

How to get a European patent

Guide for applicants

Part 2

PCT procedure before the EPO

"Euro-PCT Guide"

7th edition

Updated until 1 January 2014

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A. General overview

Introduction to the Euro-PCT Guide

- 1 This part of the EPO Guide for Applicants is aimed at applicants interested in pursuing the procedure under the PCT. It is of a summary nature and focuses on the elements specific to the PCT procedure before the EPO.
- 2 The present publication is the seventh edition and is further referred to as the "Euro-PCT Guide".
- 3 The Euro-PCT Guide gives an overview of the procedures under the PCT before the EPO, including entry into the European phase before the EPO as designated/elected Office. The information it provides is not to be considered complete, nor is it intended to replace relevant WIPO publications and EPO decisions and notices concerning specific issues.
- 4 The Euro-PCT Guide is **updated to 1 January 2014**. Any changes to the PCT procedures before the EPO after that date are not reflected in the information provided here. Therefore, in using this Guide, applicants should always verify in particular whether any relevant changes to the procedures have entered into force since 1 January 2014. Information on any changes made to date can be found in the sources of information mentioned below (see points 11 ff).
- 5 Although the information in this Guide is not exhaustive, it aims to cover all the **points to note** when the EPO acts in its capacity as:
 - a receiving Office (RO),
 - an International Searching Authority (ISA),
 - a Supplementary International Searching Authority (SISA),
 - an International Preliminary Examining Authority (IPEA), and/or
 - a designated or elected Office.Annex II shows the different phases of the PCT procedure (see also Annex III).
- 6 Any comments on the Euro-PCT Guide may be addressed to Directorate 5.2.2, International Legal Affairs, PCT.

Applicable law

- 7 In all PCT procedures before the EPO, the PCT is applied in accordance with the provisions of Part X of the EPC, "International applications under the Patent Cooperation Treaty - Euro-PCT applications", the Implementing Regulations to the EPC ("EPC Rules") and the relevant further legislation. *Art. 150(1) EPC*
- 8 The European Patent Convention of 1973 ("EPC 1973") was comprehensively revised in November 2000 ("EPC 2000"). The revised text of the EPC entered into force on 13 December 2007. Since that date some of the Implementing Regulations to EPC 2000 have been further revised. The most up-to-date version of EPC 2000 is provided

on the EPO website.¹ In the following any reference made to the articles of the EPC and the rules of the Implementing Regulations relates to EPC 2000.

- 9 Part X of the EPC forms the legal basis for all EPO activities under the PCT. It contains only four provisions: Articles 150-153 EPC. These provisions are implemented by the provisions of the Implementing Regulations to the EPC, in particular Rules 157-165 EPC, and by further legislation such as decisions of the President and the Administrative Council of the EPO.
- 10 Articles 150-153 EPC and Rules 157-165 EPC apply both to applications with an international filing date on or after 13 December 2007 and to international applications filed before that date.

Euro-PCT Guide and other sources of information

- 11 It is explicitly pointed out that the Euro-PCT Guide is intended to be complementary to, but not a substitute for, the **PCT Applicant's Guide** ("WIPO PCT Guide").
- 12 The WIPO PCT Guide is published in English and French by the **International Bureau of WIPO** ("IB") in electronic form only². A German translation is published in paper form by Carl Heymanns Verlag.
- 13 Regularly updated general information on the EPO and specific information on the procedures before the EPO as receiving Office, International Authority (ISA, SISA and IPEA) and designated/elected Office under the PCT is provided in the Annexes to the WIPO PCT Guide³. Relevant information is also provided on the EPO website⁴ and in the **EPO's Official Journal** ("OJ"), which is published in electronic form only.⁵ Applicants are strongly advised to consult these publications and to take note of, in particular, any information published after 1 January 2014.
- 14 Up-to-date news about the PCT is available on the **WIPO website** and also from the **PCT Newsletter** and the **Official Notices (PCT Gazette)**, both published in electronic form by WIPO⁶.
- 15 Applicants desiring further information about the PCT procedure in the international phase are advised to consult the Administrative Instructions under the PCT ("AI")⁷, the PCT Receiving Office Guidelines ("GL/RO") and the PCT International Search and Preliminary Examination Guidelines ("ISPE Guidelines", "GL/ISPE")⁸, all available

OJ 2013, 606

¹ www.epo.org/law-practice/legal-texts/epc.html

² www.wipo.int/pct/en/appguide/index.jsp

³ www.wipo.int/pct/en/appguide/index.jsp

⁴ www.epo.org

⁵ www.epo.org/law-practice/legal-texts/official-journal.html

⁶ PCT Newsletter: www.wipo.int/pct/en/newslett/

Official Notices (PCT Gazette): www.wipo.int/pct/en/official_notices/index.html

⁷ AI: www.wipo.int/pct/en/texts/index.html

⁸ GL/ISPE and GL/RO: www.wipo.int/pct/en/texts/gdlines.html

on the WIPO website. Any reference to "Guidelines" ("GL/EPO") in this guide, however, relates to the **Guidelines for Examination in the European Patent Office as revised in 2013**⁹.

Relationship PCT - EPC

- 16** For international applications which are the subject of proceedings before the EPO in any of its functions (see point 5), the provisions of the PCT and its Regulations ("the PCT Rules") apply, **supplemented** by the provisions of the EPC. *Art. 150(2) EPC
GL/EPO General
Part, 3*
- 17** In case of conflict between the provisions of the EPC and those of the PCT or the PCT Rules, the **PCT prevails**.
- 18** As from the entry into force of EPC 2000 on 13 December 2007 the EPO has withdrawn all notifications of incompatibility with PCT provisions.¹⁰ *OJ 2007, 692*
- 19** In accordance with the principle of the prevalence of the PCT, applicants should refer to the PCT International Search and Preliminary Examination Guidelines (GL/ISPE and ISPE Guidelines) for information on search and examination practice and procedure before the EPO as ISA, SISA and IPEA. In these procedures the Guidelines for Examination in the European Patent Office (GL/EPO) apply only to the extent that they can be applied in conformity with the supplementary role of the EPC in the international phase (see point 16). Where the ISPE Guidelines give the International Authority a choice between different options, the EPO will follow the option most in line with its practice under the EPC as set out in Annex IV (see point 220).
- 20** In a number of cases the ISPE Guidelines leave a choice between alternative guidelines upon which each ISA/IPEA may rely as appropriate. The options are set out in appendices to the chapters of the ISPE Guidelines. A list of policy options chosen by the EPO is provided in Annex IV.
- 21** Moreover, in an agreement between the EPO and the International Bureau of WIPO ("Agreement EPO-WIPO") concerning the functioning of the EPO as International Authority (ISA, SISA and IPEA) all particulars of the work of the EPO in that capacity are set out. The agreement of 2 October 2007, currently in force, was last revised with effect from 1 April 2012. *OJ 2010, 304
OJ 2012, 256*

The role of the EPO in the international phase

- 22** For international applications under the PCT, the EPO may act as:
- receiving Office ("**RO**") (see points 42 ff),
 - International Searching Authority ("**ISA**") (see points 189 ff),
- Art. 1-49 PCT
Art. 150-153 EPC
GL/EPO E-VIII*

⁹ www.epo.org/law-practice/legal-texts/guidelines.html

¹⁰ www.wipo.int/pct/en/texts/reservations/res_incomp.html

- Supplementary International Searching Authority ("**SISA**") (see points 273 ff), and
- International Preliminary Examining Authority ("**IPEA**") (see points 295 ff).

- 23** During the international phase of the processing of an international application no designated or elected Office is allowed to process or to examine that application. However, this prohibition may be lifted at the explicit request of the applicant (see points 433 ff).

*Art. 23, 40 PCT
WIPO PCT Guide
3.005, 5.005*

Euro-PCT application

- 24** An international application for which the EPO is a designated Office (see point 30) and which has been accorded an international filing date has - as from that date - the effect of a regular European application (Euro-direct application). Such an international application, being equivalent to a regular European patent application, is referred to as a "Euro-PCT application".

*Art. 11(3), 45(1) PCT
Art. 153(2) EPC*

- 25** Each international application for which the EPO is designated Office is (also) given a **European application number**. This number is notified to the applicant in a communication informing the applicant of the requirements for entry into the European phase (EPO Form 1201), which, as a rule, is issued ten months after international publication of the application.

- 26** Annex II contains a chart illustrating the various stages of a Euro-PCT application with the most important time limits.

The role of the EPO in the European phase

- 27** Once an international application has entered the national phase before the EPO, the international application is said to be in the **European phase**.

*Art. 22(1), (3),
39(1), (2) PCT
R. 159(1) EPC
WIPO PCT Guide
5.005*

- 28** The time limit for entering the **European phase** is 31 months from the date of filing or, if priority has been claimed, from the earliest priority date (see point 449).

- 29** An up-to-date overview of the applicable time limit for entry into the national phase in each PCT contracting state - including the EPC contracting states where the national route is preferred - is available on the WIPO website¹¹.

- 30** If an international application enters the European phase (see points 449 ff), the EPO will act:

Art. 153(1) EPC

- as **designated Office** if the international application was only processed under PCT Chapter I proceedings (international search and publication of the application);

¹¹ www.wipo.int/pct/en/texts/time_limits.html

- as **elected Office** if the international application at the request of the applicant was also processed under PCT Chapter II proceedings (international preliminary examination) (see points 295 ff and points 413 ff).

Contracting states to the PCT and the EPC

- 31** The states for which the EPC has entered into force most recently are San Marino (SM) on 1 July 2009, Albania (AL) on 1 May 2010 and Serbia (RS) on 1 October 2010. Hence on 1 January 2014 the EPC was in force in a total of 38 states¹²: Albania (AL), Austria (AT), Belgium (BE), Bulgaria (BG), Croatia (HR), Cyprus (CY), Czech Republic (CZ), Denmark (DK), Estonia (EE), Finland (FI), France (FR), Germany (DE), Greece (GR), Hungary (HU), Iceland (IS), Ireland (IE), Italy (IT), Latvia (LV), Liechtenstein (LI), Lithuania (LT), Luxembourg (LU), former Yugoslav Republic of Macedonia (MK), Malta (MT), Monaco (MC), Netherlands (NL), Norway (NO), Poland (PL), Portugal (PT), Romania (RO), San Marino (SM), Serbia (RS), Slovakia (SK), Slovenia (SI), Spain (ES), Sweden (SE), Switzerland (CH), Turkey (TR) and United Kingdom (GB). *OJ 2009, 396
OJ 2010, 96
OJ 2010, 394
GL/EPO, General Part, 6*
- 32** **All EPC contracting states are also contracting states to the PCT and are bound by its Chapter II.** The EPO can therefore act as designated and elected Office for any EPC contracting state provided the international application was filed on or after the date on which the EPC entered into force for the state concerned. This means that no European patent can be granted for an EPC contracting state on the basis of an international application filed prior to the date of entry into force of the EPC for that state. *Art. 64 PCT*
- 33** For some EPC contracting states, patent protection on the basis of an international application can only be obtained via the European route, i.e. by entering the European phase to obtain a European patent for the state concerned, since these states have closed off the possibility of entering into the national phase before the national Office concerned (see point 121). *Art. 45(2) PCT*
- 34** For information on "extension states", see points 122 ff.

Representation in the international phase

- 35** Any attorney, patent agent or other person ("agent") having the right to practise before the national or regional patent office with which the international application was filed is entitled to practise before: *Art. 27(7), 49 PCT
R. 90.1 PCT
Art. 133, 134 EPC
WIPO PCT Guide
5.041-5.051,
10.019-10.023,
11.001-11.014*
- this receiving Office,
 - the IB,
 - the competent ISA,
 - the competent SISA and
 - the competent IPEA.

¹² www.epo.org/about-us/organisation/member-states.html

- 36** An agent so appointed before the receiving Office is referred to as "the agent for the international phase". Applicants are strongly advised to appoint an agent already at the time of filing an international application with the receiving Office (see Annex VIII).
- 37** Two or more applicants may choose to appoint either a **common agent** for the international phase or one of the said applicants who is a national or resident of a PCT contracting state to act as their **common representative**, who in turn may then appoint an agent. *R. 2.2, 2.2bis, 90.2(a), 90.3 PCT*
- 38** If no common agent or common representative has been appointed, the applicant first named in the request who is entitled to file an international application with the EPO as receiving Office is considered to be the common representative (see points 100 ff). The "deemed common representative" is not entitled to sign notices of withdrawal on behalf of co-applicants. 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. *R. 90bis.5, 90.2(b) PCT PCT Newsletter 10/2013, 11*
- 39** More information on representation before the EPO is provided in points 96 ff (EPO as RO), points 210 ff (EPO as ISA), points 342 ff (EPO as IPEA) and in points 465 ff (EPO as designated or elected Office).

Computation of time limits in the international phase

- 40** If a time limit in any procedure in the international phase starts to run upon issue of a communication, the day of the date of that communication is decisive for computing the end of that time limit, not the date of its receipt. In this respect the PCT differs from the EPC, where not the date a communication bears, which is as a rule the date of mailing, but the date of its receipt is relevant. *R. 80.6 PCT R. 131(2) EPC*
- 41** However, if an applicant proves to the satisfaction of the EPO as receiving Office, ISA, SISA or IPEA that the despatch of a communication did not take place on the date that the document bears, the actual date of mailing will be taken as the basis for computing the applicable time limit. Furthermore, if a communication was received more than seven days after the date it bears, the applicable time limit will be extended by the number of days by which the communication was received later than seven days after the date it bears.

B. The EPO as a PCT receiving Office

Who may file an international application with the EPO?

- 42 An international application may **at the applicant's option** be filed:
- with the national office of the PCT contracting state of which the applicant is a resident or national, or with the office acting for that state, or
 - with the IB as receiving Office.
- 43 A third option exists for natural and legal persons who are nationals or residents of an **EPC** contracting state, since they may also file international applications with the **EPO** acting as a **receiving Office**. In such cases it is sufficient that at least one applicant is a national or resident of an EPC contracting state, regardless of whether he is for example mentioned in Box II of the PCT Request as applicant for the designation of the US only and, as the case may be, also as inventor. A person mentioned only as inventor does not qualify as an applicant.
- 44 If there are **two or more applicants**, it is sufficient for at least one of the applicants to satisfy these requirements. For instance, if a national or resident of an EPC contracting state is mentioned in the PCT request form as inventor and applicant for the purposes of the United States only, the international application may be filed with the EPO as receiving Office regardless of the residence and nationality of the other applicant(s).
- 45 When the EPO acts as receiving Office, the EPO will process the application in accordance with the relevant provisions of the PCT, including the PCT Receiving Office Guidelines (GL/RO) and the Administrative Instructions under the PCT (AI) (see points 11 ff).
- Where to file if the EPO is receiving Office?**
- 46 If the applicant has chosen the EPO as receiving Office the international application should be sent directly to one of the EPO filing offices and not to a national patent office (see point 43).
- 47 The EPO has filing offices in Munich, The Hague and Berlin. Please note that the sub-office in Vienna is not a filing office. The EPO's addresses are listed in Annex V.
- 48 The national law of an EPC contracting state may prescribe that an international application is to be filed with the EPO as receiving Office **via** its national patent office. Only in that case may the application be filed with the EPO as receiving Office via the national patent office of the EPC contracting state concerned.
- 49 If, pursuant to national law, the international application must be filed with the EPO as receiving Office via the competent national patent office, this office will only be acting as a "filing office" for the EPO and not as receiving Office. The date of receipt of the application by the national patent office concerned, on behalf of the EPO as receiving Office, will be considered the international filing date, on condition that the application meets the PCT requirements for a filing date to be accorded.

Art. 9, 10 PCT
R. 19.1, 19.2 PCT
WIPO PCT Guide
5.008-5.009

R. 4.5(d), 18, 19.1(b)
PCT
Art. 151 EPC
R. 157 EPC
GL/EPO E-VIII, 1

WIPO PCT Guide
5.022
PCT Newsletter
5/2012, 8
Section 203 AI

Art. 10 PCT
R. 157(1) EPC

OJ 2007, Spec.Ed.3,
A.1, A.2

Art. 75(2), 151 EPC
R. 157(1) EPC

50 In these cases the national patent office concerned must ensure that the application reaches the EPO not later than two weeks before the end of the thirteenth month from filing or, if priority is claimed, from the earliest date of priority. *R. 157(3) EPC*

51 The addresses of the national patent authorities of the EPC contracting states and information on national legislation are provided in the brochure "National law relating to the EPC"¹³.

Elements of the international application

52 Any international application **must** contain the following elements: PCT request, description, claim(s) and an abstract. Drawings must only be filed when they are necessary for the understanding of the invention. As regards international applications in the field of biotechnology see also the information in points 147 ff. *Art. 3(2), 7 PCT*

53 The international application has to be filed with the EPO as receiving Office **in one copy only**. However, if the application is filed by fax a confirmation copy must be filed (see points 71 ff). *R. 11.1 PCT
R. 157(2) EPC
OJ 2007, Spec.Ed.3, A.3*

Incorporation by reference of missing parts and elements

54 If the applicant has omitted to file a **part of** the description, the claims or the drawings of the international application or an **entire element**, i.e. (all of) the description or all of the claims, these parts and elements may be incorporated in the international application under the conditions set out in Rules 4.18 and 20 PCT. If all conditions are met, such incorporation will not affect the international filing date. This procedure may be summarised as follows: *R. 4.18, 20.5, 20.6, 20.7 PCT
WIPO PCT Guide 6.028*

55 Firstly, such incorporation requires that the omitted part(s) or element(s) be completely contained in an application from which the priority was (validly) claimed **on the international filing date** (see points 128 ff). The test for "completely contained" requires that the later filed missing part - e.g. a paragraph, a page or a drawing - be identical to the corresponding text/drawing in the priority document.

56 Secondly, the PCT request must contain a statement of incorporation by reference of the priority application(s). A statement to that effect is already provided in Box VI of the PCT request form.

57 If both conditions are met, an applicant who has omitted to file a part or element may include it by confirming its incorporation by reference. This requires that the conditions for confirmation set out in Rules 20.6 and 20.7 PCT are also met.

58 The procedure before the EPO as ISA/IPEA in the case of a positive/negative decision by the receiving Office on a request for incorporation by reference is set out below (see points 232, 369).

59 An applicant wishing to add omitted parts or elements to an international application which have no basis in a claimed priority application may do so under the conditions set out in Rule 20.5 PCT.

¹³ www.epo.org/law-practice/legal-texts/national-law.html

However, in that case the filing date of the application as a whole will be the date of filing of the missing parts or elements.

International filing date

- 60** Applicants must carefully consider the date on which an international application is to be filed and accordingly choose an appropriate way of filing to assure timely receipt at an EPO filing office (see point 47). *Art. 11 PCT*
- 61** The international filing date of an application filed with the EPO as receiving Office is the date on which the application is received at one of the EPO's filing offices or, in exceptional cases (see points 48-51), at a national patent office of an EPC contracting state acting as filing office on behalf of the EPO.
- 62** Each international application has a single filing date. The term "international filing date" should therefore not be interpreted as if there is any further filing date in respect of an international application. The word "international" only refers to the fact that the application concerned was filed as an application under the PCT.
- 63** The (international) filing date is not to be confused with the date of entry into the European phase before the EPO or into any national phase before a designated/elected Office (see Annex II). This means that even after entry into the European phase any reference to the filing date of the international application concerned is a reference to the international filing date (see points 449 ff).

Filing options if the EPO is receiving Office

- 64** International applications must be filed in writing, either on paper or in electronic form (e-filing). They may be filed direct, by post, by fax or online. If the application is filed in electronic form a fee reduction may apply (see point 183). *R. 11, 92.4 PCT
WIPO PCT Guide
6.003
OJ 2007, Spec.Ed.3,
A.1, A.2, A.3*
- Number of copies of documents filed*
- 65** The documents constituting an international application must be filed in **only one copy** with the EPO as receiving Office: PCT request form, description, claims, abstract and drawings (Box No. IX PCT request form). The same applies to any *other* documents referred to in Rule 3.3(a)(ii) PCT and listed in Box No. IX of the PCT request form. *Art. 3(2), 4-7 PCT
R. 3.3, 4-8, 11.1 PCT
R. 157(2) EPC
WIPO PCT Guide
5.010, 5.179-5.180*

Filing direct or by post

- 66** In principle, the date of filing accorded to an application filed with the EPO direct or by post is the **date of handing over or receipt respectively at an EPO filing office**. Automated mailboxes are installed in Munich (in "Kohlstrasse" and "Zollstrasse") and Berlin next to the EPO building. These automated mailboxes may be used at any time. In The Hague documents may be handed to the porter in the main building at any time. *WIPO PCT Guide
Vol. I/B2
OJ 2007, Spec.Ed.3,
A.1, A.2
OJ 2010, 642*

Loss or delay in the post

- 67 In case of loss or delay, the EPO accepts evidence of mailing a document only if it was mailed via the postal authorities or if one of the following delivery services was used instead: Chronopost, DHL, Federal Express, Flexpress, TNT, SkyNet or UPS. As evidence, confirmation of registration by the post office or of receipt by the delivery service must be provided at the request of the EPO. *R. 82.1(d), (e) PCT
OJ 2007, Spec.Ed.3,
A.1*
- 68 Please note that Rule 82 PCT excusing a delay in the post is not applicable to the priority period, because this provision may only be applied in respect of time limits fixed in the PCT. However, under strict conditions a right of priority may be restored (see points 131 ff). It is, therefore, recommended that an application be filed as early as possible. *Art. 48(1) PCT
R. 82.1 PCT
OJ 2010, 351*

Fax filing

- 69 An international application may, together with further documents other than authorisations and priority documents, be filed by fax with the EPO as receiving Office. The fax numbers are provided in Annex V, point 3. *R. 92.4 PCT
OJ 2007, Spec.Ed.3,
A.2, A.3
OJ 2008,16
OJ 2010, 642*
- 70 If an international application is filed by fax, the date on which the facsimile application documents are received in full at the EPO is accorded as the date of receipt of the application. Each of the EPO filing offices is based in the Central European Time zone (CET).
- 71 If an international application is filed by fax, the original, i.e. **the confirmation copy, is to be filed simultaneously**, and the fax should state that the confirmation copy has been filed separately on paper at the same time (see point 66). *OJ 2007, Spec.Ed.3,
A.3
OJ 2010, 642*
- 72 Further, on the first sheet of the PCT request form filed as confirmation copy it should be indicated that the international application has previously been filed by fax, in the form of the words "CONFIRMATION COPY" followed by the date of fax transmission.
- 73 If the confirmation copy is not submitted in due time, the applicant will be invited to submit it. If the confirmation copy is not received even after expiry of the time limit set in a second invitation, the application will be considered withdrawn (see point 430). *R. 92.4(d), (e),
(f) PCT*

E-mail, telegram, telex and similar means

- 74 An international application **cannot** be filed with the EPO by e-mail, telegram, telex or similar means. Applications so filed cannot be accorded a valid date of filing. For filing in electronic form see points 82 ff. *OJ 2000, 458
OJ 2007, Spec.Ed.3,
A.3*
- 75 E-mail, telegram, telex and similar means have **no legal force** in the proceedings under the PCT and cannot be used validly to perform **any** procedural act. Therefore, no time limit for such act can be complied with by such means.

Filing further documents

- 76** After an international application has been filed other documents may be filed in any proceedings before the EPO direct, by post or - with the exception of authorisations and priority documents - by fax at the EPO filing offices. *OJ 2007, Spec.Ed.3, A.3*
- 77** No confirmation copy of a further document must be filed, but the receiving Office may require a confirmation copy to be submitted (see point 71), which it will do in particular if the applicant has submitted substitute sheets under Rule 26 PCT and/or any sheets to be incorporated by reference under Rule 20.6 PCT. In these two cases the applicant is advised to submit a confirmation copy on his own initiative directly after sending the sheets concerned by fax. *R. 20.6, 26 PCT*

Acknowledgement of receipt

- 78** The receipt of an international application at an EPO filing office is, as a rule, acknowledged by post within four working days. The acknowledgement explicitly confirms the receipt of each separate document and item making up the international application (e.g. description, claims, abstract, data carrier, letter, etc.). *OJ 2007, Spec.Ed.3, A.3
OJ 2010, 642
GL/EPO, A-II, 3.1*
- 79** As from 1 March 2011 the receipt of an international application is acknowledged by automated Form 1031. This form is, therefore, no longer to be submitted by the applicant himself and can no longer be downloaded from the EPO website.
- 80** On request, the EPO also acknowledges receipt of an international application **directly by fax or post** upon payment of the administrative fee¹⁴. To ensure prompt acknowledgement, the request for fax confirmation and evidence of payment of the administrative fee (e.g. a bank order) or a debit order must be enclosed with the documents or filed at the same time. The applicant should not forget to also provide a fax number to which acknowledgement of receipt is to be sent. If no fax number is indicated, the acknowledgement is sent by post to the address of the applicant or, where applicable, his representative.
- 81** If the requirements for this express procedure are fulfilled, the acknowledgement is issued within **one working day** after receipt of the application.

E-filing

- 82** International applications may be filed in electronic form with the EPO as receiving Office, either online or offline on an electronic data carrier ("physical medium"). *R. 89bis PCT
OJ 2009, 182
OJ 2010, 226
GL/EPO A-II, 1.3*

¹⁴ www.epo.org/applying/forms-fees.html

Online filing

- 83** For online filing with the EPO as receiving Office, the EPO's Online Filing software or the PCT-SAFE software, provided by the IB, may be used. The software allows applicants to fill in the PCT request form (Form PCT/RO/101) directly in the electronic document formats that are accepted by the EPO as receiving Office.
- 84** The EPO's Online Filing software and the required smart card are free of charge. More information is available from the EPO Online Services on the EPO website¹⁵.
- 85** Information on the PCT-SAFE software is available on the WIPO website¹⁶.
- 86** If an international application is filed online with the EPO as receiving Office, the receipt of documents is **acknowledged electronically** by the EPO during the submission session. The acknowledgement includes the identity of the receiving Office, i.e. the EPO, the date and time of receipt, a reference or application number allocated by the EPO, a list of the files transmitted and a message digest, i.e. the message in compressed form.

Part 7, Annex F AI

Filing on a physical medium ("offline filing")

- 87** The physical media accepted by the EPO as receiving Office are CD-R, DVD+R, DVD-R. Reference is made to the information in the WIPO PCT Guide.¹⁷
- 88** If an international application is filed on a physical medium, the acknowledgement of receipt is sent by post (see point 78).

OJ 2007, Spec.Ed.3, A.5

E-filing in pre-conversion format

- 89** If any document making up the international application has been prepared by conversion from a different electronic document format (pre-conversion format), the applicant may be allowed to submit the document in that format together with a statement that the international application in electronic form is a complete and accurate copy of the document in pre-conversion format. Each pre-conversion document must be in a format that fulfils the requirements stipulated in the Decision of the President of 12 July 2007. Furthermore, it is recommended that pre-conversion documents be submitted as ZIP files.

*OJ 2007, Spec.Ed.3, A.5
PCT Newsletter
7/2008, 1*

PCT-EASY filing

- 90** Since 1 April 2007 the EPO as receiving Office has ceased to accept international applications filed in the PCT-EASY format. If an application is filed in the PCT-EASY mode together with a PCT-EASY

OJ 2007, 58

¹⁵ www.epo.org/applying/online-services/online-filing.html

¹⁶ www.wipo.int/pct-safe/en/download/download_client.html

¹⁷ www.wipo.int/pct/guide/en/gdvol1/annexes/annexc/ax_c_ep.pdf
www.wipo.int/pct/guide/en/gdvol1/annexes/annexd/ax_d_ep.pdf

diskette the latter will be disregarded and the application will be processed as a normal application filed on paper.

Divisional applications

- 91** The PCT does not provide for the possibility of filing a divisional application. A divisional application with an international application as its parent application may not be filed with the EPO as designated/elected Office unless the parent application has validly entered the European phase (see point 659). *GL/EPO E-VIII, 2.4.1*

The PCT request

- 92** International applications **must** be filed using **the PCT request form** (PCT/RO/101) or a corresponding computer printout. Applicants are advised to read carefully the PCT request form and the explanatory notes before completing the form. For electronic filing, see points 82 ff. *Art. 3, 4, 11(1)(iii) PCT
R. 3, 4 PCT
WIPO PCT Guide 5.015-5.093*
- 93** The PCT request form with the explanatory notes and the fee calculation sheet can be found in Annex VI and VII. Copies of these documents together with explanatory notes are available free of charge from the EPO, the IB and national patent offices. Both documents may also be downloaded from WIPO's website¹⁸.

Designation of inventor

- 94** It is recommended that the inventor always be identified (Box No. III, PCT request form), unless there are special reasons for not doing so. The name and address of the inventor must be furnished in the PCT request form if the applicant wants to enter the national phase of a state requiring that the data of the inventor be given in the request upon filing (e.g. the US). The consequences of non-compliance are a matter of national law. For up-to-date information on the national law of each of the PCT contracting states, see the WIPO PCT Guide. *Art. 4(1)(v) PCT
R. 4.1(a)(iv) PCT
WIPO PCT Guide 5.035-5.038
PCT Newsletter 8-9/2013, 8*
- 95** In so far as the applicant aims to obtain a European patent, the data concerning the inventor - if not already submitted during the international phase - must be provided upon entry into the European phase (see points 454 and 614). *Art. 22(1) PCT
R. 159, 163(1) EPC
GL/EPO E-VIII, 2.3.4*

Representation in the procedure before the EPO as receiving Office

- 96** Information on the representation of the applicant(s) during the international phase is to be provided in Box No. IV of the PCT request form. Before filling out the box, applicants should carefully read the instructions provided in the Notes to the PCT request form concerning Box No. IV and the information given below (see points 97-114). *Art. 27(7), 49 PCT
R. 90.1 PCT
Art. 133, 134 EPC
WIPO PCT Guide 11.001-11.014
OJ 1994, 538*

¹⁸ www.wipo.int/pct/en/forms/index.htm

- 97 Two categories of representative - agents in PCT terminology - have the right to practise before the EPO as receiving Office:
- any professional representative or association of representatives entered in the directory of professional representatives maintained by the EPO
 - any legal practitioner qualified to practise in patent matters in one of the EPC contracting states and who has his place of business in that state.

OJ 2013, 500, 535

98 Only a person belonging to at least one of these categories may be appointed as agent for an international application filed with the EPO as receiving Office (see points 35 ff). The directory of professional representatives can be consulted on the EPO website¹⁹.

99 The agent must always be mentioned by name in Box No. IV of the PCT request form, unless he belongs to an association of professional representatives registered as such with the EPO (see point 107). The agent may choose his address as he wishes on condition that it is in an EPC contracting state.

Two or more applicants - common agent and common representative

100 If there are two or more applicants a professional representative (see point 97) may be appointed as "**common agent**" (see point 37).

R. 90.2 PCT

101 Moreover, if the application is filed by two or more applicants, they may also appoint one of their number as "**common representative**" (see point 37). If no common agent or common representative is appointed, the applicant first named in the PCT request form who is entitled to file an application with the EPO as receiving Office is considered to be the common representative ("deemed common representative") (see point 38).

102 If no common agent is appointed, any correspondence is sent to the address of the (deemed) common representative. If the latter has appointed an agent, it is sent to the address of the agent of the (deemed) common representative. A different address may be provided as address for correspondence only if certain requirements are met (see point 108).

How to appoint an agent, common agent or common representative

103 Appointment of an agent, common agent or common representative for the international phase requires a declaration to that effect to be made either in the PCT request (Box No. IV PCT request form) itself 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.²⁰ If the agent, common agent or common representative is at the same time to be appointed for the procedure in the European phase, applicants are referred to the information in points 113 ff.

R. 90.4, 90.5 PCT

¹⁹ www.epo.org/applying/online-services/representatives.html

²⁰ www.epo.org/applying/forms-fees.html

- 104** For the appointment of the agent, the common agent or the 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 (see points 160 ff).
- 105** Appointment of a (common) agent may also be effected by referring in the PCT request or in a separate notice to an existing general power of attorney deposited with the EPO, if a copy of it is attached to the PCT request or the separate notice.
- 106** Please note that a power of attorney may not be filed by fax (see point 69).

Association of professional representatives

- 107** If the applicant wishes to appoint the members of an association of professional representatives as agents, the name of the association and its registration number must be indicated in Box No. IV of the PCT request form.

*R. 90 PCT
R. 152(11) EPC
OJ 2013, 500, 535*

Address for correspondence

- 108** If no agent has been appointed, any correspondence is sent to the applicant. In that case applicant firms with operations at different locations may indicate an address for correspondence in an EPC contracting state. Since taking care of the post of another person requires competence to represent that person, the address of a third party may not be indicated, but only an address of the applicant himself. EPO practice on the use of an address for correspondence is scheduled for revision in 2014. A Notice from the EPO will follow (see also point 463).

*Art. 27(7) PCT
Art. 150 EPC
OJ 1980, 397*

Waiver

- 109** The EPO as receiving Office (and also as 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 be submitted to it if the PCT request is not signed by (all) the applicant(s). The waiver does not apply to a legal practitioner referred to in Article 134(8) EPC if that person is not also a professional representative.
- 110** 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.
- 111** However, as a matter of strategy and caution, (common) agents and common representatives are recommended to obtain explicit authorisation from (all) the applicant(s) by way of direct signature of the PCT request or by duly signed powers of attorney. **The authorisation of each applicant is required in any case in which a withdrawal of any kind is submitted.**

*R. 90.4(d) PCT
Art. 134 EPC
OJ 2010, 335*

R. 90.5(c) PCT

*R. 90.4(e), 90.5(d),
90bis PCT*

- 112** The EPO may require the filing of a separate power of attorney or a copy of a general power of attorney in any case of doubt as to the (common) agent's or common representative's entitlement to act. OJ 2010, 335

Appointment of an agent for the European phase with the EPO as receiving Office

- 113** 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 receiving Office and the agent is appointed by separate authorisation, the applicant(s) may at the same time indicate therein that the agent is also appointed to represent the applicant(s) before the EPO as designated or elected Office in the European phase. For the designation of an agent for the international *and* European phase at the same time, the applicant may use Form EPA/EPO/OEB 1003 available on the EPO's website²¹. Art. 27(7), 49 PCT
R. 90.1 PCT
Art. 134 EPC
WIPO PCT Guide
11.001
GL/EPO A-VIII, 1.5
- 114** If the appointment of an agent is effected by reference to an existing general power of attorney and filing of a copy (see point 105), the appointment of the agent also for the European phase must be explicitly made in a separate notice.

For which states may international applications be filed?

- 115** An international application may seek patent or another form of protection (utility model, for example) for any PCT contracting state. Art. 4(1)(ii),
11(1)(iii)(b) PCT
R. 4.9(a), (b) PCT
Art. 153(1) EPC
WIPO PCT Guide
5.052
- 116** Upon filing of the PCT request, the applicant will obtain automatic and all-inclusive coverage of all designations available under the PCT on the international filing date, in respect of every kind of protection available and in respect of both regional and national patents. The (automatic) designation EP covers all EPC contracting states for which the PCT and the EPC are in force on the filing date of the international application.
- 117** A decision on the EPC contracting states in which protection by way of a European patent is actually being sought need not be made until the application enters the European phase (see points 418 ff). Therefore, if a state accedes to the EPC after the international filing date, the EPO cannot act as a designated Office for the EPC contracting state concerned and no European patent can be obtained for that state. In this respect, the date of entry into the European phase is irrelevant.

²¹ [http://documents.epo.org/projects/babylon/eponet.nsf/0/F0E8FAC1BF4ED2A7C125737E004E4C9A/\\$File/1003_form_11_11.pdf](http://documents.epo.org/projects/babylon/eponet.nsf/0/F0E8FAC1BF4ED2A7C125737E004E4C9A/$File/1003_form_11_11.pdf)

Non-designation for reasons of national law

- 118** For reasons of national law, check-boxes in Box No. V of the PCT request form provide for exceptions to the otherwise automatic designation of Germany (DE), Japan (JP) and the Republic of Korea (KR). Crossing the check-box for these designations is **not** considered as withdrawal of a designation, but as non-designation of the state(s) concerned. *R. 4.9(b) PCT
WIPO PCT Guide
5.053*
- 119** According to the national law of these states, the filing of an international application which contains the designation of that state and claims the priority of an earlier national application filed in that state (for Germany: for the same kind of protection) will have the result that the earlier national application ceases to have effect, with the same consequences as the withdrawal of the earlier national application. To avoid this effect the appropriate box must be crossed (Box No. V PCT request form). More information on so-called "self-designation" can be obtained from the national patent offices concerned.
- 120** As regards the EPC contracting states, the problem of self-designation exclusively concerns Germany (DE) and only if the PCT request includes the automatic designation of Germany for a **national patent**. The designation of Germany for the purposes of a **European patent** is not considered a self-designation and is thus not affected. Consequently, there is no reason for withdrawing the automatic designation of EP.
- 121** The national law of a number of EPC contracting states stipulates that on the basis of a PCT application **only a European patent** may be obtained for these states. The countries which close off the route to a national patent in this way were, on 1 January 2014, Belgium (BE), Cyprus (CY), France (FR), Greece (GR), Ireland (IE), Italy (IT), Latvia (LV), Monaco (MC), Malta (MT), Netherlands (NL) and Slovenia (SI). Lithuania (LT) will close off the route to a national patent on 4 September 2014. *Art. 45(2) PCT*

Extension

- 122** With some European states, which are not a party to the EPC and thus not "included" in the designation "EP", the EPO has agreed a so-called "extension agreement". Pursuant to such agreement an applicant may, in the European phase, extend his application to any "extension state" on condition that all requirements are met. Valid extension requires, firstly, that on the international filing date the extension agreement was in force and, secondly, that this extension state was both a PCT contracting state at the filing date and was designated for a **national patent** in the international application. *GL/EPO General
Part, 7, A-III, 12*
- 123** The extension states listed below were already PCT contracting states on the date of entry into force of the extension agreement. Moreover, as from 1 January 2004, all PCT contracting states are automatically designated for a national and, where applicable, a regional patent (see point 116).

- 124** On 1 January 2014 an extension agreement is in force with:
- Bosnia and Herzegovina (BA) (since 1 December 2004); *OJ 2004, 563, 619*
OJ 2007, 406
OJ 2010, 10
 - Montenegro (ME) (since 1 March 2010).
- 125** As to the extension of a European patent to the Republic of Montenegro (ME) following its Declaration of Independence on 3 June 2006 and before entry into force of the extension agreement on 1 March 2010, reference is made to the information in the Official Journal.
- 126** The extension agreements with Albania (AL), Croatia (HR), Latvia (LV), Lithuania (LT), the former Yugoslav Republic of Macedonia (MK), Romania (RO), Serbia (RS) and Slovenia (SI) terminated when these states acceded to the EPC. **The extension system continues to apply after the relevant termination date for all applications filed prior to the date on which the extension agreement concerned terminated.** *OJ 2002, 463*
OJ 2003, 1
OJ 2004, 481
OJ 2005, 299
OJ 2007, 637
OJ 2008, 507
OJ 2010, 96
OJ 2010, 394
- 127** A decision on the states for which extension is sought - and in accordance therewith timely payment of the extension fee(s) is due - need not be taken until the application has to enter the European phase (see points 561 ff). *OJ 2009, 603*

Priority claim

- 128** A declaration in an international application claiming the priority of one or more earlier applications filed in or for any state party to the Paris Convention for the Protection of Industrial Property ("Paris Convention") or in or for any Member of the World Trade Organization (WTO) that is not party to the Paris Convention must always indicate the date on which the earlier application was filed, the state or states in which it was filed and the application number(s) under which it was filed. If the earlier application was a regional one, it suffices to give the name of the patent-granting authority under the regional agreement - i.e. "EP" in the case of a European application (Box No. VI PCT request form). *Art. 8(1) PCT*
R. 2.4, 4.10 PCT
WIPO PCT Guide
5.007, 5.057-5.071,
6.038-6.044
OJ 2007, 692
- 129** Priority from an application filed in or for a WTO Member that is not party to the Paris Convention may only be claimed in the procedure before the EPO as designated Office for an application filed on or after 13 December 2007.
- 130** If the priority application was not filed by the applicant but transferred to him, the transfer must have taken place before the filing of the application. Proof of entitlement at the international filing date must be submitted (only) if the validity of the priority right claimed becomes relevant in the proceedings before the EPO. *GL/EPO A-III, 6.1*

Restoration of priority right

- 131** If an international application is filed after expiry of the priority period a request for restoration of priority right under Rule 26bis.3 PCT may be filed with the EPO as receiving Office. A request for restoration of priority may also be filed with the EPO upon entry into the European phase, but its effect will then per se be limited to the grant procedures before the EPO (see points 636 ff).
- Art. 8 PCT
R. 2.4, 26bis.2(c),
26bis.3, 80.5, 82
PCT
Art. 122 EPC
Art. 2(1).13 RFees
WIPO PCT Guide
5.063-5.069
OJ 2007, 692
PCT Newsletter
2007/4, 1-5*
- 132** If the last day of the priority year falls on a non-working day or an official holiday of the EPO, the priority year expires on the next subsequent working day. Rule 82 PCT concerning delay in receipt of an international application due to irregularities in the mail is not applicable to the 12-month time limit for claiming priority, since this time limit is not fixed in the PCT.
- R. 80.5 PCT*
- 133** The EPO as receiving Office may only grant a request for restoration of priority right if the following requirements are met:
- the international filing date is within two months from the date on which the priority period expired;
 - the request for restoration is filed within the time limit of two months from the date on which the priority period expired;
 - the fee for restoration of the right of priority is paid within the same time limit, which is not extended if the EPO acts as receiving Office;
 - the request for restoration is supplemented by a statement explaining the reasons for failure to file the application within the priority period together with, where available, any evidence; and
 - the failure to file the international application within the priority period occurred in spite of due care required by the circumstances having been taken by the applicant.
- 134** If the EPO as receiving Office intends to refuse a request for restoration of priority right, further submissions and/or evidence may be filed with the EPO within the time limit of two months from the date on which the first communication was issued (Form PCT/RO/158). Only then, will a final decision be taken and issued (Form PCT/RO/159).
- 135** A decision by the receiving Office on a request for restoration of priority is not required for the international search if the application was filed within two months from the date on which the priority period expired, because in that case the priority claim may not be considered void during the international phase (see point 234).
- R. 26bis.2(c) PCT*
- 136** If the applicant has not requested restoration of priority in the procedure before the EPO as receiving Office or if the request for restoration has been rejected by the latter, the applicant may file a new request in the national phase, i.e. in the procedures before the EPO (see points 636 ff) and any other designated Office that has not made a reservation as to the applicability of Rules 49ter.1 and .2 PCT.
- R. 26bis.2(c)(iii) PCT*

- 137** If the EPO as receiving Office has granted a request for restoration, that decision is valid and will not be reviewed in the procedure before the EPO as designated Office (see points 640-641). If no reservation applies, that positive decision will as a rule also be accepted by other designated Offices. *R. 49ter.1 and 2 PCT*

- 138** For information as to the Offices that have made a reservation, reference is made to the information in the WIPO PCT Guide (see points 11 ff).

Furnishing of the priority document

- 139** Where the applicant claims the priority of an earlier application, a certified copy of that earlier application ("the priority document") must be filed with the receiving Office or the International Bureau within 16 months after the priority date. However, if the earlier application was filed with the receiving Office, the applicant may request that the receiving Office transmits a certified copy of the earlier application to the International Bureau. For that purpose a check-box is provided in Box No. VI of the PCT request form. *R. 17.1(a), (b) PCT*

- 140** If the EPO is requested to prepare and transmit a priority document to the International Bureau a fee is due. *R. 17.1(b) PCT
Art. 3(1) RFees*

- 141** Please note that the procedure whereby the EPO includes free of charge a copy of the previous application from which priority is claimed in the file of a European patent application does not apply in respect of an international application processed by the EPO as receiving Office (see point 626). Moreover, the obligation to furnish the priority document cannot be met by a request to the IB under the Digital Access Service (DAS) to retrieve that document from an electronic library, because the EPO does not participate in this system. *R. 17.1(b-bis) PCT
OJ 2009, 236
PCT Newsletter
12/2010, 8*

- 142** A priority document may not be filed by fax (see point 69).

The International Searching Authority (ISA)

- 143** If an international application is filed with the EPO acting as receiving Office, the **EPO is the only competent ISA**. Therefore, this need not be entered in Box No. VII of the PCT request form. *Art. 16 PCT
R. 4.1(b)(iv), 4.14bis
PCT
Art. 152 EPC*

Taking an earlier search into account

- 144** The applicant may file a request with the receiving Office that the result of an earlier search carried out by the EPO or by any other office be taken into account. A refund of the international search fee is, however, granted only under the conditions set out in point 145. *R. 4.12 PCT*

Refund of the search fee paid for a priority application

- 145** An applicant who is of the opinion that the EPO can base its search entirely or partly on an earlier search report already prepared by the EPO on an application whose priority is validly claimed (Box No. VI of the PCT request form) may obtain a refund of the international search fee paid. The EPO acting as ISA decides whether the requirements are met and, where applicable, refunds the applicable amount (see point 216). Where priority is claimed from an application for which the EPO carried out a search, the continuation section of Box No. VII in the PCT request does not need to be filled out.
- R. 4.12, 12bis.1(d), 16.3, 41 PCT Agreement EPO-WIPO Art. 5(2) OJ 2010, 304 OJ 2012, 256 WIPO PCT Guide 5.073 OJ 2009, 99 OJ 2010, 341 GL/EPO A-X, 10.2.3*
- 146** No refund is made for any search other than a search carried out by the EPO on an application from which the right of priority is validly claimed.

Applications containing a reference to biological material

- 147** Under the PCT, the question as to whether a reference to deposited **biological material** must be included in an international application is left to the national law of the designated states. The PCT, however, prescribes the contents of a required reference and sets the time limit for providing such a reference.
- R. 13bis PCT R. 31-34 EPC WIPO PCT Guide 11.075-11.087 OJ 2010, 506 Section 209 AI*
- 148** A reference to biological material in accordance with the provisions of the PCT is to be regarded by each designated Office as satisfying the requirements of its national law as to the content and time for furnishing the reference. However, a national requirement may be added and become a PCT requirement upon notification to the IB. The EPO has made use of this possibility (see points 149-150).
- 149** The EPO has notified the IB that if the biological material has not been deposited by the applicant but by someone else, the name and address of the latter person (the depositor) must be stated in the international application. Moreover, a document must be submitted within 16 months from the priority date in which the depositor:
- has authorised the applicant to refer to the biological material, and
 - has given his/her unreserved and irrevocable consent to the deposited material being made available to the public.
- R. 13bis.4, 7 PCT R. 31(1)(d) EPC*
- 150** Such authorisation is, however, not required if the depositor transferred his rights in the deposit to the applicant on the filing date at the latest. In that case the document containing the transfer must be submitted instead. For further information see Annex L to the WIPO PCT Guide and the information in the Guide for Applicants, Part 1, points 76 ff.
- 151** If any requirement concerning a reference to biological material is not met within 16 months from the priority date of the application, this **cannot** be corrected in the procedure before the EPO as a designated Office, i.e. upon entry into the European phase. As a consequence the international application may be refused for insufficient disclosure in the course of the examination proceedings before the EPO as designated/elected Office.

152 Details of deposited biological material which are not included in the description should be supplied on a separate form (PCT/RO/134) (Box No. IX, check-box No. 7 PCT request form). This form must be used also if the applicant wishes samples to be made available only to an expert.

153 The furnishing of samples of biological material by the EPO takes place in conformity with Rule 33 EPC. As a consequence, if the requirements of Rule 33 EPC are met, samples of biological material are furnished by the EPO in its capacity as designated Office to third parties as from international publication, i.e. during the international phase. The EPO has notified the IB that if the applicant wishes the biological material to be made available only by the issue of a sample to an expert nominated by the requester, the applicant must inform the IB accordingly before completion of the technical preparations for publication of the international application, where such publication takes place in one of the EPO's official languages. If the international application was not published in an official language of the EPO, notification of the expert solution may be submitted until completion of the technical preparations for publication of the translation of this application. The fact that this solution has been chosen will be published on the front page of the published translation of the application.

*R. 13bis.6 PCT
R. 32(1), 33 EPC
OJ 1992, 470
OJ 2010, 498
PCT Newsletter
7-8/2010, 6
11/2011, 5*

Applications disclosing nucleotide and/or amino acid sequences

154 If the international application discloses one or more **nucleotide and/or amino acid sequences**, it must contain a sequence listing, which is to be drawn up in compliance with the standard (WIPO Standard ST.25) prescribed in Annex C of the Administrative Instructions under the PCT and published on the WIPO website. The sequence listing must comply with the version of WIPO Standard ST.25 which is applicable on the date on which the sequence listing is submitted²².

*R. 5.2, 13ter.1 PCT
WIPO PCT Guide
5.099-5.108,
7.005-7.012, 11.088
OJ 2007, Spec.Ed.3,
C.2
OJ 2011, 372
OJ 2013, 542
Section 101, 207,
208, 513, 610,
707(a) and (a-bis)
Annex C AI
PCT Newsletter
12/2010, 5
7-8/2009, 10*

155 Any sequence listing not contained in the international application as filed will - if not allowable as an amendment under Article 34 PCT (see points 364 ff) - not form part of the international application.

156 Tables related to sequence listings must be included as an integral part of the description in the same format as the remainder of the application. Any pages of tables relating to sequence listings count as regular pages of the description for which full page fees are payable (see point 170).

157 The EPO accepts sequence listings filed on electronic media as specified by the EPO (see point 87).

158 If an international application is filed in electronic form, a sequence listing forming part of such application and filed in text format in compliance with Annex C is not taken into account for calculating the (page fee part of the) international filing fee (see point 168) and there

²² www.wipo.int/export/sites/www/standards/en/pdf/archives/03-25-01arc2009.pdf

will be no need to file a second copy for the purposes of international search and, where applicable, international preliminary examination (see points 261, 395).

- 159** If any other option for filing a sequence listing is chosen - e.g. filing on paper or in image format - the sum of the page fee part of the international filing fee is calculated taking into account each page of the sequence listing. Further, if the EPO acts as ISA, SISA and/or IPEA a sequence listing in electronic form in text format in compliance with Annex C must be furnished (see points 261 ff).

*R. 13ter.1 PCT
OJ 2011, 372
OJ 2013, 542
GL/EPO A-IV, 5;
E-VIII, 2.4.2*

Signature

- 160** The PCT request form or, where applicable, the power of attorney **must be signed by the applicant**.

*R. 4.1(d), 4.15,
26.2bis(a),
51bis.1(a)(vi) PCT
WIPO PCT Guide
5.088-5.091*

- 161** Where there are two or more applicants each applicant must sign the request, or each applicant for whom an agent has been appointed must sign a power of attorney (Box No. IX PCT request form). However, if there is more than one applicant the EPO as receiving Office will not invite the applicant to furnish the missing signature(s) if the PCT request form is signed by **at least one of the applicants**. Any designated Office, however, may require the missing signature of any applicant who has not signed the PCT request for that designated state.

- 162** The EPO as designated Office does not require a missing signature to be submitted upon entry into the European phase.

- 163** If not the applicant but his agent has signed the PCT request form a signed power of attorney or a copy of a general power of attorney need not be submitted since this requirement has been waived by the EPO (see point 109). However, as a matter of strategy and caution agents are recommended to obtain explicit authorisation from all applicants, either by way of direct signature or powers of attorney (see points 111 ff).

*R. 90.3, 90.4,
90.5 PCT
OJ 2010, 335*

Language of the international application

- 164** 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. An international application filed in another language will be forwarded to the IB to act as receiving Office instead of the EPO. This means that there is no possibility to file an application with the EPO as receiving Office in any other language as is provided under Article 14 EPC for European patent applications not filed via the PCT route (Euro-direct applications).

*Art. 3(4)(i), 11(1)(ii)
PCT
R. 12, 19.4 PCT
Art. 14, 150(2) EPC
R. 3, 157(2) EPC
WIPO PCT Guide
5.013-5.014
OJ 1993, 540*

- 165** If an application is filed with the EPO as receiving Office in one of its official languages, that language will be the language of the proceedings which may not be changed either during the international phase or on entry into the European phase (see points 424-425). However, with the exception of amendments and corrections to the application, for which the language of the international application must be used, any other correspondence with the EPO may be in any of the EPO's three official languages.

*OJ 1993, 540
G 4/08
OJ 2010, 572*

Fees

- 166** For fee payments to be made during the international phase applicants are recommended to consult the latest information available on both the EPO and the WIPO websites. Furthermore, guidance for the payment of fees, expenses and prices is provided in each issue of the Official Journal. *Art. 3(4)(iv) PCT
R. 14-16 PCT
WIPO PCT Guide
5.184-5.199*
- 167** Fee payments to the EPO may be validly made by anyone: applicants, representatives and any other person.
- 168** For international applications the following fees are payable direct to the EPO as receiving Office:
- the transmittal fee,
 - the international filing fee, and
 - the international search fee.
- 169** The transmittal, international filing and search fees are payable within **one month** of receipt of the international application. *R. 14.1, 15.3,
16.1(f) PCT*
- 170** If the application contains **more than 30 pages**, the international filing fee is increased, with a fixed sum to be paid for each page in excess of 30 pages. This extra fee is considered part of the international filing fee and must be paid by the applicant together with the (basic) filing fee. The applicant must compute the extra amount himself and not wait for a communication, because as from expiry of the one month time limit the missing amount may only be validly paid together with a late payment fee (see point 186).
- 171** 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 all requirements are met (see point 158).

Amounts of fees

- 172** The amounts of the transmittal and international search fee are fixed by the EPO and given in the EPO's current Schedule of fees and expenses published in the Official Journal. *R. 157(4) EPC
Art. 2(1).2, 2(1).18
RFees
OJ 2012, 639*
- 173** The conditions for a reduction in the international search fee are set out in points 214 ff.
- 174** The amount of the international filing fee, including the page fee, is fixed by WIPO 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 this fee is paid to the EPO as RO, it 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. This is announced by WIPO in its PCT Newsletter and in the EPO's Official Journal. The amounts payable in respect of the international filing fee, the search fee and the transmittal fee are those applicable on the date of receipt of the international application. *R. 15.3, 16.1(f),
14.1(c), 96.1 PCT
PCT Schedule of
Fees*
- 175** The conditions for a reduction in the international filing fee are set out in points 179 ff.

Payment methods

- 176** All fees which are to be paid to the EPO must be paid in euros by payment or transfer to a bank account held by the EPO. For persons having a deposit account with the EPO payment may be made by debit order. A debit order can also be submitted in electronic form via the EPO's Online Fee Payment portal. However, the **automatic debiting** facilities are not yet available for any fee payments to the EPO as receiving Office, ISA and IPEA. Furthermore, payment of fees by **credit card** is not possible and payment by **cheque** was abolished by the EPO in 2008. Each issue of the Official Journal provides guidance for the payment of fees.

*OJ 2007, 626
OJ 3/2009,
Supplement*

- 177** The equivalent amount in euros of any fee set in Swiss francs by WIPO is from time to time amended. Actual fee rates are published in the Official Journal, the Official Notices (PCT Gazette) and the PCT Newsletter (see points 11 ff).

- 178** 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.

Art. 7(1) RFees

Reductions

- 179** The international filing fee is reduced by 90% if the requirements stipulated in point 5 of the PCT Schedule of Fees are met. If there are several applicants, each of them must satisfy the requirements for the reduction to apply.

*Point 5 PCT
Schedule of Fees
WIPO PCT Guide
5.188*

- 180** In respect of applicants entitled to file an international application with the EPO as receiving Office (see point 43) the reduction applies if the applicant is a natural person who is a national of and resides in one of the following states: Albania (AL), Bulgaria (BG), Croatia (HR), Czech Republic (CZ), Estonia (EE), Hungary (HU), Latvia (LV), Lithuania (LT), former Yugoslav Republic of Macedonia (MK), Poland (PL), Romania (RO), Serbia (RS), Slovakia (SK), Turkey (TR). On 1 January 2014 these EPC/PCT contracting states fell within the criteria of point 5(a) of the PCT Schedule of Fees.

- 181** If the application is filed by more than one applicant, only one must be a national and resident of one of the EPC/PCT contracting states listed above, but each applicant must fulfil the criteria mentioned under point 5 of the PCT Schedule of Fees.

- 182** A list of states whose nationals/residents may satisfy the requirements for a reduction to apply is published in the PCT Newsletter.

- 183** If the EPO acts as receiving Office a reduction in the international filing fee may be obtained if the application is filed in **electronic form** (see point 82). The level of the reduction depends on the format in which the application is filed (PDF or XML format).

*WIPO PCT Guide
5.189*

- 184** The EPO as receiving Office does not accept international applications filed in PCT-EASY format. If an application is filed in that format the EPO will process it as an application filed on paper and, consequently, no reduction applies (see point 90).

- 185** The PCT request form contains a Fee Calculation Sheet which applicants are asked to use for calculating fees (Annex VII).

Late payment of fees

- 186** If no fees are paid within the prescribed time limits (see point 169), or if the amounts paid are not sufficient to cover the fees due, the EPO invites the applicant to pay the missing amount together with a late payment fee of 50% of the amount of unpaid fees but at least an amount equal to the transmittal fee.
- 187** The late filing fee may 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.
- 188** If the applicant fails to pay the prescribed fees together with the late payment fee within one month of the date of the invitation, the international application will be considered withdrawn and the receiving Office will so declare.
- Art. 14(3)(a) PCT
R. 16bis PCT
WIPO PCT Guide
5.193-5.196
OJ 1992, 383*

C. The EPO as an International Searching Authority (ISA) and a Supplementary International Searching Authority (SISA)

I. General

189 Since 1 July 2010 the EPO, in its capacity as an International Authority under the PCT, acts not only as an ISA and an IPEA but also as a Supplementary International Searching Authority (SISA). This chapter first sets out the procedure before the EPO acting as ISA, and at the end provides information on the procedure before the EPO acting as SISA (see points 273 ff). Chapter D provides information on the procedure before the EPO acting as IPEA.

190 The Agreement EPO-WIPO sets out particulars of the procedures before the EPO as an International Authority. The agreement dated 2 October 2007, currently in force, was last revised with effect from 1 July 2010. Annex C, Part I, of the agreement was revised with effect from 1 April 2012.

*OJ 2010, 304
OJ 2012, 256*

The role of the EPO as ISA

191 The EPO as ISA establishes for each international application an International Search Report (ISR) and a Written Opinion of the International Searching Authority (WO-ISA) under Chapter I PCT (see points 222 ff).

192 The ISR contains, among other things, the citations of the prior art documents considered relevant, the classification of the subject-matter of the invention and an indication of the fields searched.

R. 43 PCT

193 The WO-ISA provides the applicant with a preliminary, non-binding opinion on the issues of novelty, inventive step and industrial applicability. This allows the applicant to assess, already at the search stage, whether to proceed to the national/regional phase. For this and other reasons, in some cases international preliminary examination may have no added value (see points 300 ff). Therefore, before taking a decision on filing a demand for international preliminary examination, applicants are advised to consider carefully the information regarding the usefulness of the procedure under Chapter II PCT.

Competence of the EPO as ISA

194 Although the EPO's competence to act as ISA is in principle **universal**, i.e. not restricted to international applications from e.g. EPC contracting states, its competence to act as ISA for an international application is, as set out below, not automatically applicable (see points 195 ff).

*Art. 16 PCT
R. 35 PCT
Art. 152 EPC
Agreement EPO-
WIPO, Art. 3(1)
OJ 2010, 304
WIPO PCT Guide
7.002*

Specification by the receiving Office

195 The EPO can act as ISA only on condition that the receiving Office where the application was filed has specified the EPO as ISA.

- 196** Since most receiving Offices have specified the EPO, only states that had not (yet) specified the EPO as ISA (and IPEA) on 1 January 2014 are mentioned here: United Arab Emirates (AE), Antigua and Barbuda (AG), Australia (AU), Canada (CA), China (CN), Dominica (DM), Saint Kitts and Nevis (KN), Democratic People's Republic of Korea (KP), Republic of Korea (KR), Papua New Guinea (PG) and Iran (Islamic Republic of) (IR). Up-to-date information is available on the WIPO website (see point 14).
- 197** If the IB is acting as receiving Office, the EPO is competent as ISA/IPEA if the international application could have been filed with a receiving Office which had specified the EPO as ISA/IPEA at the date of filing. *Agreement EPO-WIPO, Art. 3(3)
OJ 2010, 304*
- Limited competence*
- 198** The EPO has limited its competence as ISA under certain conditions. The EPO will not carry out an international search in respect of any international application filed by a national or resident of the United States of America with the United States Patent and Trademark Office (USPTO) as receiving Office where such application contains one or more claims relating to the field of **business methods as defined in Annex A of the Agreement EPO-WIPO**. *OJ 2010, 304*
- 199** Moreover, if the IB acted as receiving Office in respect of such an application, the EPO is not competent as ISA if the international application could have been filed with the USPTO as receiving Office, unless at least one of the applicants is a national of or has residence in an EPC contracting state (see point 43).
- 200** In respect of international applications claiming a business method and for which the limitation of competence does not apply, the EPO may also refuse to carry out a (full) international search for the reasons set out below (see point 256).
- Choice of ISA and consequences*
- 201** If the receiving Office has specified more than one ISA, the applicant must indicate his choice of ISA in the PCT request (Box No. VII) and in the Fee Calculation Sheet (Box No. 2) (see Annex VII). Only one ISA may be selected. For example, the EPO may be chosen as ISA for applications filed with the USPTO and for applications in English filed with the JPO as receiving Office. *R. 4.1(b)(iv),
4.14bis PCT
Agreement EPO-WIPO, Art. 3(2),
Annex A(ii)
OJ 2010, 304*
- 202** Applicants considering their choice of ISA are advised to bear in mind that the EPO will act as an **IPEA only if the international search was carried out by the EPO itself or by any other "European ISA"**. On 1 January 2014, the EPO, the Austrian, Finnish, Spanish and Swedish patent offices and the Nordic Patent Institute were acting as European ISAs (see point 311).
- 203** If the EPO acts as ISA or SISA, the supplementary European search report is dispensed with and so no search fee will be due on entry into the European phase (see point 577). *OJ 2009, 594
OJ 2012, 584*
- 204** If the EPO acts as IPEA, a reduction of 50% in the fee due for examination in the European phase is granted (see point 601). *Art. 14(2) RFees*

Translation

- 205** For the purpose of the international search by the EPO as ISA the application must be written 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 with the receiving Office a translation into one of the three official languages of the EPO. Such translation must be furnished within one month of the date of receipt of the international application by the receiving Office. *R. 12.3 PCT*
- 206** If the application was not filed with the receiving Office in a PCT language of publication, the language of the translation submitted for the purpose of the procedure before the EPO as ISA determines the language in which the international application is published. In any case where the language of the international publication is an official language of the EPO, that language will be the language of the proceedings in the European phase and cannot be changed. Therefore, applicants must carefully consider in which language they submit a translation for the purpose of international search. *R. 48.3 PCT
OJ 2010, 572
G 4/08 of 16.2.2010*
- 207** Upon payment of the search fee, the receiving Office will promptly forward a copy of the translation and of the PCT request form ("search copy") to the EPO as ISA. *Art. 12(1) PCT
R. 23.1(b) PCT*

Language of further correspondence

- 208** In any further correspondence with the EPO as ISA the applicant may use any of the three official languages of the EPO (see point 165). *R. 92.2(b) PCT
OJ 1993, 540*

Application filed in Dutch

- 209** An exception to the translation requirements for the purpose of international search by the EPO as ISA applies only if the application was filed with the Belgian or Netherlands patent office as receiving Office, since - although not an official language - the EPO as ISA also accepts applications drawn up in Dutch. Therefore, a translation of an international application filed in Dutch with the Belgian or Netherlands patent office is not required for the purpose of the international search by the EPO as ISA. However, within 14 months from the priority date a translation must be filed with the receiving Office in a language of publication accepted by the receiving Office for the purpose of international publication. The ISR and WO-ISA will be established in the language of the international publication. For the above reasons, filing an application in Dutch is to be carefully considered. *R. 12.3, 12.4, 43.4,
48.3 PCT
Agreement EPO-
WIPO, Annex A(i)
OJ 2010, 304*

Representation before the EPO as ISA

- 210** Applicants may be represented before the EPO as ISA by the agent appointed on filing the international application and having the right to practise before the receiving Office, i.e. the agent for the international phase (see points 36 ff).
- 211** An applicant may also appoint an agent to represent him **specifically before the EPO in its capacity as ISA**. Moreover, the agent appointed for the international phase - and thus including for the procedure before the ISA - may appoint a sub-agent to represent the applicant specifically before the EPO as ISA. All communications issued by the ISA are sent to the agent specifically appointed for the procedure before the EPO as ISA.
- 212** Any agent specifically appointed to act before the EPO as ISA must be entitled to practise before the EPO (see point 98).
- 213** The requirements in respect of filing a separate power of attorney or a copy of a general power of attorney have been waived by the EPO as ISA (see point 109).

Art. 49 PCT
R. 83.1bis(b),
90.1(a), (b), (d) PCT
WIPO PCT Guide
11.001-11.014
PCT Newsletter
4/2008, 7

OJ 2010, 335

Reduction of the search fee

- 214** The search fee to be paid if the EPO acts as ISA 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. A table containing this classification is available on the EPO website.²³
- 215** The consequence of the requirement that **each applicant** must be a natural person who is a national and resident of a state **not** party to the EPC is that any applicant with the nationality of or residence in an EPC Contracting State does, already for that reason, not fulfil the requirements for the reduction in the search fee (and the fee for international preliminary examination) but may fulfil the requirements for the reduction in the international filing fee (see point 179) and the handling fee (see point 354).

WIPO PCT Guide
5.188-5.190
OJ 2008, 521
GL/EPO A-X, 9.3.3

Refund of the search fee

- 216** Where the EPO can base the ISR on an earlier search that it has performed on an application whose **priority is validly claimed** for the international application, the search fee paid will be refunded in part or in full depending upon the extent to which the EPO benefits from that earlier search (see point 144).
- 217** No refund is made for an earlier search that was not carried out by the EPO itself and/or if priority has not been validly claimed (see point 146).

R. 4.12, 12bis, 16.3,
41.1 PCT
WIPO PCT Guide
5.073
OJ 2009, 99
OJ 2010, 341

²³ www.epo.org/applying/forms-fees/international-fees/information.html

II. The procedure before the EPO as ISA

General

- 218** The objective of the international search is to discover relevant prior art. The PCT defines prior art as consisting of everything which has been made available to the public anywhere in the world by means of a written disclosure. Prior art is relevant if it is of assistance in determining whether the claimed invention is new and involves an inventive step. *Art. 15, 27(5) PCT
R. 33.1 PCT
GL/EPO B-II, 2,
B-III, 1*
- 219** The definition of prior art in Rule 33 PCT is valid exclusively for the international phase of the procedure. This means that during the European phase the EPO applies the criteria applicable under the EPC for determining the relevant prior Art. However, the scope of an international search is equivalent to that of a European search. This means that there is **no difference between an international and a European search**, either in respect of the method and quality of the search or in respect of the sources of prior art searched.
- 220** The EPO conducts the international search in accordance with the ISPE Guidelines (see point 19). In a number of cases these guidelines leave it to the ISA concerned to choose between two or more (policy) options. A list of the options chosen by the EPO is provided in Annex IV.
- 221** In accordance with the principle of supplementary application of the EPC, the EPO as ISA applies the Guidelines for Examination in the EPO where the ISPE Guidelines are silent (see points 16-21).

Establishing the ISR and the WO-ISA

- 222** For each application the EPO as ISA issues both an International Search Report (ISR) or, in exceptional cases, a "declaration of non-establishment of the ISR" (see point 253) and a Written Opinion of the International Searching Authority (WO-ISA). *Art. 15, 18 PCT
R. 43, 43bis, 44 PCT
OJ 2003, 574*
- 223** The procedure for establishing the ISR and the WO-ISA is similar to that for establishing the European search report and the European Search Opinion (ESOP).
- 224** The WO-ISA provides the applicant with a preliminary non-binding written opinion on the question whether the claimed invention appears to be novel, to involve an inventive step and to be industrially applicable. A WO-ISA established by the EPO as ISA will be comparable to the written opinion established by the EPO for a Euro-direct application (ESOP) (see point 219). *R. 43bis.1 PCT*
- 225** Where appropriate the WO-ISA will also provide an opinion on issues such as added subject-matter, unity of invention, insufficiency of disclosure, support for the claims in the description, clarity, conciseness and formal defects (e.g. missing reference signs).
- 226** The WO-ISA may be positive or negative. A WO-ISA is qualified as positive if it contains no objections or only minor objections which would not hinder a direct grant in the European phase. In any other case the WO-ISA is considered negative (see point 229).

- 227** The ISR is established and then transmitted to the applicant and the IB within three months from receipt of the search copy of the application at the EPO or within nine months from the earliest priority date, whichever time limit expires later. *R. 42 PCT
WIPO PCT Guide
7.023
GL/ISPE 16.03*
- 228** The WO-ISA will be prepared at the same time as the ISR for delivery together with the ISR to the applicant and the IB. The EPO sends the ISR including the WO-ISA to the applicant together with a copy of each document cited in the ISR.
- 229** If the EPO acted as ISA (but not as IPEA), the applicant must provide a substantive response to any deficiencies set out in the WO-ISA ("negative WO-ISA") upon entry into the European phase ("mandatory response") (see points 503 ff). *R. 161 EPC
GL/EPO E-VIII, 3.2*

Multiple independent claims

- 230** As a rule the WO-ISA provides an opinion on all searched claims. However, if there are multiple independent claims only one independent claim in each category is dealt with in detail. In respect of further independent claims short comments are made. Where appropriate an objection as to clarity and conciseness under Article 6 PCT may be raised. Further, the ISA may exercise its discretion to ask the applicant to clarify the subject-matter to be searched (see point 260). *Art. 6 PCT*

Validity of priority claims

- 231** If at the time the search is conducted the priority document(s) is (are) not available to the ISA, the search will be conducted as if the priority claim(s) is (are) valid.

Incorporation by reference of missing parts and elements

- 232** If the receiving Office has granted a request for incorporation by reference under Rules 4.18 and 20.6 PCT (see points 54 ff) but the EPO as ISA does not consider the relevant part(s) and/or element(s) completely contained in the priority application, it will indicate this negative finding in the WO-ISA, for instance if the missing text has been inserted into the description of the application in such a way that it does not have exactly the same meaning as in the priority document. *R. 4.18, 20.6 PCT*
- 233** Furthermore the search will be extended to cover all prior art that will be relevant if, in accordance with the ISA's finding, the international application is re-dated by a designated Office in the national phase. Re-dating of the filing date can be avoided on condition that the applicant withdraws the later filed missing parts or elements that are not considered completely contained in the priority application (see points 54 ff).

Restoration of priority

- 234** The EPO as ISA must consider any priority claim to be valid if the international application claiming the priority right is filed within two months after expiry of the priority year ("retention principle"). Therefore, even if no request for restoration of priority has been filed or if such a request has been rejected or has not yet been decided on at the time *R. 26bis.2(c) PCT*

the international search is carried out, this has no bearing on the procedure before the ISA (see point 135).

International publication of the application and the ISR

- 235** The international publication of the international application by the IB takes place promptly after expiry of 18 months from the priority date. If the ISR is available at that time it will be published together with the application. If not, the ISR is published separately from the international application on receipt by the IB. *Art. 21 PCT
R. 48 PCT*
- 236** Unlike the ISR, the WO-ISA will not be published. However, a WO-ISA established for an international application filed on or after 1 July 2014 will be made available to the public as of the date of publication of the international application. *OJ 2003, 574
PCT Newsletter
10/2013, 1*

Access to the WO-ISA

- 237** Without prejudice to the change entering into effect on 1 July 2014 (see point 236), the IB and the ISA will not, unless authorised by the applicant, allow anyone access to the WO-ISA before the expiry of 30 months from the priority date. After that date the EPO as designated Office will grant access to the WO-ISA. If the application is the subject of international preliminary examination by the EPO as IPEA, the WO-ISA established by the EPO as ISA will be considered a first written opinion for the purposes of the procedure under Chapter II PCT and may as such become public as part of the Chapter II file even before expiry of the 30-month time limit (see point 409). *R. 44ter, 94.2,
94.3 PCT
WIPO PCT Guide
7.031-7.032
OJ 2007, Spec.Ed.3,
J.2, J.3*

Procedure after receipt of the ISR and WO-ISA

- 238** There is no possibility for any form of dialogue between the applicant and the ISA on the content of the ISR and/or the WO-ISA. However, the applicant has the right to submit to the IB amendments to the claims pursuant to Article 19 PCT as well as informal written comments on the WO-ISA. Moreover, the applicant may consider filing a demand for international preliminary examination under Chapter II PCT (see points 300 ff). *Art. 19 PCT
R. 46 PCT
PCT Newsletter
10/2004, 7
3/2005, 8
6/2010, 8*

Amendments under Article 19 PCT

- 239** Amendments under Article 19 PCT are published by the IB. They are particularly useful if there is a reason to better define the scope of the claims for the purpose of securing provisional protection in the PCT contracting states offering it (see point 656). *WIPO PCT Guide
9.004-9.011*
- 240** If the applicant wishes to file amendments to the claims, he must submit a complete set of the claims in replacement of all claims originally filed. Further, the basis for the amendments in the application as filed must be indicated in an accompanying letter. *Art. 19 PCT
R. 46.4 and 46.5
PCT
WIPO PCT Guide
9.004-9.011
Section 205 AI
PCT Newsletter
9/2010, 12*
- 241** Amendments under Article 19 PCT are to be filed **exclusively with the IB in the language of the international publication.** *PCT Newsletter
6/2010, 8*

- 242** Any amendment to the claims under Article 19 PCT is to be made: *R. 46.1 PCT*
- within two months from the date of transmittal of the search report, or
 - within 16 months from the (earliest) priority date,

whichever time limit expires later.

Later filed amendments are accepted if they are received before the technical preparations for international publication have been completed.

Informal comments

- 243** If the applicant wishes to file informal comments he may file them exclusively with the IB. Informal comments must be in the language of the international publication and may be submitted only during the international phase, i.e. within 30 months from the (earliest) priority date, but preferably before expiry of 28 months from the priority date. The IB will not send such comments to the IPEA. *WIPO PCT Guide 7.030*

Demand for international preliminary examination

- 244** If a demand for international preliminary examination under Chapter II PCT is or will be filed, any response to the WO-ISA must be submitted to the IPEA in the form of amendments and/or arguments under Article 34 PCT as part of the preliminary examination procedure (see points 362 ff). *WIPO PCT Guide 7.030*

International Preliminary Report on Patentability Chapter I

- 245** If no demand for international preliminary examination is filed, the WO-ISA will be converted by the IB into an International Preliminary Report on Patentability (IPRP Chapter I). Further, it will be communicated to all designated Offices on expiry of 30 months from the priority date. A copy is promptly sent to the applicant. Any informal comments received will be annexed to the IPRP Chapter I. *R. 44bis, 93bis.1 PCT*
- 246** The IPRP Chapter I, together with any informal comments, will be made available for public inspection at the IB, but not before expiry of 30 months from the priority date. The same applies to the WO-ISA (see point 237), with the *caveat* provided for in point 236. *R. 44ter, 94.1(b) PCT
GL/EPO E-VIII, 2.11*

Patent Prosecution Highway (PPH) based on a WO-ISA established by the EPO as ISA

- 247** The PPH enables applicants whose claims have been determined to be patentable/allowable to have a corresponding application that has been filed with a PPH partner office processed in an accelerated manner while at the same time allowing the offices involved to exploit available work results. *OJ 2012, 32
OJ 2012, 89
PCT Newsletter 10/2013, 2*

248 Under the PCT-PPH pilot programme a PPH request can be based on the latest PCT work product, i.e. the WO-ISA or the IPER. Where the EPO is the ISA (and/or IPEA) and the international application contains claims that are determined to be patentable/allowable by the EPO as ISA (and/or IPEA), the applicant may under the PCT-PPH pilot programme request accelerated examination at the JPO and the USPTO when the application has entered the national phase before these offices.

249 The procedures and requirements for filing a request with the JPO and the USPTO for participation in the PCT-PPH pilot programme on the basis of a WO-ISA or IPER established by the EPO are available from the JPO and USPTO websites²⁴. The pilot programme runs until 28 January 2014. A revised PCT-PPH pilot programme will start in early 2014. More information will be published in the Official Journal.

250 Irrespective of the PPH pilot programme any applicant may request accelerated examination under the PACE programme in the procedure before the EPO as designated Office at any time. For more information on the PACE programme reference is made to points 447 ff.

OJ 2010, 352

III. Refusal to perform a (full) international search

When may the EPO refuse to conduct a (full) search?

251 There are several reasons why the EPO as ISA may refuse or will not be able to perform a (full) international search. Such refusal may relate to e.g. the subject-matter of the application (see point 255), non-compliance with requirements regarding the description, claims or drawings of the application (see point 258), missing sequence listings (see point 261) or lack of unity of invention (see points 263 ff).

252 With regard to the (further) procedure in the international phase, it is noted that if a claim relates to an invention in respect of which no ISR has been established, the EPO as IPEA will not carry out international preliminary examination in respect of that claim (see point 388). This also applies if amendments and/or arguments under Article 34 PCT have been filed.

R. 66.1(e) PCT

No search

253 If no search at all is performed, the EPO as ISA will establish a "declaration of non-establishment of the ISR" instead of an ISR and give reasons for the decision in that declaration and in the WO-ISA.

*Art. 17(2)(a) PCT
PCT Newsletter
10/2007, 7*

Incomplete search

254 If any of the reasons listed above for not performing an international search exists with respect to certain claims only, an ISR and a WO-ISA will be established in respect of the other claims. In that case the international search will be incomplete.

Art. 17(2)(b) PCT

²⁴ See www.jpo.go.jp and www.uspto.gov

Limitations related to the subject-matter

- 255** The EPO is not required to perform an international search and to establish an ISR if the application relates to subject-matter which is not regarded as an invention or susceptible of industrial application or which is excluded from patentability **under the provisions of the EPC**. Here, the criteria applied for the decision not to perform an international search are the same as for the European procedure. This means that the discretion of an ISA not to search subject-matter set forth in Rule 39.1 PCT is used by the EPO as ISA only to the extent that such subject-matter is not searched under the provisions of the EPC.
- Art. 17(2)(a)(i) PCT
R. 39.1 PCT
WIPO PCT Guide 7.013
Agreement EPO-WIPO, Art. 4, Annex B
OJ 2010, 304
GL/EPO B-VIII, 1-3*

Business methods

- 256** Attention is drawn to the field of business methods (see point 198). The EPO as ISA will not carry out an international search on an application to the extent that its subject-matter relates to no more than a method of doing business, in the absence of any apparent technical character.
- R. 39.1(iii) PCT
OJ 2007, 592*
- 257** Nevertheless, if the claimed subject-matter involves technical means an ISR will be established. However, to the extent that the technical means involved were widely available to everyone at the filing date, no documentary evidence is considered required, because of their notoriety, and no document will be cited in the ISR. Instead a statement will be inserted that these technical means are considered so commonplace that no citation is considered necessary.

Complex applications

- 258** Furthermore, the EPO as ISA will in exceptional cases not perform an international search or will perform a search limited to parts of the claimed subject-matter if the application documents fail to comply with the prescribed requirements to such an extent that a meaningful search is impossible for all or part of the claims; these kinds of applications are often referred to as "complex applications".
- Art. 17(2)(a)(ii) PCT
Art. 150(2) EPC
GL/EPO B-VIII, 3.1*
- 259** Complex applications will be dealt with in accordance with the ISPE Guidelines supplemented, where appropriate, by the EPO's practice as set out in the Guidelines for Examination (GL/EPO) (see points 16-21).
- 260** Before taking a decision under Article 17(2)(a)(ii) PCT the ISA may invite the applicant informally to provide clarification of the claimed subject-matter in accordance with paragraphs 9.34 and 9.35 of the ISPE Guidelines.
- OJ 2011, 327*

Nucleotide and amino acid sequences

- 261** If the sequence listing of an international application is not available in electronic form and/or does not comply with the standard provided in Annex C to the Administrative Instructions (WIPO Standard ST.25), the EPO as ISA will invite the applicant to furnish the sequence listing in electronic text format and pay a late furnishing fee within a non-extendable time limit of one month from the date of the invitation. Extensive information is provided in a Notice from the EPO of 18 October 2013.
- R. 5.2, 13ter.1 PCT
WIPO PCT Guide 7.005-7.012
Art. 3 RFees
OJ 2007, Spec.Ed.3, C.2
OJ 2011, 372
OJ 2013, 542
OJ 3/2012, Supplement
GL/EPO A-IV, 5; E-VIII, 2.4.2*

- 262** If, within the time limit set, the applicant has not submitted the sequence listing in the required electronic form and format and paid the late furnishing fee, the EPO as ISA will carry out the international search without the sequence listing to the extent that a meaningful search can be carried out. This means that in many cases no or only an incomplete search is performed. This also has consequences for the international preliminary examination procedure before the EPO as IPEA (see point 388).

Lack of unity of invention

- 263** If the EPO as ISA considers that the international application claims more than one invention, stating the reasons for its finding it invites the applicant to pay for each further invention an additional search fee, which must be paid direct to the EPO. At the same time the EPO informs the applicant of the result of its partial international search, which is restricted to those parts of the application relating to the invention first mentioned in the claims.

*Art. 17(3)(a) PCT
R. 13, 40 PCT
R. 158(1) EPC
Art. 2(1).2 RFees
OJ 1989, 61
GL/ISPE 10.01-
10.78
PCT Newsletter
7/2013, 10*

- 264** If the applicant fulfils the requirements for reduction of the search fee, any additional search fee is validly paid upon payment of the reduced amount (see point 214).
- 265** If the applicant does not pay any additional search fee, the EPO establishes the ISR and WO-ISA on the basis of the result already communicated. The WO-ISA will contain the reasons for any non-unity objection raised.
- 266** If the applicant pays one or more additional search fee(s) within the time limit set, those parts of the application for which additional search fees have been paid will also be searched. Consequently the ISR and WO-ISA will be established for all inventions for which a search fee has been paid.

Cascading non-unity

- 267** If in response to an invitation by the EPO as ISA additional search fees are paid and the additional search(es) performed reveal(s) a further lack of unity ("a posteriori"), no further invitation to pay additional search fees is issued and the international search is limited to the first invention of each further invention for which an additional fee was paid. If a cascading lack of unity of invention is likely to arise, the invitation to pay additional search fees will contain a warning.

Consequences of non-payment of additional fee(s)

- 268** The lack of an ISR and WO-ISA in respect of those parts of the international application for which no additional search fee was paid does not, of itself, have any influence on the validity of the international application. However, the national law of any designated Office may provide that the non-searched parts are considered withdrawn unless a special fee is paid. For further information see the national chapter for the designated Office concerned in the WIPO PCT Guide.

*Art. 17(3)(b) PCT
WIPO PCT Guide
7.021*

269 If the EPO is ISA, non-payment of an additional search fee has the following important consequences in the further procedures before the EPO:

- the EPO as IPEA will not perform the international preliminary examination in respect of any claims relating to an invention for which no additional search fee was paid and, therefore, for which no ISR was established (see point 388)
- upon entry into the European phase the EPO as designated Office will consider whether the application, which in the meantime may have been amended by the applicant, meets the requirement of unity of invention. If not, the examining division will invite the applicant to restrict the application to one single invention. Where not all inventions contained in the application were searched by the EPO because of non-payment of an additional search fee, the applicant must restrict the application to one of the inventions covered by the ISR (or the SISR, see point 294). Since an unsearched invention may only be pursued in the European phase by filing a divisional application a decision on non-payment of additional search fees in the international phase is to be well considered (see point 648). However, as of 1 November 2014 it will be possible for the applicant to pay, within a period of two months, one or more further search fees in respect of any unsearched inventions claimed upon entry into the European phase in order for these to be covered by a further search.

R. 66.1(e) PCT

*R. 164 EPC
GL/EPO E-VIII, 2.4.1
OJ 2013, 503*

Protest procedure

270 An applicant may pay an additional search fee under "protest". This means that at the time of payment of the additional fee(s) the applicant objects to the finding of lack of unity in a written reasoned statement filed with the EPO as ISA. Such objections may concern the finding of non-unity as such or the number of the required additional fees. The lodging of a protest does not delay the search itself.

*R. 40.2(c), (e) PCT
R. 158(3) EPC
Art. 2(1).21 RFees
OJ 2010, 320, 322*

271 For applications filed on or after 13 December 2007, the date of entry into force of the EPC 2000, a **one-stage protest procedure** as set out in Rule 40.2 PCT applies. According to this procedure the only body examining a protest before the EPO as ISA is a review panel consisting of three members: the head of a directorate, normally the head of the directorate by which the invitation to pay additional fees was issued, an examiner with special expertise in unity of invention and, normally, the examiner who issued the invitation.

272 Where additional fees are paid under protest and the protest fee is duly paid, the protest will be referred to the review panel for a decision in first and last resort. If the review panel finds that the protest was entirely justified, the additional fees and the protest fee will be refunded. If the review panel finds that the protest was justified only in part, the corresponding additional fees will be refunded, but not the protest fee. The procedure is set out in detail in the Notice from the EPO dated 24 March 2010.

OJ 2010, 322

IV. Supplementary International Search (SIS)

General

- 273** In its capacity as the International Searching Authority specified for supplementary international search - hereafter referred to as the Supplementary International Searching Authority or SISA - the EPO will carry out a supplementary international search (SIS) at the applicant's request.
- R. 45bis ff PCT Agreement EPO-WIPO, Annex E OJ 2010, 304 WIPO PCT Guide 8.001-8.053 OJ 2010, 316 PCT Newsletter 4/2011, 9 1/2012, 10*
- 274** For an overview of the general procedure reference is made to the information in the WIPO PCT Guide. For specific information on the procedure before the EPO acting as SISA reference is made to Annex E to the Agreement EPO-WIPO and the May edition of the Official Journal 2010.
- 275** A SIS request may be filed with the EPO as SISA in respect of international applications for which on 1 July 2010 the time limit of 19 months from the priority date had not yet expired.
- 276** The purpose of SIS is to provide the applicant with a supplementary international search report (SISR) in addition to the search carried out under Article 15 PCT by the competent ISA ("main search") (see point 222). In particular, in view of the growing linguistic diversity of the prior art and considering the language knowledge available in the EPO, a SISR established by the EPO can be very useful to applicants.
- 277** Since the SISR is established within 28 months from the priority date it may improve the basis for deciding on national phase entry and - in particular where a SISR is drawn up by the EPO - on whether or not to enter into the European phase. SIS reduces the risk of an applicant being faced with relevant prior art only after incurring considerable expenditure for entry into the national/regional phase.
- 278** In the procedure before the EPO as SISA no written opinion is established. However, the EPO will provide explanations in an annex to the SISR ("Scope Annex") which are of equal value to the information contained in a written opinion established by the EPO as ISA (WO-ISA) (see point 224).
- 279** If the EPO has acted as SISA and established a SISR, in principle **no supplementary European search report will be drawn up in the European phase**. Further, the applicant will be invited in a communication under Rule 161 EPC to correct any deficiencies set out in the Scope Annex to the SISR upon entry into the European phase (see point 503). However, as of 1 November 2014 it will be possible for the applicant to pay, within a period of two months, one or more further search fees in respect of any unsearched inventions claimed upon entry into the European phase in order for these to be covered by a further search.
- Art. 153(7) EPC R. 161, 164 EPC OJ 2009, 594 OJ 2013, 503*

Scope and limitations of SIS

- 280** The scope of the search conducted by the EPO as SISA - i.e. the documentation searched - is the same as for any international search performed by the EPO as ISA (see point 219).
- 281** SIS is conducted on the international application as originally filed, and neither amendments filed under Article 19 and/or 34 PCT nor informal comments will be taken into account. *R. 45bis.5(b) PCT*
- 282** If the ISR is available at the time the SIS is performed, it will be taken into account. Any prior art document mentioned in the ISR is not re-cited in the SISR, unless the EPO qualifies its relevance differently.
- 283** The EPO conducts a maximum of 700 supplementary searches per year.
- 284** The **limitations related to subject-matter** set out in Annex A to the Agreement EPO-WIPO apply both where the EPO acts as ISA and where it acts as SISA (see points 255 ff). The same applies as to any other reason for non-establishment of a (full) search, i.e. complex applications, missing sequence listings and non-unity (see points 251 ff). As to particulars of the procedure in case of a missing sequence listing and non-unity, reference is made to points 288 and 292.
- 285** Further, where the EPO acts as SISA it may decide not to search claims that were not searched by the ISA. However, if the EPO, had it been the ISA for the international application, would have searched the claims concerned, it will not exercise its discretion not to search these claims if it acts as SISA. *R. 45bis.5(c), (d), (e) PCT*
- ### Requirements for filing a SIS request
- 286** A SIS request must be filed **with the IB** within 19 months from the priority date. The request is valid only if the supplementary search fee and the supplementary search handling fee are validly paid **to the IB** in Swiss francs. *R. 45bis.2 and .3 PCT
OJ 2009, 99
OJ 2010, 341*
- 287** If the application was not filed in English, French or German, and no **translation** into any of these languages has been filed for the purpose of the proceedings before the ISA or for the purpose of international publication, a translation into one of these languages must be filed with the IB together with the SIS request. *R. 45bis.1(b)(iii) PCT*
- 288** Where applicable the applicant must together with the SIS request also furnish **to the IB** a copy of the **sequence listing** in electronic text form complying with the standard provided for in Annex C to the Administrative Instructions (see points 261 ff). The EPO will start the supplementary international search only upon receipt of the copy. If it is **not** received, the EPO will invite the applicant to furnish an electronic copy of the sequence listing complying with that Annex and to pay the late furnishing fee. *R. 13ter, 45bis.5 PCT
Agreement EPO-WIPO, No. 4
Annex E
OJ 2010, 316
under 4
OJ 2013, 542*

Representation before the EPO as SISA

289 Applicants may be represented before the EPO as SISA by the agent appointed on filing the international application and having the right to practise before the receiving Office, i.e. the agent for the international phase (see points 36 ff).

*Art. 49 PCT
R. 83.1, 90.1(a), (b),
(b-bis), (d) PCT
OJ 2010, 335*

290 An applicant may also appoint an agent to represent him **specifically before the EPO in its capacity as SISA**. Moreover, the agent appointed for the international phase - and thus including for the procedure before the SISA - may appoint a sub-agent to represent the applicant specifically before the EPO as SISA. All communications issued by the EPO as SISA are sent to the agent specifically appointed for the procedure before the EPO as SISA. An agent specifically appointed to act before the EPO as SISA must be entitled to practise before the EPO (see point 97).

291 The requirements in respect of filing a separate power of attorney or a copy of a general power of attorney have been waived by the EPO as SISA (see point 109).

Lack of unity of invention

292 If the EPO as SISA is of the opinion that the international application claims more than one invention, stating the reasons for its finding it will perform a search only for those parts of the application relating to the main invention, i.e. the invention first mentioned in the claims. If, however, the ISA has already made a non-unity objection and the applicant has, upon filing the SIS request, specified for which invention identified in the ISR the SISR is to be drawn up, the EPO as SISA:

*R. 45bis.1(d),
45bis.6 PCT
OJ 2010, 320, 322*

- will restrict its search to that invention, if it agrees with the finding of the ISA;
- will take the applicant's wish into account as far as possible, if the non-unity objection made by the ISA is not followed but a different non-unity objection is found;
- will perform a full search if it considers the requirement of unity of invention to be met.

293 In the case of a non-unity finding by the EPO as SISA, the applicant cannot pay additional search fees to obtain further searches as in the procedure before the ISA (see point 263). However, the applicant may request a review of a non-unity finding within one month of the date of the notification of the SISR, on condition that the review fee set by the EPO is paid within the same time limit. The review fee must be paid directly to the EPO. If the review panel considers the lack of unity objection (partly) justified, a revised SISR taking into account the outcome of the review procedure is established.

294 Upon entry into the European phase the EPO as designated/elected Office will consider whether the application for which it acted as SISA - and which meanwhile may have been amended - meets the requirement of unity of invention and whether protection is sought for an invention covered by the SISR. If not, the examining division will invite the applicant to limit the application to a single invention covered by the SISR. Any other invention may be pursued in the European phase only by filing a divisional application (see point 659). However, as of 1 November 2014 it will be possible for the applicant to pay, within a period of two months, one or more further search fees in respect of any unsearched inventions claimed upon entry into the European phase in order for these to be covered by a further search (see points 646 ff).

*R. 164 EPC
OJ 2009, 582
GL/EPO E-VIII, 2.4.1*

D. The EPO as an International Preliminary Examining Authority (IPEA) - PCT Chapter II

I. General

Aim of the international preliminary examination

295 In its capacity as IPEA the EPO will carry out an international preliminary examination on condition that the applicant has (validly) filed a "demand" and paid the fees due. The usefulness of this optional procedure depends on the international application concerned and, especially, on the result of the international search (see points 222 ff). Therefore, before taking a decision whether to file a demand with the EPO as IPEA, applicants are strongly recommended to take special note of the information set out in points 300 ff.

296 The purpose of the international preliminary examination under Chapter II of the PCT is not grant or refusal of a patent, but provision of a preliminary and non-binding opinion on whether the claimed invention appears to be novel, to involve an inventive step and to be industrially applicable as defined in Article 33 PCT. The statement whether these criteria are satisfied is set out in the International Preliminary Report on Patentability ("IPRP Chapter II") established by the IPEA.

*Art. 33, 35 PCT
R. 64, 65, 67-70 PCT
WIPO PCT Guide
10.001-10.003
OJ 2003, 574
OJ 2011, 532*

297 While there is not a fully uniform approach to the criteria for patentability in the national laws of the PCT contracting states, their application during international preliminary examination is such that IPRP Chapter II provides the applicant with a good basis on which to evaluate the chances of obtaining patents in the procedures before the various designated Offices in the national phase.

298 The term "IPRP Chapter II" is no more than a different name for the international preliminary examination report (IPER). Both terms refer to the same document; the report established by the competent IPEA containing the result of the international preliminary examination carried out by it. In the following the term IPER will be used.

R. 70.15(b) PCT

299 As set out above, the applicant may react to the ISR and WO-ISA established by the ISA by filing amendments under Article 19 PCT and/or "informal comments" with the IB, or by filing a demand for international preliminary examination (see points 316 ff). Should the applicant decide to file a demand for international preliminary examination, the demand form together with amendments and/or arguments under Article 34 PCT are to be filed directly with the competent IPEA (see points 319 ff).

Usefulness of PCT Chapter II

300 Regardless of whether a demand is filed, applicants will receive a preliminary non-binding written opinion on the patentability of their claimed invention (WO-ISA, IPRP Chapter I) as part of the international search procedure (see points 222 ff). Therefore, the usefulness of international preliminary examination under Chapter II PCT must be considered carefully for each international application.

*PCT Newsletter
4/2010, 8
5/2010, 8*

- 301** International preliminary examination will, in general, have no added value unless amendments and/or arguments under Article 34 PCT are filed for the EPO to take into account as IPEA. In the absence of such amendments and/or arguments there will be no reason for the EPO as IPEA to come to a different conclusion to that which it reached in its capacity as ISA, as set out in the WO-ISA.
- 302** If the ISA has provided the applicant with a declaration under Article 17(2) PCT that no ISR has been established ("declaration of no search"), filing a demand is not recommended, since the EPO as IPEA will not examine claims for which no ISR has been established (see point 388).
- 303** It follows that filing a demand for international preliminary examination is, in general, useful only if the WO-ISA was "negative" and the applicant is of the opinion that his amendments and/or arguments filed for the purpose of the PCT Chapter II procedure may lead to a "positive" IPER. In other words, international preliminary examination gives the applicant the opportunity to respond to any negative finding of the ISA during the international phase, as opposed to drafting and filing multiple responses with the national/regional offices where national phase entry is made. In the Chapter II procedure before the EPO the applicant will have the opportunity to interact with the examiner and file further amendments should objections still persist after the reply to the WO-ISA (see point 378).
- 304** Further, as from 1 July 2014 the EPO as IPEA will perform a top-up search in order to reveal further relevant prior-art documents, in particular intermediate prior art, which have been published or have become available to the IPEA after the international search report was established (see points 370 ff). *R. 66.1ter PCT*

Patent Prosecution Highway (PPH) based on an IPER established by the EPO as IPEA

- 305** The PPH enables an applicant whose claims have been determined to be patentable/allowable to have a corresponding application that has been filed with a PPH partner office processed in an accelerated manner while at the same time allowing the offices involved to exploit available work results. *OJ 2012, 32
OJ 2012, 89*
- 306** Under the PCT-PPH pilot programme, a PPH request filed with the JPO and the USPTO can also be based on an IPER established by the EPO as IPEA. In early 2014 the PCT-PPH programme will be revised. For more information reference is made to points 247 ff. *PCT Newsletter
10/2013, 2*
- 307** Irrespective of the PPH pilot programme any applicant may request accelerated examination under the PACE programme in the procedure before the EPO as **elected Office** at any time. For more information on the PACE programme reference is made to chapter E (see points 447 ff). *OJ 2010, 352*

Competence of the EPO as an IPEA

- 308** Although the EPO's competence as an IPEA is in principle **universal**, i.e. not restricted to international applications from e.g. EPC contracting states, restrictions of various nature do limit its competence (see points 309 ff). In particular it is stressed that the EPO is competent to act as IPEA only if a "European ISA" (including the EPO itself) carried out the international search (see point 311).
- Art. 32 PCT
R. 59.1 PCT
WIPO PCT Guide
10.006
PCT Newsletter
6/2013, 9

Specification by the receiving Office

- 309** The EPO acts as an IPEA for any application, **on condition that the receiving Office with which the international application was filed has specified the EPO as IPEA**. The same countries which have not (yet) specified the EPO as ISA have not (yet) specified the EPO as IPEA (see point 196). Up-to-date information is available in the annexes to the WIPO PCT Guide (see point 12).
- Art. 32 PCT
Agreement EPO-
WIPO, Art. 3(2), (3)
OJ 2010, 304
- 310** Where the international application was filed with the IB, the EPO is competent as IPEA if the international application could have been filed with a receiving Office which has specified the EPO as IPEA.

The EPO or a European ISA acted as ISA

- 311** The EPO will, however, only act as an IPEA if the international search was also carried out by the EPO or by the Austrian, Finnish, Spanish or Swedish patent office or the Nordic Patent Institute. Applicants considering their choice of ISA (PCT request form Box No. VII) are advised to bear this in mind (see also point 202).
- Agreement EPO-
WIPO, Art. 3(2),
Annex A(ii)
OJ 2010, 304

Choice of applicant

- 312** Where several IPEAs are competent in relation to a particular application, the applicant may choose. Here, it must be considered that where the EPO as IPEA has drawn up the IPER the examination fee due in the European phase is reduced by 50% if the subject-matter to be examined is covered by the IPER (see point 601).
- R. 35.2, 59.1 PCT
Art. 14(2) RFees

Limited competence

- 313** The EPO has limited its competence as IPEA under certain conditions. The EPO will not carry out international preliminary examination in respect of any international application filed by a national or resident of the United States of America with the USPTO or the IB as the receiving Office, where such application contains one or more claims relating to the field of **business methods** as defined in Annex A of the Agreement EPO-WIPO (see point 198).
- Agreement EPO-
WIPO, Annex A
OJ 2010, 304
- 314** Even if the EPO is competent as IPEA for an application claiming a business method, it may be that the EPO will not perform an examination for the reasons set out hereafter (see points 388 ff).
- OJ 2007, 592
- 315** Where the IB was receiving Office, the EPO is not competent as IPEA for international applications relating to business methods (see point 198), if the international application could have been filed with the USPTO, unless the application could also have been filed with the EPO as receiving Office.

Who may file a demand for international preliminary examination with the EPO?

- 316** **Sole** applicants must have their residence in, or be a national of, a PCT contracting state bound by PCT Chapter II. If there are **two or more applicants**, at least one of them must meet these requirements. Secondly, the international application must have been filed with a receiving Office of or acting for a PCT contracting state bound by PCT Chapter II.
- 317** At 1 January 2014, all PCT contracting states were bound by Chapter II and, therefore, these requirements do not stand in the way of any applicant wishing to file a demand for a pending international application.

*Art. 31(2)(a) PCT
R. 18.1, 54.1, 54.2
PCT
Art. 152 EPC
WIPO PCT Guide
10.004, 10.017*

How and where is the demand for international preliminary examination to be filed?

- 318** The demand for international preliminary examination must be made using the prescribed form (PCT/IPEA/401 - see Annex IX), copies of which are available free of charge from all receiving Offices, the IB and the EPO. The form may also be downloaded from the WIPO website²⁵.
- 319** The demand and any further document relating to the Chapter II procedure (e.g. amendments and/or arguments filed under Article 34 PCT) **must be submitted to the EPO as IPEA and not to the receiving Office or the IB**. The EPO as IPEA will indicate the date of receipt on the demand and promptly notify the applicant of that date.
- 320** The demand may be filed with the EPO as IPEA direct, by post or by fax (see points 66-77). It cannot yet be filed in electronic form; but the possibility of filing it electronically is expected to become available during the first half of 2014. As soon as electronic filing of the demand becomes available, a notice will be published in all relevant sources of information (see points 11 ff).
- 321** If the demand is filed by fax, no written confirmation needs to be filed unless the applicant is invited by the EPO as IPEA to do so (see point 77).
- 322** The EPO filing offices are located in the Central European Time (CET) zone (see Annex V).

*Art. 31(3) PCT
R. 53 PCT
WIPO PCT Guide
10.012*

*Art. 31(6) PCT
R. 59.3, 61 PCT
WIPO PCT Guide
10.006*

*R. 92.4(e), (g) PCT
OJ 2007, Spec.Ed.3,
A.3 (Art. 3 and 7 of
the Decision)*

When should the demand for international preliminary examination be filed with the EPO?

- 323** Pursuant to Rule 54*bis* PCT, the demand may be validly submitted at any time prior to expiry of whichever of the following periods expires later:
- three months from the date of transmittal to the applicant of the ISR and WO-ISA by the ISA, or
 - 22 months from the (earliest) priority date.

*R. 54bis PCT
WIPO PCT Guide
10.010*

²⁵ www.wipo.int/export/sites/www/pct/en/forms/demand/ed_demand.pdf

- 324** This time limit guarantees that the applicant has at least three months from the date of mailing of the ISR to decide on the basis of the result of the international search laid down in the ISR and the WO-ISA whether he wants to file a demand with amendments and/or arguments.
- 325** If the demand is submitted after expiry of this time limit, the demand is considered as if it had **not been submitted**. *R. 54bis.1(b) PCT*
- 326** The applicant should be aware that the possibilities to withdraw a demand and obtain a refund of the fee paid are limited (see point 359). *R. 90bis.4 PCT*

Start of the international preliminary examination

- 327** The EPO as IPEA will not start examination before expiry of the time limit laid down in Rule 54*bis* PCT, unless the applicant requires an earlier start. Amendments and/or arguments under Article 34 PCT filed after filing of the demand, but before expiry of this time limit, must always be taken into account for international preliminary examination (see point 364). *R. 66.1, 66.4bis, 69.1(a) PCT
WIPO PCT Guide
10.051
PCT Newsletter
03/2005, 8*
- 328** Where the WO-ISA is considered a first written opinion (see point 377), a single extension of one month for filing a reply (amendments and/or arguments under Article 34 PCT) is in principle granted if requested before expiry of the normal time limit under Rule 54*bis* PCT and on condition that the time limit so extended does not expire later than 25 months from the (earliest) priority date (see also point 386). **The extension does not apply to the time limit for filing the demand, which cannot be extended.** *Art. 34(2)(c) PCT*

Delaying of national phase until expiry of 30 months

- 329** Most contracting states apply Article 22 PCT as amended with effect from 1 April 2002. For these states, the 30/31-month time limit for entry into the national/regional phase applies regardless of whether the applicant has submitted the demand for international preliminary examination within 19 months from the (earliest) priority date. *Art. 22(1), 39(1) PCT
WIPO PCT Guide
10.010, 10.050*
- 330** The EPO too applies Article 22 PCT as amended with effect from 1 April 2002. Therefore, the time limit for entry into the European phase is always 31 months from the priority date (see points 420 ff). *R. 159(1) EPC*
- 331** However, in respect of a small number of designated Offices, old Article 22(1) PCT still applies. The list of the contracting states for which that provision is still applicable is published on the WIPO website (see point 14). According to the latest information from WIPO available on 12 November 2013, the 20/21-month time limit applies to the following states: Luxembourg (LU), United Republic of Tanzania (TZ) and Uganda (UG). However, in respect of the **regional** designation of each of these states, the time limit under amended Article 22 PCT applies²⁶. *PCT Newsletter
2/2005, 6*
- 332** Therefore, if an applicant wants to enter the **national** phase for these states, the demand must be received by the competent IPEA within 19 months from the (earliest) priority date to secure the right to entry into the national phase being delayed until expiry of 30/31 months from the priority date.

²⁶ www.wipo.int/pct/en/texts/time_limits.html

333 Moreover, for these states, the applicant must respect the 19-month time limit even where the ISR and the WO-ISA are not yet available. In other words, a delay in the international search does not have as a consequence that the 19-month time limit is changed, since this time limit is exclusively calculated on the basis of the (earliest) priority date. *WIPO PCT Guide*
10.050

334 For states applying the old Article 22(1) PCT, a demand filed with the EPO after expiry of 19 months from the priority date but prior to:

- three months from the date of transmittal to the applicant of the ISR and the written opinion (WO-ISA) by the ISA, or
- 22 months from the (earliest) priority date

is valid, but does not have the effect of postponing commencement of the national phase to 30/31 months for the states in question (see point 331).

Time limit for establishing the IPER

335 Where the documents required for the preliminary examination were received in due time, the EPO as IPEA will establish the IPER usually within 28 months from the earliest priority date. *R. 69.2 PCT*

Translation of the international application

336 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** (English, French or German), the applicant must within the time limit for filing the demand also file a translation in one of these languages with the EPO as IPEA. *R. 55.2 PCT*
WIPO PCT Guide
10.011-10.013
OJ 1993, 540

337 This situation occurs, for instance, if the international application was filed in Spanish, and the Spanish patent office acted as ISA. However, if the international application was filed in Spanish but the EPO acted as ISA, the applicant need not furnish a translation to the EPO as IPEA. In such cases the international preliminary examination will be carried out on the basis of the translation already furnished for the purposes of international search (see point 205).

338 Any amendments to be taken into account for the international preliminary examination must be submitted in the language of proceedings of the procedure before the EPO as IPEA. If they are initially not submitted in that language, the applicant must file a translation. *R. 53.9, 55.3 PCT*
WIPO PCT Guide
10.055

Applications filed in Dutch

339 If the EPO is IPEA for an international application originally filed in Dutch with the Dutch or Belgian patent office as receiving Office, the applicant need not file a translation of the international application since the EPO as IPEA will use the published version of the international application which it receives from the IB. It should be noted that the demand and amendments under Article 34 PCT must be submitted to the EPO as IPEA in the language of the international publication (see points 209 and 338). *R. 12.4, 55.1,*
55.2(a) PCT
Agreement EPO-
WIPO, Annex A(i)
OJ 2010, 304
OJ 2009, 206

Language of the demand

- 340** The demand must be filed in the language in which the international application was filed, except in the following situations: *R. 48.3, 55.1 PCT*
- If the international application was filed in a language other than the language in which it was published, the demand must be filed in the language of publication (e.g. application in Dutch, see point 339).
 - If a translation of the application has to be filed with the EPO as IPEA (see points 336-338), the demand must be filed in the language of that translation (e.g. application in Spanish, see point 337).

Language of further correspondence

- 341** Any other correspondence with the EPO as IPEA may be in any of the EPO's three official languages with the exception of amendments to the application, which are to be filed in the same language as the demand (see point 338). *R. 92.2(b) PCT
Art. 150 EPC
R. 3 EPC
OJ 1993, 540*

Representation

- 342** Applicants may be represented before the EPO as IPEA by the agent appointed on filing the international application and having the right to practise before the receiving Office, i.e. the agent for the international phase (see point 36). The applicant may also appoint an agent to represent him **specifically** before the EPO as IPEA. Moreover, the agent appointed for the international phase may appoint a sub-agent to represent the applicant specifically before the EPO as IPEA. *Art. 49 PCT
R. 90.1(c), (d) PCT
WIPO PCT Guide
10.019-10.023*
- 343** Any agent specifically appointed before the EPO as IPEA must be **entitled to practise before the EPO**. It is strongly recommended that applicants who do not have their residence or place of business in one of the EPC contracting states appoint an agent entitled to practise before the EPO for the proceedings before the EPO as IPEA (see points 97 ff). *R. 90.1(c) PCT
Art. 134 EPC*
- 344** The appointment of an agent specifically before the EPO as IPEA can be done by the applicant or the agent for the international phase either by completing Box No. III of the PCT 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 demand or in a separate notice to a correctly deposited general power of attorney, of which a copy must be submitted. In that case, the demand or the separate notice may be signed by the purported agent. *R. 90.4, 90.5 PCT*
- 345** The EPO as IPEA has waived the requirement that a signed separate power of attorney or a copy of a general power of attorney be submitted to it if the demand is signed by the purported agent for the procedure before the EPO as IPEA and not by the applicant or the agent for the international phase. *R. 90.4(d), 90.5(c) PCT
OJ 2010, 335*
- 346** An exception to the waiver applies where the demand is signed by an agent who is not the agent of record, both agents do not belong to the same office and the new agent is not appointed in addition to the agent appointed earlier but appointed under revocation of any earlier

appointment (PCT/IPEA/401, Box III second check-box). In that situation a separate power of attorney signed by the applicant or the agent of record, or a copy of a general power of attorney, is to be furnished. A further exception applies in any other case where the EPO is in doubt as to the person entitled to act for the application.

Which states may be elected?

- 347** The filing of the demand constitutes the election of all PCT contracting states designated in the international application and bound by PCT Chapter II for a national and where possible a regional patent at the same time (see point 317). If after filing the PCT request the applicant has validly withdrawn a designation, the filing of the demand cannot constitute the election of that state.
- Art. 31(4) PCT
R. 53.7 PCT
WIPO PCT Guide
10.005, 10.029*

Signature

- 348** The demand 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 (see point 361).
- R. 53.2(b), 53.8,
60.1(a-ter), 90.3 PCT
WIPO PCT Guide
10.031-10.032*
- 349** A (common) agent or common representative may sign the demand on behalf of the applicant(s) who appointed him (see points 104 ff).
- 350** 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 - if not already on file - or a copy of a general power of attorney since the EPO has waived these requirements (see points 109 ff).
- R. 90.4, 90.5 PCT
OJ 2010, 335*

Fees

- 351** For international preliminary examination, the handling fee and the preliminary examination fee must be paid **direct** to the EPO as IPEA. The preliminary examination fee is set by the EPO. The handling fee is provided for in the Schedule of Fees under the PCT which is published by the IB.
- Art. 31(5) PCT
R. 57.3, 58 PCT
Art. 2(1).19 RFees
WIPO PCT Guide
10.035 -10.043
OJ 3/2012,
Supplement*
- 352** Both fees have to be paid within **one month** of the date on which the demand was submitted or within 22 months from the priority date, whichever time limit expires later. The amounts of the handling fee and the preliminary examination fee to be paid shall be the amounts applicable on the date of payment.
- 353** Applicants are urged to use the **Fee Calculation Sheet** annexed to the demand form (PCT/IPEA/401).

Fee reductions

- 354** The **handling fee** is reduced by 90% under the same conditions as for the **international filing fee** (see point 179).
- PCT Schedule of
Fees
WIPO PCT Guide
10.035 -10.041*

- 355** The fee for **international preliminary examination** is reduced by 75% under the same conditions as for the reduction of the **international search fee** (see point 214). *OJ 2008, 521 Agreement EPO-WIPO, Annex C-II OJ 2010, 304*

Consequences of non- or late payment of fees

- 356** Applicants should avoid late or incomplete payment of the handling and international preliminary examination fee (see points 351 ff), since the EPO cannot commence international preliminary examination before these fees have been paid. Late payment thus reduces the amount of time available for establishment of the IPER. *WIPO PCT Guide 10.047*
- 357** Where the EPO as IPEA 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 by the time they were due, the EPO as IPEA invites the applicant to pay to it the amount required to cover both fees together with the late-payment fee within one month of the date of the invitation. If the applicant complies with the invitation within the specified time limit, payment is deemed to have been made in due time. The late-payment fee is 50% of the amount of the unpaid fees as specified in the invitation. However, it is at least equal to but not more than double the amount of the handling fee. *R. 58bis PCT OJ 1998, 282*
- 358** **If the applicant does not comply with the invitation, the demand is deemed not to have been submitted** and no IPER will be established. The absence of a validly filed demand has no consequence for the procedure before the EPO as designated Office, because the time limit to be respected for entry into the European phase is in any case 31 months from the priority date (see point 420).

Refund of the fee for international preliminary examination

- 359** 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, the applicant is refunded 75% of the fee for international preliminary examination. If the demand is deemed not to have been submitted or the fee was paid by mistake, the fee is refunded in full. Any amount paid in excess of the amount due is likewise refunded. *R. 58.3 PCT Agreement EPO-WIPO, Annex C-II OJ 2010, 304*

Defects in the demand and how they can be corrected

- 360** If the demand does not comply with the requirements, the EPO as IPEA invites the applicant to correct the defects within one month of the date of the invitation. If the applicant complies with the time limit, the demand is deemed to have been received on the actual filing date, provided that the demand as submitted sufficiently identified the international application. If the applicant does not comply with the invitation in due time, the demand is deemed not to have been submitted. *R. 60.1 PCT WIPO PCT Guide 10.047-10.050*
- 361** Where there is more than one applicant, a frequent defect concerns failure to provide the required indications and/or the signatures of all the applicants. However, if the required indications are available in respect of one of the applicants entitled to file a demand and the demand is signed by one of them, this is considered sufficient and no invitation will be issued (see point 348). *R. 53, 60.1(a-bis), 60.1(a-ter) PCT*

II. The international preliminary examination procedure before the EPO as an IPEA

Which documents form the basis of the international preliminary examination? - Amendments - Missing parts and elements

362 The applicant must indicate in Box No. IV of the demand form (PCT/IPEA/401) whether the international preliminary examination is to be based on the international application

*Art. 19, 34 PCT
R. 53.9, 66.1, 66.5,
70.2(a), (c) PCT
WIPO PCT Guide
10.025, 10.061*

– as (originally) filed,

or whether it should take account of

– amendments to the claims under Article 19 PCT, and/or

– amendments to the claims, the description and/or the drawings under Article 34(2)(b) PCT.

Amendments

363 If amendments under Article 19 PCT are to be taken into account, the applicant must enclose a copy of these with the demand.

364 Amendments and/or arguments filed under Article 34 PCT should preferably be filed together with the demand. However, they also have to be taken into account by the EPO as IPEA if they are filed before expiry of the time limit for filing the demand (see point 323). Subsequently filed amendments and/or arguments will only be taken into account by the EPO as IPEA if they are received before the point at which preparation of a written opinion or the IPER has actually started. Moreover, if a second written opinion is established (see point 378), subsequently filed amendments and/or arguments will be taken into account together with the reply to the second written opinion. Amendments and/or arguments not taken into account by the EPO as IPEA may be (re-)filed with the elected Offices upon entry into the national phase.

*Art. 34(2)(b) PCT
R. 66.1(b), 66.4bis
PCT
WIPO PCT Guide
10.024, 10.028
OJ 2011, 532*

365 If the EPO acted as ISA, the EPO as IPEA will consider the WO-ISA as a first written opinion for the purposes of international preliminary examination and, as a rule, commence the international preliminary examination immediately after expiry of the time limit for filing the demand (see points 382 ff). Therefore, it is important that amendments and/or arguments under Article 34 PCT are filed in due time.

366 Applicants must make sure that none of the amendments go beyond the disclosure in the international application as originally filed. Note that if an amendment contains a negative limitation, e.g. a "disclaimer", the EPO as IPEA in accordance with the discretion provided for in the ISPE Guidelines applies the same approach as in respect of a Euro-direct application (see Annex IV). Further, applicants must indicate in an accompanying letter

*R. 66.8(a) PCT
GL/ISPE 20.21
GL/EPO H*

– the differences between the application as originally filed and any amendments made,

– the basis for the amendments in the application as filed, and

– the reasons for any such amendments.

367 If the basis for any amendment is not indicated as required, the EPO will establish the written opinion and/or IPER as if no amendments had been filed and without first issuing a reminder. *R. 70.2(c-bis) PCT*

368 If amendments to the claims are filed a complete set of the claims in replacement of all claims originally filed must be submitted. *R. 66.8(c) PCT*

Incorporation by reference of missing parts and elements

369 If the receiving Office has granted a request for incorporation by reference under Rules 4.18 and 20.6 PCT but the EPO as IPEA does not consider the relevant part(s) and/or element(s) completely contained in the priority application, it will indicate so in the IPER (see points 54 ff). *R. 4.18, 20.6 PCT*

Top-up search

370 As from 1 July 2014 the EPO as IPEA will perform a top-up search in Chapter II in order to reveal further relevant prior-art documents, in particular intermediate prior art, which have been published or have become available to the IPEA after the international search report was established. *Art. 34(3)(4) PCT
R. 66.1ter PCT
PCT Newsletter
10/2013, 1*

371 Any relevant documents found during the top-up search will be indicated in the IPER.

372 A top-up search will normally not extend beyond the subject-matter searched by the ISA as set out in Rule 66.1ter PCT. It will be performed in respect of all applications undergoing Chapter II examination, apart from in exceptional cases where the examiner considers that performing a top-up search would serve no useful purpose.

373 The top-up search will normally be performed at the start of Chapter II examination. However, in the case of non-unity where there is more than one invention claimed in the documents for which examination under Chapter II is demanded, the examiner will first issue an invitation to pay further examination fees and then perform the top-up search for all inventions for which further examination fees have been paid, provided that any such inventions are not excluded from preliminary examination by the examiner under Rule 66.1(e) PCT.

374 The top-up search will be based on the application documents available at the start of Chapter II examination. However, in the special case that the application is amended but the basis for the amendments could not be found and/or there is no letter explaining their basis in the description, the top-up search may be limited to the scope of the claims forming the basis of the IPER. *R. 70.2(c),
(c-bis) PCT*

375 If relevant documents are found during the top-up search which give rise to objections as to patentability, the EPO as IPEA will issue a second WO along the lines set out under point 378. More detailed information will be published in the Official Journal in the first half of 2014.

Third-party observations

- 376** Since 1 July 2012 third parties may file observations on a PCT application during the international phase until 28 months from the priority date. Such observations are to be submitted using the online tool provided by WIPO and may be filed anonymously. If third-party observations are received, WIPO will inform the applicant and the applicant is permitted to reply. If the IPER has not yet been established at the time when observations or any reply are received, WIPO will forward the observations and the reply to the EPO acting as IPEA, which will take the observations into account when establishing the IPER. Detailed information is contained in a guide entitled "ePCT Third Party Observations", published by WIPO.²⁷

First written opinion

- 377** A written opinion for the purposes of international preliminary examination is a notification issued by the IPEA which indicates any comments or objections concerning the international application. Pursuant to Rule 66.1bis(a) PCT the WO-ISA is considered to be a (first) written opinion of the IPEA for the purposes of international preliminary examination. The EPO has notified the International Bureau under Rule 66.1bis(b) PCT that this provision is only applied by the EPO as IPEA to the extent that the WO-ISA has been established by the EPO acting as ISA.

*Art. 33, 34,35 PCT
R. 66.1bis, 66.2,
66.3, 66.4 PCT
WIPO PCT Guide
10.064-10.066,
10.074
OJ 2003, 574*

Second written opinion

- 378** Before issuing a "negative" IPER, the EPO as IPEA will, as a rule, issue a second written opinion, thereby providing the applicant with a further opportunity to submit amendments and/or arguments to overcome any objections raised therein. A request for a second written opinion need not be filed. A second written opinion will be issued on condition that the applicant filed in due time a substantive reply either to the WO-ISA established by the EPO or to the first written opinion established by the EPO as IPEA. The procedure may be different and a second written opinion may not necessarily be issued if a request for consultation by telephone is filed by the applicant (see points 392 ff). In this context the term "negative" IPER is to be understood as an IPER informing the applicant of a deficiency to which he must respond under Rule 161(1) EPC if he decides to enter the European phase (see points 503 ff). If the IPER contains no objections or only minor objections which do not hinder a direct grant in the European phase, the IPER is considered positive.

OJ 2011, 532

The EPO was not the ISA

- 379** If the EPO acts as IPEA but did not establish the WO-ISA because the international search was conducted by one of the other European ISAs (see point 202), the WO-ISA established by any such ISA is not considered a (first) written opinion of the EPO as IPEA (see point 377). In these cases, the EPO in its function as IPEA will issue a first written opinion if it has any objections. The applicant may respond to this

OJ 2011, 532

²⁷ See www.wipo.int/pct/en/epct/pdf/epct_observations.pdf

written opinion by filing amendments and/or arguments within the time limit set therein.

- 380** In this case a second written opinion will be issued on condition that the applicant has filed amendments and/or arguments to overcome any objections raised in the first written opinion and that there remain objections outstanding such that the IPER would be negative if it were to be issued on the basis of the file as it stands.

International preliminary examination before the EPO: four scenarios

- 381** For ease of understanding, the procedure before the EPO as IPEA can be summarised in four scenarios: OJ 2011, 532

First case: The EPO acted as ISA and made no objections

- 382** If the WO-ISA established by the EPO as ISA contains **no objections** to the international application ("positive WO-ISA"), the EPO as IPEA will consider the WO-ISA as the first written opinion for the purposes of international preliminary examination (see point 377). The EPO as IPEA will in this case use its discretion in proceeding to issue the IPER immediately after expiry of the time limit for filing the demand. Therefore, the IPER will have no added value over the information provided in the WO-ISA, unless the applicant files amendments and/or arguments for the EPO to take into account as IPEA. Art. 34(2)(c) PCT

Second case: The EPO acted as ISA and made objections

- 383** If the WO-ISA established by the EPO as ISA contained **objections** to the international application ("negative WO-ISA"), the EPO as IPEA will consider the WO-ISA as the first written opinion for the purposes of international preliminary examination (see point 377). The WO-ISA will not, however, be reissued as a first written opinion of the EPO as IPEA. A second written opinion will be issued on condition that the applicant has filed amendments and/or arguments in reply to the WO-ISA which must be taken into account for international preliminary examination and that there remain objections outstanding such that the IPER would be negative if it were to be issued on the basis of the file as it stands. R. 66.1bis, 66.4, 66.4bis PCT
OJ 2003, 574

Third case: The EPO did not act as ISA and the EPO as IPEA has no objections

- 384** If the WO-ISA was issued by an ISA other than the EPO, the WO-ISA is not considered to be the first written opinion of the EPO as IPEA (see point 377). However, if the EPO as IPEA has no objections to the (amended) application for which preliminary examination has been requested, it may proceed to issue the IPER immediately after expiry of the time limit for filing the demand (see point 323). Art. 34(2)(c) PCT

Fourth case: The EPO did not act as ISA and the EPO as IPEA has objections

- 385** If the WO-ISA was issued by another ISA, the WO-ISA is not considered to be the first written opinion of the EPO as IPEA (see point 379). If the EPO as IPEA has objections to the application for which preliminary examination has been requested, it will issue a first written opinion. The applicant may respond to this written opinion by R. 66.1bis, 66.2, 66.4, 66.4bis PCT

filing amendments and/or arguments within the time limit set therein. A second written opinion will be issued on condition that the applicant has filed amendments and/or arguments to overcome any objections raised in the first written opinion and that there remain objections outstanding such that the IPER would be negative if it were to be issued on the basis of the file as it stands.

Time limit for reply to the written opinion

- 386** The time limit for the reply to the first written opinion issued by the EPO as IPEA is usually two months but may be extended to a maximum of three months at the applicant's request. Such a request must be filed before expiry of the two-month time limit set. An extension will only be granted if the extended time limit does not expire later than 25 months from the priority date. An extension of the time limit may also be requested if the WO-ISA is considered to be the first written opinion of the EPO as IPEA (see point 377). The time limit for the reply to the second written opinion or, as the case may be, to the invitation accompanying the minutes of a telephone consultation is normally two months and not shorter than one month unless the applicant has agreed to a shorter time limit.
- R. 66.2(d)(e), 69.2 PCT
OJ 2011, 532*

International preliminary examination and SIS

- 387** The EPO as IPEA will take into account any SISR (only) if it is available at the time the international preliminary examination is performed. A further written opinion will be issued before the IPER is established in the exceptional case that the contents of the SISR would change the EPO's opinion as set out in the WO-ISA established by the EPO as ISA.
- R. 45bis.8(c) PCT*

Refusal to perform preliminary examination

- 388** The EPO as IPEA will not perform an international preliminary examination on any claim for which no international search was performed (see point 252). In this context it is not relevant whether the applicant files amendments and/or arguments that, allegedly, overcome the reasons for the decision of the ISA not to search the claims concerned.
- Art. 17(2)(a) PCT
R. 66.1(e),
66.2(a)(vi) PCT*
- 389** Further, the EPO as IPEA will make use of its discretion not to carry out preliminary examination if the application relates to subject-matter listed in Rule 67 PCT to the extent that such subject-matter is not regarded as an invention or susceptible of industrial application or is excluded from patentability under the provisions of the EPC. Here, reference is made to the information published by the EPO in respect of international applications claiming a business method (see point 315).
- Art. 34(4) PCT
R. 67 PCT
Agreement EPO-WIPO, Art. 4
OJ 2010, 304
OJ 2007, 592*
- 390** Also, if the application fails to comply with the prescribed requirements to such an extent that no meaningful opinion can be formed on novelty, inventive step or industrial applicability, no preliminary opinion on these questions will be established.

Request for consultation by telephone

- 391** Since the issues to be discussed must be clear, a request for personal communication will not be granted before the applicant has submitted amendments and/or arguments which are to be taken into account by the EPO as IPEA. A request for personal communication may be granted by the EPO acting as IPEA only once and only in the form of consultation by telephone. *Art. 34(2)(a) PCT
R. 66.6 PCT
WIPO PCT Guide
10.067
OJ 2011, 532*
- 392** If the applicant files a request for consultation by telephone before a second written opinion is issued, he will be sent the minutes of the telephone consultation together with an invitation to submit further amendments and/or arguments within the time limit set for reply therein. In such a case, no second written opinion will be issued.
- 393** If the applicant requests a consultation by telephone and/or a second written opinion before a second written opinion is issued, the discretion to decide whether to consult the applicant by telephone or to establish a second written opinion is left to the EPO as IPEA.
- 394** If the applicant files a request for consultation by telephone after a second written opinion has been issued but before the date on which the IPER is established, the minutes of the telephone consultation are sent to the applicant but will not be accompanied by an invitation to submit further amendments and/or arguments, and none will be accepted unless agreed upon during the consultation by telephone.

Nucleotide and amino acid sequences

- 395** If the ISR was not drawn up in full or in part because the sequence listing was not available to the ISA in electronic form in the specified format (see point 261), this may affect the procedure under Chapter II PCT. *R. 13ter.2, 66.1(e)
PCT
OJ 2011, 372
OJ 2013, 542*
- 396** If no sequence listing in electronic form complying with the requirements is available to the EPO as IPEA, the applicant may be invited to furnish that sequence listing in the required form and format and to pay the late furnishing fee.
- 397** If no (full) international search was carried out, the EPO as IPEA will not perform the international preliminary examination if a meaningful examination cannot be performed (see point 388). In such cases an invitation to file a sequence listing under Rule 13ter.2 PCT is not issued by the EPO as IPEA and applicants are advised not to file sequence listings at this late stage.

Unity of invention

- 398** Where the EPO as IPEA considers that the international application lacks unity of invention, it will invite the applicant either to restrict the claims in order to meet this requirement or, to the extent that the inventions have been searched, to pay additional preliminary examination fees. *Art. 34(3) PCT
R. 68.2, 68.3(c) PCT
R. 158(2) EPC
OJ 2010, 320, 322*
- 399** If the applicant fulfils the requirements for reduction of the preliminary examination fee, any additional fee is validly paid upon payment of the reduced sum (see point 355).

- 400** If the applicant does not pay any additional preliminary examination fee the EPO establishes the IPER on the basis of the result already communicated.
- 401** If the applicant pays one or more additional preliminary examination fee(s) within the time limit set, those parts of the application for which additional fees have been paid will also be examined. Consequently the IPER will be established for all inventions for which a fee for preliminary examination has been paid.
- 402** The applicant may pay any additional fee under protest in accordance with Rule 68.3(c) PCT. The protest procedure is the same as before the EPO as ISA (see points 270 ff). *R. 158(3) EPC
Art. 2(1).21 RFees,
OJ 2010, 320, 322*
- 403** Where applicable, the EPO as IPEA will base the examination on the results of the protest procedure, if available, before establishment of the IPER.
- 404** Claims relating to inventions in respect of which no international search report has been established will not be the subject of international preliminary examination by the EPO as IPEA (see point 388). *R. 66.1(e) PCT*

What must be done after receipt of the IPER?

- 405** The IPER is transmitted to the applicant and the IB. The applicant then has no further opportunity to submit comments to the EPO as IPEA. He must now decide on the basis of the results of the international preliminary examination as laid down in the IPER whether he wishes to pursue the international application further by entering the national/regional phase before the elected Offices. *Art. 36. 39 PCT
R. 71.1 PCT*
- 406** If the EPO acted as IPEA, the applicant will, where appropriate, be invited to correct any deficiencies set out in the IPER ("negative IPER") upon entry into the European phase (see points 503 ff). *R. 161 EPC
GL/EPO E-VIII, 3.2*
- 407** All (further) questions relating to the **European phase** - the procedure before the **EPO as a designated or elected Office** - are dealt with in detail in chapter E.

Confidentiality of the international preliminary examination

- 408** The IB and the EPO as IPEA may not allow access to the file of the international preliminary examination to third parties without authorisation by the applicant. *Art. 36(3), 38 PCT
R. 73.2, 94.1(c),
94.3 PCT
Art. 128 EPC
WIPO PCT Guide
10.003, 10.080,
10.081
OJ 1999, 329
OJ 2003, 382
OJ 2007, Spec.Ed.3,
J.2, J.3
GL/EPO E-VIII, 2.11*
- 409** Once the IPER has been established and transmitted to the IB, the latter sends a copy of the IPER to each elected Office. As from that time, the IB also furnishes copies of the IPER on request to any person on behalf of the EPO as IPEA.

410 Furthermore, after completion of the IPER the EPO as **elected Office** allows access to the file of the international preliminary examination in accordance with the provisions of the EPC.

E. Euro-PCT procedure before the EPO as a designated (PCT Chapter I) or elected (PCT Chapter II) Office

I. General

- 411** Before the end of the international phase the applicant must decide whether and where he wants to proceed with the international application in the national/regional phase before the designated/elected Offices.
- 412** If the applicant wishes to obtain a European patent he must enter what is known as "the European phase", which means that he must fulfil the requirements (see points 449 ff) for initiating the processing of his application by the EPO as designated or elected Office in due time (see point 420).

When is the EPO a designated or elected Office?

- 413** If an applicant enters the European phase without having requested international preliminary examination under Chapter II, the EPO will act as a "designated Office" (see points 414 ff). However, if before entering the European phase the application was processed under Chapter II PCT, the EPO will act in the European phase as an "elected Office" (see points 417 ff).

*Art. 2(xiii) and (xiv)
PCT
Art. 153(1) EPC
GL/EPO E-VIII, 2*

When can the EPO act as designated Office?

- 414** Since all EPC contracting states are PCT contracting states, the EPO can act as a designated Office for any EPC contracting state, provided the international application was filed on or after the date on which the EPC entered into force for the state concerned (see point 31).
- 415** If this requirement is not met it may be that an extension agreement was in force on the international filing date that provides for the extension of a European patent to the state for which patent protection is sought (see points 122 ff).

- 416** Furthermore, a European patent for any EPC contracting state can be obtained only if neither the application nor the (automatic) designation of the state concerned for a European patent during the international phase has been (deemed) withdrawn.

R. 90bis PCT

When can the EPO act as elected Office?

- 417** For the EPO as an elected Office, the same requirements apply as for the EPO acting as a designated Office (see points 414-416). In addition, however, at least one of the EPC contracting states must have been elected for a European patent in the demand for international preliminary examination. Since the filing of the demand constitutes the election of all PCT contracting states that were designated for, where possible, a national and a regional patent, this requirement will automatically be met in respect of each state that was an EPC contracting state at the international filing date, unless the applicant has withdrawn such election in the meantime (see points 31, 347).

When must the applicant decide on the scope of protection sought for the European patent?

- 418** Upon entry into the European phase the applicant must pay the designation fee (see point 554). Payment of this fee confirms the designation of all EPC contracting states that were designated on the international filing date for a European patent (see points 31, 115 ff). *R. 159(1)(d) EPC
Art. 2(1).3 RFees
OJ 2008, 513*
- 419** Within the time limit for payment of the designation fee, the applicant must decide on the extension states for which he seeks extension of the European patent and must pay the extension fees due (see points 122 ff, 561 ff). An extension fee is to be paid for each extension, and no flat extension fee applies.

When must the European phase be initiated before the EPO as designated or elected Office?

- 420** If, after considering the ISR and WO-ISA (see points 238 ff) and, where applicable, the result of the international preliminary examination as laid down in the IPER (see points 405 ff) and/or a supplementary international search (see points 273 ff), an applicant decides to pursue his international application further before the EPO as designated/elected Office, he must comply with the requirements for entry into the European phase **within 31 months** from the filing date or, if priority has been claimed, from the earliest priority date. *Art. 22(1)(3),
39(1)(a)(b) PCT
R. 159(1) EPC*
- 421** The time limit for complying with the requirements for entry into the European phase thus extends by one month beyond the standard time limit of 30 months provided for in Articles 22(1) and 39(1)(a) PCT and applies irrespective of whether or not a demand for international preliminary examination was filed (see points 329-330).
- 422** If the 31-month time limit expires on a day on which one of the filing offices of the EPO is not open for receipt of documents, the period is extended to the first day thereafter on which all filing offices are open for receipt of documents and on which mail is delivered. *R. 80.5 PCT
R. 134 EPC*
- 423** If the applicant does not comply with the requirements for entry into the European phase within the 31-month time limit, the Euro-PCT application is, as a rule, deemed to be withdrawn (see point 451). *Art. 24(1)(iii), 39(2)
PCT
R. 160 EPC*

Language of the proceedings in the European phase

- 424** The language of the proceedings is one of the official languages of the EPO (English, French and German). If the international application was published by WIPO (see point 235) in an official language of the EPO, that language is the language of the proceedings in the European phase. If not, the EPO official language of the translation to be submitted upon entry into the European phase is the language of the proceedings (see points 515 ff). *Art. 14(3), 153(5)
EPC
R. 159(1)(a) EPC*
- 425** The EPO does not allow the language of the proceedings to be changed. Reference is made to decision G 4/08 of the Enlarged Board of Appeal. *OJ 2010, 572*

How and where should the applicant initiate the procedure before the EPO as a designated/elected Office (Form 1200)?

- 426** For entry into the European phase, applicants are strongly recommended to use the latest version of Form 1200. *Art. 22, 39 PCT
R. 49.4, 76.5 PCT*
- 427** Form 1200 may be filed in electronic form, online or on an admissible data carrier using the EPO Online Filing software. The (basic part of the) filing fee is reduced if Form 1200 is filed online (see point 542)²⁸.
- 428** The form may also be filed on paper and can be downloaded from the EPO website (Annex XI)²⁹. Applicants are advised to read the explanatory notes carefully before completing the form.
- 429** The form must be filed with **the EPO** direct. It should not be sent either to the IB or to an authority of an EPC contracting state competent to receive European patent applications. *OJ 2007 Spec.Ed.3, A.3*
- 430** If filed in paper form, either by post or by fax, only one copy of the document must be submitted. If the form is filed by fax, a confirmation copy must be filed only on invitation by the EPO.
- 431** The IB sends to the EPO as designated/elected Office a copy of the international application and the ISR (including the WO-ISA) and, where applicable, also the IPER with annexes. The IB will notify the applicant thereof, and the applicant himself should not file any of these documents with the EPO (see point 455). However, the applicant may have to file a translation of the international application and further documents as set out below (see points 515 ff). *Art. 2(1).1 RFees
OJ 2009, 182
OJ 2012, 448
Art. 20, 36(3) PCT
R. 47.1(c), 73 PCT
PCT Newsletter
11/2013, 9*
- 432** Applicants must indicate the European application number, which as a rule is communicated to them approximately ten months after international publication (EPO Form 1201). Applicants who have not yet been notified of this number when performing the required steps for entry into the European phase may instead cite the PCT application number or the PCT publication number.

Request for early processing

- 433** An applicant can request the EPO as designated or elected Office to commence processing the Euro-PCT application at any time before expiry of the 31-month time limit. *Art. 23(2), 40(2) PCT
R. 90bis.6 PCT
R. 159 EPC
OJ 2013, 156*
- 434** For this purpose, the applicant must file an **express request for early processing**, which is not included in Form 1200. Moreover, he must fulfil the requirements for entry into the European phase **as if the 31-month time limit provided for in Rule 159(1) EPC expired on the date he requests early processing**.
- 435** This means that, for an application to be processed early, the following requirements must be complied with: payment of the filing fee (see point 540), filing of the translation (where applicable, see point 515), specification of the application documents (see point 479), payment of

²⁸ www.epo.org/applying/online-services.html

²⁹ www.epo.org/applying/forms-fees/forms.html

the search fee (where applicable, see point 585). Which further requirements must be complied with depends on the date on which early processing is requested, i.e. on whether the time limits for paying the designation fee (Rule 39(1) EPC) and the renewal fee (Rule 51(1) EPC) and for filing the request for examination and paying the examination fee (Rule 70(1) EPC) have already expired at that date (see points 554, 605 ff and 590 ff). The term “necessary requirements” is used to refer to the requirements that must be complied with for a request for early processing for the application concerned to be effective.

- 436 Where applicable, the certificate of exhibition must also be filed on entry into the European phase (see point 617). However, if this requirement is not met, this will not prevent the request for early processing from being effective, but it will affect the prior art that the EPO takes into account in the procedure. *GL/EPO B-VI, 5.5*
- 437 Claims fees for any claims in excess of fifteen need only be paid upon expiry of the period under Rule 162(2) EPC. Therefore, their payment is not a requirement for a request for early processing to be effective.
- 438 Fees which need to be paid for a request for early processing to be effective **must not be paid by automatic debit order**, since in that case the fees are debited - and thus paid - only on the last day of the 31-month time limit.
- 439 If on the date the request for early processing is filed all necessary requirements (see point 435) are complied with, the request for early processing is effective as from that date and the application will be processed in the same way as any Euro-PCT application which has entered the European phase. This means, for instance, that the EPO as designated/elected Office will issue the communication under Rule 161/162 EPC directly after it has established that the request for early processing is effective (see point 490). Furthermore, as from the date the request for early processing is effective, the applicant may file a divisional application (see point 659).
- 440 If on the date the request for early processing is filed any necessary requirement (see point 453) is not complied with, the request for early processing will not be effective on the date of receipt of the request but only as from the earliest date thereafter on which all requirements necessary on that date have been complied with (see point 435). It is only on the latter date that the application enters the European phase, and from that moment on is processed in the same way as any Euro-PCT application which has entered the European phase.
- 441 If the requirements for a request for early processing to be effective are not complied with before expiry of the 31-month time limit, the EPO as designated/elected Office cannot start processing the application until that time limit has expired.
- 442 From the date the applicant's request for early processing is effective, any subsequent withdrawal under Rule 90*bis* PCT will have no effect in respect of the procedure in the European phase.

- 443** Note that if early processing is requested because the applicant wishes not only the processing of the application before the EPO as designated/elected Office but also the examination of the application to start, he must have filed a valid request for examination (including payment of the examination fee) under Article 94 EPC, even if the time limit under Rule 70(1) EPC has not yet expired at the date of effective entry into the European phase, since examination will be taken up only if a request for examination has been validly filed.
- 444** Furthermore, if a request for examination is filed before the EPO has, where applicable, sent the supplementary European search report to the applicant, examination will start only upon receipt of an indication from the applicant that he wishes to proceed further with the application and, if required, a response to the extended European search report. The applicant may waive his right to be asked whether he wishes to proceed further. He can indicate this in box 4.2 of Form 1200. *R. 70(2), 70a(2) EPC*
- 445** If the EPO acts as **designated** Office and the IB has not yet transmitted to it a copy of the international application, the ISR and the WO-ISA, the applicant may but does **not** have to file with the IB a request to do so. If needed, the EPO will take care of this itself. *Art. 20 PCT
R. 44bis.2(b),
47.4 PCT*
- 446** The same applies if the EPO acts as **elected** Office and the IB has not yet transmitted to it a copy of the international application, the ISR, the WO-ISA and the IPER with its annexes. *Art. 36(3)(a) PCT
R. 61.2(d), 73.2(b)
PCT*

Accelerated prosecution of applications - the "PACE" programme

- 447** An effective request for early processing causes prosecution of the application by the EPO as designated/elected Office to be taken up before expiry of the 31-month time limit. In addition to the possibility of requesting early processing, the applicant may want accelerated prosecution of his application in the European phase. For this purpose, a separate request under the PACE programme is to be submitted upon entry into the European phase or later (EPO Form 1005). Depending on the time when the request is submitted and the indications made in the form, accelerated prosecution may cover the formalities examination, the establishment of the supplementary European search report, where such a report is to be drawn up (see points 572 ff), and/or substantive examination. *OJ 2010, 352
GL/EPO E-VII, 3*

Combined PACE request and waiver of Rule 161/162 communication

- 448** If a PACE request has been filed, the EPO will also have to respect the six-month time limit provided for in Rules 161 and 162 EPC and will therefore not be able to start supplementary European search or examination before expiry of that time limit (see point 489). For this reason an applicant interested in acceleration of the procedure may consider waiving his right to the Rule 161/162 communication. The procedure to follow is set out below (see point 495). *OJ 2011, 354*

II. What is "entry into the European phase"?

Overview of the steps to be taken for entry into the European phase

- 449** The process generally referred to as "entry into the European phase" is not an act in itself but may be described as a series of "steps" to be taken or, in other words, as a bundle of requirements to be fulfilled within 31 months from the international filing date or, where applicable, the earliest priority date claimed for the international application ("31-month time limit"). Which requirements are to be fulfilled within the 31-month time limit depends to a certain extent on the particular case.
- 450** Some requirements must be fulfilled in every case, such as payment of the filing fee (point 540) and specification of the documents on which processing in the European phase is to be based (points 479 ff). Further, as a rule, the designation fee is due and the request for examination must be filed at expiry of the 31-month time limit for entry into the European phase, unless the ISR was published extremely late (see points 554, 593). However, the filing of a translation, for instance, is required only if the international application was not published in an official language of the EPO (points 515 ff). This means that for each application the applicant must verify which requirements are to be fulfilled within the 31-month time limit.
- 451** If the applicant does not fulfil all requirements that must be met within the 31-month time limit, in many cases - depending on exactly which requirement was not met - the effect is that the application is deemed to be withdrawn as from the date of expiry of that time limit. A loss of rights may be remedied, but only if the strict requirements under which a remedy applies are fulfilled in due time. If not, the application is irreversibly lost. Each of the requirements will be discussed in detail below (see points 453 ff). *Art. 24(1)(iii), 39(2) PCT
Art. 121, 122 EPC
R. 135, 136, 160, 162, 163 EPC*
- 452** All requirements in respect of which non-timely compliance results in a loss of rights (directly) upon expiry of the 31-month time limit are listed in Rule 159 EPC. In view of that legal effect they are usually referred to as "minimum requirements" for entry into the European phase.

Minimum requirements

- 453** In order to initiate the European phase the applicant must take **at least the following steps within 31 months from** the filing date or, if priority has been claimed, from the earliest priority date: *R. 159 EPC*
- supply the **translation** if the Euro-PCT application was not published in one of the EPO's official languages (see points 515 ff), *Art. 153(4) EPC
R. 159(1)(a) EPC*
 - **specify the application documents** on which the European grant procedure is to be based (see points 479 ff), *R. 159(1)(b) EPC*
 - pay the **filing fee** provided for in Article 78(2) EPC, including an additional page fee for applications longer than 35 pages (see points 540 ff), *R. 159(1)(c) EPC*
 - pay the **designation fee** (and any extension fees) if the period under Rule 39 EPC has expired earlier (see points 554 ff), *R. 159(1)(d) EPC*

- pay the **search fee** if a supplementary European search report is to be drawn up (see points 585 ff), *Art. 153(7) EPC*
R. 159(1)(e) EPC
- file the **request for examination** and pay the **examination fee** if the period under Rule 70(1) EPC has expired earlier (see points 590 ff), *R. 159(1)(f) EPC*
- pay the **renewal fee** for the third year if the period under Rule 51(1) EPC has expired earlier (see points 605 ff), *R. 159(1)(g) EPC*
- where applicable (in rare cases), file the certificate of exhibition mentioned in Article 55(2) EPC (see points 617 ff). *R. 159(1)(h) EPC*

Further requirements

454 Besides the "minimum requirements" mentioned in point 453, the applicant may have to complete one or more of the following steps within the 31-month time limit. These further requirements are not referred to as "minimum requirements" since failure to comply with them does not have the direct effect of a loss of rights (see point 451).

These further requirements are:

- pay any claims fees due (see points 608 ff), *R. 162 EPC*
- file the designation of the inventor (see points 614 ff), *R. 163(1) EPC*
- furnish the file number or the copy of the application(s) of which priority is claimed (see points 623 ff), *R. 163(2) EPC*
- furnish a sequence listing complying with the standard (see point 533), *R. 163(3) EPC*
- furnish the indications on the applicant mentioned in Rule 163(4) EPC in respect of any applicant (see points 614 ff), *R. 163(4) EPC*
- appoint a professional representative (see point 465), *R. 163(5) EPC*
- furnish a copy of the results of any search carried out by or on behalf of the authority with which the priority application was filed (see points 483 ff). *R. 141(1) EPC*

455 The EPO is sent the copy of the international application required under Article 22(1) or 39(1) PCT by the IB before expiry of the 31-month time limit. Therefore, the applicant should not submit a copy of the application to the EPO. *Art. 20, 22(1), 39(1) PCT*

456 If amendments have been made under Article 19 PCT (see points 239 ff), the copy transmitted by the IB also includes these amendments and the applicant's statement thereon. *Art. 19(1), (2) PCT*

Amounts of fees to be paid in the European phase

- 457** The amounts of all fees that may be due on entry into the European phase or thereafter are listed in the current version of the Rules relating to Fees (RFees) and the Schedule of fees and expenses of the EPO, which is published as a supplement to the Official Journal and can be found on the EPO website³⁰. Guidance for the payment of fees and expenses is published in each issue of the Official Journal. *OJ 3/2012 Suppl. OJ 2013, 633*
- 458** All fees to be paid on entry into the European phase are to be paid to the EPO in euro. A list of bank accounts opened in the name of the EPO and information on the different options to make a valid payment, for instance via a deposit account held with the EPO, can be found in each issue of the Official Journal and on the EPO website³¹. Please refer to OJ 2013, 633, for information on EPO bank accounts that will be closed with effect from 31 January 2014.
- 459** Applicants having a deposit account may also make use of the automatic debiting procedure in respect of any fee that must be paid within the 31-month time limit and thereafter. If an automatic debit order is filed in due time, any fee which must be paid within the 31-month time limit will be debited on the last day of that time limit. For more information on deposit accounts, reference is made to the supplement to the third issue of the Official Journal 2009. *OJ 3/2009 Suppl.*
- 460** Please note that payment of any fees in cash, by cheque or by credit card is not possible.

III. Communication with the applicant – representation – address for correspondence (Form 1200, Sections 2 and 3)

- 461** The EPO will issue any communication only to the applicant or, where applicable, the professional representative. Accordingly, any procedural action will be accepted by the EPO only if it is undertaken by the applicant or, on his behalf, by the (appointed) professional representative. An exception applies in respect of fees, which can be validly paid to the EPO by a third party.
- 462** If an applicant has not appointed a professional representative and is not obliged to do so (see point 465), he may indicate an address for correspondence to which the EPO will send its communications if all requirements are met.
- 463** An address for correspondence must be an address of the applicant himself and not the address of a third party. A Notice from the EPO concerning the use of an address for correspondence will be published in the Official Journal in 2014.

³⁰ www.epo.org/applying/forms-fees.html

³¹ www.epo.org/applying/forms-fees/payment.html

464 Please note that an address for correspondence which is acceptable for the procedure in the international phase (see point 108) does not necessarily comply with the requirements applicable in the European phase.

Requirements specific to applicants with neither residence nor principal place of business in an EPC contracting state - "non-resident applicants"

465 Applicants having neither their residence nor their principal place of business within the territory of one of the EPC contracting states must be represented by a professional representative and act through him in all proceedings established by the EPC.³² In such cases a professional representative must be appointed in due time.

*Art. 27(7) PCT
Art. 133(2), 134 EPC
GL/EPO A-III, 2.1*

466 Two categories of professional representative have the right to practise before the EPO:

- any professional representative entered in the directory of professional representatives maintained by the EPO³³, and
- any legal practitioner who is qualified to practise in patent matters in one of the EPC contracting states and has his place of business in that state.

467 However, up to expiry of the 31-month time limit under Rule 159 EPC, non-resident applicants may either comply with any requirement **themselves** or act through a professional representative entitled to practise before the EPO. This means that a non-resident applicant may himself, within the 31-month time limit, for example sign and file EPO Form 1200, submit amendments, file a translation of the application, etc.

468 Non-resident applicants who did **not** themselves take the **required** steps for entry into the European phase **within the 31-month time limit** may subsequently perform these and the other procedural steps (e.g. filing of a request for re-establishment of rights) **only through a professional representative entitled to practise before the EPO**.

469 The only exception to the rule that after expiry of the 31-month time limit non-resident applicants must act in the procedure before the EPO as designated/elected Office through a professional representative is that payments to the EPO can be validly made by anybody.

GL/EPO A-X, 1

470 Under no circumstances can an applicant act through his agent appointed for the international phase if the latter is not a professional representative entitled to practise before the EPO (see point 466). Further, if such representative is the appointed agent for the international phase, he is not automatically appointed for the European phase. A separate appointment is necessary (see point 113).

³² www.epo.org/applying/online-services/representatives.html

³³ www.epo.org/applying/online-services/representatives.html

- 471** The only case in which a new appointment need not be made is if the professional representative was validly appointed in the procedure before the EPO as receiving Office, ISA or IPEA and the appointment expressly extends to representation in the European phase (see point 113).
- 472** **Non-resident applicants** are therefore **strongly advised** to appoint a professional representative before the EPO **in good time**, i.e. before they initiate proceedings before the EPO as designated/elected Office, and to indicate this appointment in Form 1200, Sections 2 and 3 (see points 476 ff).
- 473** If no professional representative is appointed for the proceedings in the European phase, any communication issued by the EPO as designated/elected Office will be notified to the address of the applicant.

Non-observance of the requirement to appoint a professional representative

- 474** In case of failure to appoint a professional representative where this is required, the applicant will be invited by the EPO to do so within a time limit of two months. Until the EPO is informed of a (valid) appointment, any procedural step taken by the applicant will be deemed not to have been taken. If within due time the deficiency has not been corrected, the application will be refused. *R. 163(5), (6) EPC*
- 475** The refusal may be remedied by a request for further processing. The request will be granted if within two months from notification of the refusal a professional representative is appointed and the fee for further processing is paid. *Art. 121 EPC
R. 135 EPC
Art. 2(1).12 RFees*

How to appoint a representative - authorisation

- 476** In the procedure before the EPO as a designated/elected Office, an authorisation or (a reference to) a general authorisation need, as a rule, not be filed by a representative who identifies himself as a professional representative entered on the list maintained by the EPO. This means that for a valid appointment a professional representative merely needs to inform the EPO of his appointment for the application concerned (see point 113). *Art. 133 EPC
R. 152(1)-(3) EPC
OJ 2007, Spec.Ed.3, L.1*
- 477** Legal practitioners entitled to practise before the EPO (see point 466) and employees representing an applicant who are not professional representatives must, as a rule, file a signed authorisation or a reference to a general authorisation. However, no (new) authorisation is to be filed where an authorisation was filed with the EPO as receiving Office, ISA or IPEA and the authorisation expressly empowered the legal practitioner or employee to act before the EPO in the European phase (see point 113). *Art. 133(3) and 134(8) EPC
GL/EPO A-VIII, 1.5-1.6*
- 478** Where an authorisation is to be filed, the use of EPO Form 1003 (Annex VIII) is recommended for individual authorisations and EPO Form 1004 for general authorisations. If an authorisation is required but not received, the EPO will invite the applicant or representative to file it within a period to be specified in the invitation. *GL/EPO A-VIII, 1.7*

IV. Application documents on which the procedure before the EPO as designated/elected Office is based (Form 1200, Section 6)

Which version of the Euro-PCT application is taken as the basis for the procedure in the European phase (Form 1200, Sections 6.1 and 6.2)?

- 479** When an application enters the European phase, the applicant must specify the application documents, as originally filed or as amended, on which the European grant procedure is to be based. *R. 159(1)(b) EPC*
- 480** The documents on which the proceedings before the EPO as designated or elected Office are to be based are to be indicated in Section 6 of Form 1200 and, where necessary, further clarification may be provided on an additional sheet. The applicant must make sure that the indications in Section 6 and/or on the additional sheet correspond to any indications given in the table for Section 6 provided for calculation of the additional (page) fee to be paid for applications comprising more than 35 pages (see points 540 ff).
- 481** If the EPO acts as **designated** Office, the documents forming the basis for the proceedings in the European phase are to be indicated in Section 6.1.
- 482** If the EPO acts as **elected** Office, the documents forming the basis for the proceedings in the European phase are to be indicated in Section 6.2. If the applicant has filed test reports (e.g. comparative examples in support of inventive step) with the EPO as IPEA, it is assumed that the EPO may also use them in the European grant proceedings.

Information on prior art (Form 1200, Section 6.3)

- 483** If the applicant has claimed the right of priority of one or more earlier applications, he must on entry into the European phase file the results of any search carried out by or on behalf of the office of first filing (OFF) for each application whose priority is claimed. This obligation applies to international applications filed as from 1 January 2011. *Art. 124 EPC
R. 70b, 141 EPC
OJ 2010, 410, 600
OJ 2011, 62, 64*
- 484** The obligation applies irrespective of the form and format in which the search results are drawn up, for instance a search report, a listing of cited prior art or a (relevant) part of an examination report. The applicant must file a complete copy of each relevant document as received from the authority concerned. However, neither a translation of the search results nor a copy of the documents cited therein need be filed.
- 485** If the search results for the priority application(s) are not available at the time of entry into the European phase, the applicant must file them as soon as he receives them.
- 486** No action is required on the part of the applicant where an exemption applies. Firstly, this is the case if the EPO is the authority that performed the search on a claimed priority application and established a search report of one of the following types: a European search report, an ISR, an international-type search report or a search report on a national application drawn up on behalf of a national office (Belgium, *OJ 2010, 600*

Cyprus, France, Greece, Italy, Lithuania, Luxembourg, Malta, Netherlands, San Marino, Turkey).

- 487** A further exemption from the obligation to file a copy of any search results for a priority application applies if priority is claimed of a first filing made in: OJ 2011, 62
OJ 2013, 217

- Austria
- Japan
- the Republic of Korea
- the United Kingdom
- the United States of America.

- 488** If the search results regarding any claimed priority application have to be filed with the EPO but are not received, the applicant will be invited to file, within a period of two months set in the invitation, the copy of the missing search results and/or a statement that these results are (in whole or in part) not available to him. The invitation will be issued at the time the examining division assumes responsibility for the application.

Amending the application – Rule 161/162 communication

- 489** For the purpose of the procedure before the EPO as designated/elected Office the applicant may always file (**voluntary**) amendments within the 31-month time limit, and if he subsequently changes his mind he may file (further) amendments until expiry of the time limit set in the combined communication under Rules 161 and 162 EPC (Rule 161/162 communication). As set out below, the applicant may also be **required** to file (**mandatory**) amendments to and/or comments on the application within the time limit set in the Rule 161/162 communication (see point 504). Whether or not a response is mandatory is clearly stated in the communication, its wording thus differing depending on the case (EPO Forms 1226AA and 1226BB). Art. 28, 41 PCT
R. 52.1(a), 78.1(a)
PCT
Art. 123(2) EPC
R. 137(2),
161(1), (2) EPC
GL/EPO E-VIII, 3.1-3.3
OJ 2009, 299
OJ 2010, 350
OJ 2010, 634
- 490** The Rule 161/162 communication is issued for each application promptly once the application has entered the European phase and on condition that the ISR is available to the EPO. This means that it is also issued if the applicant has already filed, with Form 1200 or thereafter, amendments and/or comments to form the basis for the procedure in the European phase.
- 491** Pursuant to Rules 161 and 162 EPC the time limit set in the communication is six months. This time limit cannot be extended.
- 492** After expiry of the six-month time limit further possibilities for amending the application are limited. If a supplementary European search is carried out, the applicant always has one further opportunity to submit amendments upon receipt of the report (see point 499). Amendments made thereafter require the consent of the examining division. R. 137(3) EPC
- 493** Amendments may under no circumstances go beyond the disclosure in the international application as filed. Art. 28(2), 41(2) PCT
Art. 123(2) EPC

- 494** Whenever amendments are filed, the applicant must **identify** them and indicate their basis in the application as filed. If he fails to do so, the examining division may issue a communication requesting correction of the omission within a non-extendable time limit of one month. If the deficiency is not remedied in due time, the application will be deemed withdrawn under Article 94(4) EPC. The loss of rights can be remedied with further processing.
- Art. 94(4) EPC
R. 137(4) EPC
GL/EPO E-VIII, 3.4*

Waiving the Rule 161/162 communication

- 495** In order to accelerate the European grant procedure the applicant can, if so desired in addition to a PACE request (see point 447), waive his right to the Rule 161/162 communication by crossing the box in Section 6.4 of Form 1200.
- OJ 2011, 354*
- 496** This waiver will be effective and no Rule 161/162 communication issued only if the applicant has taken all steps required to make its issuance superfluous. In other words, he must ensure that the application can proceed to the next phase of the European grant procedure without the communication being issued. This means that within the 31-month time limit he must have:
- paid any claims fees due for the set of claims indicated as the basis for the procedure in the European phase, and
 - filed a substantive response, as the case may be, to the WO-ISA, the IPER or the SISR established by the EPO, if in the absence of such a response the EPO would invite the applicant to do so under Rule 161(1) EPC (“mandatory response”).
- 497** If any requirement for the waiver to be effective is not fulfilled, a Rule 161/162 communication will be issued and processing of the application will not start until the six-month time limit set therein has expired. This applies even if a request under the PACE programme is or has been filed (see point 447).

Amendments and the Rule 161/162 communication if a supplementary European search is carried out

- 498** If the **EPO did not act as ISA or SISA** for the application it will upon entry into the European phase draw up a supplementary European search report (see point 572). Up to expiry of the time limit set in the Rule 161/162 communication (EPO Form 1226CC) the applicant may file (“voluntary”) amendments. All amendments filed within the time limit set in the communication will be taken into account in drawing up the supplementary European search report and the search opinion (see points 572, 574). This means that the supplementary European search will be based on the last set of claims filed up to expiry of this time limit for which any claims fee due has been paid (see point 609).
- R. 161(2) EPC
OJ 2010, 406, point 6
OJ 2010, 634
GL/EPO E-VIII, 3.1-3.2, 4.3*
- 499** After issuance of the supplementary European search report the applicant may, first of all, comment on both the report and the search opinion and file (“voluntary”) amendments to the description, claims and drawings within the period specified in the communication under Rule 70a(2) EPC for indicating whether he wishes to proceed further with the application.
- R. 137(2) and 70a(2) EPC*

- 500** Secondly, if any deficiencies are noted in the search opinion, the applicant will be required under Rule 70a(2) EPC to respond to the objections made. The application will be deemed withdrawn if the applicant does not submit a substantive reply to the communication under Rule 70a(2) EPC ("mandatory response"). The loss of rights can be remedied with further processing. *Art. 121 EPC
R. 135, 70a(2) EPC*
- 501** It is at the discretion of the examining division to accept any further amendment at a later stage of the proceedings. *R. 137(3) EPC*
- Amendments and the Rule 161/162 communication if no supplementary European search is carried out**
- 502** If the **EPO has performed a search** for an international application in its capacity **as ISA or SISA**, it will not carry out a supplementary European search upon entry into the European phase (see point 572), and any amendments filed within the time limit set in the Rule 161/162 communication will serve as the basis for examination. *R. 137(2) and 161(1) EPC
GL/EPO E-VIII, 3.2*
- 503** If the EPO in the international phase made any negative finding and drew up a "negative WO-ISA" or, where the EPO also acted as IPEA, a "negative IPER" or made "objections" in the explanatory notes on the SISR ("negative SISR"), the applicant is required under Rule 161(1) EPC to respond to this finding ("mandatory response").
- 504** If a response is mandatory, the applicant must respond to the Rule 161/162 communication within the six-month time limit set therein, unless a substantive response has already been submitted. For the purpose of Rule 161(1) EPC new amendments filed on entry into the European phase and up to the time the Rule 161/162 communication is issued are held to constitute a response on condition that the applicant has indicated - preferably in Box 6 of Form 1200 - that they form the basis for prosecution of the application in the European phase.
- 505** Under the same conditions as for amendments made on entry into the European phase or thereafter, but subject to certain requirements set out in detail in the Guidelines, any amendments made under Article 19 and/or 34 PCT and maintained for the processing of the application in the European phase will constitute a response. *GL/EPO E-VIII, 3.2-3.3*
- 506** If a "mandatory response" is not filed in due time, the application is deemed withdrawn under Rule 161(1) EPC. Further processing may be requested. *Art. 121 EPC
R. 135 EPC*
- 507** Further, if the EPO acted as ISA, SISA or IPEA in the international phase, and regardless of whether the EPO in the international phase made any negative finding (see point 503), the applicant has the right to submit (further) comments on the WO-ISA, IPER and SISR and to file (further) voluntary amendments as he sees fit within the time limit set in the invitation. *R. 137(2) EPC*
- 508** All comments and amendments validly filed by the applicant on a mandatory or voluntary basis within the time limit set in the Rule 161/162 communication will be taken into account in the examination proceedings. This means that examination will be based on the last set of claims filed up to expiry of this time limit for which any claims fee required is duly paid (see points 608 ff). *OJ 2010, 634*

- 509** It is at the discretion of the examining division to accept any further amendment at a later stage of the examination proceedings. *R. 137(3) EPC*

Amendments and claims fees

- 510** The claims fees are calculated on the basis of the number of claims contained in the application in the version that is, in accordance with the indications in Form 1200, to be taken as the basis for the procedure in the European phase. The amount of the claims fee varies according to a two-tier system. For the 16th and each further claim a claims fee must be paid. However, for any claim over 50 a higher amount is due (see points 608 ff). *R. 162 EPC
Art. 2(1).15 RFees
OJ 2009, 118 (3.1)
GL/EPO E-VIII, 2.1.3*
- 511** Where claims fees are to be paid, they must be paid within the 31-month time limit. If the applicant fails to pay (the correct amount of) claims fees in due time, he is invited in the Rule 161/162 communication to pay the missing amount within the non-extendable six-month time limit set therein (see point 491). If a supplementary European search is carried out, it will relate to the last set of claims received before expiry of the six-month time limit and will be confined to claims for which any claims fees, where applicable, have been paid in due time.
- 512** Where the number of claims changes as a consequence of a (further) amendment submitted within the six-month time limit set in the Rule 161/162 communication (see point 491), that number is decisive for calculating the amount of the claims fees to be paid.
- 513** If consequent to the amendments made before expiry of the six-month time limit the number of claims forming the basis for the further procedure is reduced, any claims fees overpaid will be refunded. *R. 162(3) EPC*
- 514** Claims for which a fee due is not paid are deemed to be abandoned, and the applicant is notified thereof. The loss of rights may be remedied by further processing. Features of a claim deemed abandoned which are not otherwise to be found in the description cannot be reintroduced into the application. *Art. 121 EPC
R. 135, 162(4) EPC
J 15/88
OJ 1990, 445*

V. Translation of the application documents and other documents (Form 1200, Section 7)

When must the applicant file a translation of the Euro-PCT application?

- 515** If the Euro-PCT application was not published by the IB in an official language of the EPO (English, French, German), the applicant must, within the 31-month time limit, submit to the EPO a translation of the application into any such language (Form 1200, Section 7). *Art. 22(1), 39(1) PCT
R. 49.2 PCT
Art. 14(2), 153(4)
EPC
R. 159(1)(a) EPC
GL/EPO E-VIII, 2.1.2
Art. 14(3) EPC*
- 516** If a translation must be filed, the language of the translation determines the language of the proceedings before the EPO (see point 424). At any time during the processing of the application in the European phase, errors made in the translation may be corrected.

517 If the international application has been published by the IB in an official language of the EPO, no translation is required and any translation that is nevertheless filed will be ignored, since the language of the proceedings may not be changed upon entry into the European phase. *G 4/08*
OJ 2010, 572

518 In written proceedings the applicant may use any official language of the EPO, but any amendments to the application must always be filed in the language of the proceedings (see point 424). *R. 3 EPC*

519 On the question of whether a translation of the priority document must be submitted, reference is made to points 630 ff.

Consequences of not filing a translation of the application

520 If the translation of the Euro-PCT application is not filed within the time limit, the application is deemed to be withdrawn and the applicant is informed of this in a communication. Moreover, the application will not be considered as comprised in the state of the art under Article 54(3) EPC (see point 658). *Art. 24(1)(iii),*
39(2) PCT
R. 76.5 PCT
Art. 153(4) EPC
R. 112, 160 EPC

521 The loss of rights is deemed not to have occurred if, within two months from notification of the above communication, the translation is supplied and further processing is requested by payment of the relevant fee. *Art. 121 EPC*
R. 135(1) EPC
Art. 2(1).12 RFees

522 Alternatively, the applicant may request reinstatement of rights under Rule 49.6 PCT if the application is deemed withdrawn because the translation was not filed in due time. However, given that the fee is higher and stricter requirements apply, this remedy has no advantages unless the period for requesting further processing has already expired. *R. 49.6 PCT*
Art. 122 EPC
R. 136 EPC
Art. 2(1).13 RFees

What the translation must include

523 The translation must always include: *R. 49.3 and .5 PCT*

- the description (as originally filed)
- the claims (as originally filed)
- any text in the drawings (as originally filed)
- the abstract (as published).

524 If the EPO acts as **designated** Office the translation must, where applicable, also include: *R. 49.5 PCT*

- **only if** the applicant wishes such amendments to form the basis of further proceedings, any **amendments made to the claims** under Article 19 PCT in the form of a translation of the complete set of claims furnished in replacement of all claims originally filed (see point 242). The amendments must be submitted together with, if submitted to the IB, the statement under Article 19(1) PCT explaining the amendments and, in every case, the accompanying letter under Rule 46.5(b) PCT in an official language of the EPO. If a translation of the complete set of claims submitted under Article 19 PCT is not furnished or not accompanied by a translation of, if submitted to the IB, the statement under Article 19(1) PCT and, in every case, the accompanying letter under Rule 46.5(b) PCT, the amendments under Article 19 PCT will be **disregarded** for the *Art. 19 PCT*
R. 46.4 and .5, 49.3,
49.5(c), (c-bis) PCT
R. 3 EPC

further proceedings. If only the statement under Article 19(1) PCT is not available in an official language, only that document will be disregarded.

- any published request for rectification *R. 91.3(d),
48.2(a)(vii) PCT*
- any sequence listing, unless the text in the sequence listing is available to the EPO in English (see point 537) *R. 49.5(a-bis), 13ter
PCT*
- any separately furnished references to deposited biological material (Form 1200, Section 8). *R. 49.5(h), 13bis.3
and 13bis.4 PCT*

525 In addition, if the EPO acts as **elected** Office, translations of **any annexes** to the international preliminary examination report (IPER) **must always be furnished**, i.e. regardless of whether protection is sought for the same version of the application documents as was the subject of that report. Therefore, a translation of any amendments made under Article 19 PCT must also always be filed if such amendments are annexed to the IPER. *Art. 36(2)(b) and
(3)(b), 39(2) PCT
R. 70.16, 74.1(a)
PCT*

526 If the applicant wishes the amendments to the claims made before the IB under Article 19 PCT to form the basis of the subsequent procedure before the EPO as elected Office, and these amendments are **not** annexed to the IPER (for instance because they were considered reversed by an amendment under Article 34 PCT), then these amendments must also be furnished in translated form, as otherwise they will be disregarded for the further proceedings. Any statement under Article 19(1) PCT and, in every case, the letter under Rule 46.5(b) PCT must also be furnished in an official language of the EPO. If only the statement under Article 19(1) PCT is not available in an official language, only that document will be disregarded (see point 524).

Consequences of not filing a translation of the annexes to the IPER

527 If the translation of all annexes to the IPER is not filed in due time, the applicant is invited to furnish the missing translation within two months of notification of a communication. If the applicant fails to comply, the Euro-PCT application is deemed to be withdrawn. The applicant may request further processing (or reinstatement of rights, see points 521 ff). *Art. 121 EPC
R. 135, 160 EPC*

VI. Biological material & nucleotide and amino acid sequences

Biological material (Form 1200, Section 8)

- 528** For the sufficient disclosure of an invention which involves the use of or concerns biological material which is not available to the public and which cannot be described in the application in an enabling manner for the skilled person, specific requirements must be met on the international filing date (see point 147). If any of these requirements was not met within the applicable time limit, no remedy is available before the EPO as designated/elected Office upon entry into the European phase. Extensive information is provided in the Notice from the EPO dated 7 July 2010.
- 529** If on filing the international application a reference to the deposit of biological material complying with Rule 31 EPC was made but no proof of the deposit in the form of a copy of the receipt issued by the depositary institution was submitted, the applicant is strongly advised to do so upon entry into the European phase.
- 530** If the Euro-PCT application was not published by the IB in an official language of the EPO, the biological material referred to in the application will be available upon request to any person (only) from the date of publication of the translation by the EPO. In this case, if the applicant files the statement under Rule 32(1) EPC before the technical preparations for publication of the translation by the EPO are completed, the biological material concerned will be made available only by the issue of a sample to an expert nominated by the requester.

*R. 13bis.3 and .4 PCT
R. 31, 32 EPC
OJ 2010, 506*

Waiver under Rule 33(2) EPC

- 531** The issue of a sample of biological material may be requested by any person under the conditions set out in Rule 33(1) EPC and requires that the requester has undertaken vis-à-vis the applicant in accordance with Rule 33(2) EPC not to make the biological material concerned available to any third party and to use that material for experimental purposes only.
- 532** In Form 1200, Section 8, the applicant is given the option of waiving his right to an undertaking by the requester pursuant to Rule 33(2) EPC on condition that the applicant is the depositor of the biological material. A waiver may, however, be filed at any time in the form of a signed statement containing a specification of the biological material concerned.

*R. 33(2) EPC
OJ 2010, 498*

Nucleotide and amino acid sequences (Form 1200, Section 9)

- 533** Where the Euro-PCT application discloses nucleotide or amino acid sequences, a **sequence listing in electronic (TXT) form drawn up in compliance with WIPO Standard ST.25** must be available to the EPO as a designated/elected Office on expiry of the 31-month time limit. The sequence listing should not be filed on paper. Extensive information is provided in the Notice from the EPO dated 18 October 2013.

*R. 5.2, 13ter.3 PCT
R. 30, 163(3) EPC
OJ 2011, 372
OJ 2013, 542
OJ 2007, Spec.Ed.
3, A.5
GL/EPO A-IV, 5 and
E-VIII, 2.4.2*

534 As a rule the required sequence listing will be available to the EPO if it was contained in the international application under Rule 5.2 PCT or filed under Rule 13~~ter~~ PCT with the EPO acting as ISA/SISA or IPEA (see points 154 ff). Further, it will also be accessible to the EPO if it is made available by WIPO on Patentscope and can be downloaded in a usable form.

535 The applicant should in due time verify whether the sequence listing is available to the EPO in the required form and, if it is not, file it before expiry of the 31-month time limit online or on a data carrier.

536 If a sequence listing must be filed upon entry into the European phase, the applicant must enclose a statement to the effect that the sequence listing contains only the sequence information contained in the original application documents. This statement can be made by crossing the appropriate box in Section 9.2 of Form 1200.

537 A translation of any text matter in a sequence listing which forms part of the description or which was filed subsequently need only be provided if it is not yet available to the EPO in English (see point 524).

*R. 5.2(b), 12.1(d),
13~~ter~~, 49.5(a-bis)
PCT*

Consequences of not filing a sequence listing

538 If on expiry of the 31-month time limit a sequence listing in electronic form complying with WIPO Standard ST.25 is not available to the EPO, the applicant will be invited to furnish such a sequence listing and pay the late furnishing fee within a non-extendable period of two months.

*R. 30(3), 163(3) EPC
Art. 2(1).14a RFees*

539 If the required sequence listing is not filed within the time limit set, the application is refused. The refusal may be remedied by a request for further processing.

*Art. 121 EPC
R. 135 EPC*

VII. Filing fee

540 Within the 31-month time limit the European filing fee must be paid, this being composed of a basic filing fee and an additional fee which is due for the 36th and each subsequent page of the application. In the case of Euro-PCT applications, the pages forming the basis for the procedure in the European phase are counted as set out below. The additional fee is referred to as the "page fee".

*Art. 22(1), 39(1) PCT
Art. 78(2) EPC
R. 159(1)(c) EPC
Art. 2(1).1 RFees
OJ 2009, 118, 338
GL/EPO A-III, 13.1
and E-VIII, 2.1.3*

541 The requirement to pay the European filing fee on entry into the European phase implements the right of the EPO as a designated/ elected Office to require payment of a "national fee" under Articles 22(1) and 39(1) PCT.

542 The basic filing fee is reduced where Form 1200 is filed online (see point 427).

Page fee

543 Applicants are advised to compute the correct page fee with the help of Form 1200, section 6, and in particular the related table, which is part of Form 1200. Precise and correct indications in section 6 and the table are required to ensure that the EPO does not deem the application to be withdrawn due to payment of what appears to be an incorrect amount of the filing fee. In particular, if the international application has

*R. 38(2) EPC
Art. 2(1).1a RFees
GL/EPO A-III, 13.2*

not been published in an official language of the EPO, the applicant is advised to consult the information published in OJ 2009, page 338.

- 544** Regardless of the language of publication, the page fee is based on the international application as published. The pages of the description, claims and drawings are counted, plus one page in total for any pages with the bibliographic data and the abstract. Amended claims under Article 19 PCT are also considered part of the international publication and must be taken into account unless the applicant has indicated that the procedure in the European phase is not to be based on them.
- 545** If amendments to the **claims** are filed for the procedure in the European phase, the entire set of claims must always be submitted, and this set will form the basis for calculating the page fee and will replace any earlier set of claims filed.
- 546** If amendments to the **description** are filed, in computing the page fee the pages of the description are counted as follows: the pages of the description as published, plus any pages submitted as amendments to the description, minus the pages which are replaced by the amendments to the description filed upon entry into the European phase.
- 547** If the application was processed under PCT Chapter II, the amendments filed under Article 34 PCT are to be taken into account in computing the page fee unless the applicant indicates that these pages are not to form the basis for the procedure in the European phase.
- 548** Form 1200 and any sequence listing presented as a separate part of the description in accordance with the requirements of WIPO Standard ST.25 are disregarded for the purpose of these calculations.
- 549** Pages with amendments filed after expiry of the 31-month time limit are not taken into account in calculating the filing fee. Consequently, even if amendments submitted after expiry of the 31-month time limit reduce the number of pages already paid for, no refund will be made.

Non-observance of the time limit for payment of the filing fee

- 550** If the **filing fee**, i.e. the basic filing fee and/or, where applicable, the page fee, is not paid in full in due time, the application is deemed to be withdrawn. Further, the Euro-PCT application will not be considered as comprised in the state of the art under Article 54(3) EPC (see point 658). The applicant is informed of the loss of rights in a communication under Rules 112(1) and 160(2) EPC. *Art. 153(5) EPC
R. 160, 165 EPC*
- 551** Further processing may be requested within two months from notification of the communication of the loss of rights by payment of the filing fee or the missing part of the filing fee together with the fee for further processing. *Art. 121 EPC
R. 135 EPC
Art. 2(1).12 RFees*
- 552** If the basic filing fee is not paid (in full) in due time, the fee for further processing amounts to 50% of the basic filing fee. If the page fee is not paid (in full), the fee for further processing in respect of this part of the filing fee amounts to 50% of the page fee for the number of pages for which the page fee has not been paid.

- 553** The applicant may also request re-instatement of rights if the application is deemed withdrawn because the filing fee was not paid in due time. Given the fact that the fee is higher and stricter requirements apply, this remedy has no advantages, unless the period for requesting further processing has already expired (see point 522).
- R. 49.6 PCT
Art. 122 EPC
R. 136 EPC
Art. 2(1).13 RFees
OJ 2007, 692*

VIII. Designations and extensions

- 554** A (flat) designation fee must be paid within 31 months from the filing date or, if priority has been claimed, the earliest priority date, or within six months from the date of publication of the ISR, whichever time limit expires later. Therefore, unless the publication of the ISR was considerably delayed, the designation fee must be paid within the 31-month time limit.
- Art. 79(2) EPC
R. 39, 159(1)(d) EPC
Art. 2(1).3 RFees
OJ 2009, 118
GL/EPO A-III, 11.3.9;
E-VIII, 2.1.3, 2.3.11*
- 555** Payment of the designation fee will be effective only in respect of EPC contracting states that were designated for a European patent in the international application on the international filing date (see point 115).
- 556** Applicants are reminded that upon filing of the PCT request all PCT contracting states are automatically designated for both a national and, where applicable, a regional patent. Therefore, payment of the (flat) designation fee on entry into the European phase confirms the designation of the EPC contracting states that were **EPC and PCT contracting states at the international filing date** (see point 116). An exception applies where the applicant has withdrawn the designation for a European patent in respect of one or more EPC contracting states during the international phase.
- 557** If a state for which patent protection is sought was neither an EPC contracting state nor an extension state at the international filing date (see point 561), the applicant must enter the national phase in the state concerned to obtain patent protection for that state on the basis of his international application. If, however, before entry into force of the EPC for a state an extension agreement with that state was in force, patent protection in that state may still be obtained on the basis of the extension agreement for any application filed before the extension agreement was rescinded (see point 126).

Non-observance of the time limit for payment of the designation fee

- 558** If the designation fee is not paid in due time, the application is deemed withdrawn. The applicant will be informed thereof in a communication under Rules 112(1) and 160(2) EPC.
- R. 160 EPC
GL/EPO E-VIII, 2.1.3*
- 559** Further processing may be requested within two months after notification of the communication of the loss of rights by payment of the designation fee together with the fee for further processing, which amounts to 50% of the designation fee.
- Art. 121 EPC
R. 135 EPC
Art. 2(1).3, 2(1).12
RFees*
- 560** Since the designation fee does not form part of the national fee (see point 540), the remedy of re-instatement of rights under Rule 49.6 PCT is not available.
- R. 49.6 PCT*

How to extend the Euro-PCT application (Form 1200, Section 11)

- 561** Under certain conditions a European patent may be extended to states which are not EPC contracting states on the international filing date but have concluded an extension agreement with the EPO to that effect. *GL/EPO A-III, 12 and E-VIII, 2.1.3 OJ 1994, 75; 1996, 82; 1997, 538; 2004, 117, 619; 2007, 406; 2009, 603; 2010, 10*
- 562** Extension of a European patent is possible only if the state concerned was designated in the international application for a national patent and an extension agreement with the EPO was in force at the international filing date (see point 122).
- 563** Extension is deemed requested for any international application entering the European phase in respect of any state designated in the application with which an extension agreement was in force **at the international filing date**. However, such request is deemed to be withdrawn in respect of each extension state for which no extension fee is paid in due time. The applicant must, therefore, carefully check for which states extension is possible and, if extension is wished, pay the required extension fees in due time.
- 564** Pursuant to the applicable national provisions of the extension states, an extension fee must be paid within the same time limit as applies for payment of the designation fee (see point 554).
- 565** Since there is no flat extension fee, an extension fee must be paid for each of the extension states for which extension is wished. The amount of the extension fee can be found in the EPO's Schedule of fees and expenses (under "Miscellaneous fees" in point 4).
- 566** In Form 1200, Section 11, the applicant may indicate for which states he intends to pay (an) extension fee(s). However, the request for extension is deemed to be withdrawn, if the extension fee for an extension state is not paid in due time. In addition to the boxes provided for the states with which an extension agreement was in force on 1 January 2014 - i.e. Bosnia and Herzegovina (BA) and Montenegro (ME) - further states may be indicated on condition that an extension agreement with that state was in force **at the filing date** of the international application.
- 567** Upon payment, the applicant must specify the extension states for which payment is actually made and in particular if the payment does not correspond to the indications provided in Form 1200, Section 11.

Non-observance of the time limit for payment of extension fees

- 568** If no valid payment is made, any (deemed) request for extension is deemed withdrawn. *GL/EPO A-III, 12.2 OJ 2009, 603*
- 569** If an extension fee is not paid in due time - even if the intention to pay the extension fee for one or more states was indicated in Form 1200, Section 11 - **no** communication pointing out the failure to observe the time limit for payment is issued. However, the applicant may still pay an extension fee after expiry of the (basic) time limit for payment of the designation fee and the extension fees under the following circumstances:
- 570** Firstly, within a grace period of two months as from expiry of the basic time limit, any extension fee may always be paid with a 50% surcharge.

- 571** Secondly, where in the absence of payment of the designation fee in due time further processing can be requested in respect of the **designation fee**, the applicant may within two months from notification of the communication of the loss of rights also pay the extension fee(s) with a 50% surcharge.

IX. Supplementary European search

- 572** As a rule, a supplementary European search must be performed for each international application entering the European phase and a search fee must be paid. For an exception see point 577 ff. Like any European search report, the supplementary European search report is accompanied by an opinion under Rule 62 EPC, the European search opinion (ESOP), on whether the application and the invention to which it relates meet the requirements of the EPC. The supplementary European search report together with the search opinion is known as the "extended (supplementary) European search report" (EESR).

*Art. 153(7) EPC
R. 62, 159(1)(e) EPC
OJ 2005, 435-I
GL/EPO B-II, 4.2,
4.3; E-VIII, 3.1*

- 573** No search opinion under Rule 62 EPC will be issued if the applicant:

- has filed the request for examination according to Rules 159(1)(f) EPC and
- has waived the right to be asked under Rule 70(2) EPC whether he wishes to proceed further with the application (see points 591 and 594)

before the supplementary European search report has been transmitted to him. Instead, a communication will be issued under Rule 71(1) or 71(3) EPC, respectively inviting the applicant to correct and/or amend the application or informing him of the text in which the EPO intends to grant the patent.

*GL/EPO B-XI, 7;
C-VI, 3*

- 574** The supplementary European search is performed on the basis of the last set of (amended) claims available to the EPO on expiry of the time limit set in the Rule 161/162 communication (see points 498 ff). That set of claims is considered the final set at the time the search is performed (see point 489). Any claim for which a claim fee due has not been paid will not be searched (see points 611 ff).

R. 161 EPC

- 575** If a supplementary European search is carried out, the European Patent Bulletin will mention the date of despatch of the supplementary European search report. The report is not published, but is available through file inspection.

- 576** If during the supplementary European search the EPO comes to the conclusion that the application contains more than one independent claim in the same category which does not fall under the exceptions listed under Rule 43(2) EPC, it may issue an invitation to indicate, within a time limit of two months, the basis on which the search is to be carried out (Rule 62a(1) EPC). Similarly, if it is impossible to carry out a meaningful search on the basis of all or some of the subject-matter claimed, an invitation to file, again within a time limit of two months, a statement indicating the subject-matter to be searched will be issued. Any declaration of no search, or a partial supplementary European

*R. 62a EPC
GL/EPO B-VIII, 4.1,
3.1*

search report issued subsequently due to failure to overcome the deficiency, takes the place of the European search report.

No supplementary European search performed

- 577** As a rule a supplementary European search is carried out. Dispensation applies and no search fee is to be paid only if the EPO acted as ISA or SISA for the application in the international phase. *Art. 153(7) EPC
OJ 2009, 594*
- 578** If dispensation applies, it also applies where instead of an ISR a declaration of non-establishment under Article 17(2)(a) PCT was issued. *Art. 17(2)(a) PCT
Art. 153(6) EPC*
- 579** If no supplementary European search report is drawn up, the Euro-PCT application will, after formalities examination, be passed on for substantive examination on condition that a request for examination has been validly filed (see points 590 ff).

Result of supplementary European search and refund of examination fee

- 580** Where the request for examination was filed before transmittal of the supplementary European search report, which is usually the case (see point 593), the EPO invites the applicant after transmittal of the supplementary European search report to indicate whether he wishes to proceed further with the application, unless the applicant has expressly waived the right to receive such invitation (see point 594). *R. 70(2), 70a(2) EPC
OJ 2009, 533
GL/EPO A-VI, 2.3,
2.5; B-XI, 7*
- 581** Where the applicant **wishes to proceed further**, he must notify the EPO accordingly within the six-month time limit. Within the same time limit he may comment on the supplementary European search report by filing amendments. He must also make sure that, if the EPO has issued a negative written opinion, a substantive (mandatory) reply is submitted to ensure that the application is not deemed withdrawn in its absence (see point 500).
- 582** If the applicant **does not wish to proceed further**, he may withdraw the application, or refrain from answering within the time limit set in the respective invitation. This will result in the application being deemed withdrawn. *R. 70(3) EPC*
- 583** Where the application is withdrawn or deemed withdrawn before the examining division has assumed responsibility, the examination fee is refunded in full.
- 584** If prosecution is stopped after the applicant has indicated that he wishes to proceed further and the examining division has assumed responsibility, the applicant may be entitled to a refund of 75% of the examination fee. This also applies if no supplementary European search report is drawn up (see points 577 ff). *Art. 11 RFees
OJ 2009, 542
OJ 2013, 153*

Search fee for supplementary European search

- 585** If a supplementary European search is to be performed, the European search fee must be paid within the 31-month time limit. *R. 159(1)(e) EPC
Art. 2(1).2 RFees
OJ 2012, 207*

Reduction of the search fee

- 586** If a supplementary European search report is to be established, the European search fee may be reduced. The reductions in the search fee applicable on 1 January 2014 may be summarised as follows:
- Art. 153(7) EPC
OJ 2005, 548
OJ 2012, 584
GL/EPO A-X, 9.3.1*
- a reduction of EUR 190 for international applications for which the ISR was drawn up exclusively by any of the following ISAs: the Australian Patent Office, the Japan Patent Office (JPO), the Korean Intellectual Property Office (KIPO), the Russian Federal Service for Intellectual Property, Patents and Trademarks (Russian Federation), the United States Patent and Trademark Office (USPTO) or the State Intellectual Property Office of the People's Republic of China (SIPO).
 - a reduction of EUR 990 for international applications for which the ISR was drawn up by a European ISA: the Austrian Patent Office, the National Board of Patents and Registration of Finland, the Spanish Patent and Trademark Office, the Swedish Patent and Registration Office or the Nordic Patent Institute (NPI).

Refund of the search fee

- 587** If the application claims the priority of an earlier application for which a search was carried out by the EPO, (a part of) the fee paid for the supplementary European search may be refunded. The level of the refund depends on the type of earlier search and the extent to which the EPO benefits from the earlier search report when carrying out the supplementary European search.
- OJ 2009, 99
OJ 2010, 338
Art. 9(2) RFees
GL/EPO A-X, 10.2.1*

Non-observance of the time limit for payment of the search fee

- 588** If the search fee is not paid in due time the Euro-PCT application will be deemed to be withdrawn and the applicant will be informed of this in a communication under Rules 112(1) and 160(2) EPC.
- R. 160 EPC*
- 589** The loss of rights is deemed not to have ensued if within two months after notification of this communication further processing is requested by payment of the further processing fee, which amounts to 50% of the search fee, together with the missing search fee.
- Art. 121 EPC
R. 135 EPC
Art. 2(1).12 RFees*

X. Examination

How to file the request for examination (Form 1200, Section 4)

- 590** A European patent may only be granted if the substantive examination of the application shows it to meet the requirements of the EPC. Substantive examination of an application will only start upon explicit request.
- Art. 94 EPC
GL/EPO E-VIII,
2.1.3, 2.5.2*
- 591** The applicant must therefore file a written request for examination. If Form 1200, as recommended, is used (see point 426), this requirement will always be met since the appropriate check-box is pre-crossed (Form 1200, Section 4).
- R. 70 EPC*

- 592** The request for examination is only effective if the examination fee has been paid. Therefore, the examination fee must be paid in due time (see points 593-596 and 603).

When must the request for examination be filed? When must the examination fee be paid?

- 593** The request for examination must be filed and the examination fee paid within 31 months from the filing date or, if priority has been claimed, from the earliest priority date, or up to six months after the date of publication of the ISR, whichever time limit expires later. Therefore, as a rule and unless the ISR was published after 25 months from the date of filing or the earliest priority date, the request for examination must be filed and the examination fee paid within the 31-month time limit.

*R. 70(1), 159(1)(f)
EPC
Art. 2(1).6 RFees
GL/EPO C-II, 1.2*

- 594** In most cases the request for examination must be filed and the examination fee must be paid before the supplementary European search report is transmitted to the applicant (see point 580). After transmission of the report, the EPO will invite the applicant to indicate whether he wishes to proceed further with the application (see point 580). The applicant can waive his right to be asked whether he wishes to proceed further with the application, e.g. by crossing the box in Section 4.2 of Form 1200.

- 595** On the right to a refund of the examination fee see points 583 ff.

- 596** Neither the drawing-up of a supplementary European search report (see points 575 ff) nor publication of the translation of the Euro-PCT application (see points 517 ff) affect the time limit for filing the request for examination and payment of the examination fee.

Reduction of the examination fee

- 597** If certain requirements are met, the examination fee is reduced as set out below. Changes in entitlement to and the amount of the reduction come into effect on 1 April 2014 (see point 600).

Reduction of the examination fee until 1 April 2014

- 598** Applicants who have their residence or principal place of business in an EPC contracting state having a language other than English, French or German as an official language, and nationals of such states who are resident abroad, are entitled to a **20% reduction in the examination fee** on condition that they

*Art. 14(4) EPC
R. 6(3) EPC
Art. 14(1) RFees
GL/EPO A-X, 9.2.3*

- file the written request for examination in one of the official languages of this state other than English, French or German, and
- within one month of so doing - at the earliest simultaneously with the written request for examination - file a translation in the language of the proceedings (see point 424).

- 599** Please note that once the full examination fee has been paid and the request for examination in an EPO language has been filed, the applicant is no longer entitled to the reduction in the examination fee if thereafter the request for examination is filed in an admissible non-EPO language.

Reduction of the examination fee as from 1 April 2014

- 600** Rule 6 EPC and Article 14(1) of the Rules relating to Fees have been amended with effect from 1 April 2014. As from that date, SMEs, natural persons, non-profit organisations, universities and public research organisations will be entitled to a reduction of 30% in the examination fee. More information will be published in the Official Journal in the first half of 2014.

Reduction if IPER was issued by the EPO

- 601** The examination fee is reduced by 50% where the EPO acting as IPEA has already drawn up an international preliminary examination report in respect of the relevant Euro-PCT application, unless in the European phase the applicant is seeking a patent for an invention which is not the subject of that report (see points 388 and 398 ff).
- 602** If the conditions for both reductions (see points 598-601) are fulfilled, the examination fee is first reduced by 50%. The 20% reduction is applied to the resulting total and not to the full fee. Therefore, the total reduction in relation to the full fee is 60%. The percentage of the reduction will be revised with effect from 1 April 2014.

*Art. 14(2) RFees
GL/EPO A-X, 9.3.2*

Non-observance of the time limit for filing the request for examination and payment of the examination fee

- 603** If the request for examination is not filed or the examination fee is not paid in due time, the application is deemed to be withdrawn. The applicant is informed of this in a communication under Rules 112(1) and 160(2) EPC. The loss of rights is deemed not to have ensued if within two months after notification of this communication further processing is requested by payment of the further processing fee, which amounts to 50% of the examination fee, together with the missing examination fee.
- 604** If, exceptionally, the applicant neither filed the request for examination nor paid the examination fee in due time, further processing must be requested in respect of **both omissions**, i.e. in respect of filing the request for examination and payment of the examination fee. It follows that the applicant must file the request for examination and pay the examination fee itself together with two fees for further processing: the flat fee for further processing in respect of the request for examination and 50% of the examination fee.

*Art. 121 EPC
R. 135, 160(2) EPC
Art. 2(1).12 RFees*

XI. Renewal fee and claims fees

Renewal fee

- 605** The renewal fees for a pending Euro-PCT application must be paid to the EPO. These fees are due in respect of the third and each subsequent year, calculated from the date of filing of the Euro-PCT application as accorded by the receiving Office. They may not be paid more than three months before they fall due.

*Art. 11(3) PCT
Art. 86(1), (2) EPC
R. 51(1), (2),
159(1)(g) EPC
Art. 2(1).4, 2(1).5
RFees
GL/EPO A-X, 5.2.4
OJ 1993, 229, point
II-3*

- 606** The renewal fee for the third year can always be validly paid until the due date under Rule 51(1) EPC. If, however, the renewal fee for the third year fell due within the 31-month time limit for entry into the European phase, the due date is deferred and the fee may be paid without surcharge up to expiry of the 31-month time limit. In that case the grace period of six months within which the renewal fee can still be validly paid, subject to payment of a 50% additional fee, is computed from the date of expiry of the 31-month time limit.

Non-observance of the time limit for payment of the renewal fee

- 607** If the renewal fee is not paid within the 6-month grace period the application is deemed to be withdrawn and the applicant is informed of this in a communication under Rule 112(1) EPC. The applicant may within one year from expiry of the grace period request re-establishment of rights provided the request is filed within two months from the removal of the cause of non-compliance with the time limit.

Art. 122 EPC
R. 136 EPC
Art. 2(1).13 RFees

Claims fees

- 608** If the application documents on which the European grant procedure is to be based contain more than fifteen claims, a claims fee is payable within the 31-month period in respect of the sixteenth and each subsequent claim, and a higher claims fee is payable in respect of the 51st and each subsequent claim.

R. 162 EPC
OJ 2009, 118,
point 3.1
Art. 2(1).15 RFees
GL/EPO A-III, 9;
E-VIII, 2.1.3 and
2.3.8

- 609** The claims fees must be calculated on the basis of the number of claims contained in the application in the version that is, in accordance with the indications in Form 1200, to be taken as the basis for processing in the European phase (see point 510). However, where the number of claims changes as a consequence of a later (further) amendment filed before expiry of the time limit set in the Rule 161/162 communication, that number is to be used as the basis for calculating the amount of the claims fees to be paid. The Rule 161/162 communication sets a six-month time limit for payment of any claims fees not yet paid (see point 511).

- 610** If the applicant has already paid claims fees within the 31-month period, any claims fees paid in excess of those due taking into account any amendment made thereafter, will be refunded after expiry of the six-month time limit set in the Rule 161/162 communication (see point 513).

R. 162(3) EPC

Non-observance of the time limit for payment of the claims fee

- 611** Where the applicant fails to pay (the correct amount of) the claims fees within the 31-month period, the EPO will invite him by means of the Rule 161/162 communication to pay the missing amount within a non-extendable period of six months (see point 512).

R. 162(2) EPC
GL/EPO E-VIII, 2.1.3

- 612** If additional claims fees become due as a result of amendments filed during the six-month period, the applicant must pay these further claims fees during that same period, since no further invitation under Rule 162 EPC will be issued (see point 510).

- 613** Where a claims fee is not paid within the six-month period, the claim concerned is deemed to be abandoned. Features of a claim deemed to

R. 162(4) EPC

have been abandoned and which are not otherwise to be found in the description or drawings cannot subsequently be reintroduced into the application and in particular, into the claims.

XII. Filing of other documents

Missing data regarding the inventor or an applicant

- 614** If within the 31-month time limit the inventor has not been designated or certain information regarding the inventor or any applicant is missing, the EPO will invite the applicant to file the designation of the inventor or to submit the missing data within two months from the notification of a communication under Rule 163(1) or (4) EPC.
- Art. 4(1)(v), 22(1), 27(2), 39(1)(b) PCT
R. 51bis.1(a)(i) PCT
PCT Newsletter
5/2010, 3
Art. 81 EPC
R. 19 and 163(1)(4) EPC
GL/EPO E-VIII,
2.3.1, 2.3.4*

Non-observance of the requirement to file any missing data regarding the inventor or an applicant

- 615** If within the two-month time limit set in the invitation the missing data have not been filed, the application is refused.
- Art. 90(5) EPC
R. 163(6) EPC*
- 616** The refusal may be remedied by a request for further processing. The request will be granted if within two months from notification of the decision the missing data are filed and the fee for further processing is paid.
- Art. 121 EPC
R. 135 EPC
Art. 2(1).12 RFees*

Certificate of exhibition

- 617** Where relevant, the certificate of exhibition is to be filed within the 31-month time limit. If the document is not filed in due time, the applicant's disclosure at the relevant exhibition will be taken into account for the purposes of establishing whether the invention claimed is new under Article 54 EPC.
- Art. 54, 55(2) EPC
R. 25, 159(1)(h) EPC*
- 618** If the certificate is not filed in due time, the applicant is informed of this in a communication under Rule 112(1) EPC. The omission may be remedied by a request for further processing. The request will be granted if within two months from notification of the communication the certificate is furnished and the fee for further processing is paid.
- Art. 121 EPC
R. 135 EPC
Art. 2(1).12 RFees*

XIII. Priority claim

- 619** An international application may claim the priority of an earlier application. As a rule the priority document, i.e. a certified copy of the application from which priority is claimed, will be available to the EPO (see point 139). However, if this is not the case, the applicant is given an opportunity to file that document upon entry into the European phase (see points 627 ff).
- R. 76.4, 17.1(c) PCT
Art. 88(1) EPC
R. 163(2)(6), 52(1), 53 EPC
GL/EPO A-III, 6; E-VIII, 2.3.5*
- 620** The EPO also recognises a priority claim from an application filed in or for any member of the World Trade Organization (WTO) that is not party to the Paris Convention for the Protection of Industrial Property (see points 128 ff).
- Art. 87(1)(b) EPC
R. 4.10(a) PCT
OJ 2007, 692*

- 621** A request for restoration of the right of priority may be filed with the EPO as designated/elected Office (see points 636 ff). *R. 49ter.1 and 2 PCT
OJ 2007, 692*

Obligation to furnish the priority document

- 622** Where the priority of an earlier application is claimed for a Euro-PCT application, the IB sends a copy of the priority document to the EPO if the IB received the priority document from the receiving Office or directly from the applicant or was able to retrieve it from a digital library. As a rule the applicant should file a copy with the receiving Office or the IB or request the receiving Office or the IB that the copy be retrieved from a digital library within 16 months from the (earliest) priority date (see point 139). *R. 17.2 PCT
GL/EPO E-VIII, 2.3.5*
- 623** If during the international phase the applicant did not furnish the priority document or, where no such document must be furnished, the number of the application from which priority is claimed, he may provide the priority document or that number upon entry into the European phase.
- 624** A priority document may be filed in electronic form with the EPO only if it is digitally signed by the issuing authority and the signature is accepted by the EPO. A priority document cannot be filed by fax. *OJ 2007 Spec.Ed. 3,
A.3; 2009, 182, 187*
- 625** The **application number of a priority application** must always be available to the EPO as designated/elected Office. This number is, if known at the time of filing the application, to be provided in Box VI of the PCT request form. *R. 163(2), 53(2) EPC*
- 626** In the cases listed below, the EPO as designated/elected Office will include a **copy of the priority application** free of charge in the file of a Euro-PCT application even without having received a copy from the IB. The applicant will be informed of this inclusion unless the previous application is a European application or an international application filed with the EPO as receiving Office. This service is provided on condition that the applicant has informed the EPO of the application number and only if the priority application is:
- a European patent application;
 - an international application filed with the EPO as receiving Office;
 - a Chinese patent or utility model application;
 - a Japanese patent or utility model application;
 - a Korean patent or utility model application;
 - a United States provisional or non-provisional patent application.

Non-observance of the requirement to file a copy or the application number

- 627** Where the certified copy of the priority document or, where no copy must be filed (see point 626), the application number has not yet been submitted on entry into the European phase, the applicant will be invited to furnish that copy or number within two months from the date of a notification under Rule 163(2) EPC. This time limit cannot be *R. 163(2)(6) EPC*

extended. If the priority document or the application number is not submitted within that time limit, the priority right is lost.

- 628** The loss of rights may be remedied by requesting further processing. The request will be granted if within two months from notification of the loss of rights the (certified) copy of the priority document or the application number is filed and the fee for further processing paid. *Art. 121 EPC
R. 135 EPC
Art. 2(1).12 RFees*
- 629** If a priority document is missing but the applicant has fulfilled the requirement under Rule 17 PCT in due time, no loss of rights will occur. In such case substantive examination may nevertheless begin, but the decision to grant will not be taken unless the priority document is furnished. *R. 17.1 PCT
GL/EPO E-VIII,
2.3.5;
F-VI, 2.1*

Filing a translation of the priority document or the declaration

- 630** Where the priority document is not in English, French or German, and the validity of the priority claim is relevant for determining whether the invention concerned is patentable, a translation in one of these languages must be submitted at the invitation of the EPO. If a translation is already available to the EPO, it will not issue an invitation. *R. 51bis.1(e) PCT
R. 53(3) EPC
OJ 2007, 692
OJ 1999, 296
GL/EPO A-III, 6.8;
F-VI, 3.4*
- 631** The translation need not necessarily be in the language of the proceedings as long as it is in English, French or German (see point 424).
- 632** Where the Euro-PCT application is a complete translation of the previous application, a declaration to that effect is sufficient and no invitation to file a translation will be issued (Form 1200, Section 7, Box No. 3). This means that if the priority application is, for instance, a national application filed in Spanish, the applicant may declare that his Euro-PCT application filed in, for instance, English is a complete translation of the Spanish priority application. A translation from Spanish into an official language of the EPO is in that case not required.
- 633** A translation of the priority document may also be requested where the application was filed (in part) on the basis of incorporation by reference. *R. 51bis.1(e)(ii) PCT*

Non-observance of the requirement to file the translation or declaration

- 634** If the applicant does not provide the translation in time, the right of priority is lost and the applicant is informed accordingly. This has the effect that the intermediate document(s) which resulted in the validity of the priority claimed becoming relevant for the assessment of patentability will belong to the prior art under Article 54(2) or Article 54(3) EPC, as applicable. *Art. 54(2)(3) EPC
OJ 2013, 150*
- 635** If the priority right is lost, further processing can be requested and will be granted if within two months from notification of the loss of rights the required translation or declaration is filed and the fee for further processing paid. *Art. 121 EPC
R. 135 EPC
Art. 2(1).12 RFees
GL/EPO A-III, 6.8*

Restoration of priority under Rule 49ter PCT

- 636** If the international application was filed more than 12 months from the filing date of the earlier application whose priority is claimed, the applicant may file a request for restoration of priority with the EPO as receiving Office and as designated/elected Office. For information on the procedure before the EPO as receiving Office see point 131. *R. 49ter.1 and .2 PCT*
Art. 122 EPC
OJ 2007, 692
- 637** The EPO in its function both as receiving Office and as designated/elected Office will grant such a request only if the failure to claim the right of priority within the priority period occurred *in spite of due care required by the circumstances having been taken*. The requirement of due care is applied by the EPO in accordance with its standing practice under Article 122 EPC. The second criterion referred to in the PCT, whether the failure was *unintentional*, does not play a role in the procedures before the EPO (see point 641).
- 638** As set out hereafter (see point 640), if the applicant has already filed a request for restoration of priority with the receiving Office, a (new) request need not always be filed upon entry into the European phase.
- 639** The EPO will grant a request for restoration of priority right only if the following requirements are met: *R. 26bis.2(c)(iii) PCT*
- the filing date is within two months from the date on which the priority period expired;
 - the failure to claim the right of priority within the priority period occurred *in spite of due care required by the circumstances having been taken*;
 - a request for restoration of priority is filed within one month from the date on which the 31-month time limit for entry into the European phase expired;
 - the fee for restoration of priority levied by the EPO is duly paid within the same time limit;
 - the request for restoration of priority is accompanied by a statement of reasons for the failure and is preferably accompanied by any declaration or other evidence in support of the statement of reasons.
- 640** If the priority right was *restored by the receiving Office* under the "due care criterion", no new request need be filed with the EPO as designated/elected Office, since the EPO will, in principle, recognise the decision of the receiving Office. If, however, the EPO has reasonable doubt that the requirements for grant were not met, it will notify the applicant accordingly. In this communication the reasons for such doubt will be indicated and a time limit will be set within which the applicant may submit comments.
- 641** If the priority right was *restored by the receiving Office* under the "unintentional criterion", a new request needs to be filed with the EPO as designated/elected Office, since the EPO is not bound by the decision of any receiving Office under the "unintentional criterion".

642 If the applicant wants the priority claim to be valid in the procedure before the EPO as designated/elected Office, a request for restoration must always be filed if, in the procedure before the receiving Office:

- no request for restoration of priority right was filed;
- the request for restoration of priority right filed with the receiving Office was rejected;
- a request for restoration of priority right filed with the receiving Office was granted only under the “unintentional criterion”.

XIV. Review by the EPO as designated Office of Euro-PCT applications which fail in the international phase

643 At the request of the applicant, the EPO may review whether a refusal by the receiving Office to accord a filing date, or a declaration on the part of the receiving Office that a Euro-PCT application or the designation of a state is considered withdrawn, or a finding by the IB under Article 12(3) PCT is the result of an error or omission on the part of the authority concerned, in which case the Euro-PCT application can proceed as a European application.

*Art. 25 PCT
R. 51, 82bis PCT
R. 159(2) EPC
GL/EPO E-VIII, 2.9*

To obtain such a review by the EPO as designated/elected Office, applicants must take the following steps:

- The request to the IB under Article 25(1) PCT to send copies of documents in the files promptly to the EPO as designated Office must be made within the two-month time limit under Rule 51.1 PCT.
- The filing fee under Rule 159(1)(c) EPC must be paid and, where required, a translation of the Euro-PCT application furnished within the same two-month time limit (Rule 51.3 PCT). Applicants are recommended to undertake the remaining steps for entry into the European phase under Rule 159(1) EPC at the same time (see points 453 ff, 515 ff).

644 Pursuant to Article 24(2) PCT the EPO as designated/elected Office may even maintain the application as a European application if this is not required by virtue of the provision in Article 25(2) PCT. The filing of a request under Article 24(2) PCT is governed by the same requirements as a request for review under Article 25(2) PCT. Such request may be combined with a request for re-establishment of rights or further processing.

*Art. 24(2), 48(2) PCT
R. 82bis PCT
Art. 122, 121 EPC
OJ 1984, 565
(Reasons 4)*

645 If the applicant proves to the satisfaction of the EPO that the international filing date is incorrect owing to an error made by the receiving Office or that the priority claim has been erroneously considered by the receiving Office or the International Bureau not to have been made, and if the error is an error such that, had it been made by the EPO itself, the EPO would rectify it under EPC law or practice, the EPO must rectify the error and treat the international application as if it had been accorded the rectified international filing date or as if the priority claim had not been considered not to have been made.

R. 82ter PCT

XV. Lack of unity

- 646** Where the Euro-PCT application does not meet the requirement of unity of invention, the procedure laid down in Rule 164 EPC applies upon entry into the European phase. *R. 164 EPC
GL/EPO E-VIII, 2.4.1*
- 647** As from 1 November 2014 a completely revised procedure under Rule 164 EPC will apply (see point 654). The amended text of the rule has been published in the Official Journal, and more information on the revised procedure will be provided in the first half of 2014. *OJ 2013, 503*

Procedure under Rule 164 EPC until 1 November 2014

- 648** In respect of a **further invention** contained in the Euro-PCT application which was not searched by the EPO in the international phase, a search will be performed only if a divisional application is filed. This means that the opportunity to have multiple inventions searched within the framework of a single Euro-PCT application is limited to the international phase of the application.
- 649** The EPO will not examine a Euro-PCT application if it has not itself performed a search in respect of the invention for which protection is sought. It follows that the examination of a Euro-PCT application in the European phase is conditional on the availability of the results of:
- either an international search carried out by the EPO as ISA/SISA in respect of the invention for which examination is requested;
 - or a supplementary European search carried out by the EPO as designated/elected Office in respect of the invention for which examination is requested.

No supplementary search performed: EPO was ISA

- 650** Upon entry into the European phase the applicant must choose one invention from those searched during the international phase by the EPO as ISA/SISA to form the basis of the examination. If this requirement is not met, the applicant will be invited by the examining division to indicate which invention he wishes to pursue.

Supplementary search performed: EPO was not ISA

- 651** If after entry into the European phase a supplementary European search is to be performed (EPO was not ISA/SISA), it will be carried out only on the **invention or group of inventions first mentioned in the claims** (as possibly amended upon entry into the European phase), regardless of whether an ISR was drawn up in respect of that invention in the international phase and regardless of any earlier findings as to unity of invention in the international phase.
- 652** Although the EPO is in no way bound by the opinion of the ISA on the question whether the application meets the requirement of unity, the EPO will, given the fact that the practices of the ISAs are based on the same Guidelines (Chapter 10 of the ISPE Guidelines), in many cases share that opinion. Therefore, where the ISA/SISA considered the requirement of unity not to be met, the applicant is advised to amend the application in due time in such a way that the invention on which the

applicant wishes the supplementary search and the examination to be based, is that first mentioned in the claims.

- 653** If a supplementary European search report is to be drawn up, the invention that was the subject of the supplementary European search is the only invention that can be examined (see points 648-649). If the applicant wishes a different invention to be examined he will have to file a divisional application.

Procedure under Rule 164 EPC as from 1 November 2014

- 654** Under amended Rule 164 EPC it will be possible for the applicant to pay, within a period of two months, one or more further search fees in respect of any unsearched inventions claimed upon entry into the European phase in order for these to be covered by a further search. Thereafter, the applicant may select any invention searched by the EPO for further prosecution of the application. This option is available both if a supplementary European search must be carried out (the EPO was not the (S)ISA) and if the supplementary European search is dispensed with because the EPO acted as (S)ISA for the application concerned.

XVI. Publication of the Euro-PCT application by the EPO

- 655** In principle, the international publication of an international application takes the place of the publication of a European patent application.
- 656** In accordance with this principle, a Euro-PCT application published by the IB in an **official language of the EPO** enjoys, subject to the provisions of Article 67(3) EPC, provisional protection **as from the date of the international publication**. The EPO will, once the application has entered the European phase, notify the applicant of the publication of the bibliographic data of the Euro-PCT application in the European Patent Bulletin and confirm that the application, subject to the provisions of Article 67(3) EPC, enjoys provisional protection in the individual EPC contracting states.
- 657** If the Euro-PCT application was published by the IB in a **language other than one of the three official languages** of the EPO, the EPO will publish the translation of the Euro-PCT application submitted by the applicant upon entry into the European phase (see point 515). In that case the provisional protection is, subject to Article 67(3) EPC, only effective **as from the date of publication of the translation** by the EPO.

*Art. 11(3), 29(1)(2)
PCT
Art. 67, 153(3)(4)
EPC
GL/EPO E-VIII, 2.5.1*

XVII. State of the art

- 658** Upon payment of the filing fee and, where required, receipt of the translation, an international application is considered as comprised in the state of the art under Article 54(3) EPC (see points 520 and 550).

*Art. 54(3), 153(3)(4)
EPC
R. 165 EPC
GL/EPO G-IV, 5.2*

XVIII. Divisional applications

- 659** If the Euro-PCT application has entered the European phase, one or more European divisional applications may be filed in respect of subject-matter contained in a Euro-PCT application. The divisional application must be filed in the language of the proceedings of the earlier application.

*Art. 76 EPC
R. 36(2) EPC
OJ 2013, 501
GL/EPO A-IV, 1;
E-VIII, 2.4.1
J 18/09, OJ 2011,
480*

Annex I

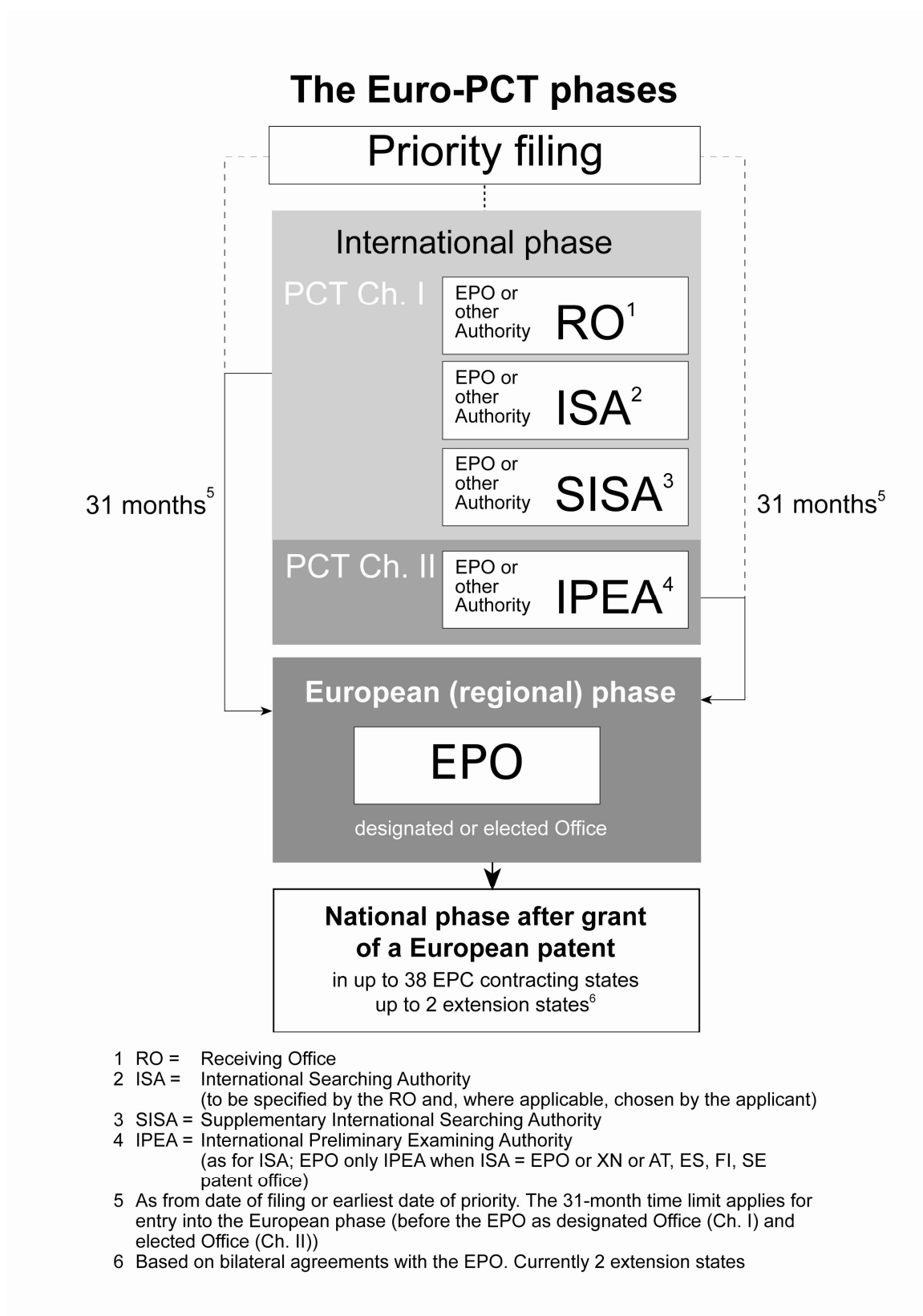
Terms and abbreviations

AI	Administrative Instructions under the PCT
Art.	Article(s) (of the EPC or the PCT)
CET	Central European Time
DAS	Digital Access Service
EPC	European Patent Convention
EPO	European Patent Office
GL/EPO	Guidelines for Examination in the European Patent Office (quoted as follows: GL/EPO C-III, 8.4 = Guidelines, Part C, Chapter III, section 8, point 4)
GL/ISPE	PCT International Search and Preliminary Examination Guidelines
GL/RO	PCT Receiving Office Guidelines
IB	International Bureau of WIPO
IPEA	International Preliminary Examining Authority
IPER	International Preliminary Examination Report
IPRP	International Preliminary Report on Patentability
ISA	International Searching Authority
ISPE Guidelines	PCT International Search and Preliminary Examination Guidelines
ISR	International Search Report
JPO	Japan Patent Office
KIPO	Korean Intellectual Property Office
NPI	Nordic Patent Institute
OEPM	Spanish Patent and Trademark Office
OJ	Official Journal of the European Patent Office (quoted as follows: OJ 2001, 459 = Official Journal, year 2001, page 459)
OJ 2007, Spec.Ed.1	Special Edition No. 1 to EPO Official Journal 2007
OFF	Office of first filing
OSF	Office of second filing
PACE	programme for accelerated prosecution of European patent applications
PCT	Patent Cooperation Treaty
PPH	Patent Prosecution Highway
PRV	Swedish Patent and Registration Office

R.	Rule(s) of the Implementing Regulations (to the EPC or the PCT)
RFees	EPC Rules relating to Fees
RO	Receiving Office
SIPO	State Intellectual Property Office of the People's Republic of China
SIS	Supplementary International Search
SISA	Supplementary International Searching Authority
SISR	SIS report
SMEs	Small and medium-sized enterprises
USPTO	United States Patent and Trademark Office
WIPO	World Intellectual Property Organization
WIPO PCT Guide	"PCT Applicant's Guide" published by the International Bureau of WIPO
WO-ISA	Written Opinion of the International Searching Authority

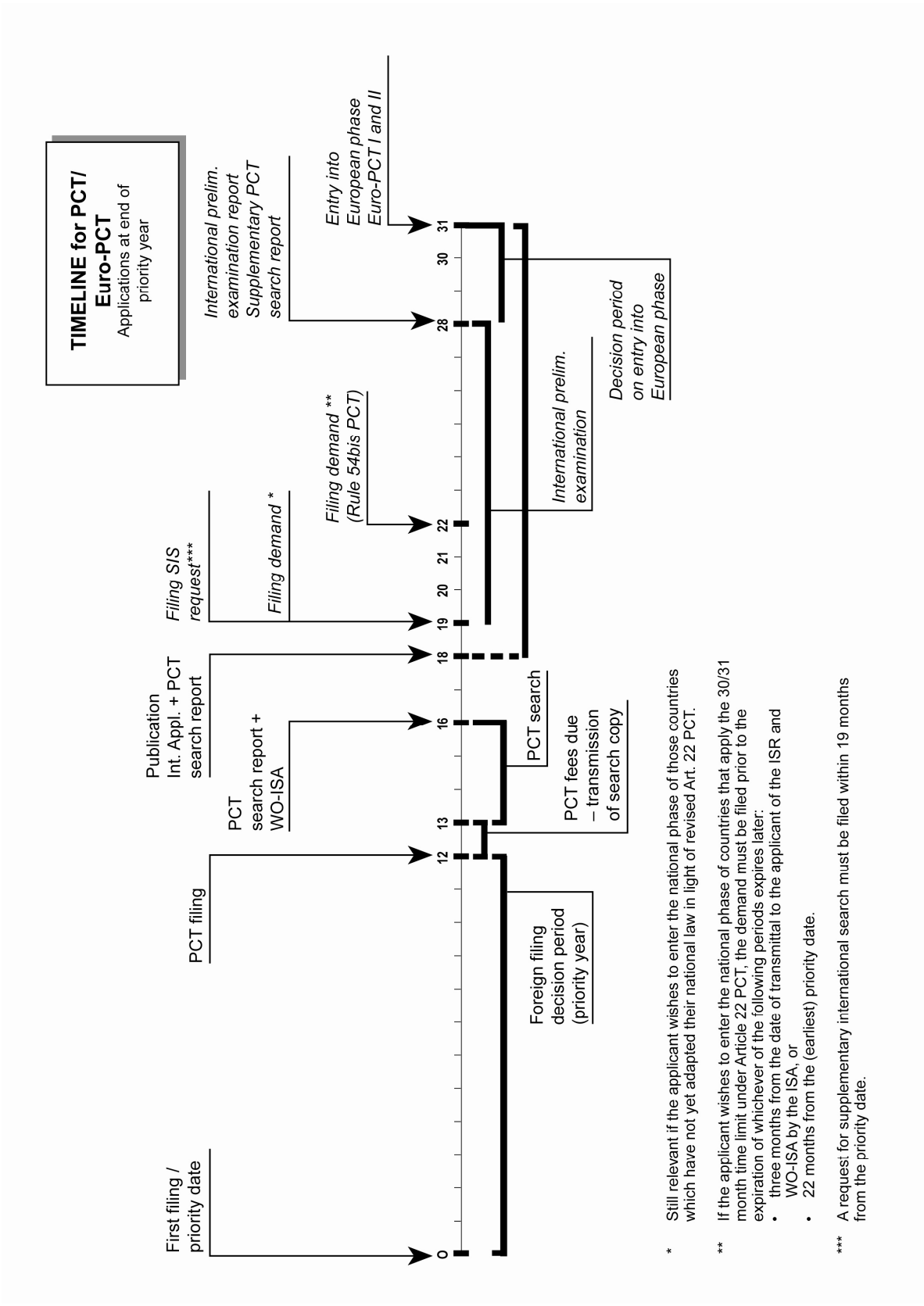
Annex II

The international and European phases of a PCT application



Annex III

Timeline for international applications



Annex IV

Criteria chosen by the EPO as ISA/IPEA on specific points in the ISPE Guidelines

In a number of cases the ISPE Guidelines leave ISAs/IPEAs the choice between alternative guidelines upon which each ISA/IPEA may rely as appropriate.

The options are set out in the appendices to the chapters of the ISPE Guidelines mentioned below. The paragraph number (e.g. Point A5.16) refers to the relevant paragraph in the chapter concerned (in this case Chapter 5, point 16).

The EPO as ISA/IPEA has chosen the options listed below.

Appendix to Chapter 4

Point A4.05	References to prior art	Option [1] applies
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Appendix to Chapter 5

Point A5.16	Multiple dependent claims	Option [2] applies
Point A5.20	Interpretation of claims	Option [2] applies
Point A5.21	The EPO applies the first sentence concerning "use" claims	
Point A5.26	Product-by-process claims	Option [1] applies
Point A5.42	Conciseness	Option [2] applies

Appendix to Chapter 9

Point A9.07	Excluded subject matter	Option [2] applies
Point A9.15	Programs for computers	Option [2] applies

Appendix to Chapter 12

Point A12.02	Novelty: effective date	Option [1] applies
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Appendix to Chapter 13

Point A13.08	The EPO applies the problem-solution approach	
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Appendix to Chapter 14

Point 14.01[02]	The EPO applies the criterion of industrial applicability	
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Appendix to Chapter 20

Point A20.21	Disclaimer	Option [2] applies
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Annex V

Filing offices of the EPO (OJ 2007, Spec. Ed. 3, A.2; OJ 2013, 442)

1. Addresses and opening hours of the filing offices

(a) Munich headquarters

European Patent Office
Bob-van-Bentheim-Platz 1
80469 Munich
Germany

European Patent Office
Bayerstrasse 34
(entrance via Zollstrasse 3)
80335 Munich
Germany

Postal address:
European Patent Office
80298 Munich
Germany
Tel.: +49 (0)89 2399-0

Monday to Thursday: 08.00 to 16.45 hrs, and
Friday: 08.00 to 15.30 hrs (both offices)

(b) The Hague

European Patent Office
Patentlaan 2
2288 EE Rijswijk
Netherlands
Tel.: +31 (0)70 340-2040

Postal address:
European Patent Office
Postfach 5818
2280 HV Rijswijk
Netherlands

Monday to Friday: 08.00 to 18.00 hrs

(c) Berlin

European Patent Office
Gitschiner Strasse 103
10969 Berlin
Germany
Tel.: +49 (0)30 25901-0

Postal address:
European Patent Office
10958 Berlin
Germany

Monday to Friday: 10.00 to 12.00 hrs

2. The EPO filing offices in Berlin and Munich are equipped with automated mail-boxes, which may be used at any time.*
3. **For filing documents by fax only, the following numbers of the filing offices are to be used:**

Munich: +49 (0)89 2399-4465
The Hague: +31 (0)70 340-3016
Berlin: +49 (0)30 25901-840
4. For information on filing documents online, see the website of the EPO Online Services: www.epoline.org/portal/public

* *The automated mail-box facility is not at present available at the filing office in The Hague. Outside office hours, documents may be handed in to the porter.*

Annex VI

Form PCT/RO/101 Request and Notes

PCT

REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For receiving Office use only

International Application No.

International Filing Date

Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference
(if desired) (12 characters maximum)

Box No. I TITLE OF INVENTION	
Box No. II APPLICANT <input type="checkbox"/> This person is also inventor	
Name and address: <i>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)</i>	Telephone No.
	Facsimile No.
	Applicant's registration No. with the Office
E-mail authorization: Marking one of the check-boxes below authorizes the receiving Office, the International Searching Authority, the International Bureau and the International Preliminary Examining Authority to use the e-mail address indicated in this Box to send, notifications issued in respect of this international application to that e-mail address if those offices are willing to do so. <input type="checkbox"/> as advance copies followed by paper notifications; or <input type="checkbox"/> exclusively in electronic form (no paper notifications will be sent). E-mail address:	
State <i>(that is, country)</i> of nationality:	State <i>(that is, country)</i> of residence:
This person is applicant for the purposes of: <input type="checkbox"/> all designated States <input type="checkbox"/> the States indicated in the Supplemental Box	
Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)	
<input type="checkbox"/> Further applicants and/or (further) inventors are indicated on a continuation sheet.	
Box No. IV AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR CORRESPONDENCE	
The person identified below is hereby/has been appointed to act on behalf of the applicant(s) before the competent International Authorities as:	<input type="checkbox"/> agent <input type="checkbox"/> common representative
Name and address: <i>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)</i>	Telephone No.
	Facsimile No.
	Agent's registration No. with the Office
E-mail authorization: Marking one of the check-boxes below authorizes the receiving Office, the International Searching Authority, the International Bureau and the International Preliminary Examining Authority to use the e-mail address indicated in this Box to send, notifications issued in respect of this international application to that e-mail address if those offices are willing to do so. <input type="checkbox"/> as advance copies followed by paper notifications; or <input type="checkbox"/> exclusively in electronic form (no paper notifications will be sent). E-mail address:	
<input type="checkbox"/> Address for correspondence: Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.	

Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)

If none of the following sub-boxes is used, this sheet should not be included in the request.

Name and address: <i>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)</i>		This person is: <input type="checkbox"/> applicant only <input type="checkbox"/> applicant and inventor <input type="checkbox"/> inventor only <i>(If this check-box is marked, do not fill in below.)</i>
State <i>(that is, country)</i> of nationality:		Applicant's registration No. with the Office
State <i>(that is, country)</i> of residence:		
This person is applicant for the purposes of: <input type="checkbox"/> all designated States <input type="checkbox"/> the States indicated in the Supplemental Box		
Name and address: <i>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)</i>		This person is: <input type="checkbox"/> applicant only <input type="checkbox"/> applicant and inventor <input type="checkbox"/> inventor only <i>(If this check-box is marked, do not fill in below.)</i>
State <i>(that is, country)</i> of nationality:		Applicant's registration No. with the Office
State <i>(that is, country)</i> of residence:		
This person is applicant for the purposes of: <input type="checkbox"/> all designated States <input type="checkbox"/> the States indicated in the Supplemental Box		
Name and address: <i>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)</i>		This person is: <input type="checkbox"/> applicant only <input type="checkbox"/> applicant and inventor <input type="checkbox"/> inventor only <i>(If this check-box is marked, do not fill in below.)</i>
State <i>(that is, country)</i> of nationality:		Applicant's registration No. with the Office
State <i>(that is, country)</i> of residence:		
This person is applicant for the purposes of: <input type="checkbox"/> all designated States <input type="checkbox"/> the States indicated in the Supplemental Box		
Name and address: <i>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)</i>		This person is: <input type="checkbox"/> applicant only <input type="checkbox"/> applicant and inventor <input type="checkbox"/> inventor only <i>(If this check-box is marked, do not fill in below.)</i>
State <i>(that is, country)</i> of nationality:		Applicant's registration No. with the Office
State <i>(that is, country)</i> of residence:		
This person is applicant for the purposes of: <input type="checkbox"/> all designated States <input type="checkbox"/> the States indicated in the Supplemental Box		
Name and address: <i>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)</i>		This person is: <input type="checkbox"/> applicant only <input type="checkbox"/> applicant and inventor <input type="checkbox"/> inventor only <i>(If this check-box is marked, do not fill in below.)</i>
State <i>(that is, country)</i> of nationality:		Applicant's registration No. with the Office
State <i>(that is, country)</i> of residence:		
This person is applicant for the purposes of: <input type="checkbox"/> all designated States <input type="checkbox"/> the States indicated in the Supplemental Box		
<input type="checkbox"/> Further applicants and/or (further) inventors are indicated on another continuation sheet.		

Supplemental Box

If the Supplemental Box is not used, this sheet should not be included in the request.

1. *If, in any of the Boxes, except Boxes Nos. VIII(i) to (v) for which a special continuation box is provided, **the space is insufficient** to furnish all the information: in such case, write "Continuation of Box No...." (indicate the number of the Box) and furnish the information in the same manner as required according to the captions of the Box in which the space was insufficient, in particular:*
 - (i) ***if more than one person is to be indicated as applicant and/or inventor** and no "continuation sheet" is available: in such case, write "Continuation of Box No. III" and indicate for each additional person the same type of information as required in Box No. III. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below;*
 - (ii) *if, in Box No. II or in any of the sub-boxes of Box No. III, the indication **"the States indicated in the Supplemental Box"** is checked: in such case, write "Continuation of Box No. II" or "Continuation of Box No. III" or "Continuation of Boxes No. II and No. III" (as the case may be), indicate the name of the applicant(s) involved and, next to (each) such name, the State(s) (and/or, where applicable, ARIPO, Eurasian, European or OAPI patent) for the purposes of which the named person is applicant;*
 - (iii) *if, in Box No. II or in any of the sub-boxes of Box No. III, **the inventor or the inventor/applicant is not inventor for the purposes of all designated States**: in such case, write "Continuation of Box No. II" or "Continuation of Box No. III" or "Continuation of Boxes No. II and No. III" (as the case may be), indicate the name of the inventor(s) and, next to (each) such name, the State(s) (and/or, where applicable, ARIPO, Eurasian, European or OAPI patent) for the purposes of which the named person is inventor;*
 - (iv) *if, in addition to the agent(s) indicated in Box No. IV, there are **further agents**: in such case, write "Continuation of Box No. IV" and indicate for each further agent the same type of information as required in Box No. IV;*
 - (v) *if, in Box No. VI, there are **more than three earlier applications whose priority is claimed**: in such case, write "Continuation of Box No. VI" and indicate for each additional earlier application the same type of information as required in Box No. VI.*
2. *If the applicant intends to make an indication of the wish that the international application be treated, in certain designated States, as an application for a patent of addition, certificate of addition, inventor's certificate of addition or utility certificate of addition: in such case, write the name or two-letter code of each designated State concerned and the indication **"patent of addition," "certificate of addition," "inventor's certificate of addition"** or **"utility certificate of addition,"** the number of the parent application or parent patent or other parent grant and the date of grant of the parent patent or other parent grant or the date of filing of the parent application (Rules 4.11(a)(i) and 49bis.1(a) or (b)).*
3. *If the applicant intends to make an indication of the wish that the international application be treated, in the United States of America, as a continuation or continuation-in-part of an earlier application: in such case, write "United States of America" or "US" and the indication **"continuation"** or **"continuation-in-part"** and the number and the filing date of the parent application (Rules 4.11(a)(ii) and 49bis.1(d)).*

Box No. V DESIGNATIONS

The filing of this request **constitutes under Rule 4.9(a) the designation** of all Contracting States bound by the PCT on the international filing date, for the grant of every kind of protection available and, where applicable, for the grant of both regional and national patents.

However,

- ☐ DE Germany **is not designated** for any kind of national protection
- ☐ JP Japan **is not designated** for any kind of national protection
- ☐ KR Republic of Korea **is not designated** for any kind of national protection

(The check-boxes above may only be used to exclude (irrevocably) the designations concerned if, at the time of filing or subsequently under Rule 26bis.1, the international application contains in Box No. VI a priority claim to an earlier national application filed in the particular State concerned, in order to avoid the ceasing of the effect, under the national law, of this earlier national application.)

Box No. VI PRIORITY CLAIM AND DOCUMENT

The priority of the following earlier application(s) is hereby claimed:

Filing date of earlier application (day/month/year)	Number of earlier application	Where earlier application is:		
		national application: country or Member of WTO	regional application: regional Office	international application: receiving Office
item (1)				
item (2)				
item (3)				

☐ Further priority claims are indicated in the Supplemental Box.

Furnishing the priority document(s):

☐ The **receiving Office** is requested to prepare and transmit to the International Bureau a certified copy of the earlier application(s) (only if the earlier application(s) was filed with the receiving Office which, for the purposes of this international application, is the receiving Office) identified above as:

☐ all items ☐ item (1) ☐ item (2) ☐ item (3) ☐ other, see Supplemental Box

☐ The **International Bureau** is requested to obtain from a digital library a certified copy of the earlier application(s) identified above, using, where applicable, the access code(s) indicated below (if the earlier application(s) is available to it from a digital library):

☐ item (1) ☐ item (2) ☐ item (3) ☐ other, see Supplemental Box
access code access code access code

Restore the right of priority: the receiving Office is requested to restore the right of priority for the earlier application(s) identified above or in the Supplemental Box as item(s) (_____). (See also the Notes to Box No. VI; further information **must** be provided to support a request to restore the right of priority.)

Incorporation by reference: where an element of the international application referred to in Article 11(1)(iii)(d) or (e) or a part of the description, claims or drawings referred to in Rule 20.5(a) is not otherwise contained in this international application but is completely contained in an earlier application whose priority is claimed on the date on which one or more elements referred to in Article 11(1)(iii) were first received by the receiving Office, that element or part is, subject to confirmation under Rule 20.6, incorporated by reference in this international application for the purposes of Rule 20.6.

Box No. VII INTERNATIONAL SEARCHING AUTHORITY

Choice of International Searching Authority (ISA) (if more than one International Searching Authority is competent to carry out the international search, indicate the Authority chosen; the two-letter code may be used):

ISA/ _____

Continuation of Box No. VII USE OF RESULTS OF EARLIER SEARCH, REFERENCE TO THAT SEARCH		
<input type="checkbox"/> The ISA indicated in Box No. VII is requested to take into account the results of the earlier search(es) indicated below (<i>see also Notes to Box VII; use of results of more than one earlier search</i>).		
Filing date (<i>day/month/year</i>)	Application Number	Country (<i>or regional Office</i>)
<input type="checkbox"/> Statement (Rule 4.12(ii)): this international application is the same, or substantially the same, as the application in respect of which the earlier search was carried out except, where applicable, that it is filed in a different language.		
<input type="checkbox"/> Availability of documents: the following documents are available to the ISA in a form and manner acceptable to it and therefore do not need to be submitted by the applicant to the ISA (Rule 12bis.1(f)): <div style="margin-left: 20px;"> <input type="checkbox"/> a copy of the results of the earlier search,* <input type="checkbox"/> a copy of the earlier application, <input type="checkbox"/> a translation of the earlier application into a language which is accepted by the ISA, <input type="checkbox"/> a translation of the results of the earlier search into a language which is accepted by the ISA, <input type="checkbox"/> a copy of any document cited in the results of the earlier search. (<i>If known, please indicate below the document(s) available to the ISA</i>): </div>		
<input type="checkbox"/> Transmit copy of results of earlier search and other documents (<i>where the earlier search was not carried out by the ISA indicated above but by the same Office as that which is acting as the receiving Office</i>): the receiving Office is requested to prepare and transmit to the ISA (Rule 12bis.1(c)): <div style="margin-left: 20px;"> <input type="checkbox"/> a copy of the results of the earlier search,* <input type="checkbox"/> a copy of the earlier application, <input type="checkbox"/> a copy of any document cited in the results of the earlier search. </div>		
<p><small>* Where the results of the earlier search are neither available from a digital library nor transmitted by the receiving Office, the applicant is required to submit them to the receiving Office (Rule 12bis.1(a)) (<i>See item 11. in the check-list and also Notes to Box No. VII</i>).</small></p>		
Filing date (<i>day/month/year</i>)	Application Number	Country (<i>or regional Office</i>)
<input type="checkbox"/> Statement (Rule 4.12(ii)): this international application is the same, or substantially the same, as the application in respect of which the earlier search was carried out except, where applicable, that it is filed in a different language.		
<input type="checkbox"/> Availability of documents: the following documents are available to the ISA in a form and manner acceptable to it and therefore do not need to be submitted by the applicant to the ISA (Rule 12bis.1(f)): <div style="margin-left: 20px;"> <input type="checkbox"/> a copy of the results of the earlier search,* <input type="checkbox"/> a copy of the earlier application, <input type="checkbox"/> a translation of the earlier application into a language which is accepted by the ISA, <input type="checkbox"/> a translation of the results of the earlier search into a language which is accepted by the ISA, <input type="checkbox"/> a copy of any document cited in the results of the earlier search. (<i>If known, please indicate below the document(s) available to the ISA</i>): </div>		
<input type="checkbox"/> Transmit copy of results of earlier search and other documents (<i>where the earlier search was not carried out by the ISA indicated above but by the same Office as that which is acting as the receiving Office</i>): the receiving Office is requested to prepare and transmit to the ISA (Rule 12bis.1(c)): <div style="margin-left: 20px;"> <input type="checkbox"/> a copy of the results of the earlier search,* <input type="checkbox"/> a copy of the earlier application, <input type="checkbox"/> a copy of any document cited in the results of the earlier search. </div>		
<p><small>* Where the results of the earlier search are neither available from a digital library nor transmitted by the receiving Office, the applicant is required to submit them to the receiving Office (Rule 12bis.1(a)) (<i>See item 11. in the check-list and also Notes to Box No. VII</i>).</small></p>		
<input type="checkbox"/> Further earlier searches are indicated on a continuation sheet.		
Box No. VIII DECLARATIONS		
The following declarations are contained in Boxes Nos. VIII (i) to (v) (<i>mark the applicable check-boxes below and indicate in the right column the number of each type of declaration</i>):		Number of declarations
<input type="checkbox"/> Box No. VIII (i)	Declaration as to the identity of the inventor	:
<input type="checkbox"/> Box No. VIII (ii)	Declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent	:
<input type="checkbox"/> Box No. VIII (iii)	Declaration as to the applicant's entitlement, as at the international filing date, to claim the priority of the earlier application	:
<input type="checkbox"/> Box No. VIII (iv)	Declaration of inventorship (only for the purposes of the designation of the United States of America)	:
<input type="checkbox"/> Box No. VIII (v)	Declaration as to non-prejudicial disclosures or exceptions to lack of novelty	:

Box No. VIII (i) DECLARATION: IDENTITY OF THE INVENTOR

The declaration must conform to the standardized wording provided for in Section 211; see Notes to Boxes Nos. VIII, VIII (i) to (v) (in general) and the specific Notes to Box No. VIII (i). If this Box is not used, this sheet should not be included in the request.

Declaration as to the identity of the inventor (Rules 4.17(i) and 51bis.1(a)(i)):

☐ This declaration is continued on the following sheet, "Continuation of Box No. VIII (i)".

Box No. VIII (ii) DECLARATION: ENTITLEMENT TO APPLY FOR AND BE GRANTED A PATENT

The declaration must conform to the standardized wording provided for in Section 212; see Notes to Boxes Nos. VIII, VIII (i) to (v) (in general) and the specific Notes to Box No. VIII (ii). If this Box is not used, this sheet should not be included in the request.

Declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent (Rules 4.17(ii) and 51bis.1(a)(ii)), in a case where the declaration under Rule 4.17(iv) is not appropriate:

☐ This declaration is continued on the following sheet, "Continuation of Box No. VIII (ii)".

Box No. VIII (iii) DECLARATION: ENTITLEMENT TO CLAIM PRIORITY

The declaration must conform to the standardized wording provided for in Section 213; see Notes to Boxes Nos. VIII, VIII (i) to (v) (in general) and the specific Notes to Box No. VIII (iii). If this Box is not used, this sheet should not be included in the request.

Declaration as to the applicant's entitlement, as at the international filing date, to claim the priority of the earlier application specified below, where the applicant is not the applicant who filed the earlier application or where the applicant's name has changed since the filing of the earlier application (Rules 4.17(iii) and 51bis.1(a)(iii)):

☐ This declaration is continued on the following sheet, "Continuation of Box No. VIII (iii)".

Box No. VIII (iv) DECLARATION: INVENTORSHIP (only for the purposes of the designation of the United States of America)

The declaration must conform to the following standardized wording provided for in Section 214; see Notes to Boxes Nos. VIII, VIII (i) to (v) (in general) and the specific Notes to Box No. VIII (iv). If this Box is not used, this sheet should not be included in the request.

**Declaration of inventorship (Rules 4.17(iv) and 51bis.1(a)(iv))
for the purposes of the designation of the United States of America:**

I hereby declare that I believe I am the original inventor or an original joint inventor of a claimed invention in the application.

This declaration is directed to the international application of which it forms a part (if filing declaration with application).

This declaration is directed to international application No. PCT/..... (if furnishing declaration pursuant to Rule 26ter).

I hereby declare that the above-identified international application was made or authorized to be made by me.

I hereby acknowledge that any willful false statement made in this declaration is punishable under 18 U.S.C. 1001 by fine or imprisonment of not more than five (5) years, or both.

Name:

Residence:
(city and either US state, if applicable, or country)

Mailing Address:

.....
.....

Inventor's Signature: **Date:**
(The signature must be that of the inventor, not that of the agent)

Name:

Residence:
(city and either US state, if applicable, or country)

Mailing Address:

.....
.....

Inventor's Signature: **Date:**
(The signature must be that of the inventor, not that of the agent)

Name:

Residence:
(city and either US state, if applicable, or country)

Mailing Address:

.....
.....

Inventor's Signature: **Date:**
(The signature must be that of the inventor, not that of the agent)

☐ This declaration is continued on the following sheet, "Continuation of Box No. VIII (iv)".

Box No. VIII (v) DECLARATION: NON-PREJUDICIAL DISCLOSURES OR EXCEPTIONS TO LACK OF NOVELTY

The declaration must conform to the standardized wording provided for in Section 215; see Notes to Boxes Nos. VIII, VIII (i) to (v) (in general) and the specific Notes to Box No. VIII (v). If this Box is not used, this sheet should not be included in the request.

Declaration as to non-prejudicial disclosures or exceptions to lack of novelty (Rules 4.17(v) and 51bis.1(a)(v)):

☐ This declaration is continued on the following sheet, "Continuation of Box No. VIII (v)".

Continuation of Box No. VIII (i) to (v) DECLARATION

*If the space is insufficient in any of Boxes Nos. VIII (i) to (v) to furnish all the information, including in the case where **more than two inventors are to be named** in Box No. VIII (iv), in such case, write "Continuation of Box No. VIII ..." (indicate the item number of the Box) and furnish the information in the same manner as required for the purposes of the Box in which the space was insufficient. If additional space is needed in respect of two or more declarations, a separate continuation box must be used for each such declaration. If this Box is not used, this sheet should not be included in the request.*

Box No. IX CHECK LIST for PAPER filings – this sheet is only to be used when filing an international application on **PAPER**

This international application contains the following:	Number of sheets	This international application is accompanied by the following item(s) (<i>mark the applicable check-boxes below and indicate in right column the number of each item</i>):	Number of items
(a) request form PCT/RO/101 (including any declarations and supplemental sheets)..... :		1. <input type="checkbox"/> fee calculation sheet :	
(b) description (excluding any sequence listing part of the description, see (f), below)..... :		2. <input type="checkbox"/> original separate power of attorney :	
(c) claims :		3. <input type="checkbox"/> original general power of attorney :	
(d) abstract :		4. <input type="checkbox"/> copy of general power of attorney; reference number: :	
(e) drawings (if any) :		5. <input type="checkbox"/> priority document(s) identified in Box No. VI as item(s) :	
(f) sequence listing part of the description (if any) :		6. <input type="checkbox"/> Translation of international application into (<i>language</i>): :	
		7. <input type="checkbox"/> separate indications concerning deposited microorganism or other biological material :	
		8. <input type="checkbox"/> copy in electronic form (Annex C/ST.25 text file) on physical data carrier(s) of the sequence listing, not forming part of the international application, which is furnished only for the purposes of international search under Rule 13 ^{ter} (<i>type and number of physical data carriers</i>) :	
		9. <input type="checkbox"/> a statement confirming that “the information recorded in electronic form submitted under Rule 13 ^{ter} is identical to the sequence listing as contained in the international application” as filed on paper. :	
Total number of sheets :	0	10. <input type="checkbox"/> copy of results of earlier search(es) (Rule 12 ^{bis} .1(a)) .. :	
		11. <input type="checkbox"/> other (<i>specify</i>): :	
Figure of the drawings which should accompany the abstract:		Language of filing of the international application:	

Box No. X SIGNATURE OF APPLICANT, AGENT OR COMMON REPRESENTATIVENext to each signature, indicate the name of the person signing and the capacity in which the person signs (*if such capacity is not obvious from reading the request*).

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For receiving Office use only

1. Date of actual receipt of the purported international application:	2. Drawings: <input type="checkbox"/> received: <input type="checkbox"/> not received:
3. Corrected date of actual receipt due to later but timely received papers or drawings completing the purported international application:	
4. Date of timely receipt of the required corrections under PCT Article 11(2):	
5. International Searching Authority (if two or more are competent): ISA /	6. <input type="checkbox"/> Transmittal of search copy delayed until search fee is paid

For International Bureau use only

Date of receipt of the record copy by the International Bureau:
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Box No. IX CHECK LIST for EFS-Web filings - this sheet is only to be used when filing an international application with RO/US via EFS-Web			
<p>This international application contains the following:</p> <p>(a) request form PCT/RO/101 (including any declarations and supplemental sheets) :</p> <p>(b) description (excluding any sequence listing part of the description, see (f), below) :</p> <p>(c) claims :</p> <p>(d) abstract :</p> <p>(e) drawings (if any) :</p> <p>(f) sequence listing part of the description in the form of an image file (e.g. PDF) :</p> <hr/> <p>Total number of sheets (including the sequence listing part of the description if filed as an image file) :</p> <p>(g) sequence listing part of the description</p> <p><input type="checkbox"/> filed in the form of an Annex C/ST.25 text file</p> <p><input type="checkbox"/> WILL BE filed separately on physical data carrier(s), on the same day and in the form of an Annex C/ST.25 text file</p> <p>Indicate type and number of physical data carrier(s)</p>	<p>Number of sheets</p> <p>0</p>	<p>This international application is accompanied by the following item(s) (<i>mark the applicable check-boxes below and indicate in right column the number of each item</i>):</p> <p>1. <input type="checkbox"/> fee calculation sheet :</p> <p>2. <input type="checkbox"/> original separate power of attorney :</p> <p>3. <input type="checkbox"/> original general power of attorney :</p> <p>4. <input type="checkbox"/> copy of general power of attorney; reference number: :</p> <p>5. <input type="checkbox"/> priority document(s) identified in Box No. VI as item(s) :</p> <p>6. <input type="checkbox"/> Translation of international application into (<i>language</i>): :</p> <p>7. <input type="checkbox"/> separate indications concerning deposited microorganism or other biological material :</p> <p>8. <input type="checkbox"/> (<i>only where item (f) is marked in the left column</i>) copy of the sequence listing in electronic form (Annex C/ST.25 text file) not forming part of the international application but furnished only for the purposes of international search under Rule 13ter :</p> <p>9. <input type="checkbox"/> (<i>only where item (f) is marked in the left column</i>) a statement confirming that “the information recorded in electronic form submitted under Rule 13ter is identical to the sequence listing as contained in the international application” as filed via EFS-Web: :</p> <p>10. <input type="checkbox"/> copy of results of earlier search(es) (Rule 12bis.1(a)) :</p> <p>11. <input type="checkbox"/> other (<i>specify</i>): :</p>	<p>Number of items</p>
<p>Figure of the drawings which should accompany the abstract:</p>	<p>Language of filing of the international application:</p>		

Box No. X	SIGNATURE OF APPLICANT, AGENT OR COMMON REPRESENTATIVE
	<p><i>Next to each signature, indicate the name of the person signing and the capacity in which the person signs (if such capacity is not obvious from reading the request).</i></p>

For receiving Office use only	
1. Date of actual receipt of the purported international application:	2. Drawings: <input type="checkbox"/> received:
3. Corrected date of actual receipt due to later but timely received papers or drawings completing the purported international application:	<input type="checkbox"/> not received:
4. Date of timely receipt of the required corrections under PCT Article 11(2):	
5. International Searching Authority (if two or more are competent): ISA /	6. <input type="checkbox"/> Transmittal of search copy delayed until search fee is paid

		For International Bureau use only	
Date of receipt of the record copy by the International Bureau:			

NOTES TO THE REQUEST FORM (PCT/RO/101)

These Notes are intended to facilitate the filling in of the request form. For more detailed information, see the *PCT Applicant's Guide*, a WIPO publication, which is available, together with other PCT related documents, at WIPO's website: www.wipo.int/pct/en/. The Notes are based on the requirements of the Patent Cooperation Treaty (PCT), the Regulations and the Administrative Instructions under the PCT. In case of any discrepancy between these Notes and those requirements, the latter are applicable.

In the request form and these Notes, "Article", "Rule" and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions, respectively.

The request form should be typed or printed; check-boxes may be marked by hand with black ink (Rule 11.9(a) and (b)).

The request form and these Notes may be downloaded from WIPO's website at the address given above.

WHERE TO FILE THE INTERNATIONAL APPLICATION

The international application (request, description, claims, abstract and drawings, if any) must be filed with a competent receiving Office (Article 11(1)(i)) – that is, subject to any applicable prescriptions concerning national security, at the choice of the applicant, either:

(i) the receiving Office of, or acting for, a PCT Contracting State of which the applicant or, if there are two or more applicants, at least one of them, is a resident or national (Rule 19.1(a)(i) or (ii) or (b)), or

(ii) the International Bureau of WIPO in Geneva, Switzerland, if the applicant or, if there are two or more applicants, at least one of the applicants is a resident or national of any PCT Contracting State (Rule 19.1(a)(iii)).

CONFIRMATION COPY OF THE REQUEST FORM

Where the international application was initially filed by facsimile with a receiving Office that accepts such filings (see the *PCT Applicant's Guide*, Annex C) this should be indicated on the first sheet of the form by the annotation "CONFIRMATION COPY" followed by the date of the facsimile transmission.

APPLICANT'S OR AGENT'S FILE REFERENCE

A **File Reference** may be indicated, if desired. It should not exceed 12 characters. Characters in excess of 12 may be disregarded by the receiving Office or any International Authority (Rule 11.6(f) and Section 109).

BOX No. I

Title of Invention (Rules 4.3 and 5.1(a)): The title must be short (preferably two to seven words when in English or translated into English) and precise. It must be identical with the title heading the description.

BOXES Nos. II AND III

General: At least one of the applicants named must be a resident or national of a PCT Contracting State for which the receiving Office acts (Articles 9 and 11(1)(i) and Rules 18 and 19). If the international application is filed with the International Bureau under Rule 19.1(a)(iii), at least one of the applicants must be a resident or national of any PCT Contracting State.

Indication Whether a Person is Applicant and/or Inventor (Rules 4.5(a) and 4.6(a) and (b)):

Check-box "This person is also inventor" (Box No. II): Mark this check-box if the applicant named is also the inventor or one of the inventors; do not mark this check-box if the applicant is a legal entity.

Check-box "applicant and inventor" (Box No. III): Mark this check-box if the person named is both applicant and inventor; do not mark this check-box if the person is a legal entity.

Check-box "applicant only" (Box No. III): Mark this check-box if the person named is a legal entity or if the person named is not also inventor.

Check-box "inventor only" (Box No. III): Mark this check-box if the person named is inventor but not also applicant. This would be the case, for example, where the inventor is deceased or has assigned the invention and the assignee is the applicant for all designated States. Do not mark this check-box if the person is a legal entity.

In Box No. III, one of the three check-boxes must always be marked for each person named.

A person must not be named more than once in Boxes Nos. II and III, even where that person is both applicant and inventor.

Different Applicants for Different Designated States (Rules 4.5(d), 18.3 and 19.2): It is possible to indicate different applicants for the purposes of different designated States. At least one of all the applicants named must be a national or resident of a PCT Contracting State for which the receiving Office acts, irrespective of the designated State(s) for the purposes of which that applicant is named.

For the indication of the designated States for which a person is applicant, mark the applicable check-box (only one for each person). If the person is not an applicant for all designated States, the check-box "the States indicated in the Supplemental Box" must be marked, and the name of the person must be repeated in the Supplemental Box with an indication of the States for which that person is applicant (see item 1(ii) in that Box).

Naming of Inventor (Rule 4.1(a)(iv) and (c)(i)): It is strongly recommended to always name the inventor since such information is generally required in the national phase. For details, see the *PCT Applicant's Guide*, Annex B.

Different Inventors for Different Designated States (Rule 4.6(c)): Different persons may be indicated as inventors for different designated States (for example, where, in this respect, the requirements of the national laws of the designated States are not the same); in such a case, the Supplemental Box must be used (see item 1(iii) in that Box). In the absence of any indication, it will be assumed that the inventor(s) named is (are) inventor(s) for all designated States.

Names and Addresses (Rule 4.4): The family name (preferably in capital letters) must be indicated before the given name(s). Titles and academic degrees must be omitted. Names of legal entities must be indicated by their full official designations.

The address must be indicated in such a way that it allows prompt postal delivery; it must consist of all the relevant administrative units (up to and including the indication of the house number, if any), the postal code (if any), and the name of the country.

Only one address may be indicated per person. For the indication of a special “address for correspondence”, see the notes to Box No. IV.

Telephone, Facsimile Numbers and/or E-mail Addresses should be indicated for the persons named in Boxes Nos. II and IV in order to allow rapid communication with them (see Rule 4.4(c)). Any telephone or facsimile number should include the applicable country and area codes. A single e-mail address only should be indicated.

Unless one of the applicable check-boxes is marked, any e-mail address supplied will be used only for the types of communication which might be made by telephone. If one of the applicable check-boxes is marked, the receiving Office, the International Searching Authority, the International Bureau and the International Preliminary Examining Authority may send notifications in respect of the international application to the applicant, avoiding processing or postal delays. Note that not all Offices will send such notifications by e-mail, (for details about each Office’s procedure see the *PCT Applicant’s Guide*, Annex B). If the first check-box is marked, any such e-mail notification will always be followed by the official notification on paper. Only that paper copy of the notification is considered the legal copy of the notification and only the date of mailing of that paper copy will commence any time limit within the meaning of Rule 80. If the second check-box is marked, the applicant requests the discontinuation of the sending of paper copies of notifications and acknowledges that the date of mailing indicated on the electronic copy will commence any time limit within the meaning of Rule 80.

Note that it is the applicant’s responsibility to keep any e-mail address details up-to-date and to ensure that incoming e-mails are not blocked for any reason on the recipient’s side. Changes to the e-mail address indicated in the request should be requested to be recorded, preferably directly at the International Bureau, under Rule 92bis. Where the e-mail authorization is given both in respect of the applicant and in respect of an agent or common representative, the International Bureau will send e-mail communications only to the appointed agent or common representative.

Applicant’s Registration Number with the Office (Rule 4.5(e)): Where the applicant is registered with the national or regional Office acting as receiving Office, the request may indicate the number or other indication under which the applicant is so registered.

Nationality (Rules 4.5(a) and (b) and 18.1): For each applicant, the nationality must be indicated by the name or two-letter code of the State (that is, country) of which the person is a national. A legal entity constituted according to the national law of a State is considered a national of that State. The indication of the nationality is not required where a person is inventor only.

Residence (Rules 4.5(a) and (c) and 18.1): For each applicant, the residence must be indicated by the name or two-letter code of the State (that is, country) of which the person is a resident. If the State of residence is not indicated, it will be assumed to be the same as the State indicated in the address. Possession of a real and effective industrial or commercial establishment in a State is considered residence in that State. The indication of the residence is not required where a person is inventor only.

Names of States (Section 115): For the indication of names of States, the two-letter codes appearing in WIPO Standard ST.3 and in the *PCT Applicant’s Guide*, Annex K, may be used.

BOX No. IV

Who Can Act as Agent? (Article 49 and Rule 83.1bis): For each of the receiving Offices, information as to who can act as agent is given in the *PCT Applicant’s Guide*, Annex C.

Agent or Common Representative (Rules 4.7, 4.8, 90.1 and 90.2 and Section 108): Mark the applicable check-box in order to indicate whether the person named is (or has been) appointed as “agent” or “common representative” (the “common representative” must be one of the applicants). For the manner in which name(s), address(es) (including names of States), telephone, facsimile numbers and/or e-mail addresses must be indicated, see the notes to Boxes Nos. II and III. Where several agents are listed, the agent to whom correspondence should be addressed is to be listed first. If there are two or more applicants but no common agent is appointed to represent all of them, one of the applicants who is a national or resident of a PCT Contracting State may be appointed by the other applicants as their common representative. If this is not done, the applicant first named in the request who is entitled to file an international application with the receiving Office concerned will be considered to be the common representative.

Manner of Appointment of Agent or Common Representative (Rules 90.4 and 90.5 and Section 106): The appointment of an agent or a common representative may be effected by designating the agent or common representative in Box No. IV and by the applicant signing the request or a separate power of attorney. Where there are two or more applicants, the appointment of a common agent or common representative must be effected by each applicant signing, at his choice, the request or a separate power of attorney. If the separate power of attorney is not signed, or if the required separate power of attorney is missing, or if the indication of the name or address of the appointed person does not comply with Rule 4.4, the power of attorney will be considered non-existent unless the defect is corrected. However, the receiving Office may waive the requirement that a separate power of attorney be submitted to it (for details about each receiving Office, see the *PCT Applicant’s Guide*, Annex C).

Where a general power of attorney has been filed and is referred to in the request, a copy thereof must be attached to the request. Any applicant who did not sign the general power of attorney must sign either the request or a separate power of attorney, unless the receiving Office has waived the requirement that a separate power of attorney be submitted to it (for details, see the *PCT Applicant’s Guide*, Annex C).

Agent’s Registration Number with the Office (Rule 4.7(b)): Where the agent is registered with the national or regional Office that is acting as receiving Office, the request may indicate the number or other indication under which the agent is so registered.

Address for Correspondence (Rule 4.4(d) and Section 108): Where an agent is appointed, any correspondence intended for the applicant will be sent to the address indicated for that agent (or for the first-mentioned agent, if more than one is appointed). Where one of two or more applicants is appointed as common representative, the address indicated for that applicant in Box No. IV will be used.

Where no agent or common representative is appointed, any correspondence will be sent to the address, indicated in Box No. II or III, of the applicant (if only one person is named as applicant) or of the applicant who is considered to be common representative (if there are two or more persons named as applicants). However, if the applicant wishes correspondence to be sent to a different address in such a case, that address must be indicated in Box No. IV instead of the designation 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” has been marked).

Telephone, Facsimile Numbers and/or E-mail Addresses
See Notes to Boxes Nos II and III.

BOX No. V

Designations (Regional and national patents) (Rule 4.9): Upon filing of the request, the applicant will obtain an automatic and all-inclusive coverage of all designations available under the PCT on the international filing date, in respect of every kind of protection available and, where applicable, in respect of both regional and national patents. If the applicant wishes the international application to be treated, in a certain designated or elected State, as an application not for a patent but for another kind of protection available under the national law of the designated or elected State concerned, the applicant will have to indicate his choice directly to the designated or elected Office when performing the acts, referred to in Articles 22 or 39(1), for entry into the national phase. For details about various kinds of protection available in designated or elected States, see the *PCT Applicant's Guide*, Annex B.

However, for the reasons explained below, it is possible to indicate, by marking the applicable check-box(es), that DE Germany, JP Japan and/or KR Republic of Korea are not designated for any kind of national protection. Each of those States has notified the International Bureau that Rule 4.9(b) applies to it since its national law provides that the filing of an international application which contains the designation of that State and claims the priority, **at the time of filing** or subsequently under Rule 26bis.1, of an earlier national application (for DE: for the same kind of protection) having effect in that State shall have the result that the earlier national application ceases, where applicable, after the expiration of certain time limits, to have effect with the same consequences as the withdrawal of the earlier national application. The designation of DE Germany for the purposes of a EP European patent is not affected by what is said above. For details see the *PCT Applicant's Guide*, in the relevant Annex B.

Only the three States mentioned above may be excluded from the all-inclusive coverage of all designations in Box No. V. For any other PCT Contracting State which the applicant wishes to exclude from the all-inclusive coverage of all designations, the applicant should submit a separate notice of withdrawal of the designation concerned under Rule 90bis.2. **Important: Should a notice of withdrawal be filed, that notice will have to be signed by the applicant or, if there are two or more applicants, by all of them (Rule 90bis.5(a)), or by an agent or a common representative whose appointment has been effected by each applicant signing, at his choice, the request, the demand or a separate power of attorney (Rule 90.4(a)).**

BOX No. VI

Priority Claim(s) (Rule 4.10): If the priority of an earlier application is claimed, the declaration containing the priority claim must be made in the request.

The request must indicate the *date* on which the earlier application from which priority is claimed was filed and the *number* it was assigned. Note that that date must fall within the period of 12 months preceding the international filing date.

Where the earlier application is a national application, the *country* party to the Paris Convention for the Protection of Industrial Property, or the *Member* of the World Trade Organization that is not a party to that Convention, in which that earlier application was filed must be indicated. Where the earlier application is a regional application, the *regional Office* concerned must be indicated. Where the earlier application is an international application, the *receiving Office* with which that earlier application was filed must be indicated.

Where the earlier application is a regional application (see however below), or an international application, the priority claim may also, if the applicant so wishes, indicate one or more countries party to the Paris Convention for which that earlier

application was filed (Rule 4.10(b)(i)); such an indication is not, however, mandatory. Where the earlier application is a regional application and at least one of the countries party to the regional patent treaty is neither party to the Paris Convention nor a Member of the World Trade Organization, at least one country party to the Paris Convention or one Member of the World Trade Organization for which that earlier application was filed must be indicated (Rule 4.10(b)(ii)) in the Supplemental Box.

As to the possibility of correcting or adding a priority claim, see Rule 26bis.1 and the *PCT Applicant's Guide*, International Phase.

Restoration of the Right of Priority (Rules 4.1(c)(v) and 26bis.3): The procedure for restoration of the right of priority is not applicable to a receiving Office which has provided notice to the International Bureau under Rule 26bis.3(j) of the incompatibility of Rule 26bis.3(a) to (i) with the national law applied by that Office. Where the international application is filed on a date which is later than the date on which the priority period (see Rule 2.4) expired but within the period of two months from that date, the applicant may request the receiving Office to restore the right of priority (Rule 26bis.3). Such a request must be filed with the receiving Office within two months from the date on which the priority period expired; it may be included in the request (Rule 4.1(c)(v)) by identifying the priority claim(s) in Box No. VI. If, in Box No. VI, a priority claim is identified in respect of which a request to restore the right of priority is made, in such case, a separate document should be submitted entitled "Statement for Restoration of the Right of Priority". This separate document should indicate, for each earlier application concerned, the filing date, the earlier application number and the name or two-letter code of the country, Member of WTO, regional Office or receiving Office. Then, for each earlier application concerned, the applicant should state the reasons for the failure to file the international application within the priority period (Rules 26bis.3(a) and 26bis.3(b)(ii)). Note that such a request may be subjected by the receiving Office to the payment to it of a fee, payable within the time limit referred to above (Rule 26bis.3(e)). According to Rule 26bis.3(d), the time limit for payment of the fee may be extended, at the option of the receiving Office, for a period of up to two months from the expiration of the time limit applicable under Rule 26bis.3(e). Note further that the receiving Office may require the furnishing, within a reasonable time limit, of a declaration or other evidence in support of the statement of reasons; preferably, such declaration or other evidence should already be submitted to the receiving Office together with the request for restoration (Rule 26bis.3(b) and (f)). The receiving Office shall restore the right of priority if it finds that a criterion for restoration applied by the Office is satisfied (Rule 26bis.3(a)). For information on which criteria a receiving Office applies see the *PCT Applicant's Guide*, Annex C.

Incorporation by Reference (Rules 4.18 and 20): The procedure for incorporation by reference is not applicable to a receiving Office which has provided notice to the International Bureau under Rule 20.8(a) of the incompatibility of Rules 20.3(a)(ii) and (b)(ii), 20.5(a)(ii) and (d), and 20.6 with the national law applied by that Office. Where the receiving Office finds that any of the requirements of Article 11(1)(iii)(d) and (e) are not or appear not to be fulfilled, it will invite the applicant to either furnish the required correction or confirm that the element concerned referred to in Article 11(1)(iii)(d) or (e) is incorporated by reference under Rule 4.18. Where the applicant furnishes the required correction under Article 11(2), the international filing date will be the date on which the receiving Office receives the required correction (see Rule 20.3(a)(ii) and (b)(i)), provided that all other requirements of Article 11(1) are fulfilled. However, where the applicant confirms the incorporation by reference of an element referred to in Article 11(1)(iii)(d) or (e) which is completely contained in an earlier application the priority of which is claimed in the international application, that element will be considered to have been contained in the purported international application on the date on which one or more elements referred to in

Article 11(1)(iii) were first received by the receiving Office, and the international filing date will be the date on which all Article 11(1) requirements are fulfilled (see Rule 20.3(a)(ii) and (b)(ii)).

Where the applicant furnishes a missing part to the receiving Office after the date on which all of the requirements of Article 11(1) were fulfilled but within the applicable time limit under Rule 20.7, that part will be included in the international application and the international filing date will be corrected to the date on which the receiving Office received that part (see Rule 20.5(c)). In such a case, the applicant will be given the opportunity to request the receiving Office to disregard the missing part concerned, in which case the missing part would be considered not to have been furnished and the correction of the international filing date not to have been made (see Rule 20.5(e)). However, where the applicant confirms the incorporation by reference of a part of the description, claims or drawings under Rule 4.18 and the receiving Office finds that all the requirements of Rules 4.18 and 20.6(a) are complied with, that 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 Article 11(1)(iii) were first received by the receiving Office, and the international filing date will be the date on which all of the requirements of Article 11(1) are fulfilled (see Rule 20.5).

Furnishing the priority document(s) (Rule 17.1): A certified copy of each earlier application the priority of which is claimed (priority document) must be submitted by the applicant, irrespective of whether that earlier application is a national, regional or international application. The priority document must be submitted to the receiving Office or to the International Bureau before the expiration of 16 months from the (earliest) priority date or, where an early start of the national phase is requested, not later than at the time such request is made. Any priority document received by the International Bureau after the expiration of the 16-month time limit but before the date of international publication shall be considered to have been received on the last day of that time limit (Rule 17.1(a)).

Where the priority document was issued by the receiving Office, the applicant may, instead of submitting the priority document, request the receiving Office (not later than 16 months after the priority date) to prepare and transmit the priority document to the International Bureau (Rule 4.1(c)(ii)). Such requests may be made by marking the applicable check-boxes in Box No. VI. Note that where such a request is made, the applicant must, where applicable, pay to the receiving Office the *fee for priority document*, otherwise, the request will be considered not to have been made (see Rule 17.1(b)).

Where the priority document is available from an Office that participates in the WIPO Digital Access Service for Priority Documents (DAS) (www.wipo.int/patentscope/en/priority_documents/offices.html), the applicant may use DAS to provide the priority document to the International Bureau. Once the applicant requests the depositing Office to provide a copy of the priority document to DAS (see *PCT Applicant's Guide*, Annex B of the DAS depositing Office for further indications of the procedure to be followed), the applicant will receive an access code. The applicant should then mark the applicable check-boxes in Box No. VI, and indicate the access code for each specific priority document. (For a transitional period, until all DAS accessing offices are using the system described above, the old system will continue to work, where the check-box to request retrieval from DAS can be selected without indicating the access code, as long as the applicant allows access to the priority document for the International Bureau using the access control list in the DAS applicant portal.)

Information concerning whether and which priority documents are available to the International Bureau from a digital library is published in the *Official Notices (PCT Gazette)* pursuant to Section 715(c) and the *PCT Applicant's Guide*, Annex B(1B).

Dates (Section 110): Dates must be indicated by the Arabic number of the day, the name of the month and the Arabic number of the year – in that order; after, below or above such indication, the date should be repeated in parentheses, using two-digit Arabic numerals each for the number of the day and for the number of the month followed by the number of the year in four digits, in that order and separated by periods, slants or hyphens, for example, “26 October 2012 (26.10.2012)”, “26 October 2012 (26/10/2012)” or “26 October 2012 (26-10-2012)”.

BOX No. VII

Choice of International Searching Authority (ISA) (Rules 4.1(b)(iv) and 4.14bis): If two or more International Searching Authorities are competent for carrying out the international search in relation to the international application – depending on the language in which that application is filed and the receiving Office with which it is filed – the name of the competent Authority chosen by the applicant must be indicated in the space provided, either by its full name or two-letter code.

Request to Use Results of Earlier Search; Reference to that Search (Rules 4.12, 12bis, 16.3 and 41.1). The applicant may request the ISA to take into account, in carrying out the international search, the results of an earlier search carried out either by that Authority, by another ISA or by a national Office (Rule 4.12). Where the applicant has made such a request and complied with the requirements under Rule 12bis, the ISA shall, to the extent possible, take into account the results of the earlier search. If, on the other hand, the earlier search was carried out by another ISA or by another national or regional Office, the ISA may, but is not obliged to, take the results of the earlier search into account (Rule 41.1). Where the ISA takes into account the results of an earlier search, it shall (partially) refund the search fee to the extent and under the conditions provided for in the agreement under Article 16(3)(b) (see, for each ISA, the *PCT Applicant's Guide*, Annex D).

Any request to take into account the results of an earlier search should identify: the filing date and number of the application in respect of which the earlier search was carried out and the Authority or Office which carried out the earlier search (Rules 4.1(b)(ii) and 4.12(i)).

The applicant shall submit to the receiving Office, together with the international application at the time of filing, a copy of the results of the earlier search (Rule 12bis.1(a)), except:

- where the earlier search was carried out by the same Office as that which is acting as the receiving Office, the applicant may, instead of submitting copies of the required documents, request the receiving Office to transmit copies of those documents to the ISA by marking the appropriate check-box (Rule 12bis.1(c));
- where the earlier search was carried out by the same Authority or Office as that which is acting as ISA, no copy or translation of any document (i.e. of the results of the earlier search or of the earlier application or of any document cited in the earlier search, where applicable) is required to be submitted (Rule 12bis.1(d));
- where a copy or translation of the earlier search is available to the ISA in a form and manner acceptable to it, and if so indicated in the request form by the applicant by marking the appropriate check-box, no copy or translation of any document is required to be submitted to the ISA (Rule 12bis.1(f));
- where the request form contains a statement under Rule 4.12(ii) that the international application is the same, or substantially the same, as an application in respect of which the earlier search was carried out, or that the international application is the same, or substantially the same, as that earlier application, except that it is filed in a different language, no copy of the earlier application or its translation is required to be transmitted to the ISA (Rules 4.12(ii) and 12bis.1(e)).

Use of Results of more than one Earlier Search: Where the ISA is requested to use the results of more than one earlier search, the check-boxes in Box No. VII should be marked, as applicable, for each earlier search. Where *more than two results of previous searches are indicated*, please mark the relevant check-box, and furnish duplicates of this page, marked “continuation sheet for Box No. VII” and attached to the request form.

BOX No. VIII

Declarations Containing Standardized Wording (Rules 4.1(c)(iii) and 4.17): At the option of the applicant, the request may, for the purposes of the national law applicable in one or more designated States, contain one or more of the following declarations:

- (i) declaration as to the identity of the inventor;
- (ii) declaration as to the applicant’s entitlement, as at the international filing date, to apply for and be granted a patent;
- (iii) declaration as to the applicant’s entitlement, as at the international filing date, to claim the priority of the earlier application;
- (iv) declaration of inventorship (only for the purposes of the designation of the United States of America);
- (v) declaration as to non-prejudicial disclosures or exceptions to lack of novelty;

which must conform to the standardized wording provided for in Sections 211 to 215, respectively, and which must be set forth in Boxes Nos. VIII (i) to (v), as detailed below. Where any such declarations are included, the appropriate check-boxes in Box No. VIII should be marked and the number of each type of declaration should be indicated in the right-hand column. As to the possibility of correcting or adding a declaration, see Rule 26ter, Section 216 and the *PCT Applicant’s Guide*, International Phase.

If the circumstances of a particular case are such that the standardized wordings are not applicable, the applicant should not attempt to make use of the declarations provided for in Rule 4.17 but rather will have to comply with the national requirements concerned upon entry into the national phase.

The fact that a declaration is made under Rule 4.17 does not of itself establish the matters declared; the effect of those matters in the designated States concerned will be determined by the designated Offices in accordance with the applicable national law.

Even if the wording of a declaration does not conform to the standardized wording provided for in the Administrative Instructions pursuant to Rule 4.17, any designated Office may accept that declaration for the purposes of the applicable national law, but is not required to do so.

Details as to National Law Requirements: For information on the declarations required by each designated Office, see the *PCT Applicant’s Guide*, in the relevant National Chapter.

Effect in Designated Offices (Rule 51bis.2): Where the applicant submits any of the declarations provided for in Rule 4.17(i) to (iv) containing the required standardized wording (either with the international application, or to the International Bureau within the relevant time limit under Rule 26ter, or directly to the designated Office during the national phase), the designated Office may not, in the national phase, require further documents or evidence on the matter to which the declaration relates, unless that designated Office may reasonably doubt the veracity of the declaration concerned.

Incompatibility of Certain Items of Rule 51bis.2(a) with National Laws (Rule 51bis.2(c)): Certain designated Offices have informed the International Bureau that the applicable national law is not compatible in respect of certain declarations provided in Rule 4.17(i), (ii) and (iii). Those designated

Offices are therefore entitled to require further documents or evidence on the matters to which those declarations relate. For regularly updated information on such Offices, see the WIPO website: www.wipo.int/pct/en/texts/reservations/res_incomp.html.

BOXES Nos. VIII (i) TO (v) (IN GENERAL)

Different Declaration Boxes: There are six different declaration boxes in the pre-printed request form – one box for each of the five different types of declarations provided for in Rule 4.17 (Box No. VIII (i) to Box No. VIII (v)) and a continuation sheet (Continuation of Box No. VIII (i) to (v)) to be used in case any single declaration does not fit in the corresponding box. The title of each type of declaration which is found in the standardized wording provided for in the Administrative Instructions is pre-printed on the appropriate sheet of the request.

Separate Sheet for Each Declaration: Each declaration must start on a separate sheet of the request form in the appropriate Declaration Box.

Titles, Items, Item Numbers, Dotted Lines, Words in Parentheses and Words in Brackets: The prescribed standardized wording of the declarations includes titles, various items, item numbers, dotted lines, words in parentheses and words in brackets. Except for Box No. VIII (iv) which contains the pre-printed standardized wording, only those items which are applicable should be included in a declaration where necessary to support the statements in that declaration (that is, omit those items which do not apply) and item numbers need not be included. Dotted lines indicate where information is required to be inserted. Words in parentheses are instructions to applicants as to the information which may be included in the declaration depending upon the factual circumstances. Words in brackets are optional and should appear in the declaration without the brackets if they apply; if they do not apply, they should be omitted together with the corresponding brackets.

Naming of Several Persons: More than one person may be named in a single declaration. In the alternative, with one exception, a separate declaration may be made for each person. With respect to the declaration of inventorship set forth in Box No. VIII (iv), which is applicable only for the purposes of the designation of the United States of America, all inventors must be indicated in a single declaration (see Notes to Box No. VIII (iv), below). The wording of declarations to be set forth in Boxes Nos. VIII (i), (ii), (iii) and (v) may be adapted from the singular to the plural as necessary.

BOX No. VIII (i)

Declaration as to the Identity of the Inventor (Rule 4.17(i) and Section 211): The declaration must be worded as follows:

“Declaration as to the identity of the inventor (Rules 4.17(i) and 51bis.1(a)(i)):

in relation to [this] international application [No. PCT/...],

... (name) of ... (address) is the inventor of the subject matter for which protection is sought by way of [the] [this] international application”

Such a declaration is not necessary in respect of any inventor who is indicated as such (either as inventor only or applicant and inventor) in Box No. II or No. III in accordance with Rule 4.5 or 4.6. However, where the inventor is indicated as applicant in Box No. II or No. III in accordance with Rule 4.5, a declaration as to the applicant’s entitlement to apply for and be granted a patent (Rule 4.17(ii)) may be appropriate. Where indications regarding the inventor in accordance with Rule 4.5 or 4.6 are not included in Box No. II or No. III, this declaration may be combined with the prescribed wording of the declaration as to the applicant’s entitlement to apply for and be granted a

patent (Rule 4.17(ii)). For details on such a combined declaration, see Notes to Box No. VIII (ii), below. For details as to the declaration of inventorship for the purposes of the designation of the United States of America, see Notes to Box No. VIII (iv), below.

BOX No. VIII (ii)

Declaration as to the Applicant's Entitlement to Apply for and Be Granted a Patent (Rule 4.17(ii) and Section 212): The declaration must be worded as follows, with such inclusion, omission, repetition and re-ordering of the matters listed as items (i) to (viii) as is necessary to explain the applicant's entitlement:

"Declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent (Rules 4.17(ii) and 51bis.1(a)(ii)), in a case where the declaration under Rule 4.17(iv) is not appropriate:

in relation to [this] international application [No. PCT/...],

... (name) is entitled to apply for and be granted a patent by virtue of the following:

- (i) ... (name) of ... (address) is the inventor of the subject matter for which protection is sought by way of [the] [this] international application
- (ii) ... (name) [is] [was] entitled as employer of the inventor, ... (inventor's name)
- (iii) an agreement between ... (name) and ... (name), dated ...
- (iv) an assignment from ... (name) to ... (name), dated ...
- (v) consent from ... (name) in favor of ... (name), dated ...
- (vi) a court order issued by ... (name of court), effecting a transfer from ... (name) to ... (name), dated ...
- (vii) transfer of entitlement from ... (name) to ... (name) by way of ... (specify kind of transfer), dated ...
- (viii) the applicant's name changed from ... (name) to ... (name) on ... (date)"

Items (i) to (viii) may be incorporated as is necessary to explain the applicant's entitlement. ***This declaration is only applicable to those events which have occurred prior to the international filing date.*** The possible kinds of transfer of entitlement in item (vii) include merger, acquisition, inheritance, donation, etc. Where there has been a succession of transfers from the inventor, the order in which transfers are listed should follow the actual succession of transfers, and items may be included more than once, as necessary to explain the applicant's entitlement. Where the inventor is not indicated in Box No. II or No. III, this declaration may be presented as a combined declaration explaining the applicant's entitlement to apply for and be granted a patent and identifying the inventor. In such a case, the introductory phrase of the declaration must be as follows:

"Combined declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent (Rules 4.17(ii) and 51bis.1(a)(ii)) and as to the identity of the inventor (Rules 4.17(i) and 51bis.1(a)(i)), in a case where the declaration under Rule 4.17(iv) is not appropriate:"

The remainder of the combined declaration must be worded as indicated in the preceeding paragraphs.

For details as to the declaration as to the identity of the inventor, see the Notes to Box No. VIII (i), above.

BOX No. VIII (iii)

Declaration as to the Applicant's Entitlement to Claim Priority of the Earlier Application (Rule 4.17(iii) and Section 213): The declaration must be worded as follows,

with such inclusion, omission, repetition and re-ordering of the matters listed as items (i) to (viii) as is necessary to explain the applicant's entitlement:

"Declaration as to the applicant's entitlement, as at the international filing date, to claim the priority of the earlier application specified below, where the applicant is not the applicant who filed the earlier application or where the applicant's name has changed since the filing of the earlier application (Rules 4.17(iii) and 51bis.1(a)(iii)):

in relation to [this] international application [No. PCT/...],

... (name) is entitled to claim priority of earlier application No. ... by virtue of the following:

- (i) the applicant is the inventor of the subject matter for which protection was sought by way of the earlier application
- (ii) ... (name) [is] [was] entitled as employer of the inventor, ... (inventor's name)
- (iii) an agreement between ... (name) and ... (name), dated ...
- (iv) an assignment from ... (name) to ... (name), dated ...
- (v) consent from ... (name) in favor of ... (name), dated ...
- (vi) a court order, issued by ... (name of court), effecting a transfer from ... (name) to ... (name), dated ...
- (vii) transfer of entitlement from ... (name) to ... (name) by way of ... (specify kind of transfer), dated ...
- (viii) the applicant's name changed from ... (name) to ... (name) on ... (date)"

Items (i) to (viii) may be incorporated as is necessary to explain the applicant's entitlement. ***This declaration is only applicable to those events which have occurred prior to the international filing date.*** In addition, this declaration is only applicable where the person or name of the applicant is different from that of the applicant who filed the earlier application from which priority is claimed. For example, this declaration may be applicable where only one applicant out of five is different from the applicants indicated in respect of an earlier application. The possible kinds of transfer of entitlement in item (vii) include merger, acquisition, inheritance, donation, etc. Where there has been a succession of transfers from the applicant in respect of the earlier application, the order in which transfers are listed should follow the actual succession of transfers, and items may be included more than once, as necessary to explain the applicant's entitlement.

BOX No. VIII (iv)

Declaration of Inventorship (Rule 4.17(iv) and Section 214): The standardized wording for the declaration is pre-printed in Box No. VIII (iv).

The name, residence and address must be included for each inventor. If the name and address of an inventor is not written in the Latin alphabet, the name and address must be indicated in the Latin alphabet. All inventors must sign and date the declaration even if they do not all sign the same copy of the declaration (Section 214(b)).

If there are more than three inventors, those other inventors must be indicated on the "Continuation of Box No. VIII (i) to (v)" sheet. The continuation sheet should be entitled "Continuation of Box No. VIII (iv)," must indicate the name, residence and address for those other inventors, and at least the name and address in the Latin alphabet. In such a case, the "complete declaration" includes Box No. VIII (iv) and the continuation sheet. All inventors must sign and date a complete declaration even if they do not all sign the same copy of the complete declaration, and a copy of each separately signed complete declaration must be submitted (Section 214(b)).

Where the declaration was not included in the request, but **is furnished later**, the PCT application number **MUST** be indicated within the text of Box No. VIII (iv).

BOX No. VIII (v)

Declaration as to Non-prejudicial Disclosures or Exceptions to Lack of Novelty (Rule 4.17(v) and Section 215): The declaration must be worded as follows, with such inclusion, omission, repetition and re-ordering of the matters listed as items (i) to (iv) as is necessary:

“Declaration as to non-prejudicial disclosures or exceptions to lack of novelty (Rules 4.17(v) and 51*bis*.1(a)(v)):

in relation to [this] international application [No. PCT/...],

... (*name*) declares that the subject matter claimed in [the] [this] international application was disclosed as follows:

- (i) kind of disclosure (*include as applicable*):
 - (a) international exhibition
 - (b) publication
 - (c) abuse
 - (d) other: ... (*specify*)
- (ii) date of disclosure: ...
- (iii) title of disclosure (*if applicable*): ...
- (iv) place of disclosure (*if applicable*): ...”

Either (a), (b), (c) or (d) of item (i) should always be included in the declaration. Item (ii) should also always be included in the declaration. Items (iii) and (iv) may be incorporated depending upon the circumstances.

BOX No. IX

Sheets Constituting the International Application: The number of sheets of the various parts of the international application must be indicated in the check list using Arabic numerals. Sheets containing any of the Boxes Nos. VIII(i) to (v) (declaration sheets) must be counted as part of the request. It is noted that any tables, including those related to a sequence listing, should be an integral part of the description and the pages containing such tables will be counted as sheets of the international application. There is no longer any provision for submission of those tables separately or a reduced fee for such a submission.

Nucleotide and/or amino acid sequences: Paper Filings: Where the international application is filed on paper (using the sheet “last sheet - paper”) and contains disclosure of one or more nucleotide and/or amino acid sequences, a sequence listing must be presented as a separate part of the description (“sequence listing part of description”) in accordance with the standard contained in Annex C of the Administrative Instructions, that is, in compliance with WIPO Standard ST.25. The number of pages of the sequence listing must be indicated under item (f) in Box No. IX and included in the total number of sheets. Furthermore, where the sequence listing is filed on paper, a copy of the sequence listing in the form of an Annex C/ST.25 text file saved on physical data carrier(s) (together with the required statement) should accompany the international application, if so required by the ISA but **only** for the purposes of international search under Rule 13*ter*. In such cases therefore, check-boxes Nos. 8 and 9 must be marked in Box No. IX. In addition, the type and number of carriers such as diskettes, CD-ROMs, CD-Rs or other data carriers accepted by the ISA, should be indicated in item 8.

For EFS-Web filing with RO/US

Nucleotide and/or amino acid sequences: Electronic Filings via EFS-Web with RO/US: There exist two alternative last sheets of the request form which contain two distinct

Boxes No. IX. The sheet “last sheet – paper”, described earlier, should be used if the applicant intends to file the international application on paper. The sheet “last sheet – EFS” should **only** be used if the request form is filed online with the receiving Office of the United States of America via EFS-Web.

(a) EFS-Web and text file: Where the international application is filed via EFS-Web (using the sheet “last sheet - EFS”) and contains disclosure of one or more nucleotide and/or amino acid sequences, a sequence listing must be presented as a separate part of the description (“sequence listing part of description”) in accordance with the standard contained in Annex C of the Administrative Instructions, that is, in compliance with WIPO Standard ST.25. The sequence listing should **preferably** be furnished as an Annex C/ST.25 text file; in such cases, the first check-box of check-box (g) in Box No. IX should be marked. When furnished in this manner, the number of sheets of the sequence listing is **not** included in the total number of sheets making up the international application. Whenever the sequence listing is furnished as an Annex C/ST.25 text file, there is no need to file another copy of the text file for search purposes under Rule 13*ter* since the text file submitted will be used for both disclosure of the international application and for search purposes.

(b) EFS-Web and image file: If the sequence listing is filed online via EFS-Web as an image file (e.g. PDF file) rather than the recommended text file, the corresponding boxes in check-box (f) in Box No. IX should be marked. The number of sheets of the sequence listing **must be** included in the total number of sheets making up the international application. Where the sequence listing is filed in image format, a copy of the sequence listing in the form of an Annex C/ST.25 text file (together with the required statement) should accompany the international application, if so required by the ISA but **only** for the purposes of international search under Rule 13*ter*. In such cases, check-boxes Nos. 8 and 9 must be marked in Box No. IX.

(c) EFS-Web and physical data carriers: The receiving Office of the United States of America has two distinct limitations on the size of the sequence listing file it can accept via EFS-Web. If the text file containing the sequence listing is larger than 100MB, or if the image file (e.g. PDF file) containing the sequence listing is larger than 25MB, the applicant must file the sequence listings as an Annex C/ST.25 text file on physical data carrier(s). The receiving Office does not accept the filing of image (e.g. PDF file) on physical data carrier(s). In such cases, the data carrier(s) must be furnished on the same day that the international application is filed online. This may be furnished via “Express Mail Post Office to Addressee” with a date-in by the United States Postal Service the same date as the online filing date, or via commercial delivery services or by hand, provided that it reaches the receiving Office on the same day as the international application filed online. In such cases, the corresponding check-boxes in check-box (g) in Box No. IX must be marked. The number and type of carrier(s) should be indicated in check-box (g). Whenever the sequence listing is furnished as an Annex C/ST.25 text file, there is no need to file another copy of the text file for search purposes under Rule 13*ter* since the text file submitted will be used for both disclosure of the international application and for search purposes.

Items Accompanying the International Application: Where the international application is accompanied by certain items, the applicable check-boxes must be marked, any applicable indication must be made on the dotted line after the applicable item, and the number of such items should be indicated at the end of the relevant line; detailed explanations are provided below only in respect of those items which so require.

Check-box No. 4: Mark this check-box where a copy of a general power of attorney is filed with the international application; where the general power of attorney has been deposited with the receiving Office, and that Office has accorded to it a reference number, that number may be indicated.

Check-box No. 6: Mark this check-box where a translation of the international application for the purposes of international search (Rule 12.3) is filed together with the international application and indicate the language of that translation.

Check-box No. 7: Mark this check-box where a filled-in Form PCT/RO/134 or any separate sheet containing indications concerning deposited microorganisms and/or other biological material is filed with the international application. If Form PCT/RO/134 or any sheet containing the said indications is included as one of the sheets of the description (as required by certain designated States (see the *PCT Applicant's Guide*, Annex L)), do not mark this check-box (for further information, see Rule 13*bis* and Section 209).

Check-boxes Nos. 8 and 9: Where the sequence listing part of the description is submitted on paper, a copy of the sequence listing in the form of an Annex C/ST.25 text file (together with the required statement) should accompany the international application, if so required by the ISA, but **only** for the purposes of international search under Rule 13*ter*. In this case, check-boxes Nos. 8 and 9, must be marked in Box No. IX.

Language of Filing of the International Application (Rules 12.1(a) and 20.4(c) and (d)): With regard to the language in which the international application is filed, for the purposes of according an international filing date, it is, subject to the following sentence, sufficient that the description and the claims are in the language, or one of the languages, accepted by the receiving Office for the filing of international applications; that language should be indicated in that check-box (as regards the language of the abstract and any text matter in the drawings, see Rule 26.3*ter*(a) and (b); as regards the language of the request, see Rules 12.1(c) and 26.3*ter*(c) and (d)). Note that where the international application is filed with the United States Patent and Trademark Office as receiving Office, all elements of the international application (request, description, claims, abstract, text matter of drawings) must, for the purposes of according an international filing date, be in English except that the free text in any sequence listing part of the description, complying with the standard set out in Annex C of the Administrative Instructions, may be in a language other than English.

BOX No. X

Signature (Rules 4.1(d), 4.15, 26.2*bis*(a), 51*bis*.1(a)(vi), 90 and 90*bis*.5): The signature must be that of the applicant; if there are several applicants, all must sign. However, if the signature of one or more of the applicants is missing, the receiving Office will not invite the applicant to furnish the missing signature(s) provided that at least one of the applicants signed the request.

Important: Should a notice of withdrawal be filed at any time during the international phase, that notice will have to be signed by the applicant or, if there are two or more applicants by all of them (Rule 90*bis*.5(a)), or by an agent or a common representative whose appointment has been effected by each applicant signing, at his choice, the request, the demand or a separate power of attorney (Rule 90.4(a)).

Furthermore, for the purposes of the national phase processing, each designated Office will be entitled to require the applicant to furnish the confirmation of the international application by the signature of any applicant for the designated State concerned, who has not signed the request.

Where the signature on the request is not that of the applicant but that of the agent, or the common representative, a separate power of attorney appointing the agent or the common representative, respectively, or a copy of a general

power of attorney already in the possession of the receiving Office, must be furnished. The power of attorney must be signed by the applicant, or if there is more than one applicant, by at least one of them. If the power is not filed with the request, the receiving Office will invite the applicant to furnish it, unless it has waived the requirement for a separate power of attorney (for details about each receiving Office, see the *PCT Applicant's Guide*, Annex C).

SUPPLEMENTAL BOX

The cases in which the Supplemental Box may be used and the manner of making indications in it are explained in the left column of that Box.

Items 2 and 3: Even if an indication is made in respect of items 2 and 3 under Rule 49*bis*.1(a), (b) or (d), the applicant will be required to make an indication to this effect upon entry into the national phase before the designated offices concerned.

If the applicant wishes to specify that the international application be treated in any designated State as an application for a utility model, see Notes to Box No. V.

GENERAL REMARKS

Language of Correspondence (Rule 92.2 and Section 104): Any letter from the applicant to the receiving Office must be in the language of filing of the international application provided that, where the international application is to be published in the language of a translation required under Rule 12.3, such letter should be in the language of that translation; however, the receiving Office may authorize the use of another language.

Any letter from the applicant to the International Bureau must be in the same language as the international application if that language is English or French; otherwise, it must be in English or French, at the choice of the applicant.

Any letter from the applicant to the ISA must be in the same language as the international application, provided that, where a translation of the international application for the purposes of international search has been transmitted under Rule 23.1(b), such letter is in the language of that translation. However, the ISA may authorize the use of another language.

Arrangement of Elements and Numbering of Sheets of the International Application (Rule 11.7 and Section 207): The elements of the international application must be placed in the following order: the request, the description (excluding the sequence listing part, if any), the claim(s), the abstract, the drawings (if any), the sequence listing part of the description (if any).

All sheets of the description (excluding the sequence listing part), claims and abstract must be numbered in consecutive Arabic numerals, which must be placed at the top or bottom of the sheet, in the middle, but not in the margin which must remain blank. The number of each sheet of the drawings 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). For numbering of the sheets of the sequence listing part of the description, see Section 207.

Indication of the Applicant's or Agent's File Reference on the sheets of the description (excluding the sequence listing part, if any), claim(s), abstract, drawings and sequence listing part of the description (Rule 11.6(f)): The file reference indicated on the request may also be indicated in the left-hand corner of the top margin, within 1.5 cm from the top of any sheet of the international application.

Annex VII

Form PCT/RO/101 Fee Calculation Sheet and Notes

PCT

FEE CALCULATION SHEET

Annex to the Request

For receiving Office use only

International Application No. _____

Date stamp of the receiving Office _____

Applicant's or agent's
file reference _____

Applicant _____

CALCULATION OF PRESCRIBED FEES

1. TRANSMITTAL FEE T

2. SEARCH FEE S

International search to be carried out by _____

(If two or more International Searching Authorities are competent to carry out the international search, indicate the name of the Authority which is chosen to carry out the international search.)

3. INTERNATIONAL FILING FEE

Enter total number of sheets indicated in Box No IX: _____

i1 first 30 sheets i1

i2 _____ x _____ = i2
number of sheets fee per sheet
in excess of 30

Add amounts entered at i1 and i2 and enter total at I I

(Applicants from certain States are entitled to a reduction of 90% of the international filing fee. Where the applicant is (or all applicants are) so entitled, the total to be entered at I is 10% of the international filing fee.)

4. FEE FOR PRIORITY DOCUMENT (if applicable) P

5. FEE FOR RESTORATION OF THE RIGHT OF PRIORITY (if applicable) . RP

6. FEE FOR EARLIER SEARCH DOCUMENTS (if applicable) ES

7. TOTAL FEES PAYABLE

Add amounts entered at T, S, I, P, RP and ES,
and enter total in the TOTAL box

TOTAL

MODE OF PAYMENT (Not all modes of payment may be available at all receiving Offices)

- ☐ authorization to charge deposit or current account (see below) ☐ postal money order ☐ credit card (details should be furnished separately and not included on this sheet) ☐ cash
- ☐ check ☐ bank transfer ☐ revenue stamps ☐ other (specify): _____

AUTHORIZATION TO CHARGE (OR CREDIT) DEPOSIT OR CURRENT ACCOUNT

(This mode of payment may not be available at all receiving Offices)

- ☐ Authorization to charge the total fees indicated above.
- ☐ (This check-box may be marked only if the conditions for deposit or current accounts of the receiving Office so permit) Authorization to charge any deficiency or credit any overpayment in the total fees indicated above.
- ☐ Authorization to charge the fee for priority document.

Receiving Office: RO/ _____

Deposit or Current Account No.: _____

Date: _____

Name: _____

Signature: _____

NOTES TO THE FEE CALCULATION SHEET (ANNEX TO FORM PCT/RO/101)

The purpose of the fee calculation sheet is to help the applicant to identify the prescribed fees and to calculate the amounts to be paid. It is strongly recommended that the applicant complete the sheet by entering the appropriate amounts in the boxes provided and submit the fee calculation sheet at the time of filing the international application. This will help the receiving Office to verify the calculations and to identify any error in them.

Information about the applicable fees payable can be obtained from the receiving Office. The amounts of the international filing and search fees may change due to currency fluctuations. Applicants are advised to check what are the latest applicable amounts. All fees, must be paid within one month from the date of receipt of the international application.

CALCULATION OF PRESCRIBED FEES

Box T: Transmittal Fee for the benefit of the receiving Office (Rule 14.1): The amount of the transmittal fee, if any, is fixed by the receiving Office. It must be paid within one month from the date of receipt of the international application by the receiving Office. Information about this fee is contained in the *PCT Applicant's Guide*, Annex C.

Box S: Search Fee for the benefit of the International Searching Authority (ISA) (Rule 16.1): The amount of the search fee is fixed by the ISA. It must be paid within one month from the date of receipt of the international application by the receiving Office. Information about this fee is contained in the *PCT Applicant's Guide*, Annex D.

Where two or more ISAs are competent, the applicant must indicate his choice in the space provided for this purpose and pay the amount of the international search fee fixed by the ISA chosen. Information on the competent ISA and whether the applicant has a choice between two or more ISAs is contained in the *PCT Applicant's Guide*, Annex C.

Box I: International Filing Fee: The amount of the international filing fee depends on the number of sheets of the international application indicated in Box No. IX of the request as explained below.

That number is the **Total number of sheets** indicated in Box No. IX of the request, which includes the actual number of sheets of the sequence listing part of the description, if the listing is filed on paper and not as an Annex C/ST.25 text file.

For EFS-Web filing with RO/US

Nucleotide and/or amino acid sequences: via EFS-Web: Where the international application is filed via EFS-Web and contains a sequence listing filed in an Annex C/ST.25 text file, even when, due to the size of the text file, the sequence listing has to be submitted on a data carrier, no fee is due for filing the sequence listing.

Where the sequences listing is an image file (e.g. PDF) the actual number of sheets that make up this part of the description must be included.

The international filing fee must be paid within one month from the date of receipt of the international application by the receiving Office.

Reduction of the International Filing Fee Where PCT-SAFE Software Is Used in PCT-EASY Mode: A fee reduction of 100 Swiss francs (or the equivalent in the currency in which the international filing fee is paid to the receiving Office) is available in certain cases where the PCT-SAFE software is used to prepare the request, provided that the necessary conditions are met. For further details, see the *PCT Applicant's Guide*, International Phase and Annex C, as well as information

published in the *Official Notices (PCT Gazette)* and the *PCT Newsletter*. Since applicants using the PCT-SAFE software will file the Request Form and Fee Calculation Sheet in the form of a printout prepared using that software in PCT-EASY mode, no provision is made for this fee reduction in the Fee Calculation Sheet annexed to Form PCT/RO/101.

Reduction of the International Filing Fee Where the International Application Is Filed in Electronic Form: Where the international application is filed in electronic form, the total amount of the international filing fee is reduced depending on the electronic formats used. The international filing fee is reduced by: 100 Swiss francs (or the equivalent in the currency in which the international filing fee is paid to the receiving Office) in respect of international applications where the request is not in character coded format (see PCT Schedule of Fees, item 4(b)); 200 Swiss francs (or the equivalent in the currency in which the international filing fee is paid to the receiving Office) where the request is in character coded format (see PCT Schedule of Fees, item 4(c)); and 300 Swiss francs (or the equivalent in the currency in which the international filing fee is paid to the receiving Office) where the request, description, claims and abstract are all in character coded format (see PCT Schedule of Fees, item 4(d)). For further details, see the *PCT Applicant's Guide*, International Phase and Annex C, as well as information published in the *Official Notices (PCT Gazette)* and the *PCT Newsletter*. Since international applications filed in electronic form will contain the Request Form and Fee Calculation Sheet in such electronic form, no provision is made for this fee reduction in the Fee Calculation Sheet annexed to Form PCT/RO/101.

Reduction of the International Filing Fee for Applicants from Certain States: An applicant who is a natural person and who is a national of and resides in a State whose per capita national income is below 3,000 US dollars (according to the average per capita national income figures used by the United Nations for determining its scale of assessments for the contributions payable for the years 1995, 1996 and 1997), or who is a national of and resides in one of the following States: Antigua and Barbuda, Bahrain, Barbados, the Libyan Arab Jamahiriya, Oman, the Seychelles, Singapore, Trinidad and Tobago and the United Arab Emirates; or an applicant, whether a natural person or not, who is a national of and resides in a State that is classed as a least developed country by the United Nations, is entitled, in accordance with the Schedule of Fees, to a reduction of 90% of certain PCT fees including the international filing fee. If there are several applicants, each must satisfy the above-mentioned criteria. The reduction of the international filing fee will be automatically available to any applicant (or applicants) who is (or are) so entitled on the basis of the indications of name, nationality and residence given in Boxes Nos. II and III of the request.

The fee reduction is available even if one or more of the applicants are not from PCT Contracting States, provided that each of them is a national and resident of a State that meets the above-mentioned requirements and that at least one of the applicants is a national or resident of a PCT Contracting State and thus is entitled to file an international application.

Information about PCT Contracting States whose nationals and residents are entitled to a reduction of 90% of certain PCT fees, including the international filing fee, is contained in the *PCT Applicant's Guide*, Annex C and on the WIPO website (see www.wipo.int/pct/en/), and is also published and regularly updated in the *Official Notices (PCT Gazette)* and the *PCT Newsletter*.

Calculation of the International Filing Fee in Case of Fee Reduction: Where the applicant is (or all applicants are) entitled to a reduction of the international filing fee, the total to be entered in box I is 10% of the international filing fee (see below).

Box P: Fee for Priority Document (Rule 17.1(b)): Where the applicant has requested, by marking the applicable check-box in Box No. VI of the request, that the receiving Office prepare and transmit to the International Bureau a certified copy of the earlier application the priority of which is claimed, the amount of the fee prescribed by the receiving Office for such service may be entered (for information, see the *PCT Applicant's Guide*, Annex C).

If that fee is not paid at the latest before the expiration of 16 months from the priority date, the receiving Office may consider the request under Rule 17.1(b) as not having been made.

Box RP: Fee for the restoration of the right of priority (Rule 26bis.3(d)): Where the applicant has requested within the applicable time limit under Rule 26bis.3(e) that the receiving Office restore the right of priority in connection with any earlier application the priority of which is claimed in the international application, the amount of the fee prescribed by the receiving Office for such service may be entered (for information, see the *PCT Applicant's Guide*, Annex C).

Box ES: Fee for earlier search documents (Rule 12bis.1(c)): Where the applicant has requested, by marking the appropriate check-box in Box No. VII of the request, that the receiving Office prepare and transmit to the ISA copies of the documents in connection with an earlier search, the results of which are requested by the applicant to be taken into consideration by the ISA (such a request may only be filed if the earlier search was carried out by the same Office as that which is acting as the receiving Office (Rule 12bis.1(c))), the amount of the fee prescribed by the receiving Office for such service may be entered (for information, see the *PCT Applicant's Guide*, Annex C).

Total Box: The total of the amounts entered in boxes T, S, I, P, RP and ES should be entered in this box. If the applicant so wishes, the currency, or currencies, in which the fees are paid may be indicated next to or in the total box.

MODE OF PAYMENT

In order to help the receiving Office identify the mode of payment of the prescribed fees, it is recommended that the applicable check-box(es) be marked. Credit card details should not be included on the fee calculation sheet. They should be furnished separately and by secure means acceptable to the receiving Office.

AUTHORIZATION TO CHARGE (OR CREDIT) DEPOSIT OR CURRENT ACCOUNT

The receiving Office will not charge (or credit) fees to deposit or current accounts unless the deposit or current account authorization is signed and indicates the deposit or current account number.

Annex VIII

EPO Form 1003 Authorisation



Europäisches
Patentamt
European
Patent Office
Office européen
des brevets

Vollmacht¹ Authorisation¹ Pouvoir¹

Bitte vor dem Ausfüllen des Formblatts Rückseite beachten. /
Please read the notes overleaf before completing the form. /
Veuillez lire les remarques au verso avant de remplir le formulaire.

Zeichen des Anmelders / Applicant's reference / Référence du demandeur
(max. 15 Positionen / max. 15 spaces / 15 caractères au maximum)

Anmelde-/Patentnummer / Application/Patent No. /
N° de la demande (du brevet)

Ich (Wir)² /
I (We)² /
Je (Nous)²

bevollmächtige(n) hiermit³ /
do hereby authorise³ /
autorise (autorisons) par la présente³

☐ sowie weitere auf einem gesonderten Blatt angegebene Vertreter / and additional representatives indicated
on a separate sheet / ainsi que d'autres mandataires mentionnés sur une feuille supplémentaire

mich (uns) zu vertreten als / to represent me (us) as / à me (nous) représenter en tant que

☐ Anmelder oder Patentinhaber, / applicant(s) or patent proprietor(s), /
demandeur(s) ou titulaire(s) du brevet,

☐ Einsprechenden (Einsprechende), / opponent(s), /
opposant(s),

und in den durch das Europäische Patentübereinkommen geschaffenen Verfahren
betreffend die folgende(n) europäische(n) Patentanmeldung(en) oder das (die)
folgende(n) europäische(n) Patent(e)⁴ für mich (uns) zu handeln und Zahlungen
für mich (uns) in Empfang zu nehmen: /
to act for me (us) in all proceedings established by the European Patent Convention
concerning the following European patent application(s) or patent(s)⁴ and to receive
payments on my (our) behalf: /
à agir en mon (notre) nom dans toute procédure instituée par la Convention sur
le brevet européen et concernant la (les) demande(s) de brevet ou le (les)
brevet(s) européen(s)⁴ suivant(s) et à recevoir des paiements en mon (notre) nom :

☐ Fortsetzung auf einem gesonderten Blatt. / Additional applications or patents are
indicated on a supplementary sheet. / Suite sur une feuille supplémentaire.

☐ Diese Vollmacht gilt auch für Verfahren nach dem Vertrag über die internationale Zusammenarbeit auf dem Gebiet des Patentwesens. /
This authorisation also applies to any proceedings established by the Patent Cooperation Treaty. /
Ce pouvoir s'applique également à toute procédure instituée par le Traité de coopération en matière de brevets.

☐ Diese Vollmacht gilt auch für etwaige europäische Teilanmeldungen. / This authorisation also covers any European divisional applications. /
Ce pouvoir vaut également pour toute demande divisionnaire européenne.

☐ Es kann eine Untervollmacht erteilt werden. / A sub-authorisation may be given. / Ce pouvoir peut être délégué.

☐ Ich (Wir) widerrufe(n) hiermit frühere Vollmachten in Bezug auf die oben genannte(n) Anmeldung(en) oder das (die) oben genannte(n) Patent(e)⁵. /
I (We) hereby revoke all previous authorisations in respect of the above application(s) or patent(s)⁵. /
Je révoque (Nous révoquons) par la présente tout pouvoir antérieur, donné pour la (les) demande(s) ou le (les) brevet(s) mentionné(e)(s) ci-dessus⁵.

Ort / Place / Lieu

Datum / Date

Unterschrift(en)⁶ / Signature(s)⁶

Das Formblatt muss vom (von den) Vollmachtgeber(n) eigenhändig unterzeichnet sein (bei juristischen Personen vom Unterschriftsberechtigten). Nach der Unterschrift bitte den (die) Namen
des (der) Unterzeichneten in Druckschrift wiederholen und bei juristischen Personen die Stellung des Unterschriftsberechtigten innerhalb der Gesellschaft angeben. /
The form must bear the personal signature(s) of the authoriser(s) (in the case of legal persons, that of the officer empowered to sign). After the signature, please print the name(s) of the
signatory(ies) adding, in the case of legal persons, his (their) position within the company. /
Le formulaire doit être signé de la propre main du (des) mandant(s) (dans le cas de personnes morales, de la personne ayant qualité pour signer).
Veuillez ajouter en caractères d'imprimerie, après la signature, le (les) nom(s) du (des) signataire(s) en mentionnant, dans le cas de personnes
morales, ses (leurs) fonctions au sein de la société.

bitte wenden / P.T.O. / T.S.V.P.

I. Fußnoten zur Vorderseite

- 1 a) Die Verwendung dieses Formblatts wird empfohlen für die Bevollmächtigung von Vertretern vor dem Europäischen Patentamt – zugelassene Vertreter, Rechtsanwälte im Sinne des Artikels 134 (8) und Zusammenschlüsse von Vertretern nach Regel 152 (11) – sowie für die Bevollmächtigung von Angestellten im Sinne des Artikels 133 (3) Satz 1; zu Satz 2 sind bisher keine Ausführungsbestimmungen ergangen.
Zugelassene Vertreter, die sich als solche zu erkennen geben, müssen nach Regel 152 (1) in Verbindung mit dem Beschluss der Präsidentin des EPA vom 12. Juli 2007 nur in bestimmten Fällen eine unterzeichnete Vollmacht einreichen (Sonderausgabe Nr. 3, ABI. EPA 2007, L.1.). Hingegen müssen nach Artikel 134 (8) vertretungsberechtigte Rechtsanwälte sowie Angestellte, die für einen Anmelder gemäß Artikel 133 (3) Satz 1 handeln und keine zugelassenen Vertreter sind, eine unterzeichnete Vollmacht einreichen.
- b) Zutreffendes ist anzukreuzen.
- 2 Name(n) und Anschrift(en) sowie Staat des Sitzes oder Wohnsitzes des Vollmachtgebers (der Vollmachtgeber) nach Maßgabe der nachstehenden Regel 41 (2) c): „Bei natürlichen Personen ist der Familienname vor den Vornamen anzugeben. Bei juristischen Personen und Gesellschaften, die juristischen Personen gemäß dem für sie maßgebenden Recht gleichgestellt sind, ist die amtliche Bezeichnung anzugeben. Anschriften sind gemäß den üblichen Anforderungen für eine schnelle Postzustellung an die angegebene Anschrift anzugeben und müssen in jedem Fall alle maßgeblichen Verwaltungseinheiten, gegebenenfalls bis zur Hausnummer einschließlich, enthalten.“
- 3 Name(n) und Geschäftsanschrift des Vertreters (der Vertreter) nach Maßgabe der in Ziff. 2 wiedergegebenen Regel 41 (2) c).
- 4 Nummer der Anmeldung(en) (falls bekannt) oder des Patents (der Patente) und Bezeichnung(en) der Erfindung(en).
- 5 Der Widerruf erfasst nicht eine gegebenenfalls erteilte allgemeine Vollmacht.
- 6 Übliche Unterschrift des (der) Vollmachtgeber(s). Wird die Vollmacht für eine juristische Person unterzeichnet, so dürfen nur solche Personen unterzeichnen, die nach Gesetz und/oder Satzung der juristischen Person dazu berechtigt sind (Artikel 58, Regel 152 (1)). Es ist ein Hinweis auf die Unterschriftsberechtigung des Unterzeichneten zu geben (z. B. Geschäftsführer, Prokurist, Handlungsbevollmächtigter; president, director, company secretary; président, directeur, fondé de pouvoir). Unterzeichnet ein sonstiger Angestellter einer juristischen Person aufgrund einer speziellen Vollmacht der juristischen Person, so ist dies anzugeben; von der speziellen Vollmacht ist eine Kopie, die nicht beglaubigt zu sein braucht, beizufügen. Eine Vollmacht mit der Unterschrift einer nicht zeichnungsberechtigten Person wird als nicht unterzeichnete Vollmacht behandelt.

II. Hinweise

- a) Erstreckt sich die Vollmacht auf mehrere Anmeldungen oder Patente, so ist sie in der entsprechenden Stückzahl einzureichen (vgl. Regel 152 (2)).
- b) Alle Entscheidungen, Ladungen, Bescheide und Mitteilungen werden an den Vertreter übersandt (vgl. Regel 130). Im Fall der Bevollmächtigung von Angestellten im Sinne des Artikels 133 (3) werden die genannten Schriftstücke dem Anmelder übersandt.
- c) Regel 152 (9) bestimmt: „Sofern die Vollmacht nichts anderes bestimmt, erlischt sie gegenüber dem Europäischen Patentamt nicht mit dem Tod des Vollmachtgebers.“
- d) Im Übrigen vgl. die Mitteilung zu Fragen der Vertretung vor dem EPA im Amtsblatt EPA 4/1978, 281 ff.

I. Footnotes to text overleaf

- 1 (a) The use of this form is recommended for authorising representatives before the European Patent Office – professional representatives, legal practitioners under Article 134(8) and associations of representatives pursuant to Rule 152(11) – and for authorising employees under Article 133(3), first sentence; as regards the second sentence, no implementing regulation has yet been issued.
Professional representatives who identify themselves as such are required under Rule 152(1), in conjunction with the decision of the President of the EPO dated 12 July 2007, to file a signed authorisation only in particular cases (Special edition No. 3, OJ EPO 2007, L.1.). However, a legal practitioner entitled to act as a professional representative in accordance with Article 134(8), or an employee acting for an applicant in accordance with Article 133(3), first sentence, but who is not a professional representative, must file a signed authorisation.
- (b) Where applicable place a cross in the box.
- 2 Name(s) and address(es) of the party (parties) giving the authorisation and the State in which his (their) residence or principal place of business is located, in accordance with Rule 41(2) (c): „Names of natural persons shall be indicated by the person's family name, followed by his given names. Names of legal persons, as well as of bodies equivalent to legal persons under the law governing them, shall be indicated by their official designations. Addresses shall be indicated in accordance with applicable customary requirements for prompt postal delivery and shall comprise all the relevant administrative units, including the house number, if any.“
- 3 Name(s) and address of place of business of the representative(s) in accordance with Rule 41(2)(c) (cf. note 2 above).
- 4 Application No(s). or patent No(s). (if known) and title(s) of the invention(s).
- 5 The revocation does not extend to any general authorisation which may have been given.
- 6 Usual signature(s) of person(s) giving the authorisation. Where the authorisation is signed on behalf of a legal person, only such persons as are entitled to sign by law and/or in accordance with the articles of association or equivalent of the legal person may do so (Article 58, Rule 152(1)). An indication is to be given of the signatory's entitlement to sign (e.g. president, director, company secretary; Geschäftsführer, Prokurist, Handlungsbevollmächtigter; président, directeur, fondé de pouvoir). If any other employee of a legal person signs by virtue of a special authorisation conferred by the legal person, this is to be indicated and a copy of the special authorisation, which need not be certified, is to be supplied. An authorisation bearing the signature of a person not entitled so to sign will be treated as an unsigned authorisation.

II. Notices

- (a) Authorisations covering more than one application or patent are to be filed in the corresponding number of copies (cf. Rule 152(2)).
- (b) All decisions, summonses and communications will be sent to the representative (cf. Rule 130). In cases where employees are authorised under Article 133(3), these documents will be sent to the applicant.
- (c) Rule 152(9) states: "Unless it expressly provides otherwise, an authorisation shall not terminate vis-à-vis the European Patent Office upon the death of the person who gave it."
- (d) See also Communication on matters concerning representation before the EPO in the Official Journal EPO 4/1978, 281 ff.

I. Renvois concernant le texte figurant au recto

- 1 a) Il est recommandé d'utiliser ce formulaire pour mandater des représentants devant l'Office européen des brevets – mandataires agréés, avocats au sens de l'article 134(8) et groupements de mandataires conformément à la règle 152(11) – ainsi que pour mandater des employés au sens de l'article 133(3), première phrase; il n'a pas encore été arrêté de dispositions d'application relatives à la deuxième phrase. En vertu de la règle 152(1) en liaison avec la décision de la Présidente de l'OEB en date du 12 juillet 2007, les mandataires agréés qui se font connaître comme tels ne sont tenus de déposer un pouvoir signé que dans certains cas (Edition spéciale n° 3, JO OEB 2007, L.1.). En revanche, les avocats habilités à agir en qualité de mandataires en vertu de l'article 134(8), ainsi que les employés qui agissent pour le compte d'un demandeur conformément à l'article 133(3), 1^{ère} phrase, et qui ne sont pas des mandataires agréés, doivent déposer un pouvoir signé.
- b) Faire une croix dans la case si nécessaire.
- 2 Nom(s) et adresse(s), Etat du siège ou du domicile du (des) mandant(s), dans les conditions prévues à la règle 41(2) c) et reproduites ci-après: «Les personnes physiques doivent être désignées par leur nom suivi de leurs prénoms. Les personnes morales et les sociétés assimilées aux personnes morales en vertu du droit dont elles relèvent doivent figurer sous leur désignation officielle. Les adresses doivent être indiquées selon les exigences usuelles en vue d'une distribution postale rapide à l'adresse indiquée et comporter en tout état de cause toutes les indications administratives pertinentes, y compris, le cas échéant, le numéro de la maison.»
- 3 Nom(s) et adresse professionnelle du (des) mandataire(s), dans les conditions prévues à la règle 41(2) c) et mentionnées au point 2.
- 4 Numéro de la (des) demande(s) (s'il est connu) ou du (des) brevet(s) et titre(s) de l'invention (des inventions).
- 5 La révocation ne s'étend pas à un pouvoir général éventuellement donné.
- 6 Signature(s) habituelle(s) du (des) mandant(s). Lorsque le pouvoir est signé au nom d'une personne morale, seules sont habilitées à signer les personnes auxquelles cette qualité est reconnue en vertu de la loi et/ou du statut de la personne morale concernée (article 58, règle 152(1)). Il convient d'indiquer la qualité du signataire (par exemple: président, directeur, fondé de pouvoir; Geschäftsführer, Prokurist, Handlungsbevollmächtigter; président, directeur, fondé de pouvoir). Il y a lieu de signaler les cas où un autre employé d'une personne morale signe en vertu d'un pouvoir spécial conféré par la personne morale et de fournir alors une copie, qui peut ne pas être certifiée conforme, de ce pouvoir spécial. Un pouvoir portant la signature d'une personne non habilitée à signer sera considéré comme non signé.

II. Notes

- a) Si le pouvoir est donné pour plusieurs demandes ou plusieurs brevets, il doit être fourni un nombre correspondant d'exemplaires (cf. règle 152(2)).
- b) Toutes les décisions, citations, notifications seront adressées au mandataire (voir règle 130). Dans le cas où des employés au sens de l'article 133(3) sont mandatés, les pièces mentionnées sont envoyées au demandeur.
- c) La règle 152(9) stipule: «Sauf s'il en dispose autrement, le pouvoir ne prend pas fin, à l'égard de l'Office européen des brevets, au décès du mandant.»
- d) Pour le reste, se reporter à la Communication concernant les questions relatives à la représentation près l'OEB, parue au Journal officiel de l'OEB, 4/1978, 281 s.

Annex IX

Form PCT/IPEA/401 Demand and Notes

The demand must be filed directly with the competent International Preliminary Examining Authority or, if two or more Authorities are competent, with the one chosen by the applicant. The full name or two-letter code of that Authority may be indicated by the applicant on the line below:

IPEA/ _____

PCT

CHAPTER II

DEMAND

under Article 31 of the Patent Cooperation Treaty:

The undersigned requests that the international application specified below be the subject of international preliminary examination according to the Patent Cooperation Treaty.

For International Preliminary Examining Authority use only

Identification of IPEA		Date of receipt of DEMAND
Box No. I IDENTIFICATION OF THE INTERNATIONAL APPLICATION		Applicant's or agent's file reference
International application No.	International filing date (<i>day/month/year</i>)	(Earliest) Priority date (<i>day/month/year</i>)
Title of invention		
Box No. II APPLICANT(S)		
Name and address: (<i>Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.</i>)		Telephone No.
		Facsimile No.
		Applicant's registration No. with the Office
E-mail authorization: Marking one of the check-boxes below authorizes the International Bureau and the International Preliminary Examining Authority to use the e-mail address indicated in this Box to send notifications issued in respect of this international application if those offices are willing to do so. <input type="checkbox"/> as advance copies followed by paper notifications; or <input type="checkbox"/> exclusively in electronic form (no paper notifications will be sent). E-mail address: _____		
State (<i>that is, country</i>) of nationality:		State (<i>that is, country</i>) of residence:
Name and address: (<i>Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.</i>)		
State (<i>that is, country</i>) of nationality:		State (<i>that is, country</i>) of residence:
<input type="checkbox"/> Further applicants are indicated on a continuation sheet.		

Continuation of Box No. II APPLICANT(S)

If none of the following sub-boxes is used, this sheet should not be included in the demand.

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)*

State *(that is, country)* of nationality:

State *(that is, country)* of residence:

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)*

State *(that is, country)* of nationality:

State *(that is, country)* of residence:

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)*

State *(that is, country)* of nationality:

State *(that is, country)* of residence:

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)*

State *(that is, country)* of nationality:

State *(that is, country)* of residence:

☐

Further applicants are indicated on another continuation sheet.

Box No. III AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR CORRESPONDENCE

The following person is ☐ agent ☐ common representative
 and ☐ has been appointed earlier and represents the applicant(s) also for international preliminary examination.
☐ is hereby appointed and any earlier appointment of (an) agent(s)/common representative is hereby revoked.
☐ is hereby appointed, specifically for the procedure before the International Preliminary Examining Authority, in addition to the agent(s)/common representative appointed earlier.

Name and address: *(Family name followed by given name; for a legal entity, full official designation.
 The address must include postal code and name of country.)*

Telephone No.

Facsimile No.

Agent's registration No. with the Office

E-mail authorization: Marking one of the check-boxes below authorizes the International Bureau and the International Preliminary Examining Authority to use the e-mail address indicated in this Box to send notifications issued in respect of this international application if those offices are willing to do so.

☐ as advance copies followed by paper notifications; or ☐ exclusively in electronic form (no paper notifications will be sent).

E-mail address: _____

☐ **Address for correspondence:** Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.

Box No. IV BASIS FOR INTERNATIONAL PRELIMINARY EXAMINATION**Statement concerning amendments:***

1. The applicant wishes the international preliminary examination **to start on the basis of:**

- ☐ the international application as originally filed
- the description ☐ as originally filed
☐ as amended under Article 34
- the claims ☐ as originally filed
☐ as amended under Article 19
☐ as amended under Article 34
- the drawings ☐ as originally filed
☐ as amended under Article 34

2. ☐ The applicant wishes any amendment to the claims under Article 19 to be considered as reversed.

3. ☐ Where the IPEA wishes to start the international preliminary examination at the same time as the international search in accordance with Rule 69.1(b), the applicant requests the IPEA **to postpone** the start of the international preliminary examination until the expiration of the applicable time limit under Rule 69.1(d).

4. ☐ The applicant expressly wishes the international preliminary examination **to start earlier** than at the expiration of the applicable time limit under Rule 54bis.1(a).

* Where no check-box is marked, international preliminary examination will start on the basis of the international application as originally filed or, where a copy of amendments to the claims under Article 19 and/or amendments of the international application under Article 34 are received by the International Preliminary Examining Authority before it has begun to draw up a written opinion or the international preliminary examination report, as so amended.

Language for the purposes of international preliminary examination: _____

- ☐ which is the language in which the international application was filed.
☐ which is the language of a translation furnished for the purposes of international search.
☐ which is the language of publication of the international application.
☐ which is the language of the translation (to be) furnished for the purposes of international preliminary examination.

Box No. V ELECTION OF STATES

The filing of this demand constitutes the election of all Contracting States which are designated and are bound by Chapter II of the PCT.

Box No. VI CHECK LIST

The demand is accompanied by the following elements, in the language referred to in Box No. IV, for the purposes of international preliminary examination:

- | | | |
|---|---|--------|
| 1. translation of international application | : | sheets |
| 2. amendments under Article 34 | : | sheets |
| 3. letter accompanying the amendments under Article 34 (Rule 66.8) | : | sheets |
| 4. copy (or, where required, translation) of amendments under Article 19 | : | sheets |
| 5. copy of the letter accompanying the amendments under Article 19 (Rules 46.5(b) and 53.9) | : | sheets |
| 6. copy (or, where applicable, translation) of any statement under Article 19 (Rule 62.1(ii)) | : | sheets |
| 7. other (<i>specify</i>) | : | sheets |

For International Preliminary Examining Authority use only

received not received

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

The demand is also accompanied by the item(s) marked below:

- | | |
|--|---|
| 1. <input type="checkbox"/> fee calculation sheet | 5. <input type="checkbox"/> sequence listing in electronic form |
| 2. <input type="checkbox"/> original separate power of attorney | 6. <input type="checkbox"/> other (<i>specify</i>): _____ |
| 3. <input type="checkbox"/> original general power of attorney | _____ |
| 4. <input type="checkbox"/> copy of general power of attorney; reference number, if any: | _____ |

Box No. VII SIGNATURE OF APPLICANT, AGENT OR COMMON REPRESENTATIVE

Next to each signature, indicate the name of the person signing and the capacity in which the person signs (if such capacity is not obvious from reading the demand).

For International Preliminary Examining Authority use only

1. Date of actual receipt of DEMAND:

2. Adjusted date of receipt of demand due to CORRECTIONS under Rule 60.1(b):

3. ☐ The date of receipt of the demand is AFTER the expiration of 19 months from the priority date and item 4 or 5, below, does not apply.

☐ The applicant has been informed accordingly.

4. ☐ The date of receipt of the demand is WITHIN the time limit of 19 months from the priority date as extended by virtue of Rule 80.5.

5. ☐ Although the date of receipt of the demand is after the expiration of 19 months from the priority date, the delay in arrival is EXCUSED pursuant to Rule 82.

6. ☐ The date of receipt of the demand is AFTER the expiration of the time limit under Rule 54bis.1(a) and item 7 or 8, below, does not apply.

7. ☐ The date of receipt of the demand is WITHIN the time limit under Rule 54bis.1(a) as extended by virtue of Rule 80.5.

8. ☐ Although the date of receipt of the demand is after the expiration of the time limit under Rule 54bis.1(a), the delay in arrival is EXCUSED pursuant to Rule 82.

For International Bureau use only

Demand received from IPEA on:

NOTES TO THE DEMAND FORM (PCT/IPEA/401)

These Notes are intended to facilitate the filling in of the demand form and to give some information concerning international preliminary examination under Chapter II of the Patent Cooperation Treaty (PCT). For more detailed information, see the *PCT Applicant's Guide*, a WIPO publication, which is available, together with other PCT related documents, at WIPO's website: www.wipo.int/pct/en/. The Notes are based on the requirements of the PCT, the Regulations and the Administrative Instructions under the PCT. In case of any discrepancy between these Notes and those requirements, the latter are applicable.

In the demand form and these Notes, "Article", "Rule" and "Section" refer to the provisions of the PCT, the PCT Regulations and the Administrative Instructions, respectively.

The demand form shall be typed or printed; check-boxes may be marked by hand with dark ink (Rules 11.9(a) and (b) and 11.14).

The demand form and these Notes may be downloaded from WIPO's website at the address given above.

IMPORTANT GENERAL INFORMATION

Who May File a Demand? (Article 31(2)(a) and Rule 54): A demand (for international preliminary examination) may only be filed by an applicant who is a national or resident of a PCT Contracting State which is bound by Chapter II of the PCT; furthermore, the international application must have been filed with a receiving Office of, or acting for, a State bound by Chapter II. Where there are two or more applicants (for the same or different elected States) at least one of them must qualify.

Where Must the Demand Be Filed? (Article 31(6)(a)): The demand must be filed with a competent International Preliminary Examining Authority (IPEA). The receiving Office with which the international application was filed will, upon request, give information about the competent IPEA (or see the *PCT Applicant's Guide*, Annex C). If several IPEAs are competent, the applicant has the choice and the demand must be filed with (and the fees must be paid to) the IPEA chosen by the applicant. The IPEA chosen by the applicant may be identified, preferably by an indication of the name or two-letter code of the IPEA, at the top of the first sheet of the demand in the space provided for that purpose.

When Must the Demand Be Filed? (Article 39(1) and Rule 54bis.1): As long as certain designated Offices are still not bound by the 30-month time limit under Article 22 for entry into the national phase, the demand – because it contains the required election of designated States – must be filed within 19 months from the priority date if the applicant wishes to postpone entry into the national phase from 20 to 30 months from the priority date in respect of those designated Offices. For updated information about those Offices, see the *PCT Applicant's Guide*, National Chapters, Summaries, available on the WIPO website at the address indicated above. It is recalled that the time limit of 30 months from the priority date applies to all other designated Offices regardless of whether or not a demand is filed.

If the applicant wishes to file a demand, but not because of the reason explained above, the applicable time limit for filing such demand is three months from the date of transmittal of the international search report or of the declaration referred to in Article 17(2)(a), and the written opinion established by the International Searching Authority or 22 months from the priority date, whichever expires later (see Rule 54bis.1(a)).

Any demand made after the expiration of the applicable time limit will be considered as if it had not been submitted and the IPEA shall so declare.

In Which Language Must the Demand Be Filed? (Rule 55.1): The demand must be filed in the language in which international preliminary examination will be carried out (see Notes to Box No. IV).

What is the Language of Correspondence? (Rules 55.3 and 92.2 and Section 104): Any letter from the applicant to the IPEA must be in the same language as the international application to which it relates. However, where the international preliminary examination will be carried out on the basis of a translation (see Notes to Box No. IV), any letter from the applicant to the IPEA must be in the language of the translation. The IPEA may authorize the use of other languages for letters which do not contain or relate to amendments of the international application. Any letter from the applicant to the International Bureau must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.

BOX No. I

Applicant's or Agent's File Reference: A file reference may be indicated, if desired. It should not exceed 12 characters. Characters in excess of 12 may be disregarded (Section 109).

Identification of the International Application (Rule 53.6): The international application number must be indicated in Box No. I. Where the demand is filed at a time when the international application number has not yet been notified by the receiving Office, the name of that Office must be indicated instead of the international application number.

International Filing Date and (Earliest) Priority Date (Section 110): Dates must be indicated by the Arabic number of the day, the name of the month and the Arabic number of the year – in that order; after, below or above such indication, the date should be repeated in parentheses, using two-digit Arabic numerals each for the number of the day and for the number of the month followed by the number of the year in four digits, in that order, and separated by periods, slants or hyphens, for example, "26 October 2012 (26.10.2012)", "26 October 2012 (26/10/2012)" or "26 October 2012 (26-10-2012)". Where the international application claims the priority of several earlier applications, the filing date of the earliest application whose priority is claimed must be indicated as the priority date.

Title of the Invention: If a new title has been established by the International Searching Authority, that title must be indicated in Box No. I.

BOX No. II

Applicant(s) (Rule 53.4): All the applicants for the elected States must be indicated in the demand. It should be noted that those persons named as "inventor only" in the request need not be named in the demand.

Insert in Box No. II of the demand the required indications as in Boxes Nos. II and III of the request. The Notes to the request apply *mutatis mutandis*. If there are two or more applicants for the States elected in the demand, give the required indications for each of them; if there are more than three applicants, make the required indications on the “Continuation Sheet”.

If different applicants were indicated in the request for different designated States, there is no need to again indicate in the demand the States for which a person is applicant, because those indications have been made in the request.

Applicant’s registration number with the Office (Rule 53.4): Where the applicant is registered with the national or regional Office that is acting as International Preliminary Examining Authority, the demand may indicate the number or other indication under which the applicant is so registered.

An E-mail address should be indicated for the person named in Box No. II in order to allow rapid communication with the applicant (see Rule 4.4(c)). Any telephone or facsimile number should include the applicable country and area codes. A single e-mail address only should be indicated.

Unless one of the applicable check-boxes is marked, any e-mail address supplied will be used only for the types of communication which might be made by telephone. If one of the applicable check-boxes is marked, the International Bureau and the International Preliminary Examining Authority may, if they wish to do so, send notifications in respect of the international application to the applicant by e-mail, thus avoiding processing or postal delays. Note that not all Offices will send such notifications by e-mail, (for details about each Office’s procedure see the *PCT Applicant’s Guide*, Annex B). If the first check-box is marked, any such e-mail notification will always be followed by the official notification on paper. Only that paper copy of the notification is considered the legal copy of the notification and only the date of mailing of that paper copy will commence any time limit within the meaning of Rule 80. If the second check-box is marked, the applicant requests the discontinuation of the sending of paper copies of notifications and acknowledges that the date of mailing indicated on the electronic copy will commence any time limit within the meaning of Rule 80.

Note that it is the applicant’s responsibility to keep any e-mail address details up-to-date and to ensure that incoming e-mails are not blocked, for any reason, on the recipient’s side. Changes to the e-mail address indicated should be requested to be recorded, preferably directly at the International Bureau, under Rule 92*bis*. Where the e-mail authorization is given both in respect of the applicant and in respect of an agent or common representative, the International Bureau and the International Preliminary Examining Authority will send e-mail communications only to the appointed agent or common representative.

BOX No. III

Agent or Common Representative (Rules 53.5, 90.1 and 90.2): Mark the applicable check-boxes to indicate *first* whether the person named in this Box is agent or common representative, *then* whether that person *has been appointed earlier* (i.e., during the procedure under Chapter I), or *is appointed in the demand* and any earlier appointment of another person is revoked, or *is appointed specifically for the procedure before the IPEA* (without revocation of any earlier appointment), in addition to the person(s) appointed earlier.

Where an additional person is appointed specifically for the procedure before the IPEA, all notifications issued by the IPEA will be addressed only to that additional person.

A separate power of attorney must be filed with the IPEA, the International Bureau or the receiving Office, if the person appointed at the time the demand is filed (i.e., was not appointed earlier) signs the demand on behalf of the applicant (Rule 90.4). However, the receiving Office, the International Bureau or the IPEA may waive the requirement that a separate power of attorney be filed. For details, see the *PCT Applicant’s Guide*, Annex B(IB), Annex C and Annex E.

Agent’s registration number with the Office (Rule 53.5): Where the agent is registered with the national or regional Office that is acting as International Preliminary Examining Authority, the demand may indicate the number or other indication under which the agent is so registered.

E-mail address (see Notes to Box. No. II).

Address for Correspondence (Rule 4.4(d) and Section 108): Where an agent is appointed, any correspondence intended for the applicant will be sent to the address indicated for that agent (or for the first-mentioned agent, if more than one is appointed). Where one of two or more applicants is appointed as common representative, the address indicated for that applicant in Box No. III will be used.

Where no agent or common representative is appointed, any correspondence will be sent to the address, indicated in Box No. II, of the applicant (if only one person is named as applicant) or of the applicant who is considered to be common representative (if there are two or more persons named as applicants). However, if the applicant wishes correspondence to be sent to a different address in such a case, that address may be indicated in Box No. III instead of the designation of an agent or common representative. In this case, and only in this case, the last check-box of Box No. III 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. III has been marked).

BOX No. IV

Statement Concerning Amendments (Rules 53.2(a)(iv), 53.9, 62, 66.1 and 69.1): The international preliminary examination will start on the basis of the international application as filed or, if amendments have been filed, as amended. Mark the appropriate check-box(es) to enable the IPEA to determine when and on what basis it can start international preliminary examination.

Mark the corresponding check-box(es) under No. 1 where the international preliminary examination should start on the basis of the international application as originally filed or where amendments are to be taken into account, as the case may be. Where amendments under Article 19 are to be taken into account, the applicant should preferably submit a copy of the amendments made under Article 19, the letter accompanying the amendments (Rules 62.1(ii) and 46.5(b)) and any statement (Rule 62.1(ii)). Where amendments under Article 34 are to be taken into account, the applicant must submit *with the Demand* the amendments of the international application under Article 34, together with a letter which must draw attention to the differences caused by the amendments and indicate the basis for the amendments in the application as filed and shall also explain the reasons for the amendments (Rule 66.8). If a check-box is marked but the demand is not accompanied by the

documents referred to, the start of international preliminary examination will be delayed until the IPEA receives them.

Mark check-box No. 2 if amendments of the claims under Article 19 have been filed with the International Bureau during the Chapter I procedure, but the applicant wishes those amendments to be considered reversed by an amendment under Article 34 (Rule 53.9(a)(ii)).

Mark check-box No. 3 where the applicant wants to keep the option for the filing of amendments of the claims under Article 19 open and where the IPEA wishes to start the international preliminary examination at the same time as the international search in accordance with Rule 69.1(b). The applicant may request the IPEA to **postpone** the start of international preliminary examination until the expiration of the applicable time limit (Rules 46.1, 53.9(b) and 69.1(d)).

Mark check-box No. 4 if the applicant wishes that the international preliminary examination start earlier than at the expiration of the applicable time limit under Rule 54*bis*.1(a).

Where the ISA and IPEA are not the same Authority, examination will not commence until the IPEA is in possession of the international search report, or a notice of the declaration under Article 17(2)(a) and the written opinion established by the ISA.

The applicable time limit under Rule 54*bis*.1(a) is three months from the date of transmittal of the international search report or of the declaration referred to in Article 17(2)(a), and the written opinion established by the International Searching Authority, or 22 months from the priority date, whichever expires later.

If no check-box is marked, refer to the footnote at the bottom of the Box.

Language for the Purposes of International Preliminary Examination (Rule 55.2): Where neither the language in which the international application is filed nor the language in which the international application is published is accepted by the IPEA that is to carry out the international preliminary examination, the applicant must furnish with the demand a translation of the international application into a language which is both a language accepted by that Authority and a language of publication.

Where such translation has already been furnished to the International Searching Authority for the purposes of carrying out international search and the IPEA is part of the same Office or intergovernmental organization as the International Searching Authority, the applicant need not furnish another translation. In such a case the international preliminary examination is carried out on the basis of the translation furnished for the purposes of international search.

The language for the purposes of international preliminary examination should be indicated in Box No. IV and the corresponding check-box should be marked.

Language of Amendments (Rule 55.3): Amendments, letters and statements relating thereto must be in the same language as that in which the international preliminary

examination is carried out, as explained in the preceding paragraphs.

Time Limit for Furnishing Translation of the International Application (Rule 55.2): Any required translation of the international application should be furnished (by the applicant) together with the demand. If it is not so furnished, the IPEA will invite the applicant to furnish it within a time limit which shall not be less than one month from the date of the invitation. That time limit may be extended by the IPEA.

BOX No. V

Election of States (Rule 53.7): The making of a demand shall constitute the election of all States which have been designated and which are bound by Chapter II of the PCT.

BOX No. VI

Check List: It is recommended that this Box be filled in carefully in order for the IPEA to determine as soon as possible whether it is in possession of the documents on the basis of which the applicant wishes international preliminary examination to start.

Where the international application contains disclosure of one or more nucleotide and/or amino acid sequences, and a copy of the sequence listing in electronic form complying with the standard provided for in Annex C of the Administrative Instructions is required by the IPEA, the applicant may furnish the listing in electronic form to the IPEA with the demand. If this is the case, check-box No. 5 must be marked.

BOX No. VII

Signature (Rules 53.8, 60.1(*a-ter*), 90.3(a) and 90.4(a) and (d)): The demand must be signed by the applicant or by his agent; if there are several applicants, the demand must be signed by all of them, or by the common agent or the common representative of all of them. However, if the signature(s) of one or more applicants is missing, the IPEA will not invite the applicants to furnish the missing signature(s) provided that at least one of the applicants has signed the demand.

Where the signature on the demand is not that of the applicant, but that of the agent or the common representative, a separate power of attorney appointing the agent or the common representative, respectively, or a copy of a general power of attorney already in the possession of the receiving Office, must be furnished. The power of attorney must be signed by the applicant or, if there is more than one applicant, by at least one of them. If the power is not filed with the demand, the IPEA will invite the applicant to furnish it, unless it has waived the requirement for a separate power of attorney (for details about each IPEA, see the *PCT Applicant's Guide*, Annex E).

Important: Should a notice of withdrawal be filed at any time during the international phase, that notice will have to be signed by the applicant or, if there are two or more applicant's by all of them (Rule 90*bis*.5(a)), or by an agent or a common representative whose appointment has been effected by each applicant signing, at his choice, the request, the demand or a separate power of attorney (Rule 90.4(a)).

Annex X

Form PCT/IPEA/401 Fee Calculation Sheet and Notes

PCT

FEE CALCULATION SHEET

Annex to the Demand

International application No. _____ <hr/> Applicant's or agent's file reference _____ <hr/> Applicant _____ <hr/>	For International Preliminary Examining Authority use only <hr/> Date stamp of the IPEA _____ <hr/>
<p>CALCULATION OF PRESCRIBED FEES</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>1. Preliminary examination fee _____</p> <p>2. Handling fee (<i>Applicants from certain States are entitled to a reduction of 90% of the handling fee. Where the applicant is (or all applicants are) so entitled, the amount to be entered at H is 10% of the handling fee.</i>) _____</p> <p>3. Total of prescribed fees Add the amounts entered at P and H and enter total in the TOTAL box</p> </div> <div style="width: 35%; text-align: center;"> <div style="border: 1px solid black; width: 100px; height: 20px; margin: 0 auto; display: flex; align-items: center; justify-content: center;">P</div> <div style="border: 1px solid black; width: 100px; height: 20px; margin: 10px auto; display: flex; align-items: center; justify-content: center;">H</div> <div style="border: 1px solid black; width: 150px; height: 40px; margin: 10px auto; display: flex; align-items: center; justify-content: center;">TOTAL</div> </div> </div> <p>MODE OF PAYMENT <i>(Not all modes of payment may be available at all IPEAs)</i></p> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p><input type="checkbox"/> authorization to charge deposit or current account with the IPEA (see below)</p> <p><input type="checkbox"/> cheque</p> <p><input type="checkbox"/> postal money order</p> <p><input type="checkbox"/> bank transfer</p> </div> <div style="width: 45%;"> <p><input type="checkbox"/> credit card (<i>details should be furnished separately and not included on this sheet</i>)</p> <p><input type="checkbox"/> revenue stamps</p> <p><input type="checkbox"/> cash</p> <p><input type="checkbox"/> other (<i>specify</i>): _____</p> </div> </div>	
<p>AUTHORIZATION TO CHARGE (OR CREDIT) DEPOSIT OR CURRENT ACCOUNT <i>(This mode of payment may not be available at all IPEAs)</i></p> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p><input type="checkbox"/> Authorization to charge the total fees indicated above.</p> <p><input type="checkbox"/> (<i>This check-box may be marked only if the conditions for deposit or current accounts of the IPEA so permit</i>) Authorization to charge any deficiency or credit any overpayment in the total fees indicated above.</p> </div> <div style="width: 45%;"> <p>IPEA/ _____</p> <p>Deposit or Current Account No.: _____</p> <p>Date: _____</p> <p>Name: _____</p> <p>Signature: _____</p> </div> </div>	

NOTES TO THE FEE CALCULATION SHEET (ANNEX TO FORM PCT/IPEA/401)

The purpose of the fee calculation sheet is to help the applicant to identify the prescribed fees and to calculate the amounts to be paid. It is strongly recommended that the applicant complete, by entering the appropriate amounts in the boxes provided, and submit the fee calculation sheet at the time of filing of the demand. This will help the International Preliminary Examining Authority (IPEA) to verify the calculations and to identify any error in them.

CALCULATION OF PRESCRIBED FEES

Two fees must be paid for international preliminary examination:

- (i) the preliminary examination fee for the benefit of the IPEA (Rule 58.1);
- (ii) the handling fee for the benefit of the International Bureau (Rule 57).

Both fees must be paid to the IPEA within one month from the date on which the demand is submitted or 22 months from the priority date, whichever expires later. The amount payable is the amount applicable on the date of payment (Rules 57.3 and 58.1(b)). The fees must be paid in a currency acceptable to the IPEA.

Information about the amount of those fees or about equivalent amounts in other currencies can be obtained from the IPEA or the receiving Office. This information is also published in the *PCT Applicant's Guide*, Annex E, and from time to time in *Official Notices (PCT Gazette)*.

Box P: The amount of the preliminary examination fee must be entered in Box P.

Box H: The amount of the handling fee must be entered in Box H.

Reduction of the Handling Fee for Applicants from Certain States: An applicant who is a natural person and who is a national of and resides in a State whose per capita national income is below 3,000 US dollars (according to the average per capita national income figures used by the United Nations for determining its scale of assessments for the contributions payable for the years 1995, 1996 and 1997), or who is a national of and resides in one of the following States: Antigua and Barbuda, Bahrain, Barbados, the Libyan Arab Jamahiriya, Oman, the Seychelles, Singapore, Trinidad and Tobago and the United Arab Emirates; or an applicant, whether a natural person or not, who is a national of and resides in a State that is classed as a least developed country by the United Nations, is entitled, in accordance with the Schedule of Fees, to a reduction of 90% of certain PCT fees including the handling fee. If there are several applicants, each must satisfy the above-mentioned criteria. The reduction of the handling fee will be automatically available to any applicant (or applicants) who is (or are) so entitled on the basis of the indications of name, nationality and residence given in Box No. II of the demand.

The fee reduction will be available even if one or more of the applicants are not from PCT Contracting States, provided that each of them is a national and resident of a State that meets the above-mentioned requirements and that at least one of the applicants is a national or resident of a PCT Contracting State and thus is entitled to file an international application.

Information about PCT Contracting States whose nationals and residents are entitled to a reduction of 90% of certain PCT fees, including the handling fee, is contained in the *PCT Applicant's Guide*, Annex C and on the WIPO website (see www.wipo.int/pct/en/), and is also published and regularly updated in the *Official Notices (PCT Gazette)* and the *PCT Newsletter*.

Calculation of the Handling Fee in Case of Fee Reduction: Where the applicant is (or all applicants are) entitled to a reduction of the handling fee, the total to be entered at Box H is 10% of the handling fee.

Total Box: The total of the amounts inserted in Boxes P and H is the amount which must be paid to the IPEA.

MODE OF PAYMENT

In order to help the IPEA identify the mode of payment of the prescribed fees, it is recommended to mark the applicable check-box(es).

AUTHORIZATION TO CHARGE (OR CREDIT) DEPOSIT OR CURRENT ACCOUNT

The applicant should check whether the IPEA allows the use of deposit or current accounts for payment of PCT fees. In addition, it is recommended that the applicant check what are the specific conditions applicable to the use of deposit or current accounts with the IPEA since not all IPEAs provide the same services.

Finally, if the IPEA is not the same national Office or intergovernmental organization as that with which the international application was filed, the deposit or current account with the receiving Office cannot be charged for the purpose of paying the preliminary examination and handling fees due to the IPEA.

The IPEA will not charge fees to deposit or current accounts unless the deposit or current account authorization is signed and indicates the deposit or current account number.

Annex XI

Form for entry into the European phase (EPO Form 1200) and Notes

Nur für amtlichen Gebrauch / For official
use only / Cadre réservé à l'administration

**An das Europäische Patentamt
To the European Patent Office
A l'Office européen des brevets**

Tag des Eingangs / Date of receipt / Date de réception

**Eintritt in die euro-
päische Phase (EPA
als Bestimmungsamt
oder ausgewähltes Amt)**

**Entry into the
European phase
(EPO as designated
or elected Office)**

**Entrée dans la phase
européenne (l'OEB
agissant en qualité
d'office désigné ou élu)**

Europäische Anmeldenummer oder, falls
nicht bekannt, PCT-Aktenzeichen oder
PCT-Veröffentlichungsnummer

European application number or, if
not known, PCT application or PCT
publication number

Numéro de la demande de brevet
européen ou, à défaut, numéro de dépôt
PCT ou de publication PCT

Zeichen des Anmelders oder Vertreters
(max. 15 Positionen)

Applicant's or representative's reference
(max. 15 keystrokes)

Référence du demandeur ou du mandataire
(15 caractères ou espaces au maximum)

1.

Anmelder

Applicant

Demandeur



Die Angaben über den (die) Anmelder sind
in der internationalen Veröffentlichung
enthalten oder vom Internationalen Büro
nach der internationalen Veröffentlichung
vermerkt worden.

Indications concerning the applicant(s) are
contained in the international publication or
recorded by the International Bureau after
the international publication.

Les indications concernant le(s) deman-
deur(s) figurent dans la publication
internationale ou ont été enregistrées par
le Bureau international après la publication
internationale.



Änderungen, die das Internationale Büro
noch nicht vermerkt hat, sind auf einem
Zusatzblatt angegeben.

Changes which have not yet been
recorded by the International Bureau
are set out on an additional sheet.

Les changements qui n'ont pas encore été
enregistrés par le Bureau international sont
indiqués sur une feuille additionnelle.



Fehlende Angaben über den oder die
Anmelder sind auf einem Zusatzblatt
angegeben.

Indications missing for the applicant(s)
are given on an additional sheet.

Les indications manquantes concernant
un ou plusieurs demandeurs sont men-
tionnées sur une feuille additionnelle.

Zustellanschrift
(siehe Merkblatt II, 1)

Address for correspondence
(see Notes II, 1)

Adresse pour la correspondance
(voir notice II, 1)

Zeichen des Anmelders / Applicant's
reference / Référence du demandeur

2.	Vertreter	Representative	Mandataire
	Name und Geschäftsanschrift (Nur einen Vertreter oder den Namen des Zusammenschlusses angeben, der in das Europäische Patentregister einzutragen ist und an den zugestellt wird)	Name and address of place of business (Name only one representative or association of representatives, to be listed in the Register of European Patents and to whom communications are to be notified)	Nom et adresse professionnelle (N'indiquer qu'un seul mandataire ou le nom du groupement de mandataires qui sera inscrit au Registre européen des brevets et auquel les significations seront faites)
	<div style="border: 1px solid black; height: 100px; margin: 10px 0;"></div> <div> Telefon / Telephone / Téléphone </div> <div> Fax / Téléfax </div>		
	<input type="checkbox"/> Weitere(r) Vertreter auf Zusatzblatt	Additional representative(s) on additional sheet	Autre(s) mandataire(s) sur feuille supplémentaire
3.	Vollmacht	Authorisation	Pouvoir
	<input type="checkbox"/> Vollmacht ist beigelegt.	Authorisation is attached.	Un pouvoir est joint.
	<input type="checkbox"/> Allgemeine Vollmacht ist registriert unter Nr.:	General authorisation is registered under No.:	Un pouvoir général est enregistré sous le n° :
	<div style="border: 1px solid black; height: 20px; margin: 10px 0;"></div>		
	<input type="checkbox"/> Allgemeine Vollmacht ist eingereicht, aber noch nicht registriert.	A general authorisation has been filed, but not yet registered.	Un pouvoir général a été déposé, mais n'est pas encore enregistré.
	<input type="checkbox"/> Die beim EPA als PCT-Anmeldeamt eingereichte Vollmacht schließt ausdrücklich die europäische Phase ein.	The authorisation filed with the EPO as PCT receiving Office expressly includes the European phase.	Le pouvoir déposé à l'OEB agissant en qualité d'office récepteur au titre du PCT inclut expressément la phase européenne.
4.	Prüfungsantrag	Request for examination	Requête en examen
4.1	<input checked="" type="checkbox"/> Hiermit wird die Prüfung der Anmeldung gemäß Artikel 94 EPÜ beantragt. Die Prüfungsgebühr wird (wurde) entrichtet.	Examination of the application under Article 94 EPC is hereby requested. The examination fee is being (has been, will be) paid.	Il est demandé par la présente que soit examinée la demande de brevet conformément à l'article 94 CBE. Il est (a été, sera) procédé au paiement de la taxe d'examen.
	<u>Prüfungsantrag</u> in einer zugelassenen Nichtamtssprache	<u>Request for examination</u> in an admissible non-EPO language	<u>Requête en examen</u> dans une langue non officielle autorisée
	<div style="border: 1px solid black; height: 20px; margin: 10px 0;"></div>		
	<input type="checkbox"/> Der/Jeder Anmelder erklärt hiermit, eine Einheit oder eine natürliche Person nach Regel 6 (4) EPÜ zu sein.	The/Each applicant hereby declares that he is an entity or a natural person under Rule 6(4) EPC.	Le/Chaque demandeur déclare par la présente être une entité ou une personne physique au sens de la règle 6(4) CBE.
4.2	<input type="checkbox"/> Der Anmelder verzichtet auf die Aufforderung nach Regel 70 (2) EPÜ, zu erklären, ob die Anmeldung aufrechterhalten wird.	The applicant waives his right to be asked under Rule 70(2) EPC whether he wishes to proceed further with the application.	Le demandeur renonce à être invité, conformément à la règle 70(2) CBE, à déclarer s'il souhaite maintenir sa demande.
5.	Abschriften	Copies	Copies
	<input type="checkbox"/> Zusätzliche Abschriften der im ergänzenden europäischen Recherchenbericht angeführten Schriftstücke werden beantragt.	Additional copies of the documents cited in the supplementary European search report are requested.	Prière de fournir des copies supplémentaires des documents cités dans le rapport complémentaire de recherche européenne.
	Anzahl der zusätzlichen Sätze von Abschriften	Number of additional sets of copies	Nombre de jeux supplémentaires de copies
	<div style="border: 1px solid black; height: 20px; margin: 10px 0;"></div>		
	Zeichen des Anmelders / Applicant's reference / Référence du demandeur	<div style="border: 1px solid black; width: 150px; height: 20px; margin: 10px 0;"></div>	

6.	Für das Verfahren vor dem EPA bestimmte Unterlagen	Documents intended for proceedings before the EPO	Pièces destinées à la procédure devant l'OEB
6.1	<p>Dem Verfahren vor dem EPA als Bestimmungsamt (PCT I) sind folgende Unterlagen zugrunde zu legen:</p> <p><input type="checkbox"/> die vom Internationalen Büro veröffentlichten Anmeldungsunterlagen (mit allen Ansprüchen, Beschreibung und Zeichnungen) mit etwaigen geänderten Ansprüchen nach Artikel 19 PCT</p> <p><input type="checkbox"/> soweit sie nicht ersetzt werden durch die beigefügten Änderungen.</p> <p><input type="checkbox"/> Stellungnahmen zu dem vom EPA als Internationaler Recherchenbehörde erstellten schriftlichen Bescheid und/oder Bemerkungen bzw. Stellungnahmen zu den Erläuterungen in dem vom EPA als mit der ergänzenden internationalen Recherche beauftragten Behörde erstellten ergänzenden internationalen Recherchenbericht (Regel 45 bis.7 e) PCT)</p> <p><i>Soweit erforderlich, sind weitere Angaben auf einem Zusatzblatt einzureichen.</i></p>	<p>Proceedings before the EPO as designated Office (PCT I) are to be based on the following documents:</p> <p>the application documents published by the International Bureau (with all claims, description and drawings) with any amended claims under Article 19 PCT</p> <p>unless replaced by the amendments enclosed.</p> <p>Comments on the written opinion established by the EPO as the International Searching Authority and/or observations or, where applicable, on the explanations given in the Supplementary International Search Report established by the EPO as the Supplementary International Searching Authority (Rule 45 bis.7(e) PCT)</p> <p><i>Where necessary, further details should be submitted on an additional sheet.</i></p>	<p>La procédure devant l'OEB agissant en qualité d'office désigné (PCT I) doit se fonder sur les pièces suivantes :</p> <p>les pièces de la demande publiées par le Bureau international (avec toutes les revendications, la description et les dessins) avec les éventuelles revendications modifiées conformément à l'article 19 PCT</p> <p>dans la mesure où elles ne sont pas remplacées par les modifications jointes.</p> <p>Commentaires sur l'opinion écrite établie par l'OEB agissant en qualité d'administration chargée de la recherche internationale et/ou observations, ou, le cas échéant, commentaires sur les explications figurant dans le rapport de recherche internationale supplémentaire établi par l'OEB agissant en qualité d'administration chargée de la recherche internationale supplémentaire (règle 45 bis.7e) PCT)</p> <p><i>Le cas échéant, des informations complémentaires doivent être fournies sur une feuille additionnelle.</i></p>
6.2	<p><input type="checkbox"/> Dem Verfahren vor dem EPA als ausgewähltem Amt (PCT II) sind folgende Unterlagen zugrunde zu legen: die dem internationalen vorläufigen Prüfungsbericht zugrunde gelegten Unterlagen, einschließlich etwaiger Anlagen</p> <p><input type="checkbox"/> soweit sie nicht ersetzt werden durch die beigefügten Änderungen.</p> <p><input type="checkbox"/> Stellungnahmen zu dem vom EPA als mit der internationalen vorläufigen Prüfung beauftragter Behörde erstellten internationalen vorläufigen Prüfungsbericht und/oder Bemerkungen sind beigefügt.</p> <p><i>Soweit erforderlich, sind weitere Angaben auf einem Zusatzblatt einzureichen.</i></p>	<p>Proceedings before the EPO as elected Office (PCT II) are to be based on the following documents: the documents on which the international preliminary examination report is based, including any annexes</p> <p>unless replaced by the amendments enclosed.</p> <p>Comments on the international preliminary examination report established by the EPO as the International Preliminary Examining Authority and/or observations are enclosed.</p> <p><i>Where necessary, further details should be submitted on an additional sheet.</i></p>	<p>La procédure devant l'OEB agissant en qualité d'office élu (PCT II) doit se fonder sur les pièces suivantes : les pièces sur lesquelles se fonde le rapport d'examen préliminaire international, y compris ses annexes éventuelles</p> <p>dans la mesure où elles ne sont pas remplacées par les modifications jointes.</p> <p>Les commentaires sur le rapport d'examen préliminaire international établi par l'OEB agissant en qualité d'administration chargée de l'examen préliminaire international et/ou les observations sont joints.</p> <p><i>Le cas échéant, des informations complémentaires doivent être fournies sur une feuille additionnelle.</i></p>
	<p><input checked="" type="checkbox"/> Sind dem EPA als mit der internationalen vorläufigen Prüfung beauftragter Behörde Versuchsberichte zugegangen, dürfen diese dem Verfahren vor dem EPA zugrunde gelegt werden.</p> <p>Anmerkung zu den Feldern 6.1 und 6.2: Bei Anmeldungen, die mehr als 35 Seiten umfassen, sollen in der Tabelle auf Seite 7 Angaben betreffend die Berechnung der Zusatzgebühren gemacht werden.</p>	<p>If the EPO as International Preliminary Examining Authority has received test reports, these may be used as the basis of proceedings before the EPO.</p> <p>Note on sections 6.1 and 6.2: For applications comprising more than 35 pages, indications regarding the calculation of the additional fee should be given in the table on page 7.</p>	<p>Si l'OEB, agissant en qualité d'administration chargée de l'examen préliminaire international, a reçu des rapports d'essais, ceux-ci peuvent être utilisés comme base dans la procédure devant l'OEB.</p> <p>Remarque concernant les rubriques 6.1 et 6.2 : pour les demandes comportant plus de 35 pages, des indications relatives au calcul de la taxe additionnelle doivent figurer dans la table de la page 7.</p>
6.3	<p><input type="checkbox"/> Eine Kopie der Rechercheergebnisse der Behörde, bei der die frühere(n) Anmeldung(en), deren Priorität beansprucht wird, eingereicht wurde(n), ist beigefügt (Regel 141 (1) EPÜ).</p>	<p>For each of the previous applications whose priority is claimed a copy is attached of the search results produced by the authority with which the application was filed (Rule 141(1) EPC).</p>	<p>Il est joint une copie des résultats de toute recherche effectuée par l'administration auprès de laquelle la (les) demande(s) antérieure(s) dont la priorité est revendiquée a (ont) été déposée(s) (règle 141(1) CBE).</p>
6.4	<p><input type="checkbox"/> Der Anmelder verzichtet auf die Mitteilung nach Regel 161 (1) oder (2) und 162 EPÜ.</p> <p>Zeichen des Anmelders / Applicant's reference / Référence du demandeur</p>	<p>The applicant waives his right to the communication under Rules 161(1) or (2) and 162 EPC.</p>	<p>Le demandeur renonce au droit de recevoir la notification émise en vertu des règles 161(1) ou (2) et 162 CBE.</p>

	Übersetzungen	Translations	Traductions
	Beigefügt sind die nachfolgend angekreuzten Übersetzungen in einer der Amtssprachen des EPA (Deutsch, Englisch, Französisch):	Translations in one of the official languages of the EPO (English, French, German) are enclosed as crossed below:	Vous trouverez, ci-joint, les traductions cochées ci-après dans l'une des langues officielles de l'OEB (allemand, anglais, français) :
	<i>a) Im Verfahren vor dem EPA als Bestimmungsamt oder ausgewähltem Amt (PCT I + II):</i>	<i>(a) In proceedings before the EPO as designated or elected Office (PCT I + II):</i>	<i>a) Dans la procédure devant l'OEB agissant en qualité d'office désigné ou élu (PCT I + II) :</i>
7.1	<input type="checkbox"/> Übersetzung der internationalen Anmeldung in der ursprünglich eingereichten Fassung (Beschreibung, Ansprüche, etwaige Textbestandteile in den Zeichnungen), der veröffentlichten Zusammenfassung und etwaiger Angaben über biologisches Material nach Regel 13bis.3 und 13bis.4 PCT	Translation of the international application (description, claims, any text in the drawings) as originally filed , of the abstract as published and of any indication under Rule 13bis.3 and 13bis.4 PCT regarding biological material	Traduction de la demande internationale telle que déposée initialement (description, revendications, textes figurant éventuellement dans les dessins), de l'abrégé publié et de toutes indications visées aux règles 13bis.3 et 13bis.4 PCT concernant le matériel biologique
7.2	<input type="checkbox"/> Übersetzung der prioritätsbegründenden Anmeldung(en) (nur nach Aufforderung durch das EPA, Regel 53 (3) EPÜ)	Translation of the priority application(s) (to be filed only at the EPO's request, Rule 53(3) EPC)	Traduction de la (des) demande(s) dont la priorité est revendiquée (à produire seulement sur invitation de l'OEB, règle 53(3) CBE)
7.3	<input type="checkbox"/> Es wird hiermit erklärt, dass die internationale Anmeldung in ihrer ursprünglich eingereichten Fassung eine vollständige Übersetzung der früheren Anmeldung ist (Regel 53 (3) EPÜ).	It is hereby declared that the international application as originally filed is a complete translation of the previous application (Rule 53(3) EPC).	Il est déclaré par la présente que la demande internationale telle que déposée initialement est une traduction intégrale de la demande antérieure (règle 53(3) CBE).
	<i>b) Zusätzlich im Verfahren vor dem EPA als Bestimmungsamt (PCT I):</i>	<i>(b) In addition, in proceedings before the EPO as designated Office (PCT I):</i>	<i>b) De plus, dans la procédure devant l'OEB agissant en qualité d'office désigné (PCT I) :</i>
7.4	<input type="checkbox"/> Übersetzung der nach Artikel 19 PCT geänderten Ansprüche nebst Erklärung, falls diese dem Verfahren vor dem EPA zugrunde gelegt werden sollen (siehe Feld 6).	Translation of amended claims and any statement under Article 19 PCT, if the claims as amended are to form the basis for the proceedings before the EPO (see Section 6).	Traduction des revendications modifiées et de la déclaration faite conformément à l'article 19 PCT, si la procédure devant l'OEB doit être fondée sur les revendications modifiées (voir la rubrique 6).
	<i>c) Zusätzlich im Verfahren vor dem EPA als ausgewähltem Amt (PCT II):</i>	<i>(c) In addition, in proceedings before the EPO as elected Office (PCT II):</i>	<i>c) De plus, dans la procédure devant l'OEB agissant en qualité d'office élu (PCT II) :</i>
7.5	<input type="checkbox"/> Übersetzung der Anlagen zum internationalen vorläufigen Prüfungsbericht	Translation of any annexes to the international preliminary examination report	Traduction des annexes du rapport d'examen préliminaire international
8.	Biologisches Material	Biological material	Matière biologique
	<input type="checkbox"/> Die Erfindung verwendet und/oder bezieht sich auf biologisches Material, das nach Regel 31 EPÜ hinterlegt worden ist.	The invention uses and/or relates to biological material deposited under Rule 31 EPC.	L'invention utilise et/ou concerne de la matière biologique déposée conformément à la règle 31 CBE.
	<input type="checkbox"/> Die Angaben nach Regel 31 (1) c) EPÜ (falls noch nicht bekannt, die Hinterlegungsstelle und das (die) vom Hinterleger zugeteilte(n) Bezugszeichen [Nummer, Symbole usw.]) sind in der internationalen Veröffentlichung oder in der gemäß Feld 7 eingereichten Übersetzung enthalten auf Seite(n)/Zeile(n): <div style="border: 1px solid black; height: 20px; margin-top: 5px;"></div>	The particulars referred to in Rule 31(1) (c) EPC (if not yet known, the depository institution and the identification reference(s) [number, symbols, etc.] of the depositor) are given in the international publication or in the translation submitted under Section 7 on page(s)/line(s): <div style="border: 1px solid black; height: 20px; margin-top: 5px;"></div>	Les indications visées à la règle 31(1)c) CBE (si elles ne sont pas encore connues, l'autorité de dépôt et la (les) référence(s) d'identification [numéro ou symboles etc.] du déposant) figurent dans la publication internationale ou dans la traduction produite conformément à la rubrique 7 à la/aux page(s)/ligne(s) : <div style="border: 1px solid black; height: 20px; margin-top: 5px;"></div>
	Die Empfangsbescheinigung(en) der Hinterlegungsstelle	The receipt(s) of deposit issued by the depository institution	Le(s) récépissé(s) de dépôt délivré(s) par l'autorité de dépôt
	<input type="checkbox"/> ist (sind) beigefügt.	is (are) enclosed.	est (sont) joint(s).
	<input type="checkbox"/> wird (werden) nachgereicht.	will be filed later.	sera (seront) produit(s) ultérieurement.
	<input type="checkbox"/> Verzicht auf die Verpflichtung des Antragstellers nach Regel 33 (2) EPÜ auf gesondertem Schriftstück	Waiver of the right to an undertaking from the requester pursuant to Rule 33(2) EPC attached	Renonciation, sur document distinct, à l'engagement du requérant au titre de la règle 33(2) CBE
	Zeichen des Anmelders / Applicant's reference / Référence du demandeur <div style="border: 1px solid black; width: 150px; height: 20px; margin-top: 5px;"></div>		

9.	Nucleotid- und Aminosäuresequenzen	Nucleotide and amino acid sequences	Séquences de nucléotides et d'acides aminés			
9.1	<input type="checkbox"/> Die nach den Regeln 5.2 und 13ter PCT sowie den Regeln 30 und 163 (3) EPÜ erforderlichen Unterlagen liegen dem EPA bereits vor.	The items pursuant to Rules 5.2 and 13ter PCT, Rules 30 and 163(3) EPC are already with the EPO.	Les pièces requises conformément aux règles 5.2 et 13ter PCT et aux règles 30 et 163(3) CBE ont déjà été déposées auprès de l'OEB.			
9.2	<input type="checkbox"/> Das Sequenzprotokoll wird anliegend in elektronischer Form gemäß den Regeln 30 und 163 (3) EPÜ nachgereicht. <input type="checkbox"/> Die auf dem elektronischen Datenträger gespeicherte Information stimmt mit dem in der Anmeldung offenbarten Sequenzprotokoll (oder mit den dort offenbarten Sequenzen) überein.	The sequence listing is furnished herewith in electronic form in accordance with Rules 30 and 163(3) EPC. The information recorded on the electronic data carrier is identical to the sequence listing (or the sequences) disclosed in the application.	Le listage des séquences sous forme électronique est fourni ci-joint conformément aux règles 30 et 163(3) CBE. L'information figurant sur le support électronique de données est identique à celle que contient le listage des séquences divulgué (ou les séquences divulguées) dans la demande de brevet.			
10.	Benennung von Vertragsstaaten Alle <u>Vertragsstaaten</u> , die dem EPÜ bei Einreichung der internationalen Patentanmeldung angehören, gelten als benannt (siehe Artikel 79 (1) EPÜ), soweit sie in der internationalen Anmeldung bestimmt sind.	Designation of contracting states All the <u>contracting states</u> party to the EPC at the time of filing of the international patent application and designated in the international application are deemed to be designated (see Article 79(1) EPC).	Désignation d'Etats contractants Tous les <u>Etats contractants</u> qui sont parties à la CBE lors du dépôt de la demande de brevet internationale et sont désignés dans la demande internationale sont réputés désignés (voir article 79(1) CBE).			
11.	Erstreckung/Validierung Diese Anmeldung gilt als Antrag, die europäische Patentanmeldung und das darauf erteilte europäische Patent auf alle in der internationalen Anmeldung bestimmten Nichtvertragsstaaten des EPÜ zu erstrecken, mit denen am Tag der Einreichung der internationalen Anmeldung Erstreckungs- oder Validierungsabkommen in Kraft waren. Der Antrag gilt jedoch als zurückgenommen, wenn die Erstreckungs- bzw. die Validierungsgebühr nicht fristgerecht entrichtet wird.	Extension/Validation This application is deemed to be a request to extend the effects of the European patent application and the European patent granted in respect of it to all non-contracting states to the EPC designated in the international application with which extension or validation agreements were in force on the date on which the application was filed. However, the request is deemed withdrawn if the extension fee or validation fee, whichever is applicable, is not paid within the prescribed time limit.	Extension/Validation La présente demande est réputée constituer une requête en extension des effets de la demande de brevet européen et du brevet européen délivré sur la base de cette demande à tous les Etats non parties à la CBE qui sont désignés dans la demande internationale et avec lesquels des accords d'extension ou de validation étaient en vigueur à la date du dépôt de la demande. Cette requête est toutefois réputée retirée si la taxe d'extension ou, le cas échéant, la taxe de validation n'est pas acquittée en temps utile.			
11.1	Es ist beabsichtigt, die Erstreckungsgebühr(en) für folgende Staaten zu entrichten: Hinweis: Im automatischen Abbuchungsverfahren werden nur für die hier angekreuzten Staaten Erstreckungsgebühren abgebucht, sofern dem EPA nicht vor Ablauf der Zahlungsfrist ein anderslautender Auftrag zugeht.	It is intended to pay the extension fee(s) for the following state(s): Note: Under the automatic debiting procedure, extension fees will be debited only for states indicated here, unless the EPO is instructed otherwise before expiry of the period for payment.	Il est envisagé de payer la(les) taxe(s) d'extension pour les Etats suivants : Veillez noter que dans le cadre de la procédure de prélèvement automatique des taxes d'extension, le compte est débité du montant dû seulement pour les Etats cochés ici, sauf instruction contraire reçue avant l'expiration du délai de paiement.			
	<input type="checkbox"/> BA Bosnien und Herzegowina	Bosnia and Herzegovina	Bosnie-Herzégovine			
	<input type="checkbox"/> ME Montenegro	Montenegro	Monténégro			
	<input type="checkbox"/> <table border="1" style="display: inline-table; width: 100px; height: 20px; vertical-align: middle;"> <tr> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 60px; height: 20px;"></td> </tr> </table>					
	<input type="checkbox"/> <table border="1" style="display: inline-table; width: 100px; height: 20px; vertical-align: middle;"> <tr> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 60px; height: 20px;"></td> </tr> </table>					
	<div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <i>(Platz für in der internationalen Anmeldung bestimmte Staaten, mit denen Erstreckungsabkommen am Anmeldetag der internationalen Anmeldung in Kraft waren)</i> </div> <div style="width: 30%;"> <i>(Space for states which were designated in the international application and with which extension agreements existed on the date of filing of the international application)</i> </div> <div style="width: 30%;"> <i>(Espace prévu pour des Etats désignés dans la demande internationale avec lesquels des accords d'extension existaient à la date de dépôt de la demande internationale)</i> </div> </div>					

11.2

Es ist beabsichtigt, die Validierungsgebühren(en) für folgende Staaten zu entrichten:

It is intended to pay the validation fee(s) for the following state(s):

Il est envisagé de payer la(les) taxe(s) de validation pour les Etats suivants :

Hinweis: Im automatischen Abbuchungsverfahren werden nur für die hier angekreuzten Staaten Validierungsgebühren abgebucht, sofern dem EPA nicht vor Ablauf der Zahlungsfrist ein anderslautender Auftrag zugeht.

Note: Under the automatic debiting procedure, validation fees will be debited only for states indicated here, unless the EPO is instructed otherwise before expiry of the period for payment.

Veillez noter que dans le cadre de la procédure de prélèvement automatique des taxes de validation, le compte est débité du montant dû seulement pour les Etats cochés ici, sauf instruction contraire reçue avant l'expiration du délai de paiement.

<input type="checkbox"/>		
<input type="checkbox"/>		
<input type="checkbox"/>		

(Platz für in der internationalen Anmeldung bestimmte Staaten, mit denen Validierungsabkommen nach Drucklegung dieses Formblatts in Kraft treten)

(Space for states which were designated in the international application and with which validation agreements enter into force after this form has been printed)

(Espace prévu pour des Etats désignés dans la demande internationale avec lesquels des accords de validation entreront en vigueur après l'impression du présent formulaire)

12.

Automatischer Abbuchungsauftrag
(Nur möglich für Inhaber von beim EPA geführten laufenden Konten)

Automatic debit order
(for EPO deposit account holders only)

Ordre de prélèvement automatique
(possibilité offerte uniquement aux titulaires de comptes courants ouverts auprès de l'OEB)

☐ Das EPA wird hiermit ermächtigt, fällige Gebühren und Auslagen nach Maßgabe der Vorschriften über das automatische Abbuchungsverfahren vom unten stehenden laufenden Konto abzubuchen.

The EPO is hereby authorised, under the Arrangements for the automatic debiting procedure, to debit from the deposit account below any fees and costs falling due.

Par la présente, il est demandé à l'OEB de prélever du compte courant ci-dessous les taxes et frais venant à échéance, conformément à la réglementation relative à la procédure de prélèvement automatique.

Nummer und Kontoinhaber

Number and account holder

Numéro et titulaire du compte

--

13.

☐ **Etwaige Rückzahlungen sollen auf das unten stehende beim EPA geführte laufende Konto erfolgen**

Any refunds should be made to the EPO deposit account below

Les remboursements éventuels doivent être effectués sur le compte courant ci-dessous ouvert auprès de l'OEB

Nummer und Kontoinhaber

Number and account holder

Numéro et titulaire du compte

--

14.

Unterschrift(en) des (der) Anmelders(s) oder Vertreter

Signature(s) of applicant(s) or representative

Signature(s) du (des) demandeur(s) ou du mandataire

--

Name(n) des (der) Unterzeichneten bitte in Druckschrift wiederholen und bei juristischen Personen auch die Stellung des (der) Unterzeichneten innerhalb der Gesellschaft angeben.

Under signature please print name and, in the case of legal persons, position within the company.

Prière d'indiquer en caractères d'imprimerie le ou les noms des signataires ainsi que, s'il s'agit d'une personne morale, la position occupée au sein de celle-ci par le ou les signataires.

Für Angestellte (Art. 133 (3) EPÜ) mit allgemeiner Vollmacht Nr.:

For employees (Art. 133(3) EPC) with general authorisation No.:

Pour les employés (art. 133(3) CBE) disposant d'un pouvoir général n° :

--

Ort / Datum

Place / Date

Lieu / Date

--

Zeichen des Anmelders / Applicant's reference / Référence du demandeur

--

**Tabelle zu Feld 6
des Formblatts 1200.3**

**Table for section 6
of Form 1200.3**

**Tableau afférent
à la rubrique 6
du formulaire 1200.3**

Der Berechnung der Zusatzgebühr zugrunde zu legende Unterlagen (Art. 2, Nr. 1a, GebO):¹ /

**Documents on which the calculation of the additional fee is based
(Art. 2, item 1a, RFees):¹ / Pièces fondant le calcul de la taxe
additionnelle (art. 2, point 1bis RRT):¹**

		Seite(n) von ... bis ... ² Page(s) from ... to ... ² Page(s) ... à ... ²	Anzahl der Seiten ³ Number of pages ³ Nombre de page ³
Veröffentlichte Fassung der internationalen Anmeldung (mit etwaigen geänderten Ansprüchen nach Art. 19 PCT) / International application as published (with any amended claims under Art. 19 PCT) / Demande internationale telle que publiée (avec les éventuelles revendications modifiées en vertu de l'art. 19 PCT)	Beschreibung / description / description		
	Ansprüche / claims / revendications		
	Zeichnungen / drawings / dessins		
	Zusammenfassung / abstract / abrégé		1
Gesondert veröffentlichte geänderte Ansprüche nach Art. 19 PCT / Amended claims under Art. 19 PCT, where published separately / Revendications modifiées en vertu de l'art. 19 PCT, si elles ont été publiées séparément			
Änderungen nach Art. 34 PCT / Amendments under Art. 34 PCT / Modifications en vertu de l'art. 34 PCT	Beschreibung / description / description		
	Ansprüche / claims / revendications		
	Zeichnungen / drawings / dessins		
Beim Eintritt in die europäische Phase eingereichte Änderungen / Amendments filed on entry into European phase / Modifications présentées lors de l'entrée dans la phase européenne	Beschreibung / description / description		
	Ansprüche / claims / revendications		
	Zeichnungen / drawings / dessins		
Anzahl der Seiten insgesamt / Total number of pages / Nombre total de pages			
Gebührenfreie Seiten (Art. 2 Nr. 1a GebO) / Fee-exempt pages (Art. 2, item 1a, RFees) / Pages exemptes de taxes (art. 2, point 1bis RRT)			- 35
Anzahl der gebührenpflichtigen Seiten / Number of pages to be paid for / Nombre de pages soumises au paiement de la taxe			
(x 15 EUR pro Seite) / (x EUR 15 per page) / (x 15 euros par page)			
Zu entrichtender Gesamtbetrag Total amount payable Montant total exigible en euros		EUR	

Fußnoten

- 1 Zu Fällen, in denen die internationale Anmeldung nicht in einer Amtssprache des EPA veröffentlicht wurde, siehe die Mitteilung zur Ergänzung der Mitteilung des Europäischen Patentamts vom 26. Januar 2009 über die Gebührenstruktur 2009 (ABI. EPA 2009, 338).
- 2 In dieser Spalte sind nur die Seiten anzugeben, die der Berechnung der Zusatzgebühr (Art. 2, Nr. 1a GebO) zugrunde zu legen sind. Verbleibende Seiten/Teile der veröffentlichten Fassung der Anmeldung und/oder der gemäß Artikel 19 PCT und/oder Artikel 34 PCT geänderten Anmeldung, die zu ersetzen sind, sind nicht in dieser Spalte anzugeben.
- 3 In dieser Spalte ist nur die Zahl der Seiten anzugeben, die der Berechnung der Zusatzgebühr (Art. 2, Nr. 1a GebO) zugrunde zu legen sind.

Footnotes

- For cases where the international application has not been published in an official language of the EPO, see the Notice supplementing the Notice from the European Patent Office dated 26 January 2009 concerning the 2009 fee structure (OJ EPO 2009, 338).
- Only those pages to be taken into account for the calculation of the additional fee (Art. 2, item 1a, RFees) shall be indicated in this column. Any remaining pages/parts of the application as published and/or amended under Article 19 PCT and/or Article 34 PCT which are to be replaced shall not be indicated in this column.
- Only the number of pages to be taken into account for the calculation of the additional fee (Art. 2, item 1a, RFees) shall be indicated in this column.

Notes de bas de page

- Pour les cas à la demande internationale n'a pas été publiée dans une langue officielle de l'OEB, cf. Communiqué complétant le communiqué de l'Office européen des brevets, en date du 26 janvier 2009, relatif à la structure des taxes 2009 (JO OEB 2009, 338).
- Il convient de n'indiquer dans cette colonne que les pages devant être prises en considération pour le calcul de la taxe additionnelle (art. 2, point 1bis RRT). Si la demande telle que publiée et/ou modifiée au titre de l'article 19 PCT et/ou de l'article 34 PCT contient d'autres pages/parties qui doivent être remplacées, prière de ne pas mentionner les pages/parties en question dans cette colonne.
- Il convient de n'indiquer dans cette colonne que le nombre de pages devant être prises en considération pour le calcul de la taxe additionnelle (art. 2, point 1bis RRT).

Notes on EPA/EPO/OEB Form 1200 for entry into the European phase (EPO as designated or elected Office)

I. General instructions

These notes explain how to complete EPA/EPO/OEB Form 1200. To file international applications under the Patent Cooperation Treaty (PCT) Form PCT/RO/101 should be used. The appropriate form to request the grant of a European patent is EPA/EPO/OEB Form 1001.

The requirements for entry into the European phase are laid down in the European Patent Convention (EPC) and its Implementing Regulations. Further information on entry into the European phase can be obtained from the Guide for applicants Part 2 - PCT procedure before the EPO - Euro-PCT (6th edition, October 2012), in particular Section E - Euro-PCT procedure before the EPO as a designated (PCT Chapter I) or elected (PCT Chapter II) Office.

Forms and brochures

Forms, brochures, schedules of fees and legal texts can be downloaded from the EPO's website at www.epo.org.

Accelerated prosecution

For those seeking faster search or examination for their applications, the "PACE" programme for accelerated prosecution of European patent applications (OJ EPO 2010, 352) offers effective options for shortening the processing time. See also EPA/EPO/OEB Form 1005.

However, PACE requests filed before the end of the international phase will not be effective unless accompanied by an express request for early processing under Articles 23(2) or 40(2) PCT (see notice from the European Patent Office dated 21 February 2013 concerning the request for early processing, OJ EPO 2013, 156).

Entry into the European phase – Form 1200

Under Rule 159(1) EPC, on entry into the European phase before the EPO as designated or elected Office the applicant must perform the acts specified in Rules 159(1)(a) to (h) and 162(1) EPC within 31 months of the filing date or, if priority has been claimed, the (earliest) priority date.

Use of Form 1200 is recommended. The form should be typed or printed (Rule 50(2) EPC) to ensure that it is machine-readable.

If there is not enough space for the required information, an additional sheet should be filed,

indicating the number and heading (e.g. "2 - Additional representative(s)"; "6 - Documents intended for proceedings before the EPO") of each section continued in this way.

Filing of documents

Form 1200 and attachments must be filed direct with the EPO.

(a) Online

Form 1200, attached translations and amendments to the application documents may be filed in electronic form (OJ EPO 2009, 182). For more details go to www.epo.org. The online filing fee is less than the fee for filing in person, by post or by fax.

(b) By fax

The above documents may also be filed by fax. Confirmation on paper is required only if the EPO specifically requests it (see Special edition No. 3, OJ EPO 2007, A.3.).

(c) By post or in person

Form 1200 need only be filed in one copy. The same applies to attached translations and amendments to the application documents. Special rules apply to sequence listings (see II.9).

II. Filling in the form

The numbering below corresponds to the sections of the form.

1. Applicant

If on entry into the European phase the address, nationality, or country of residence or of place of business is missing for any applicant (as may occur under Rule 26.2bis(b) PCT), this information must be filed on a separate sheet.

An address for correspondence may be given only by applicants with **no representative** and having several different business addresses. The address must be the applicant's own and will not appear in either the Register of European Patents or EPO publications (see OJ EPO 1980, 397).

2. Appointment of representative (Articles 133 and 134 EPC)

Applicants not having their residence or principal place of business in an EPC contracting state must be represented by a professional representative and act through him in all

proceedings established by the EPC (Article 133(2) EPC).

3. Authorisation (Rule 152 EPC)

Under Rule 152(1) to (3) EPC in conjunction with the decision of the President of the EPO dated 12 July 2007, professional representatives who identify themselves as such are required to file a signed authorisation only in particular circumstances (see Special edition No. 3, OJ EPO 2007, L.1.). However, a legal practitioner entitled to act as professional representative under Article 134(8) EPC or an employee acting for an applicant under Article 133(3), first sentence, EPC who is not a professional representative must file a signed authorisation unless an authorisation which expressly empowers him to act in proceedings established by the EPC has previously been filed with the EPO as receiving Office.

If an association registered with the EPO is appointed as representative (Rule 152(11) EPC; see OJ EPO 2013, 535), the association's registered name and registration number must be indicated.

If an authorisation is required, the use of EPA/EPO/OEB Form 1003 is recommended for individual authorisations and EPO Form 1004 for general authorisations.

4. Request for examination (Articles 150(2), 94 and Rule 70 EPC)

4.1 First check-box

The request for examination is not deemed to be filed until the examination fee has been paid (Article 94(1) and Rule 70(1) EPC). The box for the request is pre-crossed in Section 4.1 of Form 1200.

4.1 Second check-box

Persons having their residence or principal place of business in an EPC contracting state with an official language other than English, French or German, and nationals of that state who are resident abroad, may file the request for examination in an admissible non-EPO language (Article 14(4) EPC).

For applicants who do so – and who also file a translation into the language of the proceedings – the examination fee is reduced by 30% provided they are an SME, natural person, non-profit organisation, university or public research organisation (Rule 6(4) EPC, Article 14(1) RFees).

Under Rule 6(6) EPC, applicants wishing to benefit from the fee reduction must declare that they are an entity or natural person covered by Rule 6(4) EPC. They must file this declaration at the latest by the time of payment of the fee in question, either by marking the relevant box in Section 14.1 of Form 1001 or separately (for this purpose, non-

mandatory Form 1011 is available from the EPO). If there are multiple applicants, for the reduction to apply each one must be an entity or a natural person within the meaning of Rule 6(4) EPC and entitled to file documents in an admissible non-EPO language (Article 14(4), Rule 6(3) EPC). For more details see the notice from the EPO dated 10 January 2014 concerning amended Rule 6 EPC and Article 14(1) RFees (OJ EPO, 2014, A23)

The request for examination is available in all admissible non-EPO languages on the EPO website.

The request for examination must be filed either up to six months from the date on which the international search report (or the declaration under Article 17(2)(a) PCT) was published (Article 153(6) EPC) or within 31 months from the filing date or, where applicable, the (earliest) priority date, whichever period ends later. In practice this means that as a rule it must be submitted by paying the examination fee within the 31-month period (Rule 159(1)(f) EPC) unless the international search report was published late.

4.2 Applicants who file the request for examination before receiving the supplementary European search report are asked by the EPO, after the search report has been sent, to confirm within a six-month period that they wish to proceed further with the application (Rule 70(2) EPC). Where the applicant also has to respond to the search opinion, his response is required within this same period (Rule 70a(2) EPC). To accelerate the procedure, in Section 4.2 he can waive his right to be asked for such confirmation, in which case confirmation is deemed to be given when the supplementary European search report is transmitted to him. With regard to the legal consequences, see the Guidelines for Examination in the EPO, C-VI, 1.1.2.

5. Additional copies of the documents cited in the supplementary European search report

One or more additional sets of copies of the documents cited in the supplementary European search report can be ordered (see Rule 65 EPC) against payment of the flat-rate fee(s).

6. Documents intended for proceedings before the EPO (Rule 159(1)(b) EPC) and response to the written opinion established by the EPO (Rule 161(1) EPC)

When an application enters the European phase the applicant must specify the application documents, as originally filed or as amended, on which the European grant procedure is to be based (Rule 159(1)(b) EPC). Section 6 covers normal cases, and makes clear that the applicant intends to proceed with either

- the **published documents** (including any amended claims filed with the International

Bureau under Article 19 PCT), in proceedings before the EPO as **designated Office** without PCT Chapter II (Section 6.1), or

- the documents on which the **international preliminary examination report is based**, in proceedings before the EPO as **elected Office** under PCT Chapter II (Section 6.2).

The applicant may however indicate that amended documents filed on entry into the European phase are to form the basis for the grant procedure.

For Euro-PCT applications where a communication under Rule 161 EPC was not issued by 1 April 2010 and where a supplementary European search report will not be prepared, the following applies (see the Guidelines for Examination in the EPO, C-VI, 3.5.1 for details):

Where the EPO has acted as the International Searching Authority (ISA) and, if a demand under Article 31 PCT was filed, also as the International Preliminary Examining Authority (IPEA), or as the Supplementary International Searching Authority (SISA), the applicant will be required to respond to any negative written opinion (WO-ISA) prepared by the EPO as ISA, or, where applicable, to the negative international preliminary examination report (IPER) prepared by the EPO as IPEA, or to the objections raised in the explanations given in the Supplementary International Search Report (SISR) under Rule 45bis.7(e) PCT, as the case may be. The time limit for response is six months from the invitation under Rule 161(1) EPC as in force from 1 May 2011 (see OJ EPO 2010, 634). Failure to respond in due time will lead to the application being deemed to be withdrawn (Rule 161(1) EPC).

New amendments (Rule 159(1)(b) EPC) and/or comments which are filed on entry into the regional phase before the EPO will be considered to constitute a response to the WO-ISA, or to the IPER or the explanations given in the SISR, as the case may be, if the applicant indicates on Form 1200 that such amendments and/or comments are to form the basis for further prosecution of the application. Similarly, amendments under Article 19 and/or 34 PCT filed in the international phase and maintained on entry into the European phase by making the appropriate entries on Form 1200 may constitute a response, subject to certain requirements (see the Guidelines for Examination in the EPO, C-VI, 3.5.1 for details).

The applicant must therefore clearly indicate the documents which are to form the basis for further prosecution of the application by crossing the appropriate boxes in Section 6.1 or 6.2 as applicable.

In all cases, the applicant should specify in the **table on page 7** of Form 1200 the documents which are to be used for the European phase and therefore form the basis for calculation of any additional fee. Any exceptional circumstances which may need further explanation must be clarified on an **additional sheet**.

The applicant can also amend the application within a non-extendable period of six months from a communication (Forms 1226AA, 1226BB, 1226CC) informing him accordingly (Rule 161(1) or (2) EPC). If this reduces the number of claims, any claims fees paid in excess of those due are refunded (Rule 162(3) EPC).

Pages of amendments filed during the six-month period under Rule 161 EPC are not taken into account in the calculation of the additional fee as part of the filing fee. Consequently, if amendments are filed at this stage which reduce the number of pages already paid for, no refund of the additional fee will be made.

If application documents filed on entry into the European phase contain handwritten amendments, an invitation to remedy this deficiency will be issued, and in case of non-compliance the application will be refused (see notice from the European Patent Office dated 8 November 2013 concerning application of Rules 49 and 50 EPC to handwritten amendments, OJ EPO 2013, 603).

Whenever amendments are filed, the applicant must identify them and indicate the basis for them in the application as filed (Rule 137(4) EPC) (see the Guidelines for Examination in the EPO, C-VI, 5.7). If he fails to do so, the examining division may issue a communication under Rule 137(4) EPC requesting the correction of the deficiency within a non-extendable period of one month. If he then fails to reply within that period, the application will be deemed to be withdrawn under Article 94(4) EPC. If the applicant has supplied **test reports** in proceedings before the EPO as International Preliminary Examining Authority, the EPO assumes that it may also use them in the European grant proceedings.

6.3 Copies of the search results (Rule 141(1) EPC)

For each of the previous applications whose priority is claimed a copy of the search results produced by the authority with which the application was filed (Rule 141(1) EPC) has to be supplied. This obligation applies to European patent applications and international applications filed on or after 1 January 2011 (see OJ EPO 2010, 410, OJ EPO 2011, 64 and OJ EPO 2013, 217). Thus, an international application filed before but entering the European phase on or after 1 January 2011 does not fall under amended Rule 141(1) EPC.

This box is to be crossed only if the copies of the documents are indeed supplied when filing the Form for entry into European phase. If, however, a copy of the search results is included in the file by the EPO, no action is required on the part of the applicant (see OJ 2010, 600, OJ EPO 2011, 62 and OJ EPO 2013, 216)

6.4 Waiver of communication pursuant to Rules 161 and 162 EPC

The time limits under Rules 161 and 162 EPC have been extended **from one month to six months** (see Decision of the Administrative Council of 26 October 2010 amending the Implementing Regulations to the EPC, OJ EPO 2010, 634).

In order to accelerate the European grant procedure the applicant can, in addition to a "PACE" request, explicitly **waive his right to the communication under Rules 161(1) or (2) and 162 EPC** by crossing this box.

The EPO will not issue a communication under Rules 161(1) or (2) and 162 EPC only if, in addition to the "waiver", on entry into the European phase the applicant has also fulfilled all the requirements of Rules 161 and 162 EPC (i.e. payment of any claims fees due and, where required, submission of a response under Rule 161(1) EPC) for the application to proceed directly to the supplementary European search or to examination. To accelerate the processing of the application further, the applicant can request accelerated search or examination under the PACE programme (cf. Notice from the EPO dated 4 May 2010 concerning the programme for accelerated prosecution of European patent applications – "PACE", OJ EPO 2010, 352).

Where the right to the communication under Rules 161(1) or (2) and 162 EPC has not been validly waived, the communication will be issued and the application will be processed only after expiry of the six-month period provided for under those rules, even if a request under the PACE programme has been filed.

See also Notice from the EPO dated 5 April 2011 concerning updated Form 1200 (entry into the European phase) and the possibility to waive the right to the communication under Rules 161(1) or (2) and 162 EPC (OJ EPO 2011, 354).

7. Translations

7.1 Translation of the application

If the international application was **not** published in an EPO official language, the applicant must furnish the EPO with a translation of that application in such a language within 31 months of the filing date or, where applicable, the (earliest) priority date.

The EPO proceedings will then be conducted in the language of the translation. The translation must include the description, the claims as originally filed, any text in the drawings, and the abstract. It must also include the claims as amended under Article 19 PCT if the applicant wishes subsequent proceedings to be based on them (Rule 49.5(c) and (c-bis) PCT), together with any explanatory statement, as well as all indications under Rule 13bis.3 and 13bis.4 PCT and all published requests for rectification (Rule 91.3(d) PCT).

7.2 Translation of the priority application

Under Rule 53(3) EPC, a translation of the previous (priority) application (or a declaration that the European patent application is a complete translation of the previous application) need only be filed at the request of the EPO (see also OJ EPO 2013, 150).

The Rule 53(3) declaration can be made by crossing the relevant box in Section 7.3, in which case no invitation to file a translation of the priority application will be issued later.

7.5 Translation of annexes

Where **PCT Chapter II** applies, the applicant must prepare and file translations of all annexes to the international preliminary examination report (Article 36(2)(b) and (3)(b), Rule 74.1 PCT), regardless of whether he is seeking patent protection for the same version of the application documents as was the subject of that report.

8. Biological material

To enable the EPO to check compliance with Rule 31 EPC, the receipt issued by the depositary institution is to be submitted to the EPO. Applicants are strongly advised to submit the receipt when filing this form or at the latest within 31 months of the filing date or, where applicable, the (earliest) priority date.

Waiver under Rule 33(1) and (2) EPC

The applicant may waive his right under Rule 33(1) and (2) EPC to an undertaking from the requester to issue a sample of the biological material, provided that he is the depositor of the biological material concerned. This waiver must be expressly declared to the EPO in the form of a separate, signed statement. It must specify the biological material concerned (depositary institution and accession number or depositor's reference number as shown in the application documents). It may be submitted at any time.

9. Nucleotide and amino acid sequences

9.1 If the application discloses one or more nucleotide and/or amino acid sequences, a sequence listing in electronic form complying with the Administrative Instructions under the PCT (WIPO Standard ST.25) is normally available to the EPO

as designated/elected Office if such sequence listing was contained in the international application in accordance with Rule 5.2(a) PCT, furnished to the EPO as International Authority under Rule 13ter.1(a) PCT, or otherwise made available to it, e.g. by WIPO.

- 9.2** If the application discloses one or more nucleotide and/or amino acid sequences and a sequence listing in electronic form complying with the Administrative Instructions under the PCT (WIPO Standard ST.25) is not available to the EPO as designated/elected Office, such sequence listing must be filed in that form on entry into the European phase; otherwise, a late furnishing fee is payable. For further information, see Rules 163(3) and 30(3) EPC, as well as the decision of the President of the EPO dated 28 April 2011 and the notice from the EPO dated 18 October 2013 concerning the filing of sequence listings (OJ EPO 2011, 372 and OJ EPO 2013, 542).

Under Section 9.2, the applicant should also declare that the information recorded on the electronic data carrier is identical to the sequence listing (or sequences) disclosed in the application as filed.

10. Designation of contracting states

All the contracting states designated in the international patent application and party to the EPC at the time of its filing are deemed to be designated (see Article 79(1) EPC). Thus the EPC contracting states that can be validly designated on entry into the European phase are already specified in the international phase (Rule 4.9(a) PCT). For international applications entering the regional phase on or after 1 April 2009, payment of the flat-rate designation fee covers all EPC contracting states, unless individual designations are expressly withdrawn (Article 2, item 3, Rules relating to Fees) (cf. OJ EPO 2009, 118).

11. Extension and validation of European patents

- 11.1** The application and the European patent granted in respect of it are extended, in accordance with Section 11 of Form 1200, to those non-EPC contracting states designated for a national patent in the international application with which "extension agreements" existed at the time of filing of the international application (as at October 2010: Bosnia and Herzegovina and Montenegro).

The request for extension for a state is deemed withdrawn if the extension fee is not paid to the EPO within the time limit laid down in the EPC for paying the designation fee (Rule 159(1)(d) EPC) (for further details, see the Guidelines for Examination in the EPO, A-III, 12, and the EPO's notice dated 2 November 2009 concerning the re-introduction of a grace period for the payment of extension fees, OJ EPO 2009, 603).

Detailed information about the extension system was published in OJ EPO 1994, 75, and 1997, 538.

- 11.2** Validation of European patent applications and the resulting European patents may be requested for countries with which the EPO has validation agreements. The EPO publishes the necessary information about such agreements in its Official Journal in good time before their entry into force.

12. Automatic debit order

See Arrangements for the automatic debiting procedure, and information from the EPO concerning the automatic debiting procedure (supplementary publication 4, OJ EPO 2014).

13. Refunds

Any refunds due to an applicant who has a deposit account with the EPO may be credited to that account. An applicant who wishes this to be done must indicate the account number and the account holder's name in this section. If the account is held by a **representative**, refunds will be made to him. Refunds will not be made to third-party payers, except for the fee for file inspection or at the explicit request of a party to proceedings.

See also Guidelines for Examination in the EPO, A-X, 10.4

III. Notes on payments

General information on fees

Fees can be paid online using the EPO's Online Fee Payment service. Offline fee payments by debit order should be made using EPO Form 1010, which has become mandatory as from 1 April 2014 (see point 6.2 of the Arrangements for deposit accounts, supplementary publication 4, OJ EPO 2014).

For the fee amounts, see the applicable legal provisions, as cited in the "Guidance for the payment of fees, costs and prices" which is published regularly in the EPO's Official Journal.

Fee information is also published on the EPO website at www.epo.org.

The list of the European Patent Organisation's euro accounts is published in every issue of the Official Journal. It too can be consulted on the EPO website at www.epo.org.

Table for Section 6 of Form 1200.3

The table is used for calculating the additional fee (Article 2, item 1a, RFees). For further information see the EPO's notice dated 26 January 2009 concerning the 2009 fee structure (OJ EPO 2009, 118), its supplementary notice thereto (OJ EPO 2009, 338) and the Guidelines for Examination in the EPO, September 2013, A-III, 13.2.

Annex XII

EPO Form 1010 Payment of fees and expenses



Europäisches
Patentamt
European
Patent Office
Office européen
des brevets

Payment of fees and expenses

European Patent Office
Treasury and Accounting
80298 München
Germany
Fax +49(0)89 2399-4465

Please complete in typescript only

Name of payer

Payer's reference

--

Address

Mode of payment*

☐ Bank payment/
transfer to¹

Name of EPO recipient bank

--

☐ Debit from deposit
account with the
EPO is requested²

Deposit account No.

--

Patent application/patent No. (please use a separate form for each application)

EP	
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PCT	
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Code		Amount/EUR
001	Filing fee – EP direct ³	
501	Additional fee (more than 35 pages)	
020	Filing fee – entry EP phase ³ (Rule 159(1)(c) EPC)	
520	Additional fee (more than 35 pages) – entry EP phase	
	Additional fee for divisional applications (Rule 38(4)EPC) ⁹	
002	Fee for a European search	
055	Additional copy of docs cited in search report	
015	Claims fee(s) (Rules 45(1), 162(1)EPC) ⁵	
005	Designaton fee(s) ⁴	
006	Examination fee	
122	Fee for further processing (non-fee related cases)	
123	Fee for further processing (late payment of a fee)	
007	Fee for grant and printing or fee for grant incl. fee for publication ⁶	
008	Additional printing fee for 36th and each subsequent page ⁷	
016	Claims fee according to Rule 71(6) EPC ⁵	
121	Fee for further processing (late performance of acts R. 71(3))	
022	Registering of transfer	

Code		Amount/EUR
010	Opposition fee	
011	Fee for appeal	
029	Certified copy of application; priority document	
033	Renewal fee for the 3rd year	
034	Renewal fee for the 4th year	
035	Renewal fee for the 5th year	
036	Renewal fee for the 6th year	
	Validation for ⁸ _____	

	Extension for ⁸ _____	

Notes 1 - 9 see overleaf.

Total

0.00

Signature (handwritten / no block letters)

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Place, Date

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Fee codes

001 = Filing fee – European patent application
002 = Search fee in respect of a European or supplementary European search
003 = Search fee in respect of an international search
005 = Designation fee for each Contracting State designated
006 = Examination fee
007 = Fee for grant may include fee for printing the European patent specification – see note 6
008 = Additional fee for printing the European patent specification (more than 35 pages) – see note 7
009 = Fee for publishing a new specification of the European patent (Rule 82(2), Rule 95(3) EPC)
010 = Opposition fee
011 = Fee for appeal
013 = Fee for re-establishment, reinstatement, restoration (EPC, PCT)
015 = Claims fee for the sixteenth and each subsequent claim (Rule 45(1), Rule 162(1) EPC) – see note 5
016 = Claims fee according to Rule 71(6) EPC – note 5 applies
017 = Fee for the awarding of costs
018 = Fee for the conservation of evidence
019 = Transmittal fee for an international application
020 = Filing fee – entry EP phase (Rule 159(1)(c) EPC)
021 = Fee for the preliminary examination of an international application
022 = Registering of transfer
023 = Registering of licences and other rights
024 = Cancellation of entry in respect of licences and other rights
025 = Duplicate copy of the European patent certificate
026 = Extract from the European Patent Register
027 = Inspection of the files of a European patent application
029 = Issue of a certified copy of a European patent application or an international application; priority documents
030 = Communication of information contained in the files of a European patent application
031 = Issue of receipts by fax
033 = Renewal fee for the 3rd year
034 = Renewal fee for the 4th year
035 = Renewal fee for the 5th year
036 = Renewal fee for the 6th year (and further years)

055 = Additional copy of the documents cited in the European search report
056 = Surcharge payable under Rule 82(3), Rule 95(3) EPC
059 = Postage and sundry communication expenses
060 = Fee for a technical opinion
061 = Surcharge under Article 7(3)(b) RFees
062 = Protest fee
063 = Late payment fee (Rule 16bis.2 PCT)
064 = Late payment fee (Rule 58bis.2 PCT)
066 = Fee for late furnishing of sequence listings (Rule 13ter.1, 13ter.2 PCT)
067 = Fee for late furnishing of a sequence listing (Rule 30(3) EPC)
080 = Certification of other documents

093 = Additional fee for the renewal fee/3rd year
094 = Additional fee for the renewal fee/4th year
095 = Additional fee for the renewal fee/5th year
096 = Additional fee for the renewal fee/6th year (and further years)

111 = Fee for petition for review
121 = Fee for further processing (late performance of acts under Rule 71(3) EPC)
122 = Fee for further processing (non-fee-related cases)
123 = Fee for further processing (late payment of a fee)
131 = Limitation fee
141 = Revocation fee

Extension fees for:
400 = Surcharge for extension fee
401 = Slovenia (SI)

402 = Lithuania (LT)
403 = Latvia (LV)
404 = Albania (AL)
405 = Romania (RO)
406 = Former Yugoslav Republic of Macedonia (MK)
407 = Croatia (HR)
408 = Bosnia and Herzegovina (BA)
409 = Serbia (RS)
410 = Montenegro (ME)

501 = Additional fee if European patent application contains more than 35 pages
520 = Additional fee if the patent application contains more than 35 pages – entry EP phase
552 = Additional fee for divisional application 2nd generation
553 = Additional fee for divisional application 3th generation
554 = Additional fee for divisional application 4th generation
555 = Additional fee for divisional application 5th generation or subsequent generation

PCT fees in EUR fixed by WIPO:
222 = Charge per sheet in excess of 30 (part of international filing fee)
224 = Handling fee
225 = International filing fee
318 = PCT-PDF reduction
319 = PCT-XML reduction

Notes

- 1 Fee payments to EPO bank accounts must be made in EUR and transferred without charge to the payee.
On the bank transfer, the payer must give the following payment-reference information:
 - patent application number
 - fee code(s)Examples: <EPXXXXXXXX.X, codes XXX, XXX>,
<PCT USXXXXXXXXXX, codes XXX, XXX, XXX>
Payers are strongly recommended to make separate transfers for each application, to ensure, in accordance with Article 6(1) of the Rules relating to Fees (RFees), that the payment-reference field gives all relevant data to enable the Office to establish immediately the purpose of payment.
- 2 Debits from deposit accounts held with the EPO may only be made in EUR.

For notes 3 to 7 see also OJ EPO 2/2009, 118 and Schedule of fees.

- 3 For European patent applications filed/international applications entering EP phase from 1.4.2009: an additional fee is payable as part of the filing fee if the application comprises more than 35 pages (fee codes 501 and 520 respectively).
- 4 European patent applications filed/international applications entering EP phase **before 1.4.2009**: contracting states to be specified only if they differ from any indicated in box 31.1 of EPO Form 1001 (Request for grant) or in box 10.1 of EPO Form 1200 (Entry EP phase).
European patent applications filed/international applications entering EP phase **from 1.4.2009**: flat designation fee covers all Contracting States designated.
- 5 European patent applications filed/international applications entering EP phase **from 1.4.2009**: higher amount applies for each claim above 50.
- 6 European patent applications filed/international applications entering EP phase **before 1.4.2009**: fee for grant includes fee for printing specification if not more than 35 pages; European patent applications filed/international applications entering EP phase **from 1.4.2009**: fee for grant and publishing applies irrespective of number of pages of specification.
- 7 For European patent applications filed/international applications entering EP phase **before 1.4.2009**.
- 8 When extension or validation fees are paid, the states for which they are intended must be specified, using the abbreviation code of the state.
- 9 For divisional applications filed **on or after 1 April 2014**, the Rules relating to Fees provide for an additional fee, as part of the filing fee, in the case of a divisional application filed in respect of any earlier application which is itself a divisional application (Rule 38(4) EPC, Article 2, item 1b RFees).

*Online Fee Payment

Pay fees and view your deposit account online?
See www.epoline.org for more information.

The list of European Patent Organisation bank accounts is published in the Official Journal of the EPO. It can also be found, with further fees information, including the complete list of fee codes, on the EPO website at <http://www.epo.org> (under Patents, Grant procedure).

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