards the content of the data it publishes.
63. (C9) The Office expects recipients of data to refrain from using, altering or changing data in a manner that would be misleading to other users.
64. (C10) The Office will be entitled to take adequate steps concerning usage and further usage of data, in relation to recipients of data who make use of data in violation of the EPO's data policy, including the fair-use threshold as defined by the Office.
65. (C11) For both the EPO and the NPOs, liability for damage resulting from transmission of incorrect data is limited to deliberate error or gross negligence.
66. (C12) The Office will endeavour to apply solutions that minimise the use of paper and other consumables.
67. (C13) The Office will actively support activities for the promotion, access to and use of high-quality data for patent knowledge and information to support innovation.
68. (C14) The Office will collaborate with intellectual property offices, PATLIB centres and other relevant organisations in order to promote the use of sustainable data and knowledge solutions.
69. (C15) In order to provide meaningful access to data as the volumes become ever larger, the Office will support data exploration solutions for members of the public that wish to access patent knowledge.

D. POLICY RULES FOR DATA ACCESS AND DISSEMINATION – SPECIFIC CONDITIONS

(a) Specific conditions for EP patent data

70. (D1) The Office will offer EP patent data free of charge to NPOs for the execution of their statutory duties. The principle of reciprocity applies.
71. (D2) The Office may extend the free distribution to PATLIB centres, TTOs, universities, SMEs and entities undertaking activities that the Office deems to be of strategic importance.
72. (D3) The Office may extend free distribution to any other entities whose use of the data does not exceed the fair-use thresholds defined by the Office. If these limits are exceeded, these entities will be required to pay marginal costs.

(b) Specific conditions for non-EP patent data

73. (D4) The Office may, on a case-by-case basis, provide access free of charge to NPOs to non-EP patent data contained in DOCDB where the Office is free of constraints on redistribution. The principle of reciprocity applies.
74. (D5) The Office endeavours to make non-EP patent data available to external entities where the Office is free of constraints on redistribution.
75. (D6) Where the Office is free of constraints on redistribution:
- (i) The Office will offer non-EP patent data free of charge to the NPOs for the execution of their statutory duties. The principle of reciprocity applies.
 - (ii) The Office may extend the free distribution to PATLIB centres, TTOs, universities, SMEs and entities undertaking activities that the Office deems to be of strategic importance.
 - (iii) The Office may extend free distribution to any other entities whose use of the data does not exceed the fair-use thresholds defined by the Office.

E. POLICY RULES FOR ACCESS TO DATA THROUGH THE PRIOR-ART SEARCH TOOL

76. (E1) The Office will provide access to its Common Search Tool to the NPOs of the member states for the execution of their statutory duties, if these NPOs so wish. The NPOs of the member states will be bound by the policy decisions concerning the conditions of access and use, without a contractual document being necessary.

77. (E2) The Office will, subject to a decision of the President of the Office, endeavour to provide access to its Common Search Tool to an NPO of a non-member state for the execution of its statutory duties. A contractual document defining the conditions for access to and use of the Common Search Tool will be concluded before access can be granted.
78. (E3) The Office may make NPL data from commercial providers available to NPOs through the Common Search Tool, provided the NPO concerned has acquired the relevant licences from the data providers, if so required by those providers.
79. (E4) For the access to and use of the Common Search Tool, a fixed flat fee for each user will be due.
80. (E5) Each user account will be personally linked to a specific user of an NPO and may not be shared with or transferred to other users without the Office's prior consent.
81. (E6) The Office may, within the framework of the EPO's co-operation policy, provide financial support to NPOs of member states and non-member states, to be decided by the President of the Office. However, NPOs of member states are not to be financially disadvantaged in comparison with NPOs of non-member states.
82. (E7) To promote the use of or increase user familiarity with the Common Search Tool, the President of the Office may allow test access free of charge for a limited period of time and to a limited number of users of an NPO (in relation to the expected total number of users of the NPO concerned).
83. (E8) To optimise the use made of the licences and the data, both the Office and the NPO concerned will have regular bilateral meetings where, on the basis of monitoring, possible solutions will be discussed to reach the goal of optimal use.
84. (E9) The Office will furthermore continue to provide training to the NPOs with the aim of ensuring that the users make optimal use of the tools and data provided.

F. LEGAL FRAMEWORK

85. In line with paragraph 11 above and paragraphs 15 to 24 of CA/T 23/21, the legal framework has been scrutinised to arrive at a single consolidated approach dealing with policy aspects only, thus avoiding the level of granularity presently contained in several CA documents on the topic that were adopted in recent decades.

86. As a consequence, the Office has analysed the existing documents referred to in CA/T 23/21, namely:

Patent information policy	
CA/D 12/88	Framework for the patent information policy
CA/11/07 Rev. 1 & Add. 1	Reformulation of patent information policy
Implementation	
CA/36/90	INPADOC integration agreement
CA/160/97	Distributed Internet Patent Services, introducing the Espacenet system
EPOQUE Net policy	
CA/67/92	Modification of the basis for the pricing policy for patent information products set up in 1988
CA/62/97 Rev. 2	Further modification of pricing policy
CA/27/12 Rev. 1	EPOQUE Net policy (incl. pricing policy)
CA/66/15	Confirmation of EPOQUE Net policy

87. The Office has also analysed additional documents concerning EPOQUE/EPOQUE Net, namely CA/69/97, CA/98/98, CA/76/00, CA/2/04, CA/43/04, CA/24/05, CA/43/08, CA/170/09, CA/48/10 and CA/52/11.
88. The document on the integration of INPADOC and the Seat Agreement with Austria (CA/36/90) is not affected. No element or adjustment in the present revised data policy can be interpreted as in any way affecting the obligations the EPO has assumed towards the Republic of Austria.
89. Where the above documents contain policy aspects which are retained, these have been taken into consideration in the present proposal for a revised policy.
90. Any technical or implementation issues will, however, be decided on by the President of the Office in line with the revised policy.
91. By adopting the revised policy as defined in the present document, all policy documents listed under paragraphs 86 and 87 will consequently be revoked and will cease to have effect from the date of entry into force of the revised policy, with the exception of the document mentioned under paragraph 88, and with the exception of the usage costs of EPOQUE Net as defined in CA/27/12 Rev. 1, as long as the new pricing policy for the search tool has not entered into force.

VI. NEXT STEPS

92. Following the approval of the revised data policy, its implementation will be translated into specific instruments to be approved by the President of the Office or the Administrative Council depending on their respective competences.

93. The first important implementation step to be approved by the Administrative Council will be the new pricing policy for the search tool. The main principles are already expressed in this document (paragraphs 41 to 43 and part E) and a concrete proposal should be submitted during the first half of 2023.

VII. ALTERNATIVES

94. N/A

VIII. FINANCIAL IMPLICATIONS

95. The revised data policy does not in itself bear direct financial implications. These will arise and be precisely measurable at the time of the implementation of the policy via specific instruments, such as the new pricing policy for the search tool.

IX. LEGAL BASIS

96. Articles 4(3), 10 and 127-132 EPC

X. DOCUMENTS CITED

97. CA/D 12/88, CA/36/90, CA/67/92, CA/62/97 Rev. 2, CA/69/97, CA/160/97, CA/98/98, CA/76/00, CA/2/04, CA/43/04, CA/24/05, CA/11/07 Rev. 1 and Add. 1, CA/43/08, CA/170/09, CA/48/10, CA/52/11, CA/27/12 Rev. 1, CA/66/15 and CA/T 23/21

XI. RECOMMENDATION FOR PUBLICATION

98. Yes

Glossary

To help readers understand the scope and boundaries of this document, it is considered appropriate to define what exactly is understood by the different terms and terminology used in this document.

Bulk data refers to a collection of multiple static data records arranged in a single file or set of files. Bulk data is typically delivered via file downloads or on high-capacity media.

Database/data set relates, in this document, to a set of data that is acquired from a given provider and usually subject to specific access conditions.

DOCDB refers to a database which is a collection of bibliographic worldwide patent data, maintained by the Office. This collection results from public patent data acquisitions from other NPOs followed by intense standardisation before the data is used. This collection is used, among other things, to define patent families and covers around 100 patent authorities.

External entities include external parties that access the publications, data or services, for example individuals, companies, academic institutions and organisations.

EP data/EP patent data refers to data-related proceedings conducted in accordance with the EPC.

EP bibliographic data (EBD) refers to EP data on all newly published patent applications and granted patents as well as recent changes to previously published patents. The EP data includes the date of filing, titles, applicant data, classification and priority data, etc. It is the same as the data in the European Patent Bulletin.

EP full-text data refers to the bulk data collection, including the full text in a machine-readable format, of all patent applications, granted patent specifications and search reports published by the Office since it was set up in 1978. This bulk data set is presently available in XML and PDF/A as frontfile and backfile data.

EP full-text data for text analytics refers to a data set containing the full text of European patent documents formatted for ease of applying natural language processing techniques.

European Patent Register data refers to data recorded by the Office in relation to European patent procedures, the particulars of which are specified in the Implementing Regulations to the EPC. The **Federated Register** tab in the European Patent Register is used to display the data made available in the patent registers of the designated EPO states in a unified common view.

Fair-use threshold refers to usage and/or data delivery in terms of volume, usage time or any other metric defined by the Office of publications, data or services. Usage beyond the threshold value(s) stipulated by the Office may result in users being excluded from the service, having their access restricted and/or having to pay fees. The intention is to avoid excessive use or misuse and to define limits beyond which bulk data deliveries may incur costs.

INPADOC refers to databases maintained by the Office. They contain patent families and legal status information.

Marginal cost is defined as additional Office production costs incurred to deliver data to third parties.

MOSES (formerly BNS) refers to a database containing the worldwide patent collection of digital images of original patents. This database is used to visualise the original patents and also to cite patent data in search reports.

National patent offices (NPOs), if not otherwise specified, refers to national patent offices of member states and non-member states.

Non-EP patent data refers to published patent data of other NPOs or entities publishing patent data.

Non-patent literature data (NPL) relates to all non-patent prior art sources. These are mainly of a commercial nature (scientific and technical databases of journals of major scientific publishing houses) acquired under contractual arrangements concluded between the EPO for its statutory duties and the commercial publishers. In addition to commercial sources, the Office also maintains databases resulting from its own data acquisition and maintenance activities. Those are usually databases of documents the Office obtains from public sources or organisations.

OPS refers to the web service which provides access to the Office's data via a standardised XML interface. OPS data is extracted from the Office's bibliographic data, worldwide legal event data, full-text data, image databases, etc.

Patent data refers to all types of related patent data produced by an NPO and includes bibliographic data, citation data, classification data, full-text data, image data and legal status data, or other searchable, indexed and character-coded data (e.g. sequence listings).

Publications refers to various types of publications that the Office produces. This includes both official and other publications.

Common search tool refers to any search tool solution used by examiners and shared by the Office with other IP authorities (e.g. Epoquenet / Ansera / Search).

Services refers to various services offered by the Office that provide access to patent data and publications.

SME refers to small and medium-sized enterprises as defined by the European Commission in its Recommendation 2003/361 of 6 May 2003 and consistent with the definition adopted in CA/51/20 "New policy on the working agreements on search co-operation as part of the implementation of the work-sharing programme under the Strategic Plan 2023".

Statutory refers to what relates to, is created by, or is conformable to the applicable legislation. In this document, statutory duties or obligations are interpreted in a large sense, covering all kinds of patent search services provided by a patent office.

Web services data distribution refers to online services where users may dynamically configure the content and/or range(s) of the set of records to be obtained.

ANNEX 2 ILLUSTRATIVE LIST OF EPO DATA AND SERVICES

Illustrative list of data and services

Publications	<ul style="list-style-type: none"> ▪ European patent applications ▪ Granted European patents ▪ Official Journal of the European Patent Office ▪ European and Unitary Patent Bulletin ▪ Office-created content, such as insight reports ▪ European Patent Convention ▪ Guidelines for Examination ▪ Guidelines for Search and Examination at the European Patent Office as PCT Authority ▪ National law relating to the EPC ▪ Guide for applicants (EP, PCT, UP (Unitary Patents)) ▪ Case law of the boards of appeal
Data	<ul style="list-style-type: none"> ▪ EP bibliographic data ▪ European and Unitary Patent Register data ▪ EP full-text data ▪ EP full-text data for text analytics ▪ Worldwide bibliographic data (DOCDB) ▪ Worldwide legal event data (INPADOC) ▪ Sequence listings ▪ National full-text data ▪ Decisions of the EPO boards of appeal ▪ PATSTAT ▪ NPL data collection ▪ Authority file
Services	<ul style="list-style-type: none"> ▪ European Publication Server ▪ Espacenet ▪ OPS ▪ Bulk data download service ▪ EP Register ▪ Federated Register ▪ Global Dossier (and alerts) ▪ Common Citation Document ▪ Patent Information Services for Experts (PISE) ▪ Co-operation prior-art search tool