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# **PCT – Part A**

## **Guidelines for Formalities Examination**



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# Chapter I – Introduction

## 1. Overview

This current edition of Part A of the PCT-EPO Guidelines deals with filing requirements (Chapter A-II), fees (Chapter A-III), certain special provisions (Chapter A-IV), drawings (Chapter A-V), ~~and~~ certain formal requirements (Chapter A-VI), languages (Chapter ~~A-VII~~) and common provisions (Chapter ~~A-VIII~~). Other chapters relating to formalities will gradually be added in successive editions.

## 2. Purpose of Part A

Formalities officers should note that this Part A is intended to provide them with knowledge and background to help them carry out their functions in a uniform and expeditious manner. It provides guidance in addition to other relevant PCT legal sources, such as the PCT Administrative Instructions, the PCT Receiving Office Guidelines, the PCT International Search and Preliminary Examination Guidelines and the Euro-PCT Guide. In case of conflict, the PCT Administrative Instructions, the PCT Receiving Office Guidelines and the PCT International Search and Preliminary Examination Guidelines prevail.

## 3. Other Parts relating to formalities

It should be noted that information on the procedures for formalities examination at the EPO in its capacity as RO, (S)ISA and IPEA ~~on the formal requirements for international (PCT) applications~~ is not restricted to this **Part A**. Other chapters of the PCT-EPO Guidelines ~~may also be~~ are necessary for the work carried out by formalities officers.



## Chapter II – Filing of international applications and examination on filing

### 1. Where and how international applications may be filed

#### 1.1 Filing with the EPO as receiving Office

Natural and legal persons who are nationals or residents of a PCT contracting state may file an international application with any of the following as receiving Office, provided that this option is available to them:

- the national office of that state
- the office acting for that state
- the International Bureau (IB)

*Art. 2(xv)*

*Art. 9, 10*

*R. 18, 19*

*GL/PCT-EPO A-*

*II, -3.2*

Natural and legal persons who are nationals or residents of an EPC contracting state may file an international application with the EPO as receiving Office instead.

*Art. 151 EPC*

*R. 157(1) EPC*

*OJ EPO 2014, A33*

The national patent offices of Belgium, Monaco, Montenegro and San Marino have ceased to act as receiving Offices under the PCT and delegated this task to the EPO, which will thus act as receiving Office on their behalf for all international applications filed by applicants who are nationals or residents of, or have their principal place of business in, one of these states.

*R. 19.1(b)*

*OJ EPO 2018, A17*

*OJ EPO 2018, A105*

*OJ EPO 2019, A96*

*OJ -EPO 2022, A82*

For more information on when the EPO is competent to act as receiving Office, see GL/PCT-EPO A-II, 2.

#### 1.2 Methods of filing with the EPO as receiving Office

International applications must be filed using the PCT request form (PCT/RO/101) and submitted either electronically or on paper.

##### ~~1.2.1 Filing of applications by delivery by hand or by post~~

~~An international application may be filed by delivery by hand or by post with one of the EPO's filing offices in Munich, The Hague or Berlin. All EPO filing offices are based in the Central European Time (CET) zone. For further details, see GL/EPO A-II, 1.1. The documents making up the international application must be filed in one copy only.~~

*~~OJ EPO 2018, A18~~*

*~~OJ EPO 2018, A27~~*

*~~OJ EPO 2017, A11~~*

*~~OJ EPO 2006, 439~~*

~~The date of filing accorded to an application delivered by hand or by post is the date of handing over or receipt respectively at an EPO filing office, provided that the requirements under Art. 11 are fulfilled (see GL/PCT-EPO A-II, 4.1).~~

~~If a filing sent by post is lost or delayed, the EPO accepts evidence of posting only if the document was sent via a postal authority or one of the following generally recognised postal service providers: Chronopost, DHL, Federal Express, flexpress, TNT, SkyNet, UPS or Transworld. As evidence, confirmation of registration by the post office or confirmation of receipt by the postal service provider must be provided at the EPO's request. Rules 82 and~~

*~~Art. 48(1)~~*

*~~R. 26bis.3, 82.1,~~*

*~~82quater~~*

*~~OJ EPO 2015, A29~~*

~~82quater do not apply to the priority period, but they do apply to the time limit for submission of a request for restoration of the right of priority under Rule 26bis.3 (see GL/PCT-EPO A-VI, 1.5).~~

### **1.2.2 Filing of applications by fax**

~~An international application may be filed by fax with one of the EPO's filing offices in Munich, The Hague or Berlin. All EPO filing offices are based in the Central European Time (CET) zone.~~

~~If an international application is filed by fax, the date on which the application documents are received in full is accorded as the date of filing, provided that the requirements under Art. 11 are fulfilled (see GL/PCT-EPO A-II, 4.1).~~

~~If an international application is filed by fax, the original, i.e. the confirmation copy, must be filed, preferably simultaneously, and the fax should state that the confirmation copy has been filed separately on paper at the same time. The confirmation copy should be a single copy of each document making up the application and each accompanying document. The first page of the PCT request form (PCT/RO/101) sent as a confirmation copy should be marked "CONFIRMATION COPY", followed by the date of the fax transmission. It is recommended that the confirmation copy be accompanied by EPO Form 1032, which is available on the EPO website.~~

~~If the confirmation copy has not been received within 14 days of receipt of the application, the EPO as receiving Office will despatch an invitation to submit it within a month (Form PCT/RO/141). If the confirmation copy is not provided within this time limit, the international application will be considered withdrawn (Form PCT/RO/117).~~

~~If an international application filed by fax is illegible or incomplete, or the fax transmission has failed, the application will be treated as not having been received and the sender must be notified as soon as possible using Form PCT/RO/140.~~

### **1.2.1 1.2.3 Filing of applications electronically**

An international application may be filed electronically with the EPO as receiving Office.

The EPO offers the following free-of-charge electronic filing tools:

- Online Filing (OLF), a software application
- ~~Web-Form Filing~~ Online Filing 2.0
- ~~Online Filing 2.0~~ Web-Form Filing
- EPO Contingency Upload Service.

In addition, applicants may use ePCT, an electronic filing tool offered by WIPO.

~~R. 92.4~~

~~R. 29.1~~

~~OJ EPO 2019, A18~~

**A1 334**

R. 89bis

~~OJ EPO 2021,~~

~~OJ EPO 2021, A43~~

~~OJ EPO 2018, A25~~

~~OJ EPO 2020, A105~~

~~OJ EPO 2022, A70~~

~~OJ EPO 2023, A48~~

~~OJ EPO 2021, A21~~

~~OJ EPO 2014, A107~~

The EPO no longer accepts international applications filed with it as receiving Office using the PCT-SAFE filing software. This has been the case since 1 July 2020.

*OJ EPO 2020, A59*

Filings using the OLF software may be made online or on electronic data carriers accepted by the EPO. At present, the data carriers accepted are CD-Rs conforming to ISO 9660, DVD-Rs and DVD+Rs.

~~*OJ EPO 2021, A42*~~  
~~*OJ EPO 2023, -AXX*~~

All the means of electronic filing, except for the Web-Form Filing service and the EPO Contingency Upload Service, allow applicants to fill in the PCT request form (PCT/RO/101) directly in the electronic document formats that are accepted by the EPO as receiving Office.

If the documents making up the international application have been prepared by conversion from a different electronic document format (pre-conversion format), the applicant may submit the documents in that format too, preferably together with a statement that the international application in electronic form is a complete and accurate copy of the documents in pre-conversion format. Each pre-conversion document must be in a format that fulfils the requirements stipulated in ~~*OJ EPO 2021, A42*~~*OJ EPO 2023, A48*. It is recommended that pre-conversion documents be submitted as ZIP files.

**AI 706**  
~~*OJ EPO 2021,*~~  
~~*OJ EPO 2023, -A48*~~

### **1.2.2 Filing of applications by fax**

An international application may be filed by fax with one of the EPO's filing offices in Munich, The Hague or Berlin. All EPO filing offices are based in the Central European Time (CET) zone.

*R. 92.4*  
*R. 29.1*  
*OJ EPO 2019, —A18*  
*AI 331*

If an international application is filed by fax, the date on which the application documents are received in full is accorded as the date of filing, provided that the requirements under Art. 11 are fulfilled (see GL/PCT-EPO A-II, 4.1).

If an international application is filed by fax, the original, i.e. the confirmation copy, must be filed, preferably simultaneously, and the fax should state that the confirmation copy has been filed separately on paper at the same time. The confirmation copy should be a single copy of each document making up the application and each accompanying document. The first page of the PCT request form (PCT/RO/101) sent as a confirmation copy should be marked "CONFIRMATION COPY", followed by the date of the fax transmission. It is recommended that the confirmation copy be accompanied by EPO Form 1032, which is available on the EPO website.

If the confirmation copy has not been received within 14 days of receipt of the application, the EPO as receiving Office will despatch an invitation to submit it within a month (Form PCT/RO/141). If the confirmation copy is not provided within this time limit, the international application will be considered withdrawn (Form PCT/RO/117).

If an international application filed by fax is illegible or incomplete, or the fax transmission has failed, the application will be treated as not having been received and the sender must be notified as soon as possible using Form PCT/RO/140.

**1.2.3 Filing of applications by delivery by hand or by post**

An international application may be filed by delivery by hand or by post with one of the EPO's filing offices in Munich, The Hague or Berlin. All EPO filing offices are based in the Central European Time (CET) zone. For further details, see GL/EPO –A-II, 1.1. The documents making up the international application must be filed in one copy only.

OJ EPO 2018, -A18OJ EPO 2018, -A27OJ EPO 2017, -A11OJ EPO 2006, -439

The date of filing accorded to an application delivered by hand or by post is the date of handing over or receipt respectively at an EPO filing office, provided that the requirements under Art. 11 are fulfilled (see -GL/PCT-EPO A-II, 4.1).

Art. 48(1)R. 26bis.3, 82.1,82quaterOJ EPO 2015, A29

If a filing sent by post is lost or delayed, the EPO accepts evidence of posting only if the document was sent via a postal authority or one of the following generally recognised postal service providers: Chronopost, DHL, Federal Express, flexpress, TNT, SkyNet, UPS or Transworld. As evidence, confirmation of registration by the post office or confirmation of receipt by the postal service provider must be provided at the EPO's request. Rules 82 and 82quater do not apply to the priority period, but they do apply to the time limit for submission of a request for restoration of the right of priority under Rule -26bis.3 (see -GL/PCT-EPO A-VI, 1.5).

**1.2.4 Filing of applications by other means**OJ EPO 2000, 458OJ EPO 2019, A18

International applications may not be filed with the EPO by email or similar means of communication. Any application filed by such means will be considered not to have been received and the applicant will be informed accordingly using Form PCT/RO/142.

**1.3 Filing of documents subsequent to the application**~~OJ EPO 2021, A42~~~~OJ EPO 2023, -A48~~OJ EPO 2019, A18

Documents subsequent to the international application may be filed with the EPO as receiving Office ~~on paper or~~ electronically or on paper; see GL/PCT-EPO A-II, 1.2.

In the international phase, ~~priority documents and~~ authorisations may not be filed with the EPO as receiving Office by fax or using the EPO Web-Form Filing service.

Priority documents may not be filed by fax, using the EPO Web-Form Filing service or using the EPO Contingency Upload Service. Priority documents may be filed electronically using OLF or Online Filing **2.0**, provided they have been digitally signed by the issuing authority and the signature is accepted by the EPO. Priority documents may also be filed with the IB using ePCT.



If a document subsequent to the international application is filed by fax, there is no need to submit a confirmation copy unless the receiving Office invites the applicant to submit one (Form PCT/RO/141). It might do so particularly for substitute sheets under Rule 26 and sheets to be incorporated by reference under Rule 20.6. For such sheets, applicants are therefore advised to submit a confirmation copy on their own initiative directly after sending them by fax. If a confirmation copy is not submitted within the time limit prescribed in the invitation issued by the receiving Office, the document will be treated as not having been received (Form PCT/RO/149).

*R. 92.4(g)(ii)*  
*OJ EPO 2019, A18*

#### 1.4 Debit orders for deposit accounts held with the EPO

An international application may be accompanied by a debit order for the fees due on filing. For the electronic means of filing accepted for debit orders, see GL/PCT-EPO A-III, 3.

#### 1.5 Application numbering system

At the EPO, the number range starting at 000001 (PCT/EPyyyy/000001) is used for paper filings (including faxes). The number range starting at 025000 (PCT/EPyyyy/025000) is used for filings made via Web-Form Filing. The number range starting at 050000 (PCT/EPyyyy/050000) is assigned to electronic filings made using Online Filing **2.0**, OLF or ePCT.

**AI 307**

### 2. Competence of the EPO to act as receiving Office

The EPO is competent to act as the receiving Office for an international application provided that:

- The applicant is a **national or resident** of an EPC contracting state which is also a PCT contracting state (currently the case for all EPC contracting states). If there are two or more applicants, at least one must be a resident or national of an EPC contracting state. A person mentioned only as an inventor does not qualify as an applicant. Hence, the nationality or residence of a person mentioned only as an inventor is irrelevant for determining whether the EPO is competent to act as receiving Office.
- The international application is filed in one of the **EPO's official languages** (English, French or German).

*R. 19.1-19.2*  
*R. 157(1) EPC*  
*OJ EPO 2014, A33*

*R. 12.1(a)*  
*Art. 14, R. 157(2)*  
*EPC*

Where the applicant is not a national or resident of an EPC contracting state or the application is in a language other than English, French or German, the EPO is not the competent receiving Office and the EPO will transmit the purported international application to the IB. The applicant will be informed accordingly (Form PCT/RO/151). For the purpose of the international filing date, the application will nevertheless be considered to have been received by the IB as receiving Office on the date that the EPO received it. In such cases, the EPO does not charge the transmittal fee for the transmittal of the documents to the IB. Any fees paid to the EPO will be refunded.

*R. 19.4(b)*  
*R. 19.4(c)*  
*OJ EPO 1993, 764*  
*GL/RO 274*

### 3. Procedure on filing

#### 3.1 Acknowledgement of receipt

For international applications filed online using OLF, Online Filing 2.0 or Web-Form Filing, receipt is acknowledged electronically following successful submission. The acknowledgement contains the identity of the receiving Office, the date and time of receipt, a reference or application number, a list of the files transmitted and, for online filings using OLF or Online Filing 2.0, a message digest, i.e. the message in compressed form.

~~OJ-EPO-2019, A19~~

~~OJ-EPO-2023, -A48~~

~~OJ EPO 2019, -A19~~

~~OJ-EPO-2023, -A48~~

The EPO as receiving Office will acknowledge receipt of a purported international application filed on paper, ~~or~~ by fax or using an electronic data carrier using EPO Form 1031, which will be sent by post, as a rule within four working days. In it, the EPO will explicitly confirm the receipt of each document making up the international application and each accompanying item. However, the EPO does not verify the number of sheets making up a given document. EPO Form 1031 is also sent for international applications filed using Web-Form Filing, in addition to the electronic acknowledgement of receipt generated for such applications.

~~OJ-EPO-2021, A42~~  
~~OJ-EPO-2023, A48~~

~~The same procedure applies to international applications filed on electronic data carriers. The EPO acknowledges receipt of documents filed using the EPO Contingency Upload Service electronically in the service. An acknowledgement indicating in particular the application number, where applicable, is also sent in accordance with the provisions governing the filing of documents on paper.~~

Upon receipt of paper documents purporting to be an international application, the EPO as receiving Office proceeds according to **GL/RO, Chapter IV, paragraph 35**.

For general information on the receipt of documents at the EPO and for information on acknowledgement of receipt by fax, see GL/EPO A-II, 3.1, which applies *mutatis mutandis* to international applications.

#### 3.2 Filing via a competent national authority

The national law of an EPC contracting state may stipulate that, for national security reasons, an international application must be filed with the EPO as receiving Office via a competent authority of that state.

In such cases, the national authority will act as the "filing office" for the EPO acting as receiving Office. The date of receipt of the application by the national authority will be accorded ~~considered to be the~~ as the international filing date by the EPO as receiving Office, provided that the application meets the PCT requirements for a filing date to be accorded (see GL/PCT-EPO A-II, 4.1).

The national authority must ensure that the application reaches the EPO not later than two weeks before the end of the 13th month from filing or, if priority is claimed, from the earliest date of priority. For further details, see **GL/RO Chapter III**.

Art. 75(2), 151 EPC  
R. 157(1), (3) EPC  
R. 19.1(b)  
**GL/RO Chapter III**  
~~GL/RO -43~~

## 4. Examination on filing

### 4.1 Minimum requirements for according an international filing date

The international filing date of an international application is the date on which it is received at one of the EPO's filing offices, or at a national authority in an EPC contracting state (see GL/PCT-EPO A-II, 3.2), provided that the following minimum requirements are fulfilled at the time of receipt:

*Art. 11  
GL/RO 39-44*

- The applicant is a resident or national of an EPC contracting state.
- The application (description and claim(s)) is in English, French or German.

- The application contains at least the following elements:
  - an indication that it is intended as an international application (this indication is in the header of the request form, PCT/RO/101)
  - a request which constitutes the designation of a state bound by the PCT on the international filing date (filing the request form, PCT/RO/101, automatically designates all PCT contracting states)
  - the name of the applicant
  - a part which on the face of it appears to be a description
  - a part which on the face of it appears to be a claim or claims

If these requirements have been fulfilled, the purported international application will be accorded its actual date of receipt as the international filing date; the applicant will be notified accordingly (Form PCT/RO/105).

#### 4.2 Defects

*Art. 11(2)*  
*R. 20*  
*GL/RO 45-48A*

If the EPO as receiving Office finds that, at the time of receipt, the international application does not comply with one or more of the requirements under Art. 11 for according an international filing date, it will invite the applicant to file the required correction(s) within two months of the date of the invitation (Form PCT/RO/103). If the applicant complies, the international filing date will be the date of receipt of the correction(s); otherwise, the application will not be treated as an international application (Form PCT/RO/104). For further details on the procedure followed by the EPO as receiving Office in the event of defects under Art. 11(1), see GL/RO 45-48 and 50.

*R. 4.18, 20.5*

If the defect is the omission of an element (description or claims), the applicant may decide either to furnish the missing element as a correction under Art. 11(2) and R. 20.3(a)(i) as described above or to confirm its incorporation by reference. The second option is described in GL/PCT-EPO A-II, 5.

If the time limit for the correction of the purported international application expires after the 12-month priority period, the applicant's attention is drawn to this circumstance in Form PCT/RO/103.

#### 5. Incorporation by reference of missing elements or parts

*R. 4.18, 20.3, 20.5,*  
*20.6, 20.7*

If the applicant has omitted to file with the international application a part of the description or of the claims, part or all of the drawings or an entire element, i.e. the entire description or all the claims, the omission may be incorporated in the international application by reference.

Firstly, the omission must be completely contained in an application from which priority was claimed on the international filing date. For an omission to

be "completely contained", it must be identical to the corresponding text/drawing in the priority document.

Secondly, the PCT request must have contained a statement of incorporation by reference to the priority application. A statement to that effect is already provided for in Box VI of the PCT request form (PCT/RO/101).

Thirdly, the conditions for confirmation in Rules 20.6 and 20.7 must be met.

If all the conditions are met, the omission is considered to be incorporated by reference and the international filing date is unaffected.

If the description and/or claims as contained in the priority application do not qualify as missing parts on the grounds that the international application already contained a complete description and/or a complete set of claims, the EPO as receiving Office will proceed to a negative finding under GL/RO paragraph 205D and will not transmit the international application to the IB in accordance with Rule 19.4(a)(iii).

An applicant wishing to add to an international application omitted parts which have no basis in a priority application may do so under Rule 20.5. However, the filing date of the application as a whole will then be the date on which the missing parts are filed.

## **6. Correction of erroneously filed elements or parts**

If the international application contains an erroneously filed element (description or claims) or an erroneously filed part of the description, claims or drawings (including the case where all the drawings have been erroneously filed), the applicant may correct the international application by furnishing the correct element or part under Rule 20.5*bis*.

*R. 20.5bis*

According to that rule, which entered into force on 1 July 2020, the applicant may request to either

*OJ EPO 2022, A71  
OJ EPO 2020, A81*

- (a) correct the international application under Rule 20.5*bis*(b) or (c) (see GL/PCT-EPO A-II, 6.1); or
- (b) where the correct element or part is contained in a priority application, incorporate it in the international application by reference under Rule 20.5*bis*(d).

Until 31 October 2022, this latter option was not available at the EPO, since this procedure was incompatible with the legal framework under the EPC. The EPO as receiving Office had therefore notified the IB of this incompatibility under Rule 20.8(a-*bis*). However, following the withdrawal of this notification of incompatibility with Rule 20.5*bis*(a)(ii) and (d), the EPO as receiving Office may now also process requests for incorporation by reference of the correct element or part for international applications filed on or after 1 November 2022. See GL/PCT-EPO A-II, 6.2.

For details on the procedure before the EPO as International Searching Authority, see GL/PCT-EPO B-III, 2.3.3. For the procedure before the EPO as designated or elected Office, see GL/EPO C-III, 1.3.

### 6.1 Correct element or part not furnished for the purpose of incorporation by reference

R. 20.5bis(b) and (c)

The procedure to be followed varies depending on whether the correction is requested either on/before the date on which the requirements under Art. 11(1) for the accordance of an international filing date are fulfilled (see GL/PCT-EPO A-II, 6.1.1) or after that date (see GL/PCT-EPO A-II, 6.1.2).

~~Since the notification of incompatibility referred to in GL/PCT-EPO A-II, 6 had no impact on the procedure to be followed by the EPO as receiving Office in cases where the applicant did not request incorporation by reference, the processing of these requests has remained unchanged since the withdrawal of the notification of incompatibility.~~

#### 6.1.1 International filing date has not yet been accorded

R. 20.5bis(b)

AI 310

GL/RO 203A

If the international filing date has not yet been accorded, the wrong element or part will be replaced with the correct one and the international filing date will be the date on which the requirements under Art. 11(1) are fulfilled, taking into account the correct element or part only. The EPO as receiving Office follows the procedure outlined in AI, section 310.

#### 6.1.2 International filing date has already been accorded

R. 20.5bis(c)

AI 310 and 310bis

GL/RO 203A and B

If the requirements under Art. 11(1) have already been fulfilled and the international filing date has been accorded, the wrong element or part will be replaced with the correct one and the international filing date will be changed to the date on which the correct element or part was received, unless the applicant requests that the correct element or part be disregarded under Rule 20.5bis(e). The EPO as receiving Office follows the procedure outlined in AI, sections 310 and 310bis.

### 6.2 Correct element or part furnished for the purpose of incorporation by reference

R. 20.5bis(a)(ii) and (d)

OJ EPO 2022, A71

AI 309

For international applications filed on or after 1 November 2022, the EPO as receiving Office will process requests for incorporation by reference under Rule 20.5bis(d) of the correct element or part. If the requirements of Rules 20.6(b) and 4.18 are fulfilled, the correct element or part will be considered to have been contained in the purported international application on the date on which one or more elements referred to in Art. 11(1)(iii) were first received by the receiving Office, without a change to the international filing date. The wrong element or part, marked as "ERRONEOUSLY FILED (RULE 20.5bis)", will remain in the international application. The EPO as receiving Office follows the procedure outlined in AI, section 309.

For the procedure before the EPO as ISA see -GL/PCT-EPO -B-III, -2.3.3 and for the procedure before the EPO as SISA see GL/PCT--EPO -B--XII, -3. For the procedure before the EPO as IPEA see -GL/PCT--EPO -H-II, 2.2.2 and the notice from the EPO dated 14 -June 2020, OJ -EPO -2020, -A81. For the procedure before the EPO as designated Office/elected Office see -GL/EPO C-III, 1.3.

For international applications filed until 31 October 2022, if the applicant requests within the time limit under Rule 20.7 that a correct element or part be incorporated by reference, the EPO as receiving Office will transmit the international application to the IB as receiving Office, provided the applicant authorises it to do so. No fee will be charged under Rule 19.4(b) for such transmittal. Unless the applicant has already submitted authorisation to transmit the international application, the EPO as receiving Office will invite the applicant to do so using Form PCT/RO/152.

*R. 19.4(a)(iii)*  
*R. 20.5bis(a)(ii) and*  
*(d)*  
*R. 20.8(a-bis)*  
**AI 309(g)**  
*GL/RO 195*

If the applicant does not authorise the transmittal, the request will be treated as a request for correction under Rule 20.5*bis*(b) or (c). The EPO as receiving Office will therefore follow the procedure outlined in GL/PCT-EPO A-II, 6.1.





## Chapter III – Fees

### 1. General

Guidance for the payment of fees, expenses and prices is published in each issue of the EPO's Official Journal. Updated information relating to fees and methods of payment, including the EPO bank account for payments in euro, can also be found on the EPO website ([epo.org](http://epo.org)) under: *Applying for a patent* → *Fees* → *International (PCT) fees*. Applicants are also recommended to consult the latest information available on the WIPO website.

### 2. Amounts of fees

The latest information about amounts can be found on both the EPO website ([epo.org](http://epo.org), under *Applying for a patent* → *Fees* → *International (PCT) fees* → *Fees for international applications*) and the WIPO website ([wipo.int](http://wipo.int), under *IP Services* → *PCT – The International Patent System* → *PCT Fee Tables*).

In addition, the amounts of the fees to be paid to the EPO can be found in the EPO's Schedule of fees and expenses published in the Official Journal and accessible via the EPO website ([epo.org](http://epo.org), under *Law & practice* → *Legal texts* → *Official Journal*).

The amount of fees to be paid for the benefit of the IB is fixed in Swiss francs and is specified in the Schedule of Fees which is annexed to the PCT Regulations (PCT Schedule of Fees) and forms an integral part thereof. If these fees are paid to the EPO, they must be paid in euros. Due to changes in the exchange rate between the euro and the Swiss franc, the equivalent amount is changed from time to time. Current fee rates are published in the PCT Newsletter, in WIPO's Official Notices (PCT Gazette) and in the EPO's Official Journal.

*Rule 96.1  
PCT Schedule of  
Fees*

### 3. Methods of payment

Fee payments to the EPO may be validly made by anyone: applicants, agents and any other person.

*Rules 14.1(c), 15.3,  
16.1(f), 57.2, 96.1*

All fees which are to be paid to the EPO must be paid in euros:

~~*OJ EPO 2021, A61*~~  
*OJ EPO 2022, -A81*  
*OJ EPO 2015, A53*

- by payment or transfer to a bank account held by the EPO; or
- by credit card; or

*OJ EPO 2017, -A72,*  
~~*OJ EPO 2021, A73*~~  
*OJ EPO 2022, A18,*  
~~*A61*~~  
*OJ EPO 2022, -A81*

Supplementary  
publication -3,  
OJ -EPO -2022 4,  
OJ -EPO 2019  
OJ EPO 2022, -A81  
Supplementary  
publication -3,  
OJ -EPO -2023, -10  
OJ -EPO -2023, -A58x  
R. 82quater.2

- by debiting a deposit account held with the EPO on the basis of a debit order filed in an electronically processable format (XML) using one of the accepted electronic means of filing, i.e. the EPO Online Filing software, Online Filing 2.0, ~~the Online Fee Payment service~~ or ePCT. Alternatively, a debit order can be submitted in electronic format via Central Fee Payment (CFP). Details of ~~this means of~~ payment by deposit account may be found in the Arrangements for deposit accounts (ADA) and their annexes, which can also be found on the EPO website ([epo.org](http://epo.org)).

In the event of a general unavailability of the permitted electronic means of communication, the EPO will make use of the extension of time limits for the payment of fees, as for the performance of any other procedural acts, and will inform the IB accordingly.

OJ EPO 2007, 626

Payment of fees by cheque delivered or sent directly to the EPO was abolished with effect from 1 April 2008.

Art. 7(1) RFees

The date to be considered as the date on which a payment is made is established in accordance with the EPO's Rules relating to Fees.

#### 4. Fees to be paid to the EPO as receiving Office

##### 4.1 Transmittal fee

Rule 14  
Art. 2(1) RFees  
Rule 157(4) EPC  
OJ EPO 2018, A4  
OJ EPO 2019, A3  
OJ EPO 2019, A6

The transmittal fee is paid for the benefit of the EPO as receiving Office (RO/EP) and its amount is fixed by the EPO. It is to be paid within one month from the date of receipt of the international application. The amount payable is the amount applicable on that date of receipt. As of a date to be set by the President of the EPO, if the international application is filed online in character-coded format, no transmittal fee will have to be paid. That date will be published in advance in the EPO's Official Journal.

##### 4.2 International filing fee

Rule 15  
OJ EPO 2018, A101

The international filing fee is collected by the RO/EP for the benefit of the IB and its amount is fixed by the IB. It is to be paid within one month from the date of receipt of the international application. The amount payable is the amount applicable on that date of receipt.

The international filing fee is made up of

- a fixed amount (the "basic" filing fee part); and
- an additional amount (the "page fee" part) for each sheet above 30 (including the abstract, even if missing at the time of filing the international application).

GL/RO 241

Applicants must compute the additional amount themselves and not wait for a communication from the EPO, because as from expiry of the one-month time limit any missing amount may only be validly paid together with a late payment fee (see GL/PCT-EPO A-III, 4.5). For any reductions that may apply, see GL/PCT-EPO A-III, 8.1.

The RO/EP will not confirm to the applicants that all fees have been duly paid, nor inform them in advance that an overpayment will be refunded (e.g. using Form PCT/RO/102).

However, if the RO/EP notes before the expiry of the time limit for payment of the relevant fee that the amount paid is not sufficient, it will either proceed to debit any missing amount from the applicant's deposit account where the applicant has authorised it to do so, or it may informally (e.g. by phone) invite the applicant to pay the shortfall before expiry of the time limit. If full payment of the amounts due has not been received upon expiry of the time limit, the RO/EP will proceed as described under GL/PCT-EPO A-III, 4.5.

In the event of overpayment, the RO/EP will inform the applicant by means of Form PCT/RO/132 that the refund due has been processed. No communication giving advance notice of the refund is sent.

If the application contains a sequence listing as part of the description, the pages forming that part are not taken into account for calculating the page fee if the following requirements are met:

- (i) the application is filed in electronic form,
- (ii) the sequence listing forming part of the application is filed in XML format in compliance with WIPO Standard ST.26 (see *Annex C* to the Administrative Instructions under the PCT, paragraph 4).

If any other option for filing a sequence listing is chosen – filing on paper, in image format or in another electronic format which is not XML – the additional amount of the international filing fee is calculated taking into account each page of the sequence listing. If necessary, this additional amount is calculated after conversion by the RO/EP of the file into the format of the main part of the description. The RO/EP then invites the applicant to confirm whether the content of that converted file is intended to form part of the description and to pay any corresponding page fee (Form PCT/RO/132) within a time limit of one month from the date of the invitation. The content of the converted file is not considered part of the international application if the applicant so indicates or fails, within that time limit, to pay the applicable fees.

*OJ EPO 2022, A60*

### 4.3 International search fee

The international search fee is collected by the RO/EP for the benefit of the EPO as International Searching Authority (ISA/EP) and its amount is fixed by the EPO. It is to be paid within one month from the date of receipt of the international application. The amount payable is the amount applicable on that date of receipt. For any reductions that may apply, see GL/PCT-EPO A-III, 8.2.

*Rule 16*  
*Art. 2(1) RFees*  
*OJ EPO 2018, A4*

If the international search fee is not fully paid within the prescribed time limit, the RO/EP proceeds as described under GL/PCT-EPO A-III, 4.5.

#### 4.4 Fee for establishment and transmittal to the IB of a certified copy of the priority document

Rule 17.1(b) and  
(b-bis)  
Art. 3(1) RFees  
~~OJ EPO 2019, A14~~  
~~OJ EPO 2023, A3~~  
~~-and~~  
~~OJ EPO 2019, A15~~  
OJ EPO 2019, A27  
AI 715 and 716  
PCT AG I 5.070  
PCT Newsletter  
~~OJ EPO 2020, A57~~

The fee for establishment and transmittal to the IB of a certified copy of the priority document is paid for the benefit of the RO/EP and applies only if the RO/EP is requested by the applicant to prepare and transmit such a copy (e.g. by checking the corresponding box in Box VI of the PCT request form, PCT/RO/101) and if the earlier priority application was filed before the EPO (EP applications or earlier PCT applications filed at the EPO). Its amount is fixed by the EPO. It is not due if the applicant requests the IB to obtain a certified copy of the priority application from a digital library and indicates the Digital Access Service (DAS) access code on the PCT request form (PCT/RO/101, Box VI).

The procedure whereby the EPO includes, free of charge, a copy of the earlier application from which priority is claimed in the file of a European patent application (cf. GL/EPO A-III, 6.7) does not apply in respect of an international application processed by the RO/EP.

#### 4.5 Late payment fee

Rule 16bis.2  
OJ EPO 1992, 383

If the transmittal fee, the international filing fee and the search fee are not paid within the prescribed time limits, or if the amounts paid are not sufficient to cover the fees due, the RO/EP invites the applicant to pay the missing amount together with a late payment fee for its own benefit (Form PCT/RO/133). Such payment has to be made within one month from the date of the invitation.

The late payment fee is equal to 50% of the amount of the unpaid fee or, if the resulting amount is less than the transmittal fee, to an amount equal to the transmittal fee. The late payment fee may however not exceed the amount of 50% of the international filing fee as specified in the PCT Schedule of Fees (without taking into account any fee due for each page of the international application in excess of 30 pages).

If the applicant complies with the invitation (Form PCT/RO/133) within the indicated time limit, payment is deemed to have been made in due time.

If the applicant pays the fees after the time limit for payment expires but before the invitation is issued by the RO/EP (Form PCT/RO/133), the payment is considered to have been received in time.

Art. 14(3)(a)

Failure to pay the missing amount with the late payment fee within the one-month time limit set in the invitation (Form PCT/RO/133) will result in the international application being considered withdrawn. The RO/EP will so declare (Form PCT/RO/117).

Rule 16bis.1(e)

Nevertheless, if the applicant pays the fees after the time limit set in the invitation expires (Form PCT/RO/133) but before the RO/EP has despatched the notification of withdrawal of the international application (Form PCT/RO/117), the payment is considered to have been received in time and the application will not be considered withdrawn.

#### 4.6 Fee for requesting restoration of priority right

The fee for requesting restoration of priority right is paid for the benefit of the RO/EP and its amount is fixed by the EPO. It is to be paid within the same time limit as for filing the request for restoration, which is two months from expiry of the priority period. The amount payable is the amount applicable on the date of receipt of the request for restoration.

*Rule 26bis.3(d), (e)*

### 5. Fees to be paid to the ISA/EP

#### 5.1 Additional search fee

The additional search fee paid in response to an invitation to pay additional fees after a finding of lack of unity (Form PCT/ISA/206, see GL/PCT-EPO B-VII, 6.2) is collected directly by the EPO as International Searching Authority (ISA/EP) and its amount is fixed by the EPO. This fee is to be paid within one month from the date of the invitation. The amount payable is the amount applicable on the date of receipt of the international application. For any reductions that may apply, see GL/PCT-EPO A-III, 8.2.1.

*Rule 40*

The applicant must also pay the ISA/EP an additional search fee (equal to the search fee) where the receiving Office notifies it of a correct element or part under Rule 20.5bis PCT after the start of the search and the applicant wants the search to be based on that correct element or part. This additional fee must be paid within one month from the date of the invitation to do so. No additional search fee is to be paid to the ISA/EP under R. 40bis.1 PCT in the case of missing parts (R. 20.5 PCT).

*Rule 40bis.1*

*Art. 2(1) item 2 RFees*

~~OJ EPO 2020, A78A~~

*OJ EPO 2020, A81*

#### 5.2 Protest fee

The protest fee is paid for the benefit of the ISA/EP and its amount is fixed by the EPO. It is to be paid within one month from the date of the invitation to pay additional fees after the finding of lack of unity (Form PCT/ISA/206, see GL/PCT-EPO B-VII, 6.3). The amount payable is the amount applicable on the date of payment.

*Rule 40.2(e)*

#### 5.3 Fee for the late furnishing of sequence listings

The late furnishing fee is paid for the benefit of the ISA/EP and its amount is fixed by the EPO. It is payable within one month from the date of the invitation to furnish the nucleotide and/or amino acid sequence listing (Form PCT/ISA/225, see GL/PCT-EPO B-VIII, 3.2). The amount payable is the amount applicable on the date of payment.

*Rule 13ter.1(c)*

~~OJ EPO 2019, A14~~

OJ EPO 2023, -A3

~~and OJ EPO 2019, A15~~

*OJ EPO 2021, A96*

*and A97*

*Rule 45bis*

### 6. Fees to be paid if a SIS request is submitted

To obtain a supplementary international search, the supplementary search handling fee and the supplementary search fee have to be paid to the IB in Swiss francs.

#### 6.1 Supplementary search handling fee

The supplementary search handling fee is collected by the IB for its own benefit and its amount is fixed by the IB. The supplementary search handling fee is to be paid within one month from the date of receipt of the supplementary search request (Form PCT/IB/375). The amount payable is

*Rule 45bis.2*

the amount applicable on the date of payment. For any reductions that may apply, see GL/PCT-EPO A-III, 8.3.

## 6.2 Supplementary search fee

*Rule 45bis.3*  
*Art. 2(1) RFees*  
*OJ EPO 2018, A4*

The supplementary search fee is collected by the IB for the benefit of the EPO as Supplementary International Searching Authority (SISA/EP) and its amount is fixed by the EPO. It is to be paid within one month from the date of receipt of the supplementary search request (Form PCT/IB/375). The amount payable is the amount applicable on the date of payment.

## 6.3 Review fee

*Rule 45bis.6(c)*

The review fee is collected by the SISA/EP for its own benefit and its amount is fixed by the EPO. It is to be paid within one month from the date of the notification of lack of unity of invention (see GL/PCT-EPO B-XII, 10.4).

## 7. Fees to be paid to the IPEA/EP

### 7.1 Handling fee

*Art. 31(5)*  
*Rule 57*  
*GL/ISPE 22.44*  
*OJ EPO 2018, A101*

The handling fee is collected by the EPO as International Preliminary Examining Authority (IPEA/EP) for the benefit of the IB and its amount is fixed by the IB. It is to be paid within one month from the date on which the demand (Form PCT/IPEA/401) was submitted or within 22 months from the priority date, whichever time limit expires later. The amount payable is the amount applicable on the date of payment. For any reductions that may apply, see GL/PCT-EPO A-III, 8.3.

If the handling fee is not fully paid within the prescribed time limit, the IPEA/EP proceeds as described under GL/PCT-EPO A-III, 7.5.

### 7.2 Preliminary examination fee

*Art. 31(5)*  
*Rule 58*  
*Art. 2(1) RFees*  
*OJ EPO 2018, A4*  
*GL/ISPE 22.44*

The preliminary examination fee is collected by the IPEA/EP for its own benefit and its amount is fixed by the EPO. It is to be paid within one month from the date on which the demand (Form PCT/IPEA/401) was submitted or within 22 months from the priority date, whichever time limit expires later. The amount payable is the amount applicable on the date of payment. For any reductions that may apply, see GL/PCT-EPO A-III, 8.4.

If the preliminary examination fee is not fully paid within the prescribed time limit, the IPEA/EP proceeds as described under GL/PCT-EPO A-III, 7.5.

#### 7.2.1 Additional preliminary examination fee

*Rule 68.3*

The additional preliminary examination fee paid in response to an invitation to pay additional examination fees after a finding of lack of unity (Form PCT/IPEA/405, see GL/PCT-EPO C-V, 4.2) is collected by the IPEA/EP and its amount is fixed by the EPO. It is to be paid within one month from the date of the invitation. The amount payable is the amount applicable on the date of payment. For any reductions that may apply, see GL/PCT-EPO A-III, 8.4.1.



### 7.3 Protest fee

The protest fee is paid for the benefit of the IPEA/EP and its amount is fixed by the EPO. It is payable within one month from the date of the invitation to pay additional examination fees after a finding of lack of unity (Form PCT/IPEA/405, see GL/PCT-EPO C-V, 4.3). The amount payable is the amount applicable on the date of payment.

*Rule 68.3(e)*

### 7.4 Fee for the late furnishing of sequence listings

The late furnishing fee is paid for the benefit of the IPEA/EP and its amount is fixed by the EPO. It is payable within one month from the date of the invitation to furnish the nucleotide and/or amino acid sequence listing (Form PCT/IPEA/441, see GL/PCT-EPO C-VIII, 2.1). The amount payable is the amount applicable on the date of payment.

*Rule 13ter.2*

~~OJ EPO 2019, A14~~

OJ EPO 2023, -A3

~~-and~~

~~OJ EPO 2019, A15~~

OJ EPO 2021, A96

and OJ EPO 2021,

~~Rule~~ 58bis.1(a),

58bis.2

OJ EPO 1998, 282

### 7.5 Late payment fee

Where the IPEA/EP finds that the amount paid to it is insufficient to cover the handling fee and the international preliminary examination fee or that no fees were paid within the time limit for payment, the IPEA/EP invites the applicant to pay to it the amount required to cover those fees together with a late payment fee, within one month from the date of the invitation (Form PCT/IPEA/440).

The late payment fee is 50% of the amount of the unpaid fees as specified in the invitation or, if the resulting amount is less than the handling fee, an amount equal to the handling fee. The amount of the late payment fee may not, however, exceed double the amount of the handling fee.

If the applicant complies with the invitation within the specified time limit, payment is deemed to have been made in time (Form PCT/IPEA/440).

If the applicant pays the fees after the time limit for payment expires but before the IPEA/EP has despatched the invitation (Form PCT/IPEA/440) to the applicant, the payment is considered to have been received in time.

*Rule 58bis.1(c)*

Failure to pay the missing amount and the late payment fee within the time limit set in the invitation (Form PCT/IPEA/440) will result in the demand being considered as if it had not been submitted, and the EPO will so declare (Form PCT/IPEA/407).

*Rule 58bis.1(b)*

If the applicant pays the fees after the time limit set in the invitation expires (Form PCT/IPEA/440) but before the IPEA/EP has despatched the notification that the demand is considered not to have been submitted (Form PCT/IPEA/407), the payment is considered to have been received in time and the demand will not be considered as if it had not been submitted.

*Rule 58bis.1(d)*

## 8. Reduction of fees

### 8.1 Reduction of the international filing fee

If one or more of the reductions mentioned below apply, the reduced amount should be indicated on the Fee Calculation Sheet which forms part of the PCT request form (PCT/RO/101).

*Point 4 PCT Schedule of Fees*  
*OJ EPO 2018, A101*

### **8.1.1 Reduction for applications filed in electronic form**

The amount of reduction of the international filing fee is set by the IB and is applicable on the date of receipt of the international application.

For international applications submitted in electronic form, three different levels of reduction apply, depending on the format in which the application is filed, namely:

#### **8.1.1.1 Web-form filing (WFF) reduction**

This reduction applies if both the request form (PCT/RO/101) and the specification (description, claims and abstract) are filed in PDF.

#### **8.1.1.2 PDF reduction**

This reduction applies if the request form (PCT/RO/101) is filed in character-coded format (XML), while the specification (description, claims and abstract) is filed in PDF.

#### **8.1.1.3 XML reduction**

This reduction applies if both the request form (PCT/RO/101) and the specification (description, claims and abstract) are filed in character-coded format (XML).

*Point 5 PCT Schedule of Fees*

### **8.1.2 Reductions for applicants from certain states**

The international filing fee is reduced by 90% if the requirements stipulated in point 5 of the PCT Schedule of Fees are met.

For filings at the RO/EP, the reduction applies only if the applicant is a natural person who is a national of and resides in an EPC contracting state complying with the criteria under point 5(a) PCT Schedule of Fees (an updated list can be found in the Euro-PCT Guide, [point 2.25.019](#)).

If the application is filed with the RO/EP by more than one applicant, only one of them needs to be a national and resident of one of the EPC contracting states in question, but each applicant must fulfil the criteria mentioned under point 5 of the PCT Schedule of Fees.

The 90% reduction is calculated after deduction of the electronic filing reduction, if applicable (see GL/PCT-EPO A-III, 8.1.1).

### **8.2 Reduction of the international search fee**

The fee for the international search on an international application is reduced by 75% where the applicant or, if there are two or more applicants, each applicant is

- a natural person who is a national and resident of a state not party to the EPC which on the date of filing of the application is classified as a low-income or lower-middle-income economy by the World Bank;

or

*OJ EPO 2020, A4*  
~~*OJ EPO 2020, A91*~~  
~~*OJ EPO 2022, A72*~~  
~~*OJ EPO -2023, -A67*~~  
*R. 18*  
[PCT AG I 5.190](#)



- a natural or legal person who is a national and resident of a state in which a validation agreement with the EPO is in force.

The list of these states can be found on the [EPO website](#) (~~epo.org, under Applying for a patent → Fees → International (PCT) fees → Decisions and notices relating to PCT fees → under "–Reduction in international search and preliminary examination fees"~~).

### 8.2.1 Reduction of the additional search fee

If the applicant fulfils the requirements for reduction of the international search fee, any additional search fee is validly paid upon payment of the reduced amount.

### 8.3 Reduction of the (supplementary search) handling fee

The handling fee is reduced by 90% under the same conditions as for the international filing fee (see GL/PCT-EPO A-III, 8.1.2). This principle also applies to the supplementary search handling fee due under Rule 45bis.2.

### 8.4 Reduction of the preliminary examination fee

The fee for international preliminary examination is reduced by 75% under the same conditions as for the reduction of the international search fee (GL/PCT-EPO A-III, 8.2).

*OJ EPO 2020, A4*

#### 8.4.1 Reduction of the additional preliminary examination fee

If the applicant fulfils the requirements for reduction of the preliminary examination fee, any additional preliminary examination fee is validly paid upon payment of the reduced amount.

## 9. Refund of fees

Refunds are made to a deposit account held with the EPO or to a bank account. Since 1 April 2019 the EPO has no longer made refunds by cheque, and the EPO does not make refunds to credit cards. In general, the EPO will refund fees to any deposit account that the party to the proceedings before it indicates in its refund instructions. Parties are therefore also able to indicate a deposit account held by a third party. In the event of a discrepancy between the name of the deposit account holder and the account number indicated, the account number will prevail. Under the fee refund procedures applicable since 1 October 2019, up-to-date refund instructions must be filed in an electronically processable format (XML). If the EPO cannot make a refund to a deposit account held with it, the refund will be made to a bank account. In this case, the party will be invited to claim the refund via the EPO website. For accounts within the Single Euro Payments Area (SEPA), the only details required will be the IBAN and the name of the account holder. For non-SEPA bank transfers, parties may need to provide more information depending on the country to which the refund is to be transferred. The EPO will pay the transfer fees.

~~OJ EPO 2021, A73~~

OJ EPO 2022, A18

*OJ EPO 2019, A82*

If parties would like all their refunds to be made to a deposit account held with the EPO, they will have to submit separate refund instructions to that effect for all applications concerned. Refund instructions filed for an international application before the EPO as RO or as an International Authority under the PCT will apply only to refunds due in the international

phase. Detailed guidance on how and when to file refund instructions is provided in OJ EPO 2019, A82.

Art. 13(2), (3) RFees  
~~OJ EPO 2020, A17~~  
OJ EPO 2023, A27

Fees paid by mistake or without cause (e.g. because the EPO is not the competent RO or IPEA) will be refunded. Any amount paid in excess of the amount due is likewise refunded.

Rights for the refunding of fees paid in excess extinguish after four years from the end of the calendar year in which the right originally arose, unless a written reasoned claim is filed.

In addition, the following refunds may apply:

### 9.1 Refund of the international filing fee

Rule 15.4

The international filing fee is refunded where

- no date of filing can be accorded; or
- the application is withdrawn or considered withdrawn before its transmittal to the IB.

### 9.2 Refund of the (additional) international search fee

Rule 16.2 and 16.3

The international search fee is refunded where

Rule 41

OJ EPO 2023, A5

~~OJ EPO 2019, A5~~

OJ EPO 2009, 99

PCT AG I 5.073

Agreement EPO-

WIPO, Annex D-II,

OJ EPO 2017, A115

OJ EPO 2020, A68

- no date of filing can be accorded; or
- the international application is withdrawn or considered withdrawn before its transmittal to the ISA; or
- the international application is withdrawn or considered withdrawn before the start of the international search; or
- the EPO can base the ISR partly or entirely on an earlier search that it has performed on an application whose priority is validly claimed for the international application. The (additional) search fee paid will be refunded in part or in full depending upon the extent to which the EPO benefits from the earlier search. See also GL/PCT-EPO B-IV, 1.1.

The EPO acting as ISA decides whether the requirements are met and, where applicable, refunds the applicable amount. No refund is made for any search other than a search carried out by the EPO on an earlier application from which the right of priority is validly claimed.

The cases referred to below are intended to illustrate the most common situations:

#### 9.2.1 Examples of refunds

##### 9.2.1.1 Full refund

OJ EPO 2009, 99, **2.1**

OJ EPO 2023, A5

~~OJ EPO 2019, A5~~

The "full refund" level applies where the EPO can make full use of the earlier search report for drawing up the international search report.

This occurs, in particular, where the claims of the earlier and the later application are identical or where the claims of the later application are limited with respect to those of the earlier application, this limitation being due to

- (a) the deletion of alternative features from an independent claim or
- (b) the introduction of one or more limiting features into one or more of the independent claims of the later application where the limiting feature(s) was/were all contained in a dependent claim referring back to said independent claim(s) in the earlier application.

#### 9.2.1.2 Partial refund

The "partial refund" level applies where the EPO can make partial use of the earlier search report for drawing up the international search report.

~~OJ EPO 2009, 99, 2.2~~  
~~OJ -EPO -2023, -A5~~  
~~OJ EPO 2019, A5~~

This occurs, in particular, where

- (a) the claims of the later application are broader than those of the earlier application and this broadening represents a further generalisation of the same invention as that searched in the earlier application, or
- (b) the claims of the later application are limited with respect to those of the earlier application, due to a limiting feature not disclosed in the earlier application but relating to the same invention as that searched in the earlier application.

The international search fee is refunded as follows:

- 25% in the case of an earlier search with written opinion;

- 17.5% in the case of an earlier search without a written opinion.

#### 9.2.1.3 No refund

No refund is due

- (a) where the subject-matter claimed in the later application represents an invention different from that searched in the earlier application, or
- (b) the legal requirements for a refund are not fulfilled, for example where the priority of the earlier application is not validly claimed.

~~OJ EPO 2009, 99, 2.3~~  
~~OJ -EPO -2023, -A5~~  
~~OJ EPO 2019, A5~~

### 9.3 Refund of additional search fees and, where applicable, the protest fee

If the Review Panel finds that a protest was entirely justified, the additional search fees and the protest fee will be refunded.

*Rule 40.2(c) and (e)*

If it finds that the protest was justified only in part, the corresponding additional search fees will be refunded, but not the protest fee (see GL/PCT-EPO B-VII, 7.2).

**9.4 Refund of the supplementary search fee**

*Rule 45bis.3(e)*  
*Agreement EPO-  
 WIPO, Annex D-II,*  
*OJ EPO 2017, A115*  
*OJ EPO 2020, A68*

The EPO as SISA will refund the supplementary search fee where,

- before it has started the supplementary search, the supplementary search request is considered not to have been submitted; or
- before it has started the supplementary search, the international application or the supplementary search request is withdrawn.

**9.5 Refund of the review fee**

*Rule 45bis.6(d)(iii)*

If the Review Panel finds that the lack of unity objection was not justified, the review fee is refunded to the applicant (see GL/PCT-EPO B-XII, 10.4).

**9.6 Refund of the handling fee**

*Rule 57.4*

Where the demand for international preliminary examination is withdrawn before it has been sent by the IPEA/EP to the IB, or where the demand is considered not to have been submitted, 100% of the handling fee is refunded.

**9.7 Refund of the preliminary examination fee**

*Rule 58.3 and*  
*90bis.4(a)*  
*Agreement*  
*EPO-WIPO,*  
*Annex D-II,*  
*OJ EPO 2017, A115*  
*OJ EPO 2020, A68*

Where the international application or the demand for international preliminary examination is withdrawn before examination has commenced and within 30 months from the priority date, or where the demand is considered not to have been submitted, 100% of the fee for international preliminary examination is refunded.

**9.8 Refund of additional examination fees and, where applicable, the protest fee**

*Rule 68.3(c) and (e)*

If the Review Panel finds that a protest was entirely justified, the additional examination fees and the protest fee will be refunded.

If it finds that the protest was justified only in part, the corresponding additional examination fees will be refunded, but not the protest fee (see GL/PCT-EPO C-V, 5.2).

## Chapter IV – Special provisions

### 1. PCT Direct service (see also GL/PCT-EPO B-IV, 1.2)

#### 1.1 General remarks

When filing an international application claiming priority from an earlier national, European or international application already searched by the EPO (i.e. a "doublure"; see GL/PCT-EPO B-IV, 1.1), the applicant may submit to any receiving Office informal comments aimed at reacting to the objections raised in the search opinion established by the EPO for the priority application. At the EPO, this service is called "PCT Direct".

*OJ EPO 2017, A21*

Such informal comments are to be understood as arguments regarding the patentability of the claims of the international application and also possibly as explanations regarding any modifications to the application documents, in particular to the claims, in comparison with the priority application. If the requirements under GL/PCT-EPO A-IV, 1.2, are met, the informal comments will be taken into account by the EPO as ISA when it establishes the international search report and written opinion for the international application.

For the processing of applications under the PCT Direct service by the EPO as ISA, see GL/PCT-EPO B-IV, 1.2.

#### 1.2 Form of submissions

Applicants may request to have their international application processed under the PCT Direct service by filing a letter ("PCT Direct letter") containing informal comments aimed at overcoming objections raised in the search opinion established by the EPO for the priority application. The earlier application from which priority is claimed must have been searched by the EPO (international, European or national first filing, but not an international-type search).

The PCT Direct letter is to be presented as a separate document attached to the international application; it should be entitled "PCT Direct/informal comments" and clearly identify in the header the application number of the earlier application. The PCT Direct letter does not form part of the international application.

If the claims and/or the description of the international application differ from the earlier application, preferably a marked-up copy indicating the differences should be submitted. A copy of the earlier search opinion could also be annexed to the PCT Direct letter. It should be borne in mind that the letter, together with the annexed documents, will be made available to the public in accordance with the provisions on file inspection.

The PCT Direct letter, any marked-up copy of the claims and/or description, as well as the earlier search opinion, if annexed, are to be submitted as a single document in PDF (not as a ZIP file) and indicated in Box IX of the PCT request form (Form PCT/RO/101). In particular, the words "PCT Direct/informal comments" should be specified under point 11, "other", for

filings on paper. When filing in electronic form using the EPO Online Filing software, the PCT Direct letter needs to be attached as an accompanying item "Applicant letter to ISA concerning earlier search ("PCT Direct")". For filings in electronic form using Online Filing 2.0 or WIPO's ePCT portal, the PCT Direct letter and any marked-up copy of the claims and/or description are to be uploaded under the section "International Search" – "Use of earlier search and classification results" – "Availability of document(s) to the ISA" – "Other document(s) attached" – "Add other Document" by selecting Document Type "Applicant letter to ISA concerning earlier search ("PCT Direct")". Irrespective of the online filing software used, the correct document is automatically reflected in the generated XML and PDF, which show in section IX-10 the PCT Direct letter as an attachment under "Other".

Informal comments filed under PCT Direct must be self-contained. Third parties must be able to fully understand these comments as they stand. If explicit references are made to the search opinion for the first filing, that search opinion should be annexed to the international application. The reason for this requirement is that the search report, the search opinion or any other submissions that are part of the file of the earlier application may not be publicly available.

### 1.3 Processing by the EPO as RO

The PCT Direct letter and its annexes are transmitted to the EPO as ISA and to the IB, together with, respectively, the search copy and the record copy.

The PCT Direct letter and its annexes are made available to the public via file inspection in the European Patent Register and on WIPO's PATENTSCOPE.

For details on the procedure in the event of missing indications or missing informal comments, see GL/RO 116F and 116G.

For information on the procedure if informal comments are submitted after the filing of the international application, see GL/RO 116H.

### 1.4 Processing by the EPO as ISA

For the procedure followed by the EPO as ISA when assessing a PCT Direct request, see GL/PCT-EPO B-IV, 1.2.2.

## 2. Withdrawals

### 2.1 General remarks

Applicants may withdraw their international application, one or more designations, priority claims, their request for supplementary international search, their demand or any or all elections by filing a notice of withdrawal within the prescribed time limits. Any such withdrawal is free of charge.

Rule 90bis.1 to  
90bis.4  
PCT AG I 11.048,  
11.050, 11.056 and  
11.060

Rule 90bis.5  
OJ EPO 2004, 305

A notice of withdrawal must be signed by the applicant or, if there are two or more applicants, by all of them. It may instead be signed, on behalf of the applicant(s), by the duly appointed agent or common representative, but not by the "deemed" common representative under Rule 90.2(b). If the agent or

the common representative has not yet been duly appointed, a power of attorney signed by all the applicants has to be submitted together with the notice of withdrawal; the requirement to submit a power of attorney to the EPO is not waived in such cases. If such a power of attorney is not filed together with the notice of withdrawal, the EPO will request the applicant(s) to submit one and the withdrawal will take effect on the date of its receipt. If no power of attorney is received before the expiration of the time limit for filing a withdrawal, the request for withdrawal will not be processed.

Moreover, the EPO will only process unqualified and unambiguous notices of withdrawal. If in doubt, the EPO will seek clarification of the applicant's or applicants' intention before any action is undertaken.

*J 11/80*

## **2.2 Withdrawal of the international application**

Applicants may address a notice of withdrawal of their international application to the IB, the RO or, where a demand has been filed, to the IPEA, and may do so at any time prior to the expiration of 30 months from the priority date.

*Rule 90bis.1*

The EPO as RO or IPEA will mark the notice of withdrawal of the international application with the date on which it was received and promptly transmit it to the IB.

*PCT AI sections 326 and 609*

For information on the refund of the international filing fee in the event of withdrawal of the international application, see GL/PCT-EPO A-III, 9.1; for information on the refund of the international search fee, see GL/PCT-EPO A-III, 9.2.

### **2.2.1 Conditional withdrawal**

Applicants may request the withdrawal of their international application on condition that the international publication can be prevented ("conditional withdrawal"). In such a case, the withdrawal does not become effective if the condition cannot be met, that is, if the IB has already completed the technical preparations for the international publication. It is recommended that conditional withdrawals be submitted direct to the IB, especially if the date of completion of the technical preparations is imminent.

*GL/RO 318*

## **2.3 Withdrawal of designations**

An applicant may address a notice of withdrawal of any designations to the IB, the RO or, where a demand has been filed, the IPEA, and may do so at any time prior to the expiration of 30 months from the priority date. Withdrawal of the designation of all designated states is treated as withdrawal of the international application (see GL/PCT-EPO A-IV, 2.2). Withdrawal of a designated state which has been elected entails withdrawal of the corresponding election (see GL/PCT-EPO A-IV, 2.6). If the withdrawal of a designation reaches the IB prior to completion of the technical preparations for publication, the designation in question is not published.

*Rule 90bis.2*



**2.4 Withdrawal of priority claims***Rule 90bis.3*

An applicant may address a notice of withdrawal of one or more priority claims to the IB, the RO or, where a demand has been filed, to the IPEA, and may do so at any time prior to the expiration of 30 months from the priority date.

*Rule 90bis.3*  
*GL/RO 321*

Where the priority date of the international application has changed following withdrawal of a priority claim, any time limit which is computed from the original priority date, and which has not already expired, is recomputed from the priority date resulting from that change. Time limits computed from the original priority date which have already expired are not reinstated (Rule 90bis.3(d)). Nevertheless the IB may proceed with the international publication based on the original priority date if the notice of withdrawal of a priority claim reaches the IB after completion of the technical preparations for publication (Rule 90bis.3(e)).

*PCT AI section 326*

The EPO acting as RO or as IPEA will mark the notice of withdrawal with the date on which it was received and promptly transmit it to the IB.

**2.5 Withdrawal of the supplementary search request**

*Rule 90bis.3bis*  
*PCT AI section 520*

Applicants may withdraw their request for supplementary international search by addressing a notice of withdrawal to either the IB or the authority specified for the supplementary search, and may do so at any time before transmittal by the SISA of the supplementary international search report or of the declaration that no such report will be established. The EPO as SISA will mark the notice of withdrawal with the date on which it was received and promptly transmit it to the IB. For information on the refund of the supplementary international search fee by the EPO as SISA, see GL/PCT-EPO A-III, 9.4.

**2.6 Withdrawal of the demand or of elections***Rule 90bis.4*

Applicants may withdraw their demand or any or all elections by addressing a notice of withdrawal to the IB, and may do so at any time prior to the expiration of 30 months from the priority date. The withdrawal takes effect on the date of receipt of the notice by the IB, the IPEA being notified of that date. If the applicant nevertheless submits the notice of withdrawal to the IPEA, the IPEA will mark the date of receipt on the notice and transmit it promptly to the IB. The notice is considered to have been submitted to the IB on the date marked by the IPEA.

*Rule 90bis.6(c)*

Where the demand or all elections are withdrawn, the IPEA is notified of the withdrawal by the IB and the processing of the international application by the IPEA is discontinued.

*GL/ISPE 22.20*

The demand or the copy thereof must be transmitted to the IB even where it has been withdrawn by the applicant. For information on the refund of the handling fee, see GL/PCT-EPO A-III, 9.6; for information on the refund of the preliminary examination fee in the event of withdrawal of the demand, see GL/PCT-EPO A-III, 9.7.



## Chapter V – Drawings

This chapter summarises the requirements for drawings in international applications.

An international application must contain drawings where they are necessary to understand the invention. Where they are not, but the nature of the invention admits of illustration by drawings, they are optional.

*Art. 3(2), 7*

**PCT AG I 5.128**

### 1. Graphic forms of presentation considered to be drawings

#### 1.1 Technical drawings

Perspectives, exploded views, sections and cross-sections and details on a different scale are all considered to be drawings. So too are flow sheets and diagrams, such as functional diagrams and graphic representations of a given phenomenon which express the relationship between two or more parameters.

*R. 7.1*

**PCT AG I 5.129**

Where tables or chemical or mathematical formulae are included in the description, claims or abstract, they are not considered to be drawings and are thus not subject to the requirements for drawings. However, such graphic forms may be submitted as drawings, in which case they are.

*R. 11.10*

**PCT AG I  
5.130- 5.133**

Where such graphic forms of presentation are not submitted as drawings, see GL/PCT-EPO A-V, 11.

#### 1.2 Photographs or coloured drawings

The PCT makes no express provision for photographs or coloured drawings and, furthermore, according to Rule 11.13, drawings must be executed in durable, black, sufficiently dense and dark, uniformly thick and well-defined lines and strokes without colourings. Photographs and coloured drawings may, however, exceptionally be submitted where it is impossible to present in a black-and-white drawing what is to be shown. If colours are necessary to discern details, note that these details may be lost when the image is made available in black and white in the publication and via file inspection.

**PCT AG I 5.159**  
*GL/RO 146*

For further details see GL/EPO A-IX, 1.2.

### 2. Presentation of drawings

#### 2.1 Grouping of drawings

Drawings must be presented on one or more separate sheets. All the figures constituting the drawings must be grouped together on a sheet or sheets without waste of space, but clearly separated from each other. Figures should not be separated by lines. The request, the description, the claims and the abstract must not contain drawings.

*R. 11.10(a), 11.13(j)*

**PCT AG I 5.131-5.134**

## 2.2 Reproducibility of drawings

R. 11.2(a)

PCT AG I 5.132

Drawings must be so presented as to admit of direct reproduction by photography, electrostatic processes, photo offset and microfilming, in any number of copies.

## 2.3 Figure accompanying the abstract

R. 3.3(a)(iii)

PCT AG I 5.163,

5.170 and 5.171

GL/RO 151

Where the international application contains drawings, the applicant must indicate, in the check list on the request form (Form PCT/RO/101), the number of the figure in the drawings which they suggest be published with the abstract.

The figure published with the abstract must be the one which best characterises the claimed invention and must be chosen from the drawings accompanying the international application. Generally, only one figure should be indicated. The abstract may exceptionally be illustrated by more than one figure where necessary information cannot be otherwise conveyed. A figure containing significant amounts of text should be avoided.

## 3. Requirements regarding the paper used

R. 11.2(b), 11.2(c),  
11.3, 11.5 and 11.12

PCT AG I 5.133

If the international application is filed on paper, drawings must be on sheets of A4 paper (29.7 cm x 21 cm), which must be flexible, strong, white, smooth, non-shiny and durable. The sheets must be free from creases and cracks; they must not be folded. Only one side of each sheet may be used.

Under Rule 11.12, each sheet must be reasonably free from erasures and must be free from alterations, overwriting and interlineations. Non-compliance with this rule may be authorised if the authenticity of the content is not in question and the requirements for good reproduction are not in jeopardy.

## 4. Presentation of the sheets of drawings

### 4.1 Usable surface area of sheets

R. 11.6(c)

PCT AG I 5.133

On sheets containing drawings, the surface usable must not exceed 26.2 cm x 17.0 cm. The sheets must not contain frames around the usable or used surface. The minimum margins are as follows: top: 2.5 cm; left side: 2.5 cm; right side: 1.5 cm; bottom: 1 cm.

### 4.2 Numbering of sheets of drawings

R. 11.7

AI 207(b)

PCT AG I 5.012,

5.140 and 5.141

All the sheets of the international application must be numbered in consecutive Arabic numerals. All sheets of drawings must be numbered in the centre of either the top or the bottom of the sheet but not in the margin, in numbers larger than those used as reference signs.

Sheets of drawings must be numbered as a separate series commencing with the first; the number of each sheet must consist of two Arabic numerals separated by an oblique stroke, the first being the sheet number and the second being the total number of sheets of drawings (for example: 1/3, 2/3, 3/3).

## 5. General layout of drawings

If various figures are presented on the same sheet of drawings, they must be laid out according to the requirements for page-setting and numbering, and figures divided into several parts must comply with the requirements described in the subsections below.

### 5.1 Page-setting

The figures must be arranged on a sheet or sheets without wasting space, preferably in an upright position and clearly separated from one another. Where a figure cannot be presented satisfactorily in an upright position, it may be placed sideways with the top of the figure at the left side of the sheet. Thus, a figure which is broader than it is high may be set out so that the bottom of the figure lies parallel to and along the right-hand side of the sheet. In this case, if other figures are drawn on the same sheet, they should be set out in the same way, so that all the figures on a single sheet lie in the same position.

*R. 11.13(j)*

**PCT AG I 5.135**

### 5.2 Numbering of figures

The figures on the sheets of drawings must be numbered in Arabic numerals, consecutively, independently of the numbering of the sheets and, if possible, in the order in which they appear. The numbers of the figures should be preceded by "Fig.", irrespective of the language of the international application. Where a single figure is sufficient to illustrate the claimed invention, it should not be numbered and "Fig." should not appear. Numbers and letters identifying the figures must be simple and clear and may not be used in association with brackets, circles or inverted commas, except in the case of partial figures intended to form one complete figure, irrespective of whether they appear on one or several sheets. In this case the complete figure may be identified by the same number followed by a capital letter (for example: Fig. 7B).

*R. 11.13(k) and  
49.5(f)*

**AI 207(b)**

**PCT AG I 5.141 and  
5.142**

The figures should preferably be set out, as far as possible, on each sheet in ascending numerical order from left to right and from top to bottom. If one of two figures illustrates on a larger scale a detail from the other, each figure should be numbered separately and, if possible, consecutively.

### 5.3 Whole figure

One sheet of drawings may contain several figures. Where figures on two or more sheets form in effect a single complete figure, the figures on the several sheets must be so arranged that the complete figure can be assembled without concealing any part of any of the figures appearing on the various sheets.

*R. 11.13(i)*

**PCT AG I 5.139**

Partial figures drawn on separate sheets must always be capable of being linked edge to edge, that is to say, no partial figure may contain parts of another partial figure. A very long figure may be divided into several parts placed one above the other on a single sheet. However, the relationship between the different parts must be clear and unambiguous. It is therefore recommended that a smaller scale figure be included showing the whole formed by the partial figures and indicating the positions of the parts shown.

## 6. Prohibited matter

GL/RO 333

PCT AG I 5.175

As set out in Rule 9.1(i) and (ii), the international application must not contain drawings contrary to morality or public order. If it does, the applicant may be invited to voluntarily correct it (Rule 9.2).

## 7. Execution of drawings

### 7.1 Drawings of lines and strokes

R. 11.13(a) and  
11.13(f)

PCT AG I 5.143 and  
5.144

The drawings must be executed in durable, black, uniformly thick and well-defined lines and strokes. See GL/PCT-EPO A-V, 1.2, in respect of colour drawings, where these are exceptionally submitted. In all cases, the thickness of the lines and strokes must take into account the scale, nature, execution and perfect legibility of the drawing and of the reproductions. All lines in the drawings must, ordinarily, be drawn with the aid of a drafting instrument, except for those which by their nature do not permit the use of such instruments, for example irregular diagrams, ornamental structures and curved reference lines.

### 7.2 Shading

PCT AG I 5.158

The use of shading in figures is allowed provided this assists in understanding them and is not so extensive as to impede legibility. Shading may, for instance, be used to indicate the shape of spherical, cylindrical or conical elements. Flat parts may also be lightly shaded. Such shading is allowed in the case of parts shown in perspective but not for cross-sections. Only spaced lines may be used for shading, not fully blacked out areas. These lines must be thin and as few in number as possible and contrast with the rest of the drawings.

### 7.3 Cross-sections

#### 7.3.1 Sectional figures

PCT AG I 5.148

Where a figure is a cross-section of another figure, the latter should indicate the position of the section and may indicate the viewing direction by arrows at each end. In addition, in order to allow each sectional figure to be quickly identified, especially where several cross-sections are made of the same figure, each end of the cross-section line should be marked on the diagram with the same single Arabic or Roman numeral which identifies the figure in which the section is illustrated.

#### 7.3.2 Hatching

R. 11.13(b)

PCT AG I 5.149

A cross-section must be set out and drawn in the same manner as a normal view whose parts in cross-section are hatched with regularly spaced parallel oblique strokes, the space between the strokes being chosen on the basis of the total area to be hatched. Hatching should not impede the clear reading of the reference signs and reference lines. Consequently, if it is not possible to place reference signs outside the hatched area, the hatching may be broken off wherever reference signs are inserted. Certain types of hatching may be given a specific meaning. The hatching should be at a substantial angle to the surrounding axes or principal lines, preferably 45°. The various parts of a cross-section of the same item should be hatched in the same manner. The hatching of juxtaposed different elements should be angled in

a different way. In the case of large areas, hatching can be confined to an edging drawn around the inside of the outline of the area to be hatched.

#### 7.4 Scale of drawings

The scale of the drawings and the distinctness of their graphical execution must be such that a photographic reproduction with a linear reduction in size to two-thirds would enable all details to be distinguished without difficulty. In exceptional cases, where required, the scale of the drawing may be graphically represented.

*R. 11.13(c)*

**PCT AG I 5.150**

#### 7.5 Numbers, letters and reference signs

Numbers, letters, reference signs and any other data given on the sheets of drawings, such as the numbering of figures and of the sheets, acceptable text matter, graduations on scales, etc., must be simple and clear, and not used in association with any brackets, inverted commas, circles or outlines whatsoever. Signs indicating minutes, seconds or degrees are permitted. Numbers, letters and reference signs should be laid out in the same direction as the diagram so as to avoid having to rotate the sheet. They should not be placed in the closed and complex parts of the drawings so as to interfere with a thorough comprehension of the drawings, and therefore should rarely cross or mingle with the lines. As a general rule, numbers, letters and reference signs should be placed as close as possible to the part in question.

*R. 11.13(e)*

**PCT AG I 5.152**

##### 7.5.1 Leading lines

Reference lines (also referred to as leading lines), that is, lines between the reference signs (for example, reference numerals) and the details referred to, may be straight or curved and should be as short as possible. They must originate in the immediate proximity of the reference sign and extend to the feature indicated. Reference lines for certain reference signs may be omitted. Reference signs of this type, which are not connected to anything, will then indicate the surface or cross-section on which they are placed. In such cases the reference sign may be underlined to make it clear that the line has not been left out by mistake. Reference lines must be executed in the same way as other lines in the drawing.

**PCT AG I 5.145**

##### 7.5.2 Arrows

Arrows may be used at the end of the reference lines provided that their meaning is clear.

**PCT AG I 5.146**

- A free-standing arrow indicates the entire section towards which it points.
- An arrow touching a line indicates the surface shown by the line looking along the direction of the arrow.
- Arrows may also be used in appropriate cases to show the direction of movement.

**7.5.3 Height of the numbers and letters in the drawings***R. 11.13(h)***PCT AG I 5.153**

The height of the numbers and letters must not be less than 0.32 cm. For the lettering of drawings, the Latin or, where customary, the Greek alphabet must be used.

**7.5.4 Consistent use of reference signs in the description, claims and drawings***R. 11.13(l), (n)***PCT AG I 5.154**

Reference signs must be used in a manner which is consistent in the description, claims and drawings. In particular, reference signs not mentioned in the description must not appear in the drawings, and vice versa.

*R. 11.13(m)***PCT AG I 5.155**

A feature denoted by a reference sign must be denoted by the same sign throughout the international application.

In the case of international applications dealing with complex subjects and incorporating a large number of drawings, a separate sheet listing all the reference signs should be included at the end of the description as a part of it.

**7.5.5 Consistent use of reference signs in the drawings***R. 11.13(m)***PCT AG I 5.155**

A feature denoted by a reference sign must be denoted by the same sign throughout the international application.

**7.6 Variations in proportions***R. 11.13(g)*

Each element of each figure must be in proper proportion to each of the other elements in the figure, except where the use of a different proportion is indispensable for the clarity of the figure.

**8. Text matter in drawings***R. 11.11**R. 11.9***PCT AG I 5.156**

The drawings must not contain text matter, except a single word or words when absolutely indispensable, such as "water", "steam", "open", "closed", "section on AB" and, in the case of electric circuits and block schematic or flow sheet diagrams, a few short catchwords indispensable for understanding. Any words used must be so placed that, if translated, they may be pasted over without interfering with any lines of the drawings.

Any text matter which is indispensable must comply with the requirements for the writing of text matter.

For indications of the type "section on AB", see GL/PCT-EPO A-V, 7.3.1.

*Art. 3(4)(i)**GL/RO 55, 57, 62 and 63*

Where any text matter of the drawings is filed in a language which is different from the language of the description and the claims, the receiving Office will invite the applicant to furnish a translation of the text matter of the drawings into the language in which the international application is to be published (Rule 26.3ter). The receiving Office decides whether the correction was submitted within the two-month time limit under Rule 26.2 and, if so, whether the international application so corrected is or is not to be considered withdrawn. However, no international application may be considered withdrawn for lack of compliance with the physical requirements referred to in Rule 11 if it complies with them to the extent necessary for the purpose of reasonably uniform international publication (Rule 26.5).



## 9. Conventional symbols

Known devices may be illustrated by symbols which have a universally recognised conventional meaning and are generally accepted in the art provided no further detail is essential for understanding the subject-matter of the claimed invention. Other signs and symbols may be used provided that they are not likely to be confused with existing conventional symbols, that they are readily identifiable (i.e. simple) and that they are clearly explained in the text of the description. Different types of hatching may also have different conventional meanings as regards the nature of a material seen in cross-section.

*R. 10.1(d) and (e)*  
**PCT AG I 5.157**

## 10. Amendments to drawings

The drawings can be amended during the international phase only if the applicant files a demand for international preliminary examination. See GL/PCT-EPO H-I, 3.

*Art. 34(2)(b)*  
**PCT AG I 5.162**

For the rectification of obvious mistakes, see GL/PCT-EPO B-III, 2.3.2, and H-I, 2. For the addition of an entire sheet of drawings omitted on the date of filing, see GL/PCT-EPO A-II, 5.

*R. 91*  
**PCT AG I 5.161**

If the drawings submitted on the date of filing do not comply with the requirements in Rule 11 to the extent necessary for the purpose of reasonably uniform international publication, the EPO as receiving Office will invite the applicant to submit a correction within two months of the invitation (Form PCT/RO/106). If the EPO as receiving Office finds that the defects have not been corrected or have not been corrected on time, it will declare the international application withdrawn (Form PCT/RO/117). An international application may not be considered withdrawn for lack of compliance with the physical requirements in Rule 11 if it complies with them to the extent necessary for the purpose of reasonably uniform international publication.

*R. 26*  
*GL/RO 153-159*

## 11. Graphic forms of presentation not considered to be drawings

Where tables or chemical or mathematical formulae are included in the description, claims or abstract, they are not considered to be drawings and are thus not subject to the requirements for drawings.

**PCT AG I 5.130**

### 11.1 Chemical and mathematical formulae

The description, the claims and the abstract may contain chemical or mathematical formulae. Such formulae may be written by hand or drawn if necessary but it is recommended that appropriate drafting aids or materials, such as stencils or transfers, be used. For practical reasons formulae may be grouped together on one or more sheets in the description and paginated with it. In such cases, it is recommended that each formula be designated by a reference sign and that the description contain references to the formulae whenever necessary.

*R. 11.9(b), 11.10(b)*  
**PCT AG I 5.107**

Chemical or mathematical formulae must employ symbols in general use and must be drawn in such a way that they are completely unambiguous. Numerals, letters and signs which are not typed must be legible and identical in form in the various formulae, irrespective of the element of the international application in which they appear. Chemical or mathematical formulae appearing in the text of the international application must have symbols, the

*R. 11.9(d)*  
**PCT AG I 5.108**

capital letters of which are at least 0.28 cm high. Where they appear on sheets of drawings, these symbols must be at least 0.32 cm high. All mathematical symbols used in a formula which appear in the description or on sheets of drawings should be explained in the description, unless their significance is clear from the context. In any case, the mathematical symbols used may be collated in a list.

## 11.2 Tables

### 11.2.1 Tables in the description

*R. 11.10(c), 11.10(d)*  
**PCT AG I 5.109**

The description may contain tables. For the sake of convenience, tables may be grouped together on one or more sheets of the description and paginated with it. If two or more tables are necessary, each should be identified by a Roman numeral (independently of the pagination of the description or drawings or of the figure numbering), by a capital letter, by a title indicating its content or by some other means. Each line and column in a table should begin with an entry explaining what it represents and, if necessary, the units used. As far as possible, all tables should be set out upright on the sheets. Where the tables cannot be presented satisfactorily in an upright position, they may be placed sideways, with the top of the tables on the left-hand side of the sheet.

### 11.2.2 Tables in the claims

*R. 11.10(c)*  
**PCT AG I 5.125**

The claims may include tables if this is desirable in view of the subject-matter involved. In such cases, the tables must be included in the text of the relevant claim; they may not be annexed to the claims nor may reference be made to tables contained in the description.



## Chapter VI – Examination of formal requirements

### 1. Claim to priority

This section is intended to summarise all formal requirements relating to priority claims in international applications. In the present edition, it focuses on formal requirements under Rule 4.10, defects in priority claims and corrections upon invitation as well as restoration of the priority right. It also provides additional information on the applicant's entitlement to claim priority under Article 87 EPC in the European phase before the EPO. Further relevant aspects will gradually be added in successive editions. For further information see GL/PCT-EPO F-VI.

#### 1.1 Formal requirements under Rule 4.10

In an international application, the applicant may claim the priority of one or more earlier applications. The claim needs to be made in the PCT request form (PCT/RO/101) and fulfil the following requirements:

*Art. 2(i)*

*Art. 8(1)*

*R. 4.10*

**PCT AG I 5.057 ff.**

*GL/RO 166 ff.*

*GL/ISPE 6.03*

- (a) The earlier application must have been filed in or for a country which is party to the Paris Convention for the Protection of Industrial Property ("Paris Convention") or in or for any member of the World Trade Organization that is not party to the Paris Convention.
- (b) The priority claim must indicate:
  - (i) the date on which the earlier application was filed;
  - (ii) the number of the earlier application;
  - (iii) where the earlier application is a national application, the country in which it was filed;
  - (iv) where the earlier application is a regional application, the authority with which the earlier application was filed and that is entrusted with the granting of regional patents under the applicable regional patent treaty;
  - (v) where the earlier application is an international application, the receiving Office with which it was filed.
- (c) Where the earlier application is a regional application or an international application, the applicant may, if desired, also indicate one or more countries party to the Paris Convention for which that earlier application was filed, even if this is not required by Rule 4.10(b)(ii). An indication of at least one country party to the Paris Convention or one member of the World Trade Organization for which the earlier application was filed is mandatory where the earlier application is a regional application filed with ARIPO.

Art. 2(i)  
 Art. 8(1)  
 R. 4.10  
 GL/ISPE 6.03

The words "in or for" any country or member mean that the earlier application the priority of which is claimed may be an earlier national, regional or international application. The earlier application may be for a patent or for the registration of a utility model or for an inventor's certificate.

## 1.2 Priority period

Art. 8(2)(a)  
 R. 2.4  
 R. 26bis.1(a)  
 R. 26bis.2  
 R. 26bis.2(c)(iii)  
 Art. 4C Paris  
 Convention  
 R. 80.5  
 R. 82  
 R. 82quater  
 GL/RO 171

The date on which the earlier application was filed must fall within the priority period of 12 months preceding the international filing date. However, if the international filing date lies after, but within two months of, that period's expiry, a priority claim will not be considered void for the purposes of the international phase of the PCT procedure, irrespective of whether restoration of the right of priority is requested (see GL/PCT-EPO A-VI, 1.5).

The priority period starts on the day following the date of filing of the earlier application. The RO/EP will thus not accept a priority claim relating to an application having the same date of filing as the international application and will inform the applicant that the claim will be disregarded unless the priority date can be corrected (PCT/RO/110; see GL/PCT-EPO A-VI, 1.4.1).

If the last day of the priority period falls on a day on which the EPO is not open for the receipt of documents or on which no mail is delivered due to an official holiday or other circumstance described in Rule 80.5, it expires on the next subsequent day on which none of these circumstances exists. However, the priority period may not be extended under Rule 82 or Rule 82quater in the event of irregularities in the mail service.

## 1.3 Inconsistency in the priority claim

R. 26bis.2(c)(ii)  
 GL/RO 171

Any indication in the priority claim must be consistent with the corresponding indication appearing in the priority document. However, if an indication in the priority claim is inconsistent with the corresponding indication in the priority document, the claim is not considered void for the purposes of the international phase of the PCT procedure. Instead, in such cases the RO draws applicants' attention to the inconsistency and invites them to correct the priority claim accordingly (PCT/RO/110; see GL/PCT-EPO A-VI, 1.4.1).

## 1.4 Defects in the priority claim

R. 4.10  
 R. 26bis.1(a)  
 R. 26bis.2  
 GL/RO 167 ff.  
 PCT AG I 6.038-6.042

Where the RO finds that

- a priority claim does not comply with the requirements of Rule 4.10 (see GL/PCT-EPO A-VI, 1.1), or that
- the filing date indicated for the earlier application does not fall within the period of 12 months preceding the international filing date (see GL/PCT-EPO A-VI, 1.2, and GL/PCT-EPO A-VI, 1.4.2), or that
- any indication in a priority claim is inconsistent with the corresponding indication appearing in the priority document (see GL/PCT-EPO A-VI, 1.3, and GL/PCT-EPO A-VI, 1.4.2),

the RO, using Form PCT/RO/110,

- (i) invites the applicant to correct the priority claim (PCT/RO/110, Annex A), and/or
- (ii) if the filing date of the international application lies within two months of expiry of the priority period, draws the applicant's attention to the possibility of requesting restoration of the right of priority (PCT/RO/110, Annex B).

#### 1.4.1 Correction of the priority claim upon invitation

The RO will invite the applicant to correct defects in a priority claim (indicated in Annex A of Form PCT/RO/110) within a time limit of 16 months from the priority date or, where the correction would cause a change in the priority date, 16 months from the priority date as so changed, whichever expires first, provided that a notice of correction may, in any event, be submitted until the expiry of four months from the international filing date.

*R. 26bis.1(a)*

*R. 26bis.2(a)*

**AI 314(a)**

*GL/RO 169*

*GL/RO 170*

Upon receipt of a response to the invitation to correct defects in a priority claim, the RO checks whether the indications furnished by the applicant have been received within the applicable time limit and whether they comply with the formal requirements of Rule 4.10 (see GL/PCT-EPO A-VI, 1.1). If so, the RO follows the procedure laid down in GL/RO 170.

The RO notifies the applicant accordingly, using Form PCT/RO/111, and sends to the IB and the ISA, respectively, a copy of that notification as well as a copy of the corresponding sheet of the PCT request containing the corrections.

If the notice correcting the priority claim is received before the RO declares the priority claim void (see GL/PCT-EPO A-VI, 1.4.2) and not later than one month after the expiry of the time limit, the response is considered to have been received before the expiry of the applicable time limit.

*R. 26bis.2(b), last sentence*

#### 1.4.2 Failure to correct

If, in response to the invitation to correct a priority claim, the applicant does not submit a notice correcting the priority claim before expiry of the applicable time limit (see GL/PCT-EPO A-VI, 1.4.1), that priority claim is, for the purposes of the PCT procedure, considered void and the RO so declares using Form PCT/RO/111. In addition to marking the PCT request in accordance with GL/RO 172, the RO also sends to the IB and the ISA, respectively, a copy of that declaration and a copy of the corresponding sheet of the request containing the marking.

*R. 26bis.1(a)*

*R. 26bis.2(b)*

**AI 302**

*GL/RO 169*

*GL/RO 171*

*GL/RO 172*

**PCT AG I 6.043**

#### 1.5 Restoration of the right of priority

Where the international application has an international filing date which is later than, but within two months of, the date on which the priority period expired, the applicant may request restoration of the right of priority with the RO. This request may be made directly on the request form (Box No. VI) or separately (either upon receipt of the information from the RO using Form PCT/RO/110, Annex B (see GL/PCT-EPO A-VI, 1.4(ii)) or on the applicant's own initiative).

*R. 26bis.3*

*GL/RO 166C*

*GL/RO 166D*

*GL/RO 166E*

*GL/RO 166G*

**PCT AG I 5.064-5.069**

*Art. 2(1) item 13*

*RFees*

A request for restoration of the right of priority is admissible if:

- (a) the international filing date of the application is within the two-month period following the expiry of the priority period; where a priority claim in respect of the earlier application is not contained in the international application, the priority claim must be added (Rule 26*bis*.1(a)) within the same time limit;
- (b) the request is submitted within the two-month period following the expiry of the priority period and is supplemented by a statement of reasons;
- (c) the fee for requesting restoration of the right of priority (see also GL/PCT-EPO A-III, 4.6) is paid within two months of the date on which the priority period expired; this time limit may not be extended before the EPO as RO.

Where the applicant makes a request for early publication under Art. 21(2)(b), the request for restoration and the statement of reasons or evidence (Rule 26*bis*.3(b)(iii)), or any notice under Rule 26*bis*.1(a) adding the priority claim, must be filed, and the pertinent fee be paid (Rule 26*bis*.3(d); GL/PCT-EPO A-III, 4.6), before the technical preparations for international publication have been completed (Rule 26*bis*.3(e)).

*R. 26bis.3(a)(i)*  
*OJ EPO 2007, 692*  
*GL/RO 166F*  
*GL/RO 166J -166M*

The EPO as RO grants a request for restoration of the right of priority only if the due care required by the circumstances has been taken ("due care" requirement). To satisfy this requirement, the applicant must show to the RO's satisfaction that the failure to file the international application within the priority period occurred in spite of due care required by the circumstances having been taken. The standard of having exercised "due care" can only be met if the applicant has taken all measures which a reasonably prudent applicant would have taken. The statement of reasons accompanying the request should describe in detail the facts and circumstances that have led to the late filing as well as any remedial or alternative steps taken to attempt on-time filing of the international application. Due care is considered to have been taken if non-compliance with the time limit results either from exceptional circumstances or from an isolated mistake within a normally satisfactory monitoring system.

The practice of the EPO as RO defines exceptional circumstances as ones that are unrelated to ordinary working procedures and arise either unexpectedly, as for example a sudden serious illness, or owing to some kind of upheaval, such as an internal reorganisation entailing a move. Whether exceptional circumstances occurred depends on the facts of the case, and the standard to be met for this is very strict. In particular, events of force majeure may be regarded as exceptional circumstances. An event of force majeure means an external, unforeseeable and/or unavoidable circumstance beyond the control of the applicant or agent. Disasters, such as hurricanes, volcanic eruptions, earthquakes, international conflicts and war, may be considered such events. Due care is generally regarded as having been taken if it is demonstrated that the consequences of the event could not have been predicted and/or avoided.

The assessment of whether the failure to file the international application within the priority period resulted from an isolated mistake within a normally satisfactory monitoring system depends, among other things, on the size of the company of the applicant or agent. The same standard of care as is required of the patent department of a large firm cannot be expected of an individual or a small applicant. In addition, a different standard of due care is required depending on whether the mistake can be ascribed to an applicant, an agent in charge or an assistant.

The EPO as RO considers the facts and circumstances of each particular case, applying the principles summarised in GL/RO 166J-166M. The case law established by the EPO boards of appeal (developed with respect to the re-establishment of rights under Art. 122 EPC) is also taken into consideration when assessing whether due care has been exercised in the respective case. See also GL/EPO E-VIII, 3.2.

If the RO intends to refuse the request for restoration of the right of priority, as it finds that the statement of reasons is insufficient to determine whether the applicant has satisfied the due care criteria or that the due care criteria appear not to have been met, it invites the applicant to submit further evidence and/or observations on the intended refusal within a two-month time limit (Form PCT/RO/158). The RO explains in detail, in the Annex to Form PCT/RO/158, why it intends to refuse the request. After expiry of the two-month time limit, and taking into account the information available to it at this stage, the RO issues a decision to either restore the right of priority or refuse the request for restoration of the right of priority (Form PCT/RO/159).

*R. 26bis.3(f), (g)*  
*GL/RO 166R*  
*GL/RO 166S*

The RO transmits a copy of all related documents received from the applicant to the IB (including a copy of the restoration request, the statement of reasons and any declaration or other evidence), except if it decides, either upon a reasoned request by the applicant or on its own motion, that (parts of) certain documents are not to be transmitted. In the latter case, the RO notifies the IB accordingly. If the RO receives a reasoned request from the applicant not to transmit (a part of) a document to the IB, but nevertheless decides to transmit that (part of a) document to the IB, it also notifies the applicant of this decision (relevant box in Form PCT/RO/159).

*R. 26bis.3(h-bis)*  
**AI 315**  
*GL/RO 166N*  
*GL/RO 166S*  
*GL/RO 166T*

The RO takes the decision not to transmit documents to the IB if it finds that a document or part thereof meets the requirements of Rule 26bis.3(h-bis), namely that:

- (i) a document or part thereof does not obviously serve the purpose of informing the public about the international application;
- (ii) publication or public access to any such document or part thereof would clearly prejudice the personal or economic interests of any person; and
- (iii) there is no prevailing public interest to have access to that document or part thereof.

A document or part thereof does not "obviously serve the purpose of informing the public about the international application" if it is clearly irrelevant for the disclosure or assessment of the international application as such. Making a document or a part thereof available to the public would "clearly prejudice the personal or economic interests of a person" if it would be harmful to that person's specific and concrete personal or economic interests. A merely abstract prejudice to hypothetical personal or economic interests is generally not sufficient.

R. 49ter.1

PCT AG I 5.069

A decision by the EPO as RO to restore the right of priority will be effective before the EPO as designated Office and, as a general rule, in all designated Offices, unless the respective designated Office has submitted a notification of incompatibility under Rule 49ter.1(g).

R. 49ter.1

R. 49ter.2

If no request for restoration of the right of priority has been filed by the applicant in the procedure before the EPO as RO or if the request for restoration has been rejected by the EPO as RO, the applicant may file a (new) request in the national phase, i.e. in the procedures before the EPO as designated Office and any other designated Office that has not made a reservation as to the applicability of Rule 49ter.1 and Rule 49ter.2. For the procedure before the EPO as designated Office, see GL/EPO E-VIII, 3.

### 1.6 Applicant's entitlement to claim priority

Art. 8(2)(a)

Art. 4A(1) Paris  
Convention

PCT AG National/  
Phase – National  
Chapter – EP.29

The applicant claiming the priority of an earlier application must be the applicant of the latter or the successor in title of the priority right. The question of whether the applicant is actually entitled to claim the priority of an earlier application is not examined during the international phase.

In proceedings before the EPO as designated or elected Office, the transfer of the priority right must be assessed under the EPC, regardless of any national laws. The EPC does not set out any formal requirements for the transfer of the priority right (see G -1/22 and G -2/22). For details on the procedure before the EPO as designated or elected Office, see GL/EPO A-III, 6.1.

~~Proof of entitlement on the international filing date must be submitted in the proceedings before the EPO (only) if the validity of the priority right claimed becomes relevant. However, for a successor in title to enjoy a priority right in proceedings before the EPO, the transfer of the earlier application including the priority right (or of the priority right as such) must have taken place before the filing date of the international application (Box No. VIII (iii) PCT request form) and the transfer must be valid under the relevant national provisions. However, for a successor in title to enjoy a priority right in proceedings before the EPO, the earlier application or the priority right must have been transferred before the filing date of the international application (Box No. VIII (iii) PCT request form) and the transfer must be valid under the applicable national provisions. Any deficiencies cannot be remedied after that the filing date of the international application, and in particular not in the European phase.~~

~~Applicants claiming the priority of an earlier application and planning to enter the European phase are therefore strongly advised to ensure that, as at the international filing date, all applicants who filed the earlier application are either mentioned as applicants in the international application or have validly transferred their rights to the applicant, or one of the applicants, in the international application. For example:~~

~~— The earlier application from which priority is claimed names X as applicant. The international application names company A as applicant. For A to enjoy a priority right in proceedings before the EPO as designated Office, X must have validly transferred the earlier application or the priority right to A before the filing date of the international application.~~

~~Where joint applicants file an international application and claim the priority of an earlier application, it is sufficient that one of them is the applicant who filed the earlier application or that applicant's successor in title. Since the international application has been filed jointly — which shows that the applicant who filed the earlier application consents — there is no need for a special transfer of priority right to the other (additional) applicant(s). For example:~~

~~— The earlier application from which priority is claimed names X as applicant. The international application names X and company A as applicants. A transfer of the priority right from X to A is not required in order for A to enjoy a priority right in the proceedings before the EPO as designated Office.~~

~~— The earlier application from which priority is claimed names X as applicant. The international application names companies A and B as applicants. In order for both A and B to enjoy a priority right in the proceedings before the EPO as designated Office, X must have validly transferred the earlier application or the priority right to either A or B before the filing date of the international application. A transfer to both A and B is not required but would also fulfil the requirements for claiming priority in the European phase.~~

~~If the earlier application was filed by several applicants, all of them must be applicants in the international application or have transferred their rights to the applicant, or one of the applicants, of the international application. It is not sufficient if only one of several applicants filing the earlier application is named as applicant in the international application. For example:~~

~~— The earlier application from which priority is claimed names X, Y and Z as applicants. The international application names company A as applicant. X, Y and Z have not transferred their rights but are all named — together with company A — as applicants in the PCT request form (Box No. II and III). In such a situation, no further action is required in order for A to enjoy a priority right in the proceedings before the EPO as designated Office.~~



~~— The earlier application from which priority is claimed names X, Y and Z as applicants. The international application names company A and X as applicants. In order for both A and X to enjoy a priority right in the proceedings before the EPO as designated Office, Y and Z must have validly transferred their rights to the earlier application to either A or X before the filing date of the international application.~~



## Chapter VII – Languages

### 1. Admissible languages on filing

#### 1.1 General

The international application, i.e. the request, description, claim(s), drawing(s) and abstract, must be filed with the EPO as receiving Office in English, French or German.

*Art. 3(4)(i)*

*R. 12.1*

*R. 157(2) EPC*

An international application filed in another language will be transmitted to the IB to act as receiving Office instead of the EPO. This means that it is not possible to file an international application with the EPO as receiving Office in a language other than the three indicated in Art. 14 EPC for European patent applications not filed via the PCT route (Euro-direct applications).

*R. 19.4(a)(ii)*

#### 1.2 International application filed in multiple languages

##### 1.2.1 Abstract and text matter of the drawings

If the abstract and/or any text matter of the drawings is not filed in the same language as the description and claims, the applicant will be invited to correct the defect by the EPO as receiving Office (Form PCT/RO/106) within two months of the date of the invitation. If the applicant replies to the invitation within the prescribed time limit by submitting the translation in the language indicated in the invitation, the international filing date will remain unaffected.

*Rule 26.3ter(a),*

*GL/RO 62-64*

##### 1.2.2 Request

The request (including any declaration contained in the request under Rule 4.17) may be filed with the EPO as receiving Office in any official language of the EPO (e.g. the request filed in German and the rest of the application in English).

*R. 12.1(c)*

*GL/RO 59*

If the request is not filed in an official language of the EPO, the applicant will be invited to correct the defect (Form PCT/RO/106) within two months of the date of the invitation.

*R. 26.3ter(c)*

*GL/RO 60*

If the applicant replies to the invitation within the prescribed time limit by submitting the translation in one of the official languages of the EPO, the international filing date will remain unaffected.

#### 1.2.3 Description and claims

##### 1.2.3.1 Sentences or short fragments of the description and/or claims in a language other than the language of the proceedings

If the description and/or claims contain sentences or short fragments in a language other than the language of the proceedings, the applicant will be invited by the EPO as receiving Office (PCT/RO/108) to submit a request for rectification under Rule 91 to the EPO as International Searching Authority together with the translation of the relevant parts in the language of the application.

*R. 91*

If the requirements under Rule 91 are fulfilled, the rectification will be authorised and will be considered effective from the international filing date. Otherwise, the respective sentences or fragments of the description and/or claims may not be further considered for the purpose of international search and/or preliminary examination.

This scenario only applies where a few words or sentences are in a language other than the language of the proceedings.

### 1.2.3.2 Technical or non-technical terms used in the description and/or the claims in a language other than the language of the proceedings

Art. 6  
Art. 84 EPC  
T 0061/03

If the description and/or claims contain(s) technical or non-technical terms in a language other than the language of the proceedings, the EPO will assess whether the use of these terms is common or standard in the relevant technical field. In such a case, no translation will be required.

R. 91

Otherwise, the applicant will be invited by the EPO as receiving Office to submit a request for rectification under Rule 91 (see GL/PCT-EPO A-VII, 1.2.3.1).

## 2. Language of the proceedings

R. 12.3  
R. 55.2  
OJ 2010, 572

If an international application is filed with the receiving Office in one of the EPO official languages, that language will be the language of the proceedings before the EPO and may not be changed either during the international phase or on entry into the European phase (G 4/08).

If the international application is not filed with the receiving Office in one of the EPO official languages, the language of the proceedings before the EPO as International Authority will be the language of the translation furnished for the purposes of the search or, as the case may be, for the international preliminary examination. The following sections provide more detail on the requirement to file a translation.

~~R. -12.3;~~  
~~Art. -152 -EPC~~  
~~-Agreement~~  
~~EPO--WIPO, Art. -3~~  
~~and Annex -A~~

### 2.1 Language for the purpose of the international search

For the purpose of the international search by the EPO as International Searching Authority, the international application must be in one of its three official languages, i.e. English, French or German. Where the international application is filed in a different language, the applicant must file a translation with the receiving Office into one of the EPO three official languages. This translation must be furnished within one month of the date of receipt of the international application by the receiving Office.

For international applications filed in Dutch see GL/PCT--EPO -B--XI, -2.2.

### 2.2 Language for the purpose of the supplementary international search

~~R. -45bis.1(b)(iii);~~  
~~Agreement EPO--~~  
~~WIPO, Art. -3 and~~  
~~Annex -B~~

For the purpose of the supplementary international search by the EPO as Supplementary International Searching Authority, the international application must be in one of its three official languages, i.e. English, French or German. Where the international application is filed in a different language, and no translation into any of these languages has been filed for

the purpose of the proceedings before the International Searching Authority or for the purpose of international publication, a translation into one of these languages must be filed with the IB together with the request for supplementary international search.

### **2.3 Language for the purpose of the international preliminary examination**

For the purpose of the international preliminary examination by the EPO as International Preliminary Examining Authority, the international application must be in one of its three official languages, i.e. English, French or German. If neither the language in which the international application was filed nor the language in which the application was published is one of the official languages of the EPO, the applicant must file a translation into one of these languages with the EPO as International Preliminary Examining Authority within the time limit for filing the demand.

~~R. -55.2-  
Art. -152 EPC  
-Agreement EPO-  
WIPO, Art. -3 and  
Annex -A~~

## **3. Derogations from the language of the proceedings in written proceedings**

### **3.1 Written submissions**

With the exception of amendments and corrections to the application, for which the language of the proceedings must be used, any other correspondence with the EPO can be in any of the EPO official languages.

R. 92.2(b)  
**AI 104(a)**  
OJ EPO 1993, 540

The EPO as receiving Office will, however, reply in the language of the proceedings.

### **3.2 International applications filed in Dutch**

See GL/PCT-EPO B-XI, 2.2.

### **3.3 Priority documents**

See GL/ISPE 6.17.

### **3.4 Third-party observations**

See GL/PCT-EPO E-II.

## **4. Correction of the translation**

See GL/RO 70.

## **5. Authentic text of the international application**

The "record copy", the copy transmitted to the IB, is considered, for the purposes of the procedure under the PCT, to be a true copy of the international application.

Art. 12(2)

Where a document in pre-conversion format has been submitted by the applicant together with the international application, that document may be used as a fallback in the event of conversion errors (see GL/PCT-EPO A-II, 1.2.1~~GL/PCT-EPO A-II, 1.2.3~~).

**AI 706**



## Chapter VIII – Common provisions

### 1. Representation

#### 1.1 General principles

The PCT explicitly allows the receiving Office to apply its national law to the extent that it requires applicants to be represented by an agent having the right to represent them before it. On this basis, the EPC provisions concerning professional representation apply in respect of international applications processed by the EPO as receiving Office.

*Art. 27(7)*

*Art. 133(1), (2) EPC*

An agent is required by the EPO acting as receiving Office if the applicant has neither a residence nor their principal place of business in an EPC contracting state. Such applicants must act through an agent in all proceedings before the EPO acting as receiving Office except for filing the application and paying fees.

In view of the importance of careful preparation of the international application and of its proper processing, it is in any case highly advisable for applicants to use the services of an agent.

An appointed agent who has the right to represent the applicant before the receiving Office is automatically also entitled to act before the International Bureau, the International Searching Authority, any Authority specified for supplementary search and the International Preliminary Examining Authority ("agent for the international phase").

*Art. 49*

*R. 90.1*

*PCT AG I 5.041-5.051, 10.019-10.023, 11.001-11.014*

Information on the representation of the applicant in the international phase is to be indicated in Box No. IV of the PCT request form, in a separate power of attorney or via a separate notice referring to an existing general power of attorney, taking into account the instructions provided in the Notes to the PCT request form concerning Box No. IV and in GL/RO 117-121 as well as the information provided below.

*GL/RO 117-121*

#### 1.2 Representation by an agent

Two categories of agent ("professional representative" in EPC terminology) have the right to practise before the EPO as receiving Office:

*Art. 27(7)*

*Art. 134(1), (8) EPC*

*OJ EPO 2013, 500, 535*

- professional representatives or associations of representatives entered in the directory of professional representatives maintained by the EPO;
- legal practitioners qualified to act as a professional representative in patent matters in an EPC contracting state and having their place of business in that state.

*PCT AG I 11.001-11.004*

Only a person belonging to at least one of these two categories may be appointed as an agent for an international application filed with the EPO as receiving Office.

If the agent is appointed using Box No. IV of the PCT request form, they must be indicated there by name unless they belong to an association of professional representatives registered as such with the EPO. They can indicate any address they wish as long as it is in an EPC contracting state.

*R. 4.7 and 90*  
*R. 152(11) EPC*  
*OJ EPO 2013, 500,*  
*535*

If an association of professional representatives is appointed as agent using Box No. IV of the PCT request form, the name of the association must be indicated there. The number under which the association is so registered with the EPO may also be indicated.

If an association of professional representatives is appointed, each member of the association may perform procedural acts on behalf of the applicant, and correspondence from the EPO is addressed to the association rather than one particular member.

*R. 90.1(d)(ii)*  
*R. 90.6(b)*  
**PCT AG I 11.004,**  
**11.012**

Further agents may be appointed at any time to represent the applicant either in the international phase in general or specifically before the EPO acting as International Searching Authority, Supplementary International Searching Authority or International Preliminary Examining Authority. The appointment of a new agent for the international phase in general is treated as revocation of any earlier appointment of an agent, unless otherwise indicated in the power of attorney appointing the new agent. Furthermore, an agent appointed for the international phase in general, unless otherwise indicated in the document appointing them, may appoint sub-agents to represent the applicant.

### **1.3 Representation by a common agent, common representative or "deemed common representative"**

*R. 90.2*  
**PCT AG I 11.003,**  
**11.005-11.006**

If there are two or more applicants, each of them may choose to appoint their own agent, or they may choose to appoint a common agent for the international phase or one of the applicants who is entitled to file the international application to act as their common representative. The latter may in turn appoint an agent.

*Art. 27(7)*  
*Art. 133(2) and*  
*150(2) EPC*

If the appointed common representative has neither a residence nor their principal place of business in an EPC contracting state, the EPO as receiving Office will require the appointment of an agent.

If a common agent or common representative is appointed using Box No. IV of the PCT request form, their name and address must be indicated there.

*R. 19.1, 90.2*  
*Art. 27(7)*  
*Art. 133(2) and*  
*150(2) EPC*

If no common agent or common representative is appointed, the applicant first named in the request who is entitled to file the international application with the EPO as receiving Office is considered to be the common representative. If such "deemed common representative" has neither a residence nor their principal place of business in an EPC contracting state, the EPO as receiving Office will require the appointment of an agent.

If no common agent is appointed, any correspondence is sent to the (deemed) common representative or, if the latter has appointed an agent, to their agent, unless a different address is provided as the address for correspondence.

A deemed common representative is not entitled to sign notices of withdrawal on behalf of co-applicants without submitting evidence of their consent to such withdrawal. If a deemed common representative has appointed an agent, the latter may validly perform any act which could be performed by the deemed common representative. If a co-applicant of the deemed common representative has appointed an agent, such agent will not be considered the "agent of record" and will be entitled to act only on behalf of that co-applicant.

#### 1.4 "Representation" by an employee

Natural or legal persons having their residence or principal place of business in an EPC contracting state do not need to be represented by an agent in proceedings before the EPO acting as receiving Office, (S)ISA or IPEA. They may, however, act in these proceedings through an employee, who need not be an agent (GL/PCT-EPO -A-VIII, -1.2) but who must be authorised (see GL/PCT-EPO -A-VIII, -1.11, 1.12, 1.13).

Art. 27(7)

Art. 133(3) EPC

~~This kind of "representation" has to be distinguished from representation by an agent. The actions of the employee are regarded as actions of the natural or legal person and communications from the EPO are therefore addressed to the applicant and not to the employee.~~

#### 1.5 Manner of appointment of an agent, common agent or common representative

Appointment of an agent, common agent or common representative for the international phase requires a declaration to this effect. This can be made either in the PCT request form (Box No. IV) or in a separate notice ("power of attorney"). For this purpose the "PCT/Model of power of attorney" may be used, which is available on the WIPO website.

R. 90.4, 90.5

PCT AG I 11.007-11.009

For the appointment of an agent, a common agent or a common representative to be effective, the PCT request or the power of attorney must be duly signed by (all) the applicant(s) for whom the agent, the common agent or the common representative is intended to act. However, a power of attorney must only be submitted to the EPO if the EPO's waiver of the requirement to submit a separate power of attorney does not apply in the circumstances. For further information on separate powers of attorney and the EPO's waiver of the requirement to submit them, see GL/PCT-EPO A-VIII, 1.11 and 1.13.

Appointment of an agent or a common agent may also be effected by referring in the PCT request form (Box No. IX) or in a separate notice to an existing general power of attorney deposited with the EPO. A copy of the general power of attorney must only be furnished if the EPO's waiver concerning a copy of a general power of attorney does not apply in the circumstances. For further information on general powers of attorney and the EPO's waiver of the requirement to submit a copy of them, see GL/PCT-EPO A-VIII, 1.12-1.13.

A power of attorney may not be filed by fax or using the EPO Web-Form Filing service.



### 1.6 Address for correspondence

Art. 27(7)  
R. 4.4(d)  
Art. 150 EPC  
OJ EPO 2014, A99

Where no agent or common representative is appointed, any correspondence is sent to the address, indicated in Box No. II or III of the PCT request form, of the applicant (if there is only one applicant) or of the deemed common representative (if there are two or more applicants). However, if the applicant wishes correspondence to be sent to a different address, that address must be indicated in Box No. IV instead of the indication of an agent or common representative. In this case, and only in this case, the last check box of Box No. IV must be marked (that is, the last check box must not be marked if either of the check boxes "agent" or "common representative" in Box No. IV has been marked). For proceedings in the international phase before the EPO as receiving Office, International Searching Authority, Supplementary International Searching Authority or International Preliminary Examining Authority, the address for correspondence given may be that of any person in any country.

### 1.7 Representation before the EPO as International Searching Authority

Art. 49  
R. 90.1(a), (b), (d)  
PCT AG I 11.001-  
11.014

Applicants may be represented before the EPO as International Searching Authority (ISA) by the agent appointed on filing the international application and/or having the right to practise before the receiving Office, who is usually the agent for the international phase.

The agent appointed for the international phase – and thus including for proceedings before the ISA – may appoint a sub-agent to represent the applicant specifically before the EPO as ISA, provided that any person so appointed as sub-agent has the right to practise before the EPO acting as ISA. All communications issued by the ISA are then sent to the agent specifically appointed for proceedings before the EPO as ISA.

Applicants may also appoint an agent to represent them specifically before the EPO in its capacity as ISA. Any agent specifically appointed to act before the EPO as ISA must be entitled to practise before the EPO.

The applicant or agent for the international phase can appoint an agent specifically before the EPO as ISA by signing and submitting a separate power of attorney. Appointment may also be effected by reference in a separate notice to a duly deposited general power of attorney. In this case, the separate notice may be signed by the purported agent. The separate power of attorney or a copy of a general power of attorney must only be submitted to the EPO acting as ISA if the EPO's waiver of the requirement to submit it does not apply in the circumstances. For further information, see GL/PCT-EPO A-VIII, 1.11-1.13.

### 1.8 Representation before the EPO as Supplementary International Searching Authority

Art. 49  
R. 90.1(a), (b), (b-bis),  
(d)  
PCT AG I 11.001-  
11.014

Applicants may be represented before the EPO as Supplementary International Searching Authority (SISA) by the agent appointed on filing the international application and/or having the right to practise before the receiving Office, who is usually the agent for the international phase.



The agent appointed for the international phase – and thus including for proceedings before the SISA – may appoint a sub-agent to represent the applicant specifically before the EPO as SISA, provided that any person so appointed as sub-agent has the right to practise before the EPO acting as SISA. All communications issued by the EPO as SISA are then sent to the agent specifically appointed for proceedings before the EPO as SISA.

Applicants may also appoint an agent to represent them specifically before the EPO in its capacity as SISA. Any agent specifically appointed to act before the EPO as SISA must be entitled to practise before the EPO.

The applicant or agent for the international phase can appoint an agent specifically before the EPO as SISA by signing and submitting a separate power of attorney. Appointment may also be effected by reference in a separate notice to a duly deposited general power of attorney. In this case, the separate notice may be signed by the purported agent. The separate power of attorney or a copy of a general power of attorney must only be submitted to the EPO acting as SISA if the EPO's waiver of the requirement to submit it does not apply in the circumstances. For further information, see GL/PCT-EPO A-VIII, 1.11-1.13.

### **1.9 Representation before the EPO as International Preliminary Examining Authority**

Applicants may be represented before the EPO as International Preliminary Examining Authority (IPEA) by the agent appointed on filing the international application and/or having the right to practise before the receiving Office, who is usually the agent for the international phase.

*Art. 49*

*R. 90.1(a), (c), (d)*

**PCT AG I 10.019-10.023**

The agent appointed for the international phase may appoint a sub-agent to represent the applicant specifically before the EPO as IPEA, provided that any person so appointed as sub-agent has the right to practise before the EPO acting as IPEA.

Applicants may also appoint an agent to represent them specifically before the EPO as IPEA. Any agent specifically appointed before the EPO as IPEA must be entitled to practise before the EPO.

The applicant or agent for the international phase can appoint an agent specifically before the EPO as IPEA either by completing Box No. III of the demand form (PCT/IPEA/401) and signing the demand, or by signing and submitting a separate power of attorney. Appointment may also be effected by reference in the PCT demand or in a separate notice to a duly deposited general power of attorney. In this case, the PCT demand or the separate notice may be signed by the purported agent. The separate power of attorney or a copy of a general power of attorney must only be submitted to the EPO acting as IPEA if the EPO's waiver of the requirement to submit it does not apply in the circumstances. For further information, see GL/PCT-EPO A-VIII, 1.11-1.13.

**1.10 Representation before the EPO as designated or elected Office***Art. 27(7), 49**R. 90.1**Art. 134 EPC**GL/EPO A-VIII, 1**PCT AG I 11.001*

A (common) agent appointed in the PCT request as agent for an international application is appointed only for the international phase. This means that a professional representative authorised to act before the EPO and who acted for the applicant(s) in the international phase is not automatically considered to be the representative for the European phase. However, if the EPO is the receiving Office and the agent is appointed by a separate authorisation, the applicant(s) may, at the same time, indicate in that authorisation that the agent is also appointed to represent the applicant(s) before the EPO as designated or elected Office in the European phase. To designate an agent for the international and European phases at the same time, the applicant may use Form EPA/EPO/OEB 1003, which is available on the EPO website.

If an agent is appointed by reference to an existing general power of attorney, the appointment of the agent for the European phase too must be explicitly stated in the separate notice.

**1.11 Power of attorney***R. 90.4(b)*

Generally, a separate power of attorney must be submitted to either the receiving Office or the International Bureau or, where it appoints an agent to represent an applicant specifically before the ISA, SISA or IPEA, to that Authority.

*R. 90.4(c)*

It must be duly signed and the name and address of the appointed person must comply with Rule 4.4.

*OJ EPO 2010, 335*

However, the EPO in its capacity as receiving Office, ISA, SISA and IPEA has waived the requirement under Rule 90.4(b) that a separate power of attorney be submitted to appoint a (common) agent or a common representative (see GL/PCT-EPO A-VIII, 1.13). Thus, in cases where this waiver is applicable, the requirements of signature and proper indication of name and address under Rule 90.4(c) do not apply.

**1.12 General power of attorney***R. 90.5*

A "general power of attorney" is a separate power of attorney appointing an agent to represent an applicant in relation to any international application which they may file. Generally, for such appointment to be effective:

- reference must be made in the PCT request, the PCT demand or a separate notice to the general power of attorney;
- the general power of attorney must be deposited with the receiving Office or, in the case of appointment specifically before the ISA, SISA or IPEA, with that Authority;
- a copy of the general power of attorney must be attached to the PCT request, the PCT demand or the separate notice, as the case may be.

*OJ EPO 2010, 335*

However, the EPO in its capacity as receiving Office, ISA, SISA and IPEA has waived the requirement under Rule 90.5(a)(ii) that a copy of a general power of attorney be attached to the PCT request, the PCT demand or a separate notice (see GL/PCT-EPO A-VIII, 1.13).

### 1.13 Waivers – exceptions to applicability

The waivers by the EPO with regard to the requirements under Rule 90.4(b) and Rule 90.5(a)(ii) do not apply to legal practitioners referred to in Art. 134(8) EPC or to employees referred to in Art. 133(3) EPC if they are not also professional representatives.

The waiver by the EPO with regard to the requirement under Rule 90.4(b) that a separate power of attorney be submitted to appoint a (common) agent or a common representative does not apply if the (common) agent or the common representative submits any notice of withdrawal referred to in Rules 90*bis*.1 to 90*bis*.4.

*R. 90.4(e), 90.5(d)*  
*OJ EPO 2010, 335*

The waiver by the EPO with regard to the requirement under Rule 90.5(a)(ii) that a copy of the general power of attorney be attached to the PCT request, the PCT demand or the separate notice does not apply if the (common) agent submits any notice of withdrawal referred to in Rules 90*bis*.1 to 90*bis*.4.

Furthermore, the EPO acting as receiving Office, ISA, SISA or IPEA may require the filing of a separate power of attorney or a copy of a general power of attorney if necessary in the circumstances of a particular case, for example if:

- a procedural act is performed by a purported agent who is not the agent of record, unless the purported agent belongs to the same office as the agent of record, or both the purported agent and the agent of record are employees of the applicant or, if there is more than one applicant, of the common representative;
- there is doubt as to whether the agent or common representative is entitled to act.

## 2. Form of documents

### 2.1 Documents making up the international application

The physical requirements of the documents making up the international application, i.e. request, description, claims, drawings and abstract, are set out in Rule 11. Compliance with these requirements, which is checked by the receiving Office, is only required to the extent necessary for the purpose of reasonably uniform international publication.

*Art. -14(1)(a)(v)-*  
*R. -26.3bis*

See GL/RO -132--146.

### 2.2 Later documents-

The requirements of Rules 10 and 11.1 to 11.13 also apply to any other document (e.g. replacement sheets, amended claims, translations) submitted after the filing of the international application.

*R. 11.14*  
*GL/RO -132*

~~R. -11.1.~~  
~~R. -3.3(a)(ii).~~  
~~R. -92.4(d) and (g)(ii).~~  
~~OJ-EPO 2019, -A18~~

### **2.3 Number of copies-**

The documents constituting an international application must be filed with the EPO as receiving Office in one copy only. The same applies to any of the documents referred to in the check list of the PCT request form (Box -No. IX).

However, if the application is filed by fax a confirmation copy must be filed by post at the same time. See GL/PCT-EPO A-II, 1.2.2. As to subsequent documents filed by fax, there is no obligation to file a confirmation copy unless the receiving Office invites the applicant to submit one. See -GL/PCT-EPO A-II, 1.3.

### **2.4 Filing of subsequent documents-**

See -GL/PCT--EPO -A-II, -1.3.

## **3. Signature of documents**

### **3.1 Documents filed after filing the international application-**

Any paper submitted by the applicant in the course of the international procedure, other than the international application itself, must, if not itself in the form of a letter, be accompanied by a letter identifying the international application to which it relates. All letters must be signed by the applicant or by a duly appointed agent or common representative. ~~The~~A deemed common representative is ~~also~~-entitled to sign on behalf of the co-applicants with the only exception of ~~the~~-notices of withdrawal.

~~R. -90bis.5.~~  
~~R. -92.1(a)~~  
~~-GL/RO -20~~  
~~GL/ISPE -22.56~~

~~A~~The demand for international preliminary examination must be signed by the applicant or, if there is more than one applicant, by all applicants. If the signature of one or more applicants is missing, the EPO as IPEA will not invite the applicant(s) to furnish the missing signature(s) provided that at least one of the applicants has signed the demand. It is also possible for (common) agents or common representatives to sign a demand on behalf of the applicant(s) who appointed them. Where the demand is signed by a (common) agent the EPO as IPEA will not invite the applicant(s) to file a (separate) power of attorney or a copy of a general power of attorney since the EPO has waived these requirements. ~~The~~A deemed common representative is ~~also~~-entitled to sign on behalf of the co-applicants with the only exception of ~~the~~-notice of withdrawal.

~~R. 53.2(b).~~  
~~-R. -53.8.~~  
~~-R. -60.1(a-ter)~~  
~~-R. -90bis.5~~  
~~GL/ISPE -22.28--~~  
~~22.32~~  
~~OJ-EPO 2010, -335~~

### **3.2 Signature of ~~n~~ the PCT request and a power of attorney**

For the requirements concerning the signature of ~~n~~ the PCT request and ~~a~~the power of attorney see -GL/RO -122--128.

The EPO as RO, ISA, SISA and IPEA has waived the requirement that, for the effective appointment of an agent, common agent or common representative, a signed separate power of attorney must be submitted to it if the PCT request is not signed by (all) the applicant(s). The EPO has also waived the requirement that a copy of the general power of attorney be attached to the PCT request or to a separate notice if appointment of a (common) agent is made by reference to a general power of attorney. For further details on ~~the~~-powers of attorney, general powers of attorney and the waivers see -GL/PCT-EPO A-VIII, 1.11-1.13.

**3.3 Form of signature-**

See -GL/EPO -A-VIII, -3.3.

**3.4 Joint applicants**

For the PCT request and ~~the~~a power of attorney  
see -GL/PCT-EPO A-VIII, 3.2.

For the demand for international preliminary examination  
see -GL/PCT-EPO A-VIII, 3.1.