30th SACEPO WP/G meeting 14 October 2025 - Consultation results of the discussions on the draft PCT-EPO GL2026

Replies to the users' comments were shared with the members in advance of the meeting. Comments marked in green were addressed during the 30th SACEPO WP/G meeting.

General question: *The Office has inserted portions of internal instructions. This is a positive development. We would like to know if the insertion is complete or if further insertions from II will follow.*

#	Part	Chapter	Section	Comments	Suggested improvement	Consultation results
1			General comment	Despite a strong urge of the epi delegation in SACEPO WP/G, supported by several other members of SACEPO WP/G, as well as a unanimous motion of epi Council (of which the EPO has been informed promptly after the C99 Council meeting of 10 May 2025), the UP GL are still only available as HTMP and not also as pdf on the EPO website (today is 18/7/2025). For completeness, decision 19 of C99 reads: Council agrees that a) The Unitary Patent Guidelines (2025) shall also be published in pdf; b) The EPC Guidelines, the PCT-EPO Guidelines and the Unitary Patent Guidelines shall continue to be published as pdf in 2026 and thereafter, in addition to the HTML format;	The EPO is strongly urged to satisfy the request from the users.	See comment 1 on the EPC GL. The Office explained that the General Part, section 1, of the draft GL2026 sent to SACEPO WP/G members states that the Guidelines are published in HTML format and as a printable file. The users' concerns are therefore addressed. There were no further comments from SACEPO WP/G members.

				c) Both pdf and HTML versions shall also be published in a form that easily allows to identify modifications relative to the previous edition (as is currently done in the pdf and HTML versions of the EPC Guidelines and the PCT-EPO Guidelines), as well as, if introduced, intermediate updates (as is currently under discussion at the EPO and in SACEPO WP/G); d) epi Council unanimously requests the EPO to publish the Unitary Patent Guidelines (2025) **also in pdf format**, and to continue publishing all three Guidelines (the EPC Guidelines, the PCT-EPO Guidelines and the UP Guidelines), in clean and show-modification versions, also in pdf format in 2026 and beyond.		
2			**General comment.**	We maintain our request that the EPO provide an internet site where amended rules, new G decision, decision by the President of the EPO and other relevant decision provided after the last revision of the guidelines and therefore are not included in the guidelines are listed. Each item should be listed with an indication of which part(s) of the guidelines will need to be modified in the next revision cycle.		See comments 2 and 3 to the EPC Guidelines 2026. The Office clarified that the process to develop a new publication process for the Guidelines is still at an early stage. Once it is clear what the new process will look like, further improvements may be envisaged. There were no further comments from SACEPO WP/G members.
3	**GP**		1.2.1	1.2.1 That the compliance "is of great importance" is not necessary	I suggest replace it with: "is of great importance and is mandatory in order to".	The Office thanked the user for this comment and will consider how the text indicated should be clarified.

				to mention (compliance is mandatory).		
4	**GP**		1.4	The reference to “EPC Guidelines GP.5” is unclear.	Replace by “EPC Guidelines General Part 5”	The Office agreed to amend the reference as proposed.
5	**GP**		2.4	Why PCT/RO/102 is not used by EPO, both before and after payment of the filing fees? Raised in previous meetings, see also ***SACEPO comment 16***.		The Office took note of SACEPO WP/G members' intention to keep this point open. The request concerns a change of practice at the EPO as RO rather than a clarification of the text of the Guidelines. The Office will nevertheless consider whether this wish can be accommodated, taking into account its considerable impact on the IT tools, and noting that the use of Form PCT/RO/102 is not mandatory (PCT AI Section 102 e). There were no further comments from SACEPO WP/G members.
6	**GP**		3.2 Annex 2		Spell out the EP approach rather than simply pointing to the points in the ISPE guidelines	The Office was of the opinion that the reference to the option selected remains preferable. This ensures full alignment with the text of the ISPE GLs, which is easily accessible via the relevant links included in the table. There were no further comments from SACEPO WP/G members.
7	**GP**		3.2 Annex 2	Does G1/24 amend the answer to “Point A5.20 Interpretation of claims Option [2] applies”	Change to “During the international phase Option [1] applies but in the regional phase amendment to incorporate any defined terms into the claims may be required”.	The Office was of the opinion that option 2 still reflects the practice of the Office with regard to the interpretation of the claims. There were no further comments from SACEPO WP/G members.

				Comments	Suggested improvement	Consultation results
8	**Part A**	II	1.2.2	What if an application is sent to a sub-office? Will EPO inform the sender or will it be ignored (see next section on filing with other means – use of PCT/RO/142)?	The office did not agree and noted that it is an “unlikely scenario”	As indicated at the SACEPO WP/G in May 2025 (comment 14), patent applications filed with the Vienna sub-office are forwarded to one of the filing offices and will be accorded a filing date on receipt by the latter (see Art. 1(2) of the decision of the President of the EPO dated 2 April 2025, OJ EPO 2025, A33). Form PCT/RO/142 would not be relevant in this case, as it is used by the RO when an international application or a document is filed in a form or by means it does not accept. In this case the applicant is notified that the document concerned is treated as not having been received by the RO and should be resubmitted. There were no further comments from SACEPO WP/G members.
9	**Part A**	III	3.1	***SACEPO comment 11*** (verification of the number of pages) not addressed.	We maintain our request.	The Office took note of SACEPO WP/G members' wish. The request concerns a change of practice at the EPO as RO rather than a clarification of the text of the Guidelines. In view of the nature of the request and its impact on systems, the Office suggested that the proposal be addressed in the SACEPO Working Party on e-Patent-Process. There were no further comments from SACEPO WP/G members.

10	**Part A**	II	3.2		Please keep the last paragraph.	The Office agreed to reintroduce this information, but will consider whether any amendment to the text might be necessary.
11	**Part A**	III	8.2	Title is confusing	Change title to “reduction of PCT related search fees”	The title as it stands clearly indicates the fees concerned by the reduction in line with the other sub-sections under section 8. If further clarification is needed, the Office proposed to replace the current title with "Reduction of the international search fee, additional search fee and supplementary search fee", which matches the titles in A-III, 4.3, 5.1 and 6.2. There were no further comments from SACEPO WP/G members.
12	**Part A**	III	9.2		In the 4th dash, please amend “made by it” into “made by the EPO itself” (as in 9.2.1) to improve clarity.	The Office proposed to clarify the text as follows: "The EPO benefits from the results of an earlier search **it has** already **carried out** on an application whose priority is claimed for the international application." There were no further comments from SACEPO WP/G members.
13	**Part A**	III	9.2		"additional" could be deleted. It would be appropriate to add a sentence at the end that the provisions are also applicable to any additional search fee.	The Office will consider whether any clarification in this respect is necessary.
14	**Part A**	III	9.2	The moving of the deleted section from 9.2 to 9.2.1 seems incorrect, as ““No refund is made for an earlier	Please move the first paragraph of 9.2.1 back into 9.2.	The Office agreed to the proposed change.

				search that was not carried out by the EPO itself." Is a condition and not an example, so belongs in 9.2 and not in 9.2.1 Also, the phrase "The EPO acting as ISA decides whether the requirements for the refund are met." Is not an example, but a way of examining the requirements of 9.2.		
15	**Part A**	VIII	1.2	An association can have professional representatives **AND** legal practitioners?	In the third dash, amend "or" into "and/or"	The Office agreed to the proposed change.
				Comments	**Suggested improvement**	**Consultation results**
16	**Part B**	I	2	What is the reason to delete "at the discretion of the director"? It is now **not** indicated who can appoint another member, while that seems necessary.	Please indicate who can appoint a prospective Examining Division at this stage.	The Office took note of the comment and will consider how to amend the text indicated in light of comments 17 and 24.
17	**Part B**	I	2	In view of the added paragraph at the end of B-XI, 3.4: amend "can be" into "also … is already"	Amend: "The examiner appointed to carry out the search and establish the written opinion normally works alone; a prospective Examining Division can be appointed." Into: "The examiner appointed to carry out the search and establish the written opinion normally works alone; a prospective Examining Division **will have been** appointed.	See comment 16.
18	**Part B**	II	1.1	After the amendment of the EP ISA paragraph, the list shall not have an AND but an OR, as there can only be ONE ISA.	Amend "or by the Austrian, Finnish, Spanish, Swedish and Turkish patent **offices as well as** the Nordic Patent Institute and the Visegrad Patent	The Office agreed to amend the text.

					Institute." into "or by the Austrian, Finnish, Spanish, Swedish **or** Turkish patent **office, or** the Nordic Patent Institute **or** the Visegrad Patent Institute."	
19	**Part B**	VII	2	Amendment deletes something that is not in accordance with internal instructions.	Positively state what the procedure is in such circumstances.	The Office will consider whether any amendment is required in this respect.
20	**Part B**	VII	4	The additions (esp. the first added sentence) cannot be understood as the title is "Cascading non-unity" and the first sentence says that NO invitation for further additional search fees will be issued. Further, the text is inconsistent as if refers to "further additional search fees" as well as "further search fees". As section 3 refers to "additional search fees", the reference to "further search fees" in the second and first lines of the added text cannot be understood.	Cannot be maintained as now proposed, so review and correct/clarify/. The paragraph is unclear – explain what will happen.	The Office agreed. Part VII.4 will be redrafted and clarified.
21	**Part B**	VII	4	This means that EPO may refuse to search all claims even if the applicant would have been willing to pay for that search. This does not appear consistent with ISPE 10.62.	Adopt a procedure that complies with the EPOs international obligations. The paragraph is unclear – explain what will happen.	The Office stated that the added text did not introduce a new practice. The procedure followed by the EPO as ISA in the event of cascading non-unity is already contained in Section 4 (incl. the examples). The text added will nevertheless be clarified – see comments 20 and 22. There were no further comments from SACEPO WP/G members.
22	**Part B**	VII	4	Which is the time limit for the applicant to pay the additional fee		See comment 20. Part VII, 4 will be redrafted and clarified.

				when a invitation to pay additional fee has not been sent?		There is no "second" invitation to pay an additional search fee.
23	**Part B**	VIII	3.3	See ***SACEPO comment 38***. The Office disagreed. In my view the comment should be retained.		The Office disagreed with the proposal. This point was already discussed at length at previous SACEPO WP/G meetings. See ISPE 9.34-9.35. There were no further comments from SACEPO WP/G members.
24	**Part B**	XI	3.4	Addition appreciated.		The Office thanked SACEPO WP/G members for the feedback but noted that further revision of the text might be necessary in light of comments 16 and 17. There were no further comments from SACEPO WP/G members.
25	**Part B**	XI	4.1	"receive files" is unclear: the examiner receives an international application (which is also complete at this stage, as the formalities examination was done).	Amend "The examiner might receive **files** having a filing date which is later than the date on" Into "The examiner might receive **an international application** having a filing date which is later than the date on" And "Thus, the examiner will treat the **file** as if the application had been filed within the priority year" into "Thus, the examiner will treat the **application** as if the application had been filed within the priority year".	The Office agreed to both proposals.

26	**Part B**	XI	4.1	In the added portions, it is noted that the "examiner may indicate in the WO-ISA". Why is the option left to the examiner?	Change “may” to “must”.	That indication is not relevant for the purposes of the international search; a "may" provision therefore appears sufficient in this case. The Office therefore does not agree to the proposed change. There were no further comments from SACEPO WP/G members.
				Comments	**Suggested improvement**	**Consultation results**
27	**Part C**	II	2	It was added that “addition, the EPO cannot act as IPEA for Uruguay, which is not bound by Chapter II of the PCT”. Please indicate what the consequences are: can a Uruguay-resident/national not file a demand? (As anyhow the IPER is not binding on anyone, is there really a difference for the national phase? You can still enter the Uruguay national phase with amended claims that could correspond to claims with a positive IPER but that are (anyhow) nationally examined?) Without any clarification, users will not understand the addition.	Clarify or delete!	The Office will further consider whether any amendment is required in this respect. There were no further comments from SACEPO WP/G members.
28	**Part C**	V	3.2	The added text seems to be in conflict with B-VII, 6.3 & 7, which gives an “absolute” positive decision when the protest is justified, and which do not indicate that there are two types of decisions (substantive and formal) on protest. Rather, B-VII, 7.2 indicates that when the protest is fully justified “It is not necessary to give any reasons	The added part shall be revised. Successful protest shall not be revisited by the IPEA.	The Office agreed with the comment. This part will be deleted or redrafted

				unless the Review Panel decides that such reasoning would be beneficial", so that the reasons may not even be known; only when not/not fully justified "Reasoning must be given". The "only" in the first added sentence is not consistent with the last: if RP found not justified on formal grounds, and IPEA considers not on substantive grounds, the finding (in the meaning of protest not successful) is the same. Also, the IPEA cannot "confirm" a deficient non-unity finding (which includes the reasoning). At best can the EPO as IPEA, after a successful protest vs the search stage, do its own, independent examination of unity: it would then not confirm the earlier ISA opinion, but give its own.		
				Comments	**Suggested improvement**	
	Part E			No comments.		
				Comments	**Suggested improvement**	**Consultation results**
29	**Part F**	IV	1	This section says: "This chapter sets out the appropriate form and content of the claims, together with how they should be interpreted for the purposes of assessing the novelty and inventive step of the inventions which they define and searching for	Add: "The claims are the starting point and the basis for assessing the patentability of an invention under Articles 52 to 57 EPC. The description and drawings shall always be consulted to interpret the claims when assessing the patentability of an invention under Articles 52 to 57	The Office disagreed. In proceedings under the PCT, the EPO applies its established practice in addition to the provisions of the PCT (see G-I, 1.); adding specific references to EPC provisions in the various sections is neither appropriate nor necessary, nor can there be a reference to specific case law of the Enlarged Board. The Office will consider adding a reference

				prior art which may be relevant to making that assessment." Immediately after this sentence, add a comment on the role of the description in view of **G 1/24.**	EPC, and not only if the person skilled in the art finds a claim to be unclear or ambiguous when read in isolation. (G 1/24, Order)."	to the "principles as laid down in the corresponding section in the EPC Guidelines". There were no further comments from SACEPO WP/G members.
	F	IV	4.1	F-IV.4.1. only refers to ISPE GL 5.31, when 5.32 is equally important (in particular, it's 5.32 that contains the definition of the clarity requirement, not 5.31).	We would thus recommend to amend "See ISPE Guidelines 5.31 and 5.32".	The Office agreed.
30	**Part F**	IV	4.2	Reference to **G 1/24** is appropriate.	Add as opening sentence: "The departments of the EPO, in the course of their duties, are required to interpret patent claims when assessing the patentability of an invention under Articles 52 to 57 EPC (G 1/24, reason 4)."	The Office disagreed. In proceedings under the PCT, the EPO applies its established practice in addition to the provisions of the PCT (see G-I, 1.); adding specific references to EPC provisions in the various sections is neither appropriate nor necessary, nor can there be a reference to specific case law of the Enlarged Board. The Office will consider adding a reference to the "principles as laid down in the corresponding section in the EPC Guidelines". There were no further comments from SACEPO WP/G members.
				Comments	**Suggested improvement**	**Consultation results**
31	**Part G**	IV	1	The section has not been updated and is till limited to written disclosures as prior art. This needs to be remedied.	Amend "by **means of written disclosure**" into	The Office agreed to update this section.

				The wording of new **PCT Rule 33(1)** (as in force per 1/1/2026) shall be reflected: *(a) For the purposes of Article 15(2), relevant prior art shall consist of everything which has been made available to the public anywhere in the world **by any means** and which is capable of being of assistance in determining that the claimed invention is or is not new and that it does or does not involve an inventive step (i.e., that it is or is not obvious), provided that the making available to the public occurred prior to the international filing date.* (formally, it said: "by means of written disclosure (including drawings and other illustrations)" The first paragraph of G-IV, 6 seems obsolete in view of corrected/updated G-IV, 1.	"by **any means (written or oral description, by use, or in any other way)**" And amend: "A **written** description, **i.e.** a document, should be regarded as" Into "A ~~written~~ description, **e.g..** a document, should be regarded as"	
32	**Part G**	IV	6.2.1		Needs to be updated in view of **G 1/23**.	See also comment 30. The Office disagreed. In proceedings under the PCT, the EPO applies its established practice in addition to the provisions of the PCT (see G-I, 1.); adding specific references to EPC provisions in the various sections is neither appropriate nor necessary, nor can there be a reference to specific case law of the Enlarged Board. The Office will consider adding a reference

						to the "principles as laid down in the corresponding section in the EPC Guidelines". There were no further comments from SACEPO WP/G members.
33	**Part G**	VI	1	Needs to be updated in view of amended Rule 33(1)	Amend “Everything which is made available to the public anywhere in the world **by means of a written** disclosure is considered prior art provided that such making available occurred prior to the relevant date.” Into “Everything which is made available to the public anywhere in the world **by <u>any</u> means ~~of a written disclosur~~e** is considered prior art provided that such making available occurred prior to the relevant date.”	The Office agreed to the proposal.
34	**Part G**	VI	3	Needs to be updated in view of amended R**ule 33(1)**	In title and text, replace “document” by “disclosure” and “read” by “understood”	The Office will consider whether an update, as suggested will be necessary and appropriate, bearing in mind the need to align with the EPC Guidelines and reflect the wording used in the ISPE GL. There were no further comments from SACEPO WP/G members.
35	**Part G**	VI	4	Needs to be updated in view of amended **Rule 33(1)**	Amend title to	See comment 34.

					"Enabling disclosure of prior **disclosures (documents, oral, products, use)"**.	
36	**Part G**	VI	4	Needs to be updated in view of **G 1/23**	Add enabling disclosure of product that was on sale before the effective date. Add: "A product put on the market before the date of filing of a European patent application cannot be excluded from the state of the art within the meaning of Article 54(2) EPC for the sole reason that its composition or internal structure could not be analysed and reproduced by the skilled person before that date. (G 1/23, order 1). The expected reproducibility of the product must be understood as the ability of the skilled person to obtain and possess the physical product; this would mean that the requirement would be inherently fulfilled by a product put on the market (G 1/23, reason 73)." Also add: "The chemical composition of a product is part of the state of the art when the product as such is available to the public and can be analysed by the skilled person, irrespective of whether or not particular reasons can be identified for analysing the composition. (G 1/23, reason 73, last sentence)."	See comments 30 and 32. The Office disagreed. In proceedings under the PCT, the EPO applies its established practice in addition to the provisions of the PCT (see G-I, 1.); adding specific references to EPC provisions in the various sections is neither appropriate nor necessary, nor can there be a reference to specific case law of the Enlarged Board. The Office will consider adding a reference to the "principles as laid down in the corresponding section in the EPC Guidelines". There were no further comments from SACEPO WP/G members.

37	**Part G**	VI	7	This seems to be the only paragraph where claims interpretation for examining novelty is (to be) discussed: Needs to be updated in view of **G 1/24.**	Add: “The departments of the EPO, in the course of their duties, are required to interpret patent claims when assessing the patentability of an invention under Articles 52 to 57 EPC (G 1/24, reason 4). The claims are the starting point and the basis for assessing novelty and further patentability requirements of an invention under Articles 52 to 57 EPC. The description and drawings shall always be consulted to interpret the claims when assessing the patentability of an invention under Articles 52 to 57 EPC, and not only if the person skilled in the art finds a claim to be unclear or ambiguous when read in isolation. (G 1/24, Order).”	The Office disagreed. See comments 30, 32 and 36.
38	**Part G**	VII	1	This seems to be the only paragraph where claims interpretation for examining inventive step is (to be) discussed: Needs to be updated in view of **G 1/24**.	Add: “The departments of the EPO, in the course of their duties, are required to interpret patent claims when assessing the patentability of an invention under Articles 52 to 57 EPC (G 1/24, reason 4). The claims are the starting point and the basis for assessing inventive step and further patentability requirements of an invention under Articles 52 to 57 EPC. The description and drawings shall always be consulted to interpret the claims when assessing the patentability of an invention under	The Office disagreed. See comments 30, 32, 36 and 37.

					Articles 52 to 57 EPC, and not only if the person skilled in the art finds a claim to be unclear or ambiguous when read in isolation. (G 1/24, Order)."	
				Comments	**Suggested improvement**	**Consultation results**
39	**Part H**	I	5	Very sensible. Should a similar passage be included in the EP Guidelines too?		The Office will look into the proposal for the 2027 edition of the Guidelines.
40	**Part H**	III	7	Last paragraph: Which "sentence" is considered to be the title: The one that appears in the description or the one in the request form. The sentence in the description should not be amended by the examiner.	Please clarify which is the title according to the PCT.	The Office clarified that, as mentioned at the beginning of this section, under rule 37.2 the examiner does not need the applicant's approval to compose or amend the title. In the event of inconsistency between the title in the request form and the title in the description the examiner will determine which is most appropriate. There were no further comments from SACEPO WP/G members.
41	**Part H**	IV	2.1	In the added paragraphs, it says: "The examiner is, however, not required to systematically check such sheets for added subject-matter." Why does he not need to do so? Should he not always do so, as he shall check whether any amendment does not violate the extension-of-subject-matter provisions?		The Office thanked the members for noticing that RO is too restrictive. This section should apply to all cases where the EPO is not the competent authority to allow the rectification but needs to issue a PCT product. In such cases it is the competent authority which authorises or refuses the rectification; it is not the role of EPO examiners to check that at this stage. They will review it officially when the application enters the regional phase. There were no further comments from SACEPO WP/G members.