

### Consultation results of the 28th SACEPO WP/G meeting on 9 October 2024 – PCT-EPO Guidelines

#	Part	Chapter	Section	Comments	Suggested improvement	Consultation results
1	GP			Useful additions to the list of forms.		The Office acknowledged the comment.
2			1	<p>It is a pity that the reference to the Euro-PCT Guide, and the Euro-PCT Guide itself, has been removed/ will be abolished. It was a very well written Guide, targeting applicants, and providing applicants with the information that they need, rather than information that examiners (the core audience of the GL) need. The Euro-PCT Guide provided a single, easy-to-use, quite complete and still relatively concise reference (especially its pdf and, in the past, printed version) which cannot be replaced by a set of webpages or a set of examiner-directed guidelines as that cannot keep the same type and targeted information as the Euro-PCT Guide has/had.</p> <p>At the same time, it is appreciated that information from the former Euro-PCT Guide has now been added to try to alleviate the above drawback and aiming to make GL/PCT-EPO a comprehensive resource on the international phase at the EPO, also for applicants. However, it is noted that the type and detail of information of entry into the EP phase and the procedure shortly thereafter (former</p>		<p>The Office explained that it was ceasing to publish the Euro-PCT Applicant's Guide so that it could concentrate all relevant legal information in the Guidelines. To this end, the Guide's contents had been fully incorporated into the EPC GLs (see Parts C and E).</p> <p>There were no further comments from the SACEPO WP/G members.</p>

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				part E of the Euro-PCT Guide) has not be integrated in the GL/PCT-EPO nor in the GL/EPO to degree and level it was provided for in the Euro-PCT Guide.		
3	GP		1.1	The inclusion of this new section (originating from the Euro-PCT Guide) is appreciated. For the notifications of incompatibility filed by the EPO, this new section provides no specific information, but merely refers to the WIPO website. For a document targeting examiners as well as applicants and representatives, an explicit overview of the incompatibilities are appropriate.	To make the GL/PCT-EPO comprehensive and as self-contained as appropriate, it is suggested to include the notifications of incompatibility filed by the EPO in the GL/PCT-EPO, including their period of application and including the section in the GL/PCT-EPO and/or GL/EPO where those incompatibilities are addressed in detail.	The Office stated that a reference to the list of notifications of incompatibility appeared to be sufficient in the General Part. Specific information might be included in the affected parts of the GLs in future, if needed.  There were no further comments from the SACEPO WP/G members.
4	GP		2.4	Although usually referred to as the agreement between the EPO and the IB of WIPO, the agreement is actually between the European Patent Organisation EPO and the IB of WIPO (and not of the European Patent Office EPO). See cover page of the Agreement and its Preamble; and see list of abbreviations in General 2.5 (defining EPO).	Please use the correct wording	The Office agreed to the proposal.  There were no further comments from the SACEPO WP/G members.
5	GP		2.6	Is there no form in case someone does use fax, indicating, "Fax is no longer accepted by the EPO as a means of filing an application nor any other document"?	Courtesy communication is kindly requested.	See also EPC Guidelines, comments 24, 60 and 62.  The Office clarified that it would no longer be possible to make submissions by fax, given that the fax server for the patent grant process has been decommissioned. But anyone who resorted to filing by fax using other EPO fax numbers would be informed that that their filing was formally deficient.

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						There were no further comments from the SACEPO WP/G members.
6	GP		3	<i>[This section was not amended, but this comment is directly triggered by the amendment to general 2.6 so that it is appropriate to consider it:]</i> Rule 20.3 and 20.5 PCT also have a similar Rule in EPC, but are not listed, while Rule 56a EPC was	Add: Rule 40 EPC - Rule 20.3 PCT - Comment: under EPC, missing elements does not apply to claims Rule 56 EPC - Rule 20.5 PCT - Comment: under EPC, missing parts does not apply to claims	The Office agreed to the proposal.  There were no further comments from the SACEPO WP/G members.

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7	A	II	1.2	<p>Why would PCT Rule 19.4(a)(ii-bis) not apply in case an application is filed by fax with the EPO?</p> <p>Under Rule 2 EPC, fax was a "means of electronic communication", so that using fax = using electronic means = filing in electronic form.</p>			<p>The Office emphasised again that this was an unlikely scenario.</p> <p>It further stated that R. 19.4(a)(ii-bis) PCT referred to international applications filed in electronic form and would therefore not apply to filings by fax.</p> <p>Under the PCT, filings by fax were governed by a different provision (Rule 92.4 PCT) than the filings in electronic form (Rule 89bis PCT). The provisions under the PCT would thus apply in this case (Art. 150(2) EPC).</p> <p>The Office further noted, in support of the above, that the notifications to WIPO about whether Offices accepted faxes and filings in electronic form were also based on these different provisions. Finally, the decision to decommission faxes in the procedure under the PCT was solely based on R. 92.4 PCT (see OJ EPO 2024, A41 and the notification to the IB published in the PCT Gazette on 10 May 2024).</p> <p>There were no further comments from the SACEPO WP/G members.</p>
8	A	II	1.2.1	<p>What is the legal basis in the PCT for asking the EPO in its capacity as receiving Office to correct the international application accordingly</p>	Please add legal basis		<p>The Office indicated that a reference to Section 706 of the PCT Administrative Instructions would be added to this section.</p>

				<b>Comments</b>	<b>Suggested improvement</b>	<b>Consultation results SACEPO WP/G meeting 25 April 2024 (as applicable)</b>	<b>Consultation results</b>
				within 30 months of the priority date. It is not PCT Rule 91, as that has a limit of 26m from priority (PCT Rule 91.2)			There were no further comments from the SACEPO WP/G members.
9	<b>A</b>	II	1.2.3	Fax is not mentioned in 1.2.3, while that has the risk to still be used as it was only recently abolished	Add fax to 1.2.3 as non-allowed means of filing an international application with the EPO as RO		The Office agreed to add a sentence in that respect, also in line with the information contained in the corresponding section of the EPC GLs.  There were no further comments from the SACEPO WP/G members.
10	<b>A</b>	II	1.3		Add that fax can no longer be used for filing subsequent documents with the EPO		The Office stated that the addition of such information in this section did not appear to be necessary. Indeed this section just referred to GL/PCT-EPO A-II, 1.2, where the methods of filing with the EPO as RO were explained, and the information on fax filing would be added there (see comment 9 above).  There were no further comments from the SACEPO WP/G members.
11	<b>A</b>	II	<b>3</b>	However, the EPO does not verify the number of sheets making up a given document	Why does EPO not confirm the number of pages?	The Office stated that the number of pages cannot be confirmed in the acknowledgment of receipt because the formality check needs to be performed first.  SACEPO WP/G members invited the Office to	The Office duly noted this comment and would come back on it as soon as possible. But first internal consultation / investigation was necessary in view of the IT implications.  Moreover, for electronic filings, the completeness and integrity of the submission was guaranteed by the message digest in the

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						<p>consider that it is very important for users to receive confirmation of the number of pages received by the Office.</p> <p>The Office took note of this comment.</p> <p><b>NO REACTION FROM THE OFFICE</b>  <i>It is noted that confirming the number of pages received allows a (double-)check / verification for the <u>applicant</u> as to whether a document was received in full and nothing went wrong in its transmission or the preparation therefore - for that, no formality check is needed: it is just the plain number of pages. So, it is not the number of pages for defining the page fee that is important/relevant.</i></p> <p><i>We request the EPO to reconsider.</i></p>	<p>acknowledgement of receipt, thus meeting the requirements cited in the comment.</p> <p>There were no further comments from the SACEPO WP/G members.</p>

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12	A	II	3.2	The amendment to state that only in the case of national security concerns may an application be filed via a competent authority of an EPC contracting state leads to a lack of certainty. What is the sanction if the applicant erroneously files an International application via a competent office of a EPC contracting state? For example, if national law stipulates that application in certain technology areas must be filed with the competent authority of the EPC state but it is later determined that the application is related to a different technology area, was the application validly filed?	Delete the word "only" from the last sentence of the second paragraph.		The Office agreed to the proposal.  There were no further comments from the SACEPO WP/G members.
13	A	II	4.1.1	What if the record copy is an incorrect reproduction of the IA as filed with the rO, e.g., if the drawings are missing from the record copy while they are in the home copy?			The Office explained that this scenario was not applicable to electronic filings, since the record copy was automatically transmitted as a package by the system to the IB. In the case of international applications filed on paper, section 705 <i>bis</i> PCT Administrative Instructions would be applicable.  There were no further comments from the SACEPO WP/G members.
14	A	II	4.1	The addition is unnecessary			The Office stated that the added text, which was contained in the Euro-PCT Guide, provided basic information for less experienced users.

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							<p>The Office was therefore of the opinion that it should be kept in the Guidelines.</p> <p>There were no further comments from the SACEPO WP/G members.</p>
15	A	II	6.2	<p><b>Comment 6 of the SACEPO WP/G meeting on 10.10.2023 (repeated in new comments)</b></p> <p><b>A-II, 6.2</b> – How to calculate additional page fees in the situation of PCT Rule 20.5bis(d)? No information is given w.r.t. page fees when Rule 20.5bis is used</p>	<p>Please specify how page fees are determined when Rule 20.5bis(b), (c) or (d) is used.</p> <p>Is the page fee for Rule 20.5bis(b) and (c) only determined by the number of correct pages and are the erroneously filed pages fully ignored?</p> <p>Is the page fee for Rule 20.5bis(d) only determined by the total number of erroneously filed and correct pages together, i.e., are the erroneously filed pages also counted?</p> <p>What if the correct pages are filed after the filing fee has been paid (e.g., payment at original filing date) but still within the payment period? What if the correct pages are filed the 1m period to pay the filing fee has expired?</p>	<p>The Office stated that the general principle set out in paragraph 241 of the PCT RO Guidelines applies to these cases: the amount of the international filing fee depends on the total number of sheets in the international application at the time of filing.</p> <p>The Office will add a reference to the above-mentioned paragraph of the PCT RO Guidelines.</p> <p>There were no further comments from the SACEPO WP/G members.</p> <p>Reference to GL/RO 241 was added with no comment.</p> <p>Please explain!</p>	<p>The Office proposed to add a reference to paragraph 241 of the PCT RO Guidelines.</p> <p>There were no further comments from the SACEPO WP/G members.</p>



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16	A	III	2	Form PCT/RO/102 Notification concerning payment of prescribed fees	Does EPO issue the form (IB issues the form before and after payment of fees)	<p>The Office confirmed that Form PCT/RO/102 is not issued by the RO/EP; this is stated in GL/PCT-EPO A-III, 4.2.</p> <p>The SACEPO WP/G members insisted on the importance of this form for users, especially as an official means of confirmation of payments.</p> <p>The Office took note of this comment.</p> <p><b>NO REACTION FROM THE OFFICE</b></p> <p><b>Why was no action taken on this issue? Please explain!</b></p>	<p>The Office said that it understood why users found this notification useful but having to issue one did not seem compatible with its automation endeavour. No similar service was offered for the EP procedure, and equal treatment should be safeguarded.</p> <p>Moreover, in the case of underpayment, the Office offered a very user-friendly mechanism for those paying via EPO deposit accounts. In this case, the missing amount was debited ex-officio by the Office, with a possibility for the user to contest the booking (see GL-PCT A-III, 4.2).</p> <p>On a final note, users were encouraged to use Central Fee Payment, which provided payment confirmation. More specifically, after submitting the payment order, users received a (printable) confirmation on screen that the transaction had been submitted. The final confirmation was then available for download once the fees had been debited from the deposit account. It included one page for each application paid for as part of the transaction concerned and could also be found in the fee order history.</p> <p>There were no further comments on this from the SACEPO WP/G members. However, SACEPO WP/G members also referred to the fact that the notification was also used by the IB as RO before the payment of the fees and that this was important information for users.</p>

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							The Office noted this additional comment.
17	A	III	3	The condition that the Contingency Upload Service may only be used on the day the payment period expires is unduly (and unnecessarily) restrictive. The ability to use the service on at least the day before the final day should be allowed and would be of practical assistance to Applicant where the final day is a public holiday in the EPC contracting state but not a day on which the EPO is closed or a day when the Applicant is otherwise indisposed (e.g. attending oral proceedings).	Amend to "on condition that the payment period expires within X days of the debit order's submission", where X is at least 2, preferably 3		<p>The Office stated that this was a general comment on a policy issue not to be discussed in this framework.</p> <p>In any event, it drew SACEPO WP/G members' attention to the fact that this service was offered as a contingency in the first place. Filing debit orders in a non-electronic processable format implied manual handling, and thus delay in the processing. In view of the risks entailed (including distortion of the account balance and applicability of priority rules in processing them), the possibility to file debit orders via the EPO Contingency Upload Service was limited to emergency situations.</p> <p>There were no further comments from the SACEPO WP/G members.</p>
18	A	III	8.2.2	What is meant with "supplementary search fee" in 8.2.2: The fee for SIS is already covered under 8.2 So it is the fee for supplementary search in the EP phase?	Please clarify/ correct		<p>The Office explained that the insertion of the word "supplementary" in the title of section 8.2 was meant to show, especially in the HTML version, that the section (incl. subsections) also covered the Supplementary International Search procedure. The Office concluded that it would consider whether further clarification was needed in the text.</p> <p>There were no further comments from the SACEPO WP/G members.</p>

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19	A	III	9.2	Add to 9.2.1.1 that "full refund" is not always 100%, but can be 70% - see OJ 2024, A7, Art.1, item, 2 2. Searches without written opinion	Add to 9.2.1.1 The international search fee is refunded as follows: – 100% in the case of an earlier search with written opinion; – 70% in the case of an earlier search without a written opinion		The Office agreed to add this information to the text. There were no further comments from the SACEPO WP/G members.
20	A	IV	3	Error! Reference source not found			The Office acknowledged the comment.
21	A	VI	1.5	Page 60 of the pdf says: " <b>Error! Reference source not found.</b> "			The Office acknowledged the comment.
22	A	VI	1.7	Page 61 of the pdf says: "Error! Reference source not found."			The Office acknowledged the comment.
23	A	VI	1.5, 1.7	Error! Reference source not found			The Office acknowledged the comment.
24	A	VI	1.8	Page 62 of the pdf says: "Error! Reference source not found."			The Office acknowledged the comment.
25	A	VI	1.8	Should read PCT-GL, A-III, 4,4,2			The Office acknowledged the comment.
26	A	VI	2 (and 2.1)	2.1 now included: "As regards the EPC contracting states, the problem of self-designation exclusively concerns Germany (DE), and only if protection via the grant of a national patent in Germany is sought, i.e. if the application actually enters the German national phase."			The Office indicated that details on this matter (incl. the kind of protection) could be found in Annex B of the PCT Applicant's Guide. A reference to the matter would be added to this section.  There were no further comments from the SACEPO WP/G members.

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				Does it also occur when a national utility model in Germany is asked for? Please add a comment to that.			
27	<b>A</b>	VII	2.3.1	The ordering of the example is rather confusing.	Amend to: "However, if the international application was filed in Spanish but the EPO acted as ISA, a translation will have already been furnished to the EPO as ISA for the purposes of international search, and the applicant need not furnish a further translation to the EPO as IPEA."		The Office agreed to clarify the text along these lines.  There were no further comments from the SACEPO WP/G members.
28	<b>A</b>	VII	2.3.3	Page 70 of the pdf says: "Error! Reference source not found."			The Office acknowledged the comment.
29	<b>A</b>	VII	2.3.3	Error! Reference source not found			The Office acknowledged the comment.
30	<b>A</b>	VII	3.2	Two different types of spelling are used for the NL office: "Netherlands patent office" and "Netherlands Patent Office"	Use consistent spelling (suggested: "Netherlands Patent Office")		The Office acknowledged the comment.
31	<b>A</b>	<b>VIII</b>	<b>1.10</b>	It is suggested to add when an agent is required before the EPO as dO/eO	It is suggested to: – include the text of GL/EPO E-IX, 2.3.1 in this section, or – alternatively to add a reference thereto, or	The Office agreed to add a reference to the relevant section of the EPC Guidelines.	The Office agreed to add a reference to the EPC GLs in the text.  There were no further comments from the SACEPO WP/G members.

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					<p>– alternatively to copy the 2nd to 5th paragraph thereof into this section:</p> <p>"Applicants, in particular those not resident in an EPC contracting state, are recommended to appoint a professional representative before the EPO in good time, i.e. before initiating proceedings before the EPO as designated/elected Office (see also GL/EPO E-IX, 2.1.2).</p> <p>However, up to expiry of the 31-month time limit under Rule 159, applicants having neither a residence nor their principal place of business within the territory of one of the contracting states may either comply with any requirement themselves or act through a professional representative entitled to practise before the EPO. This means that applicants having neither a residence</p>	<p>There were no further comments from the SACEPO WP/G members.</p> <p>Reference to GL/EPO E-IX, 2.3.1 was added with no explanation. Please explain!</p>	

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					<p>nor the principal place of business within the territory of one of the contracting states may themselves , within the 31-month time limit, for example sign and file EPO Form 1200, submit amendments, file a translation of the application, file a request for early processing, etc.</p> <p>Applicants having neither a residence nor their principal place of business within the territory of one of the contracting states who do not themselves take the required steps for entry into the European phase within the 31-month time limit may, after expiry of that time limit, perform these and the other procedural steps (e.g. filing a request for re-establishment of rights) only through a professional representative entitled to practise before the EPO.</p>		

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					See also GL/EPO E-IX, 2.3.1."		
32	A	VIII	3.1 and 3.2	The revised text has internal inconsistencies. The requirement that the demand must be signed by all applicants on the one hand and the statement that signature by one application is sufficient on the other, is contradictory.	Replace the word "must" with "should"		The Office proposed that the word "must" be replaced by "shall" in line with R. 53.8 PCT. There were no further comments from the SACEPO WP/G members.
33	B	I	2	For Direct EP, the other two members of the examining division are being involved early, since 1 November 2023 (information Steve Rowan, DG1-EPPC meeting 28.02.2024). Is this also done for searches by EPO as ISA?	Clarification is requested	The Office stated that this was work in progress; a decision on whether there is a need to update the Guidelines will be taken in due course.  <i>An update on the matter would be appreciated. When can this be expected?</i>  There were no further comments from the SACEPO WP/G members.	See comment 41; see also EPC Guidelines, comments 37 and 38.  The Office informed the SACEPO WP/G members that implementation of the new approach was still in progress and that users would be informed and consulted on any emerging "best practice" as soon as possible. Only after such consultation would the Guidelines be updated. The point was made that examiners were already consulting each other and sharing knowledge, even at the search stage.  The SACEPO WP/G members acknowledged that more time for internal consultation might be required but stressed that they would appreciate a briefing on the envisaged "best practice" as soon as possible.
34	B	II	1,1	a) An added sentence reads: "If the EPO acts as ISA or SISA, no supplementary European search is carried out (GL/EPO E-IX, 3.2)."	a) It is suggested to clarify this sentence by adding "main" before ISA and by adding "after entry in the		The Office agreed to both suggestions.

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				b) An added sentence reads: "If an international application is filed with the EPO acting as receiving Office, the EPO is the only competent ISA. Therefore, this need not be entered in Box No. VII of the PCT request form"	European phase." at the end of the sentence to clarify that this sentence does not refer to the international phase. b) It is suggested to clarify the first sentence by adding " for the international search". And to add after the last sentence: "Note that the EPO cannot be selected as ISA for Supplementary International Search (SISA) after the EPO was main ISA."		
35	<b>B</b>	III	2.1	Note revision is to 2.10 not 2.1			The Office acknowledged the comment.
36	<b>B</b>	<b>VI</b>	<b>2</b>	According to Rule 33.1(a) and Rule 33.1(b), oral disclosure, use, exhibition, etc. are recognised as prior art only when this is substantiated by a written disclosure, contrary to Art. 54 EPC.	The assemblies are expected to adopt a proposed amendment to Rule 33 and Rule 64 PCT in July.	The Office said it plans to update this section once the proposed amendments have entered into force (see also #2 above).  <i>As the amendments will enter into force on 1 January 2026 (see <a href="https://www.wipo.int/edocs/pctndocs/en/2024/pct_new_s_2024_7_8.pdf">https://www.wipo.int/edocs/pctndocs/en/2024/pct_new_s_2024_7_8.pdf</a>), i.e., during the time that the 2025 GL/PCT-EPO are in force, an indication if this change and its transitional</i>	The Office stated that a change in the PCT-EPO Guidelines was not considered necessary at present. The Guidelines would be updated in due time.



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						<p><i>provision seems appropriate.</i></p> <p><b>NOT UPDATED – we will monitor</b> There were no further comments from the SACEPO WP/G members.</p>	
37	<b>B</b>	VII	1		Add to the added sentence "as long as the application is pending".		The Office agreed to the suggestion.
38	<b>B</b>	VIII	3,3		It is suggested to change "the examiner may informally contact the applicant" into "the examiner <u>must</u> informally contact the applicant"		<p>The Office did not agree to the suggestion. According to OJ EPO 2011,327 "the EPO is under no obligation to ask for informal clarification". This practice is confirmed in the ISPE, section 9.34 ("may").</p> <p>The Office therefore considered that there was no legal basis for the requested change.</p> <p>One member of the SACEPO WP/G remarked that there should be room for interpretation of the term "must", and that the Guidelines would allow the practice to be defined.</p> <p>The Office confirmed that, while at the examiners' discretion, consultation was encouraged and applied in practice, under both the EPC and PCT legal framework. It agreed to check for a possible alignment of the wording with the EPC Guidelines to make this clearer.</p>

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39	<b>B</b>	X	12	<i>[was not listed in the Excel, despite amendments were made]</i>			The Office acknowledged the comment.
40	<b>B</b>	XI	8		Add the underlined text: "If the international application subsequently enters the European phase, the applicant is obliged to reply to any negative WO-ISA, <u>explanations</u> or IPER established by the EPO as <u>ISA, SISA or IPEA</u> "		The Office agreed to the proposal, aligning the wording to that of the EPC Guidelines: <i>"If the international application subsequently enters the European phase, the applicant is required to respond to the WO-ISA or SISR prepared by the EPO or, where applicable, to the IPER prepared by the EPO as IPEA (see EP GL/EPO E.IX.3.2 and GL.EX.3.3) "</i>  There were no further comments from the SACEPO WP/G members.
41	<b>C</b>	<b>I</b>	<b>2</b>	Is the IPE examination done by a single examiner, or by a group of 3 (that will become the examining division in the European phase)? For a search in a Direct EP, the other two members of the examining division are already being involved as of early in the search stage, since 1 November 2023 (information Steve Rowan, DG1-EPPC meeting 28.02.2024).	Clarification is requested	SACEPO WP/G members said applicants needed to know who was in charge and who was involved in actions taken by the Office. Concern was also expressed that the requirements in comments 19 (on search) and 16 (on preliminary examination) are different.  The Office explained that this was work in progress; a decision on whether there is a need to update the Guidelines will be taken in due course. It also confirmed that it is aware of the different	See comment 33; see also EPC Guidelines, comments 37 and 38.

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						<p>requirements applying to international search and international preliminary examination.</p> <p><i>This response did not answer the first question: If IPE currently being done by a single examiner? Or by a division of three, as for a direct EP? Please clarify.</i></p> <p>We will monitor progress</p>	
42	C	II	1.1.1		<p>Add the underlined text: "The EPO too applies Article 22 PCT as amended with effect from 1 April 2002. Therefore, the time limit for entry into the European phase is always 31 months from the priority date, <u>irrespective of whether a demand was filed or not.</u>" And add PCT Art. 22(3) &amp; Art. 39(1)(b) in the margin.</p>		The Office agreed to the suggestion.
43	C	II	2	It is not clear whether the conditions when EPO is competent IPEA are alternative or additional conditions, esp. the third (EP ISA) and fourth (RO specifies) paragraphs. Please clarify			The Office agreed to clarify this point.

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44	C	II	6	The wording of the insertion is confusing	Amend to insert commas as follows: "for a national, and where possible a regional, patent at the same time"		The Office agreed to the suggestion.
45	C	IV	1.1	Page 19 of the pdf says: "Error! Reference source not found."			The Office agreed to the suggestion.
46	C	IV	1.1	The erroneous text "Error! Reference source not found." appears in the 1st paragraph	Delete the text or include the correct reference		The Office agreed to the suggestion.
47	C	VI		<p><b>Comment 18 of the SACEPO WP/G meeting on 10.10.2023 (repeated in new comments)</b></p> <p>It has come to our knowledge that the EPO as ISA or IPEA has developed a practice (likely initiated because many foreign PCT applicants using EPO as ISA or IPEA receive communications) with 1-month period when that period is expiring. It is indeed written nowhere. Applicants who then contact the EPO receive a new calculation (this is a dummy example):</p>	Please describe the practice of EPO as IA, when the applicant receives a communication setting a deadline late, in the PCT-EPO GL.	The Office said it would consider whether adding further instructions in the Guidelines on the application of Rule 80.5 PCT and Rule 80.6 PCT was expedient, bearing in mind what is currently described in the Euro-PCT Guide (sections 1.10.001-002). It pointed out that situations referred to in the comment were less likely to occur in future, given the availability of the Mailbox service in the international phase via MyEPO Portfolio and PCT Link. It also stated that the comment would best be treated in Part E ("General Procedural Matters"), not	<p>The Office stated that it was not considered expedient at present to add further examples on the application of Rule 80.5 PCT and Rule 80.6 PCT. The content of section 1.10.001-002 of the Euro-PCT Guide had been incorporated into section PCT/EPO GLE.IV.1 and appeared sufficient for the moment. However, the Office would further investigate why some applicants had received the calculation referred to.</p> <p>Members said that they would accept this position for the time being but might raise the issue again if necessary.</p>

				<table border="1"> <tr> <td>Original mailing date</td> <td>08-07-2018</td> <td></td> </tr> <tr> <td>Acceptable date of receipt R80.6</td> <td>15-07-2018</td> <td></td> </tr> <tr> <td>Actual date of receipt</td> <td>10-08-2018</td> <td>number of days which the document or letter was received later than seven days after the date it bears = 25 days</td> </tr> <tr> <td>Original due date</td> <td>09-08-2018</td> <td>08-08-2018 but time limit cannot expire on a day the EPO is closed, therefore moved to next open day Rule 80.5</td> </tr> <tr> <td>New due date under Rule 80.6</td> <td>03-09-2018</td> <td>original limit date plus 25 additional days resulting from time difference Rule 80.6</td> </tr> <tr> <td>Addition of 7-day period of grace</td> <td>10-09-2018</td> <td></td> </tr> </table>	Original mailing date	08-07-2018		Acceptable date of receipt R80.6	15-07-2018		Actual date of receipt	10-08-2018	number of days which the document or letter was received later than seven days after the date it bears = 25 days	Original due date	09-08-2018	08-08-2018 but time limit cannot expire on a day the EPO is closed, therefore moved to next open day Rule 80.5	New due date under Rule 80.6	03-09-2018	original limit date plus 25 additional days resulting from time difference Rule 80.6	Addition of 7-day period of grace	10-09-2018		<p>Part C ("PCT Chapter II"), since it applied beyond just PCT Chapter II and the EPO acting as IPEA.</p> <p>SACEPO WP/G members requested that an example of the application of Rules 80.5 PCT and Rule 80.6 PCT be inserted.</p> <p><i>A chapter on Time Limits has been added to Part E, but no example(s) have been included (yet) on the application of Rules 80.5 PCT and Rule 80.6 PCT in C-VI nor in Part E. (It is observed that Rule 80.5 and 80.6 are currently very similar to R.131(2)/131(4) / R.126(2)/127(2), so that examples from GL/EPO may easily be adapted for GL/PCT-EPO).</i></p> <p>No example was added in PART C – I could not find any in part E</p> <p>Please explain!</p>	
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				Comments	Suggested improvement	Consultation results SACEPO WP/G meeting 25 April 2024 (as applicable)	Consultation results
				It is noted that the 7 days of that grace period match the 7 days of Rule 80.6 PCT, so that the recomputed deadline ends up being 1 month after the actual date of receipt (1 month -7 days +7 days. Since this is an aggregate time limit, Rule 80.5 is applied at every step, and the result is taken as the <i>dies a quo</i> for the next step.			
48	C	VII	3	<p>What is the appropriate course of action for a third party is he observes that his third party observations have not been considered and that not even "[A] comment is included in Section V of the WO-IPEA and/or in the IPER indicating that the third-party observations have been taken into account and found not to be relevant or that the third-party observations could not be taken into account and why."</p> <p>If he would simple refile them, they may again not be considered.</p>	Clarification is requested	<p>The Office said this was not an issue for the Guidelines, as it concerned alleged non-compliance with the instructions these contain. This could not be reflected in the Guidelines themselves; there are dedicated channels for this in the form of the external complaints handling mechanism described in GL/EP E-VI, 4.</p> <p>SACEPO WP/G members expressed that the question of third-party observations not being taken into account was a recurring issue. They also noted that recurring filings of the same third-party observations occurred as</p>	<p>The Office indicated that it had performed an extensive analysis of cases where third-party observations had been filed to assess whether the case-handling was in line with the Guidelines. As the analysis had not been completed until the early summer, the Office was still in the process of investigating whether clarifications in the Guidelines would be necessary, while noting that the results of the quality control were positive in most cases, i.e. the internal workflows had been correctly applied.</p> <p>There were no further questions from the SACEPO WP/G members.</p>

				Comments	Suggested improvement	Consultation results SACEPO WP/G meeting 25 April 2024 (as applicable)	Consultation results
						<p>well. Improvement of the treatment of third-party observations was requested.</p> <p>The Office expressed its thanks for the comments and said an analysis of the handling of third-party observations is ongoing; the results will be presented at the SACEPO Quality meeting in June.</p> <p><b>NO REACTION FROM THE OFFICE</b> Were any results presented in the SACEPO Quality meeting?</p>	
49	<b>G</b>	<b>VI</b>	<b>4</b>	This section may need to be updated in view of G 1/23 (once issued)		<p>The Office said that if the decision is available in time for the current cycle of the Guidelines, its content will be taken into account accordingly.</p> <p>There were no further comments from the SACEPO WP/G members.</p> <p><b>We will monitor.</b></p>	<p>The Office would continue to monitor the development of the topic. Reference was made to the European Patent Register, where the <a href="#">file</a> can be accessed.</p> <p>The Office also confirmed that, should decision G 1/23 be issued early enough, it might be possible to reflect the findings in the next edition of the Guidelines (2025).</p>

				Comments	Suggested improvement	Consultation results
50	H	I	6	PCT R70.2(c-bis) requires "a letter indicating the basis for the amendment in the application as filed" then uses "may" Text quoted from the PCT Guide, not a legal document, "must" has no legal basis	Replace "must" with "may".	The Office agreed to the proposal.
51	H	I	6	PCT R70.2(c-bis) just says "the report may be established as if the amendment had not been made" Text quoted from the PCT Guide, not a legal document, "will" has no legal basis, <u>too harsh</u> (at least provide exception "if the basis for any amendments is not apparent", see EPC GL H-II, 2.5.4 (ii))	Add that the Office will allow an exception if the basis is clear.	The Office agreed to the proposal and confirmed that the expression "is not apparent" would be added to the section.  There were no further comments from the SACEPO WP/G members.
52	H	II	2.1	This new § is not useful, because the same is already mentioned more precisely in H-III, 4.1 <b>4.1 The subject-matter to be excluded is not disclosed in the application as originally filed (so-called undisclosed disclaimers)</b> The examiner should apply the guidelines of section H-V, 4.2.1, in the Guidelines for Examination in the EPO <i>mutatis mutandis</i> . The EPO applies option A20.21[2] of the Appendix to Chapter 20 of the ISPE Guidelines.  In addition, "the same approach as in respect of a Euro-direct application" gives the impression that a different approach will be applied later to the Euro-PCT application.	(delete added §)	The Office agreed to the proposal.
53	H	II	2,1	Is the common term not "EP-direct" (or direct EP) rather than "Euro-direct"?		The Office agreed to remove the new paragraph.



				<b>Comments</b>	<b>Suggested improvement</b>	<b>Consultation results</b>
54	H	IV	1	<p>New § whereby examiner must check substitute sheets for added subject matter, and inform the applicant.</p> <p>It would nicely fit between the two § of C-III, 1 (note that the second § of C-III, 1 refers to H-IV, 2, what is perhaps the reason why this § was inserted just before H-IV, 2)</p>	(move between the two § of C-III, 1)	<p>The Office did not agree with the suggestion – it considered that the paragraph fitted in well to H-IV,1 since it concerned guidance on what happened when such added content went beyond the disclosure of the application as filed.</p> <p>There were no further comments from the SACEPO WP/G members.</p>