

International Patent Cooperation Union (PCT Union)

Assembly

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QUALITY MANAGEMENT SYSTEMS FOR THE PCT INTERNATIONAL AUTHORITIES

Document prepared by the International Bureau

SUMMARY

1. Reports from each of the International Searching and Preliminary Examining Authorities are publicly available on the PCT website, setting out how the Authorities have implemented and developed their quality management systems in accordance with Chapter 21 of the PCT International Search and Preliminary Examination Guidelines. The International Authorities have increased their efforts to improve quality management systems and quality of work products.

QUALITY REPORTS

2. At the start of 2010, each of the active International Authorities as well as the Egyptian Patent Office and the Israel Patent Office (which have been appointed as International Authorities but have not yet commenced operations) submitted a quality report indicating what improvements had been made to its quality management systems in the course of 2009. These reports are available from the WIPO website at www.wipo.int/pct/en/quality/authorities.html.

RECENT DEVELOPMENTS

3. At the 17th session of the Meeting of International Authorities, held in Rio de Janeiro, Brazil in February 2010, the International Authorities discussed the quality reports and a variety of matters relating to quality management systems, as outlined in paragraphs 16 to 35 of the report of the session (document PCT/MIA/17/12) as follows:

“QUALITY FRAMEWORK

“Review of Annual Reports

- “16. Discussions were based on paragraphs 2 and 3 of document PCT/MIA/17/8, and the reports on quality management systems referred to in those documents.
- “17. One Authority commented that the annual reports were becoming increasingly interesting as Authorities’ experience with quality management systems and the reports themselves increased. Some of the points where further information was sought included:
- “(a) in respect of a patent examiner competency program, the details of how the training needs of examiners were being monitored;
 - “(b) an investigation into reports where only “A” category citations had been made showed that these reports were more likely than others to be found deficient – in this case, the relevant Authority observed that it was looking into the possibility of having such cases reviewed by a further examiner before a report was established;
 - “(c) details of the work of a quality task force;
 - “(d) whether a new checklist for international preliminary examination reports dealt with the substantive requirements of such reports or only with the formalities – the relevant Authority clarified that the checklist covered both substantive and formal issues.
- “18. The Meeting agreed that the International Authorities’ annual reports on their quality management systems should again be published and that this fact should be reported to the Assembly.

“Templates for Future Annual Reports

- “19. Discussions were based on paragraphs 4 and 5 and Annexes I and II of document PCT/MIA/17/8.
- “20. The European Patent Office introduced the proposed templates, recalling that the first reports on quality management systems had been very diverse in content and difficult to compare. This situation had been improved by the introduction of the existing templates. The proposed new templates aimed both to reflect the new layout and content of Chapter 21 of the International Search and Preliminary Examination Guidelines as expected to come into force shortly and to introduce further structure aimed at assisting comparison of reports. The Office stated that it should not be considered necessary to follow the format rigidly in all cases where this was not appropriate, but merely be used as an aid to ensuring that other Offices could use the reports effectively.
- “21. One Authority welcomed the templates but noted that they addressed the formal aspects of quality management and did not deal with the question of the quality of the actual search reports and written opinions. The Authority hoped that this aspect would also be addressed.

- “22. Two Authorities noted that the templates proposed by the European Patent Office included questions which were a great deal more specific than in the current templates. They expressed particular concern about the items corresponding to paragraphs 21.09, 21.18(d), 21.24(a)(iv), 21.22(b) and 21.23(h), which went into matters which appeared to go beyond what was clearly required by the new version of Chapter 21 of the PCT International Search and Preliminary Examination Guidelines.
- “23. The Meeting agreed that future reports should be established using the templates as shown in Annexes I and II of document PCT/MIA/17/8, subject to the understanding that it was not essential for Authorities to complete all items within the template or to follow those formats rigidly in cases where they did not consider this appropriate.

“Creation and Mandate of a Quality Subgroup

- “24. Discussions were based on paragraphs 6 to 11 of document PCT/MIA/17/8.
- “25. The International Authorities observed that quality was fundamental to most of the main issues facing the PCT at the moment. The Authorities faced a wide variety of different problems but could nevertheless learn a great deal from each other. Most of the Authorities considered that more effective discussion between Authorities was required outside of the formal sessions of the Meeting. However, if a quality subgroup was to be set up, it was important that it should have clear tasks and deadlines.
- “26. One Authority considered that the Meeting itself, rather than a subgroup, should continue to consider quality issues rather than moving the subject to a subgroup. Another Authority considered that it was important to address not only the procedural aspects of quality management but the evaluation of the quality of the results being delivered.
- “27. It was hoped that most of the work could be done without physical meetings, for example, using electronic fora and video conferencing. Some of the Authorities considered that a physical meeting might be beneficial, but it was noted that this would be very expensive and it would be essential to have a clear and useful agenda if this was to happen. The Swedish Patent and Registration Office offered to host a meeting in or around October 2010 if this was considered appropriate.
- “28. The Meeting agreed:
- “(a) that one of the main objectives of the PCT system as a work sharing tool was to provide high quality international search and examination reports which were of the greatest possible value to applicants, third parties and designated and elected Offices in determining whether an international application met the main requirements of patentability in accordance with the different national laws of the various Contracting States;
 - “(b) that the purpose of the common quality framework set out in Chapter 21 of the PCT International Search and Preliminary Examination Guidelines was to ensure that International Authorities set up appropriate systems to ensure that their work resulted in such high quality international reports, consistent with the objectives of and the requirements under the PCT; and
 - “(c) that confidence in the high quality of international search and examination reports established by International Authorities was essential to the effective use of those reports by designated and elected Offices to assist in reducing costs, workload and unnecessary duplication of work and increasing the quality of patents granted by those Offices.

- “29. The Meeting agreed that such confidence would be best served by an effective evaluation of the value of international reports for the purposes of assisting national phase processing. As a first step towards that goal, the Meeting agreed that a quality subgroup should be convened, which should use an electronic forum as its main means of discussion, but may agree to physically meet, if deemed appropriate. The International Bureau agreed to provide secretarial support for such a meeting if it was held. The quality subgroup should have the following initial tasks:
- “(a) by the end of February 2010, the International Bureau should set up an electronic forum and each International Authority should nominate one main member and optionally additional members to participate in the subgroup;
 - “(b) by the end of March 2010, the members of the subgroup should confirm whether the forum is suitable for discussion of quality issues and the International Bureau should test with each International Authority means for “virtual” meetings (such as “webinars”) to support interactive discussion sessions between some or all participants;
 - “(c) by the end of July 2010, the subgroup should identify detailed information content requirements for an electronic quality feedback system to be developed (see paragraphs 30 to 35, below) which would both be likely to be used by designated Offices and be useful for assisting International Authorities in reviewing and improving the quality of their work (subject to any recommendations concerning this matter agreed upon by Member States in the third session of the PCT Working Group);
 - “(d) by the end of September 2010, each International Authority should establish a report on their quality management system using the new templates agreed by the Meeting;
 - “(e) by the end of December 2010, the subgroup should review the quality reports submitted by International Authorities and prepare a report for the next session of the Meeting, covering:
 - “(i) effective processes and solutions for quality assurance; and
 - “(ii) effective quality improvement measures.

“Quality Feedback Systems

- “30. Discussions were based on document PCT/MIA/17/3.
- “31. The International Authorities all supported the principle of developing a system allowing effective quality feedback from designated Offices to International Authorities. One Authority noted that it had already implemented such a system locally, but that a single centralized system which could be used by any designated Office for any International Authority should be significantly more effective.
- “32. One Authority observed that such a system would aim to achieve two goals: to give feedback to improve the quality of future international reports, and to give additional information to designated Offices to improve the national phase processing of specific international applications.
- “33. The Authorities agreed that there were strong similarities to the requirements of a third party observation system and that it might be appropriate to use the same basic infrastructure, subject to the need to define exactly what types of information should be passed and the separation of information which was important to make available to all designated Offices (such as new citations found on a particular international application) from comments which it might be appropriate to retain as private feedback available only to the relevant International Authority.

- “34. Authorities also emphasized the need to ensure that the system did not represent a burden to examiners. It was likely that the best means for response in most cases would be to automatically forward or make reference to the content of a national phase search report without the need for examiners to make specific comment. No response should be expected to feedback on individual international applications, indeed some Authorities noted that under their law it would not be appropriate for examiners to respond to feedback on individual international applications. One Authority stated that such a system should be regarded as a tool for improving quality rather than as an attempt to evaluate quality.
- “35. The Meeting agreed that the International Bureau should continue to develop proposals for further consideration by the PCT Working Group and that the quality subgroup should consider the information content which would need to be passed by such a system (see paragraph 29(c), above).”
4. As was stated by the Secretariat in the PCT Working Group (paragraph 12 of document PCT/WG/3/14, reproduced in the Annex of document PCT/A/41/1), the creation of the quality subgroup (paragraphs 28 and 29 of the extract of the report above) is considered to represent an important step in the efforts to improve the quality of international search and preliminary examination reports.

5. *The Assembly is invited to take note of the content of this document.*

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