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**PATENT COOPERATION TREATY**

**INTERIM ADVISORY COMMITTEE FOR ADMINISTRATIVE QUESTIONS**

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COMPATIBILITY AND CONSISTENCY OF THE SOLUTIONS  
ENVISAGED IN THE FRAMEWORK OF THE PCT AND THE  
EUROPEAN PATENT ORGANISATION

Report prepared by the International Bureau

INTRODUCTION

Background of this Document

1. The PCT Interim Advisory Committee for Administrative Questions (hereinafter referred to as "the Interim Committee"), at its fifth session, held in Geneva in November 1974, requested that the International Bureau review the compatibility and consistency of solutions envisaged within the framework of the Patent Cooperation Treaty (PCT) and the European Patent Organisation (EPO), as far as questions within the jurisdiction of the Interim Committee are concerned.

Purpose of this Document

2. This document is designed to report on the compatibility of the solutions envisaged in the PCT and the EPO and on the major activities presently taking place within the framework of the Interim Committee of the EPO which are within the jurisdiction of this Interim Committee.

Contents of this Document

3. This document first considers the compatibility between some of the major provisions of the PCT and the European Patent Convention (hereinafter referred to as the EPC).

4. This document then deals with the relevant activities within the framework of the Interim Committee of the EPO. It apprizes the PCT Interim Committee in particular of the work being carried out by the Working Parties of the EPO, the activities of which are of interest for this Interim Committee, in implementing work preparatory to the start-up of the EPO and considers the compatibility of the results of such work and of the solutions envisaged with the PCT.

5. For the purpose of this Interim Committee, the compatibility of the provisions of the EPC and the PCT has been treated in two general categories of provisions, i.e., (1) the provisions relating to the form and contents of the application and (2) the provisions relating to the processing of the application.

6. As some of the major provisions of the EPC under comparison may not be as well-known to this Interim Committee as the counterpart PCT provision, they have been reproduced in Annex A, whereas only a reference will be made to the counterpart PCT provision. With respect to the full text of the provisions of the EPC, the Interim Committee is referred to the readily available February 1974 issue of Industrial Property.

7. Furthermore, a concordance list of the provisions of the EPC and the PCT presented in Annex B to this document may provide this Interim Committee with a useful tool to facilitate correlation of a particular EPC provision with that of the PCT.

#### Harmonization of the PCT and EPC in General

8. The EPC and the supporting texts adopted by the Munich Diplomatic Conference, in particular the Implementing Regulations to the Convention on the Grant of European Patents (Regulations) and the Protocol on the Centralization of the European Patent System and on its Introduction (Protocol on Centralization) have, in all cases where parallel provisions or situations exist under the PCT, been largely adapted to the solutions found for the PCT; in a number of cases the parallel provisions are even identical. This is particularly true for the formal requirements of the patent application, where the provisions both of the Convention itself and of the Regulations are almost identical with those of the PCT. The provisions on time limits in both treaties are harmonized in such a way that a combination of the PCT procedure with the European patent procedure will present no difficulties. Already this far-reaching general harmonization will particularly facilitate the parallel use of both treaties by the applicants and the competent authorities.

9. The desire of the signatories of the EPC to harmonize the new treaty with both the Paris Convention and the PCT is brought to the forefront in the preamble of the EPC, where it is stated that the EPC constitutes a special agreement constructed within the framework (within the meaning of Article 19) of the Paris Convention and a regional patent treaty within the meaning of Article 45(1) of the PCT.

#### Advantages of Harmonization

10. It is to be noted that under the PCT designated Offices must apply the provisions of the PCT to international applications. Consequently, by harmonizing national law or, in the case of the EPC, the regional treaty with the PCT, the inconvenience for a designated Office that it must apply two different sets of procedural provisions depending on whether it is processing an international application or a national application, can be largely avoided. The high degree of harmonization achieved between PCT and EPC will therefore certainly facilitate the work of the EPO.

11. The requirements as to form and content of the European application are almost identical with those of the international application. This is a benefit not only to the EPO, as stated above, but also to the European applicant as he can easily draft his applications in a way compatible with both Treaties.

12. The processing of the European application as concerns the formal examination is very similar to the formal processing of an international application. Consequently, the EPO will perform similar functions as receiving Office under the PCT for international applications filed with it as for the European patent applications it will process under the EPC.

COMPATIBILITY OF PROVISIONS RELATING TO  
FORM AND CONTENTS OF THE APPLICATION

Requirements of the Application

13. The requirements for form and contents of the European patent application provided for in Article 78(1) EPC are harmonized with the requirements as set forth in Article 3(2) PCT. In this connection, Article 78(1) parallels its counterpart Article 3(2) PCT as the same elements comprise the European application. (See Article 78(1) EPC, Annex A).

Request

14. The contents of the request under Rule 26 EPC are essentially those set forth in Rule 4 for the PCT request. A slight variance exists as to the standards for drafting the title of the invention under Rule 26(2)(b) EPC and those set forth under Rule 4.3 PCT. In this respect, the standard under Rule 26(2)(b) EPC includes the words "technical designation of the invention", whereas the standard under Rule 4.3 PCT includes the words "short and precise". However, in practice, it can be expected that these two standards will reach the same end. (See Rule 26(2)(b) EPC, Annex A).

Description

15. It is to be noted that Rule 27 EPC is closely harmonized with the contents of the description provided for in Rule 5 PCT. The sole variance is to be found in Rule 27(f) EPC where the drafters of the EPC felt that for the European context it would be too limiting to restrict the disclosed invention to the "best mode" as provided for in PCT Rule 5.1(a)(v). Consequently, "one way of carrying out the inventions claimed" would suffice. (See Rule 27 EPC, Annex A). For PCT applications therefore the stricter PCT requirement is applicable.

Claims

16. The contents of the provisions governing the claims under Rule 29 EPC are essentially those of the PCT. However, for the characterizing portion, European claims under Rule 29(1)(b) EPC are to be limited to the expressions "characterized in that", or "characterized by" (see Rule 29 EPC, Annex A). PCT claims under Rule 6.3 (b)(ii) are broader in this respect by permitting, "wherein the improvement comprises," or any other words to the same effect.

17. It is to be noted that Rules 29(2) and (3) EPC contain the essence of Rules 13.3 and 13.4 PCT. In addition, Rule 29(5) EPC, taken together with Rule 13.4 PCT, indicates that a reasonable number of dependent claims is permitted. These provisions regarding claims were placed with the implementing regulations of the EPC pertaining to claims rather than with those pertaining to unity of invention, as was done in the PCT. Consequently, the EPC solution remains well harmonized with the PCT solution although set forth in a slightly different manner.

18. Rule 29(4) EPC is not restricted to multiple dependent claiming in the alternative only as PCT provides in Rule 6.4(a). For PCT applications, the stricter PCT requirement is applicable.

Drawings

19. The provisions governing the form of the drawings under Rule 32 EPC are harmonized with those of the PCT set forth in Rule 11. (See Rule 32 EPC, Annex A).

Abstract

20. Except for the indication of the title of the invention as required in Rule 33(1) EPC, the form and contents of the abstract are closely harmonized with Rule 8 PCT. (See Rule 33 EPC, Annex A).

Presentation of the European Application

21. The provisions governing the physical requirements of the European patent application in Rule 35 EPC are closely harmonized with the requirements prescribed for the international application in Rules 10 and 11 PCT. (See Rule 35 EPC, Annex A).

PREPARATORY WORK OF WORKING PARTIES I AND III OF THE  
INTERIM COMMITTEE OF THE EPO RELATING TO THE FORM  
AND CONTENT OF AN APPLICATION

Activities of the EPO Interim Committee

22. The Diplomatic Conference for the setting up of a European system for the grant of patents concluded with the adoption of the EPC signed on October 5, 1973 (see document PCT/AAQ/IV/6). At the conclusion of this Conference, an Interim Committee was instituted comprising representatives of all States which had signed the EPC. The EPO Interim Committee established seven Working Parties in order to carry out the implementation work to prepare for the opening of the EPO : I (Organization), II (Searching), III (Examination), IV (Staff Matters), V (Finance), VI (Legal Matters) and VII (Building); Working Parties I, II and III being of particular interest to this Interim Committee.

Information Brochure

23. Working Party I decided that, in order to ensure the smoothest possible functioning of the EPO, particularly at the outset when its machinery would be in use for the first time, the EPO should give the public guidance concerning the drafting, filing and processing of European patent applications.

24. It also decided that information should be given concerning the peculiarities of procedure for PCT applications. For reasons of simplicity, this would be done in a separate brochure. It is recalled that the Interim Committee has been presented with draft Guidelines for applicants and receiving Offices (see documents PCT/AAQ/VI/6 and PCT/AAQ/VI/7) which can be readily harmonized with the brochure finally developed by the EPO.

Form and Content

25. Working Party III noted that not all formal matters which are checked for ordinary European applications need to be checked, or be subject to the same scrutiny, for international applications.

Drawings

26. Working Party III thought that applicants need detailed guidance with regard to drawings, but considered that this guidance should be set out in a separate leaflet on drawings rather than in a Guideline for Formalities Examination. The Working Party is preparing a draft for this leaflet, with the help of those Offices which already have such a leaflet.

27. It should be noted that this Interim Committee has not yet had an opportunity to take a decision on this problem. Reference is again made to the Guidelines for Applicants, (See document PCT/AAQ/VI/6, paragraphs 34 and 37).

Use of Proprietary Names and Trademarks in Claims

28. Working Party III decided that, where proprietary names and trademarks used in claims had become generic terms because they were used as designation of products, the EPO should allow them, if it was reasonably satisfied that they were used as generic terms in all the designated States; where they were still proprietary, they should not be allowed. It considered that trademarks and proprietary names were not reliable means of defining products and should be excluded, except where there was no other way for the applicant to describe his invention.

29. The Interim Committee has not yet considered this problem, but might consider a similar solution by way of an Administrative Instruction. In this connection, it should be noted as a possible basis for such a solution under the PCT that Rule 9.1(dv) PCT states that an international application shall not contain matter obviously irrelevant or unnecessary under the circumstances. Thus the solution envisaged by the EPO appears to be covered by and compatible with the PCT.

COMPATIBILITY OF PROVISIONS RELATING  
TO PROCESSING OF THE APPLICATION

Unity of Invention

30. With respect to unity of invention, the Interim Committee is referred to paragraphs 13 and 17 contained in document PCT/TCO/V/11. (See Article 82, Annex A).

Category of Claims under Unity of Invention

31. With respect to categories of claims under unity of invention, reference is again made to document PCT/TCO/V/11, paragraphs 14 - 16 inclusive. (See Rule 30 EPC, Annex A).

The Initial Examination Procedure

Examination on Filing

32. Upon the filing of a European patent application, an examination will be performed as required under Article 90(1)(a) and, in accordance with the requirements of Article 80, it will be determined whether a filing date can be accorded. The requirements are essentially in harmony with the provision concerning the international filing date under Article 11(1)(iii) PCT. (See Articles 80 and 90 EPC, Annex A).

Examination as to Formal Requirements

33. After the examination on filing and the accordance of a filing date, the Search Division of the EPO performs the formalities examination set forth in Article 91 EPC. It is noted that, for the most part, the formalities examined under Article 91(1)(a) to (d) EPC correspond to the Article 14(1) PCT formalities check. (See Article 91 EPC, Annex A).

Identification of Inventor

34. Concerning the examination for the identification of the inventor under Article 91(1)(f) EPC, it is noted that, in principle, the identification has to be made in the request at the time of filing if at least one of the designated States so requires. However, even where a designated State requires the identification of the inventor at the time of filing, Article 91(5) EPC allows a period of 16 months after the filing date or if priority is claimed, 16 months after the priority date in which to furnish such identification. Consequently, for international applications entering the European system, the furnishing of the indications concerning the inventor would be governed by Article 22(1) last sentence of the PCT. (See Article 91 EPC, Annex A).

Missing Drawings

35. Under Rule 43(1) EPC, where drawings referred to in the description or the claims were found to be filed later, the applicant is notified and given the choice of postdating the application or withdrawing the drawings and deleting the reference. In the same situation under the PCT, the filing date will be automatically postdated. In other words, later filing of the drawings under PCT implies postdating, whereas under Rule 43(1) EPC the applicant is permitted to exercise his choice. (See Rule 43 EPC, Annex A).

Calculation of Time Limits

36. In general, the manner of computation of time limits under Rule 83 EPC is well harmonized with Rule 80 PCT.

37. It should be noted, however, that computation of the time limits for notification to an applicant under Rule 83(2) EPC shall begin with the receipt of the notification. This procedure does not harmonize with the practice under the PCT (e.g. Article 22(2) and Rule 51.1 PCT). In its function as a receiving Office, the European Patent Office will have to cope with maintaining separate procedures for international and European applications in this respect. It cannot be excluded that this procedural difference between the EPC and the PCT could give rise to confusion for applicants and attorneys who will frequently be proceeding under both systems. (See Rule 83 EPC, Annex A).

PREPARATORY WORK OF WORKING PARTIES I AND III OF THE  
INTERIM COMMITTEE OF THE EPO RELATING TO THE  
PROCESSING OF AN APPLICATION

Procedural Flow Charts

38. Working Party I has prepared a flow-chart showing the connections and inter-relationships between the various procedural steps in the EPO and indicating the main options as regards organization at each stage of the procedure. In this connection, the Working Party is preparing a separate flow-chart for international applications forwarded to the European Patent Office. This should distinguish between cases where the European Patent Office acts as a receiving Office and where it acts only as a designated Office.

39. Reference is made in this connection to the flow charts for the receiving Office contained in document PCT/AAQ/VI/7, pp. 14 - 17 and pp. 30 - 40.

Formalities Examination

40. Working Party III has completed its study of a Guideline for Formalities Examination. This Guideline includes a chapter on applications under the PCT wherein the EPO acts as a designated Office for Contracting States to the EPO. The initial processing and formal examination of international applications by a receiving Office remain a subject matter for further study by the Working Party.

41. Reference is again made to document PCT/AAQ/VI/7 which deals with the initial processing and formal examination of international applications by the receiving Office.

Numbering of Applications

42. Under the numbering system adopted by Working Party I, the national authorities, the EPO in Munich and the branch at The Hague will have fixed bands of numbers. These numbers will be allocated to European patent applications upon filing with the receiving Office. The first number will only be of a provisional nature and the series of numbers thus allocated will of necessity be non-sequential.

43. When European patent applications are due to be published, the European Patent Office will allocate a new number from a continuous series. This new number will be the official number of the application and subsequently of the patent, to be used during the whole procedure before the European Patent Office.

44. It should be noted that, faced with a similar problem as regards the numbering of international applications, the Interim Committee decided on a similar solution (see Administrative Instructions 307 and 404 - PCT/AAQ/VI/2).

45. This arrangement of numbering has the obvious disadvantage of requiring two separate numbering systems, but it does have the important advantage, from a documentation point of view, of enabling EPO and international applications to be published in a consecutive series.

Copy to Designated Offices

46. Working Party III has proposed that the EPO as a designated Office should require three copies of the international application, whereas Article 22 of the PCT refers to only one copy being furnished to the designated Office by the applicant. The Working Party has asked the International Bureau to examine whether it would be possible for a designated Office to require three copies.

47. Since Article 22 of the PCT refers only to "a copy" of the international application, the International Bureau is of the opinion that the international applicant need only furnish a single copy of the application to the EPO. Consequently, the EPO will have to make its own copies if necessary.

## GENERAL INFORMATION OF INTEREST TO THE INTERIM COMMITTEE

First Page of Patent Documents

48. Working Party I agreed that no decision should be taken with regard to the layout of the first page of patent documents pending the outcome of ongoing work on the matter by ICIREPAT.

49. It is recalled that the first page of the PCT pamphlet, the patent document issuing under the PCT, is illustrated in the Administrative Instructions, Annex D. (See document PCT/AAQ/VI/2).

Documents Involved in the Search

50. With respect to the form of identification of documents in the search report, Working Party II came to the conclusion that Section 503 of the PCT Administrative Instructions (see Document PCT/AAQ/VI/2) provides a suitable solution. It decided therefore that this part of the EPO search report form should be fully harmonized with the PCT.

Date of Publication

51. Working Party II is studying how to proceed with respect to the date of publication on patent documents. It decided, in principle, that the date indicated on the document should be cited, but if such date is visibly incorrect it could be omitted.

52. It is recalled that a similar solution is contained in Section 503 of the Administrative Instructions. However, as to the citation of doubtful dates on patent documents, a survey is suggested in a footnote which might facilitate a solution of the problem. Administrative Instruction, Section 503 (in document PCT/AAQ/VI/4).

Categories of Documents

53. Working Party II agreed that the EPO search report forms will use for documents on the general state of the art the terminology "general state of the art" and the letter "g" as identification. It further agreed that documents issuing on the basis of a patent application filed before, but published after, the filing date of the patent application under consideration will be marked with the letter "E". The Working Party still further agreed to indicate a priority period document by using the symbol "P". Furthermore, where a document cited in a search report refers to a non-written disclosure, the letter "O" will be entered in a separate column. The Working Party explored the possible solution of providing a new letter "L" or other new letters to indicate documents appearing in the search report and filed and published after the filing date of the patent application, when such citation of relevant documents results in citing family members of such documents.

54. This Interim Committee has decided on a partially similar solution by establishing Administrative Instruction, Section 508. This Interim Committee has, however, not yet considered new letters for citation of a relevant document in the case of citing family members, and the solutions suggested by the EPO might be examined by this Committee.

Copies of Cited Documents

55. With respect to provision of copies of cited documents, Working Party II agreed that, in the case of patent families, only copies of the first family member cited would be provided.

56. This Interim Committee has not yet considered this problem, but might decide a similar solution to expedite its preparatory work prior to the start-up of the PCT.

Date of Search Report

57. Working Party II has not decided whether the date of the search report should be mentioned, but awaits final adoption of PCT Administrative Instruction, Section 201.

58. This Interim Committee should note that the solution it eventually adopts should follow the practice which will prevail in the industrial property field at the time the PCT Administrative Instructions will be finally adopted.

Citation of Name of Searcher and Signature of Authorized Officer

59. Working Party II agreed that the search report should bear the name of the search examiner, but considered that the question whether or not the report should be signed was an organizational matter outside its scope.

60. This Interim Committee should note that the PCT Search Report does not include the name of the searcher. The discrepancy seems to be of minor significance.

[Annex A follows]



*Rule 26*

## Request for grant

(1) The request for the grant of a European patent shall be filed on a form drawn up by the European Patent Office. Printed forms shall be made available to applicants free of charge by the authorities referred to in Article 75, paragraph 1.

(2) The request shall contain:

(a) a petition for the grant of a European patent;

(b) the title of the invention, which shall clearly and concisely state the technical designation of the invention and shall exclude all fancy names. If the European patent application contains claims in different categories (product, process, apparatus, use), this must be evident from the title;

(c) the name, address and nationality of the applicant and the State in which his residence or principal place of business is located. Names of natural persons shall be indicated by the person's family name and given name(s), the family name being indicated before the given name(s). Names of legal entities, as well as companies considered to be legal entities by reason of the legislation to which they are subject, shall be indicated by their official designations. Addresses shall be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address. They shall in any case comprise all the relevant administrative units, including the house number, if any. It is recommended that the telegraphic and teletype address and the telephone number be indicated;

(d) if the applicant has appointed a representative, his name and the address of his place of business under the conditions contained in sub-paragraph (c);

(e) where appropriate, indication that the application constitutes a European divisional application and the number of the earlier European patent application;

(f) in cases covered by Article 61, paragraph 1(b), the number of the original European patent application;

(g) where applicable, a declaration claiming the priority of an earlier application and indicating the date on which and the country in or for which the earlier application was filed;

(h) designation of the Contracting State or States in which protection of the invention is desired;

(i) the signature of the applicant or his representative;

(j) a list of the documents accompanying the request. This list shall also indicate the number of sheets of the description, claims, drawings and abstract filed with the request;

(k) the designation of the inventor where the applicant is the inventor.

(3) If there is more than one applicant, the request shall preferably contain the appointment of one applicant or representative as common representative.

*Rule 27*

## Content of the description

(1) The description shall:

(a) first state the title of the invention as appearing in the request for the grant of a European patent;

(b) specify the technical field to which the invention relates;

(c) indicate the background art which, as far as known to the applicant, can be regarded as useful for understanding the invention, for drawing up the European search report and for the examination, and, preferably, cite the documents reflecting such art;

(d) disclose the invention, as claimed, in such terms that the technical problem (even if not expressly stated as such) and its solution can be understood, and state any advantageous effects of the invention with reference to the background art;

(e) briefly describe the figures in the drawings, if any;

(f) describe in detail at least one way of carrying out the invention claimed using examples where appropriate and referring to the drawings, if any;

(g) indicate explicitly, when it is not obvious from the description or nature of the invention, the way in which the invention is capable of exploitation in industry.

(2) The description shall be presented in the manner and order specified in paragraph 1, unless, because of the nature of the invention, a different manner or a different order would afford a better understanding and a more economic presentation.

*Rule 29*

## Form and content of claims

(1) The claims shall define the matter for which protection is sought in terms of the technical features of the invention. Wherever appropriate, claims shall contain:

(a) a statement indicating the designation of the subject-matter of the invention and those technical features which are necessary for the definition of the claimed subject-matter but which, in combination, are part of the prior art;

(b) a characterising portion — preceded by the expression "characterised in that" or "characterised by" — stating the technical features which, in combination with the features stated in sub-paragraph (a), it is desired to protect.

(2) Subject to Article 82, a European patent application may contain two or more independent claims in the same category (product, process, apparatus or use) where it is not appropriate, having regard to the subject-matter of the application, to cover this subject-matter by a single claim.

(3) Any claim stating the essential features of an invention may be followed by one or more claims concerning particular embodiments of that invention.

(4) Any claim which includes all the features of any other claim (dependent claim) shall contain, if possible at the beginning, a reference to the other claim and then state the additional features which it is desired to protect. A dependent claim shall also be admissible where the claim it directly refers to is itself a dependent claim. All dependent claims referring back to a single previous claim, and all dependent claims referring back to several previous claims, shall be grouped together to the extent and in the most appropriate way possible.

## Rule 29 continued.

(5) The number of the claims shall be reasonable in consideration of the nature of the invention claimed. If there are several claims, they shall be numbered consecutively in arabic numerals.

(6) Claims shall not, except where absolutely necessary, rely, in respect of the technical features of the invention, on references to the description or drawings. In particular, they shall not rely on such references as: "as described in part . . . of the description", or "as illustrated in figure . . . of the drawings".

(7) If the European patent application contains drawings, the technical features mentioned in the claims shall preferably, if the intelligibility of the claim can thereby be increased, be followed by reference signs relating to these features and placed between parentheses. These reference signs shall not be construed as limiting the claim.

## Rule 30

## Claims in different categories

Article 82 shall be construed as permitting in particular that one and the same European patent application may include:

(a) in addition to an independent claim for a product, an independent claim for a process specially adapted for the manufacture of the product, and an independent claim for a use of the product; or

(b) in addition to an independent claim for a process, an independent claim for an apparatus or means specifically designed for carrying out the process; or

(c) in addition to an independent claim for a product, an independent claim for a process specially adapted for the manufacture of the product, and an independent claim for an apparatus or means specifically designed for carrying out the process.

## Rule 32

## Form of the drawings

(1) On sheets containing drawings, the usable surface area shall not exceed 26.2 cm x 17 cm. These sheets shall not contain frames round the usable or used surface. The minimum margins shall be as follows:

top	2.5 cm
left side	2.5 cm
right side	1.5 cm
bottom	1 cm

(2) Drawings shall be executed as follows:

(a) Drawings shall be executed in durable, black or blue, sufficiently dense and dark, uniformly thick and well-defined, lines and strokes without colourings.

(b) Cross-sections shall be indicated by hatching which should not impede the clear reading of the reference signs and leading lines.

(c) The scale of the drawings and the distinctness of their graphical execution shall be such that a photographic reproduction with a linear reduction in size to two-thirds would enable all details to be distinguished without difficulty. If, as an exception, the scale is given on a drawing, it shall be represented graphically.

## Rule 32 continued.

(d) All numbers, letters, and reference signs, appearing on the drawings, shall be simple and clear. Brackets, circles or inverted commas shall not be used in association with numbers and letters.

(e) All lines in the drawings shall, ordinarily, be drawn with the aid of drafting instruments.

(f) Elements of the same figure shall be in proportion to each other, unless a difference in proportion is indispensable for the clarity of the figure.

(g) The height of the numbers and letters shall not be less than 0.32 cm. For the lettering of drawings, the Latin and, where customary, the Greek alphabets shall be used.

(h) The same sheet of drawings may contain several figures. Where figures drawn on two or more sheets are intended to form one whole figure, the figures on the several sheets shall be so arranged that the whole figure can be assembled without concealing any part of the partial figures. The different figures shall be arranged without wasting space, preferably in an upright position, clearly separated from one another. The different figures shall be numbered consecutively in arabic numerals, independently of the numbering of the sheets.

(i) Reference signs not mentioned in the description and claims shall not appear in the drawings, and *vice versa*. The same features, when denoted by reference signs, shall, throughout the application, be denoted by the same signs.

(j) The drawings shall not contain text matter, except, when absolutely indispensable, a single word or words such as "water", "steam", "open", "closed", "section on AB", and, in the case of electric circuits and block schematic or flow sheet diagrams, a few short catchwords indispensable for understanding. Any such words shall be placed in such a way that, if required, they can be replaced by their translations without interfering with any lines of the drawings.

(3) Flow sheets and diagrams are considered drawings.

*Rule 33*

## Form and content of the abstract

- (1) The abstract shall indicate the title of the invention.
- (2) The abstract shall contain a concise summary of the disclosure as contained in the description, the claims and any drawings; the summary shall indicate the technical field to which the invention pertains and shall be drafted in a way which allows the clear understanding of the technical problem, the gist of the solution of that problem through the invention and the principal use or uses of the invention. The abstract shall, where applicable, contain the chemical formula which, among those contained in the application, best characterises the invention. It shall not contain statements on the alleged merits or value of the invention or on its speculative application.
- (3) The abstract shall preferably not contain more than one hundred and fifty words.
- (4) If the European patent application contains drawings, the applicant shall indicate the figure or, exceptionally, the figures of the drawings which he suggests should accompany the abstract when the abstract is published. The European Patent Office may decide to publish one or more other figures if it considers that they better characterise the invention. Each main feature mentioned in the abstract and illustrated by a drawing shall be followed by a reference sign, placed between parentheses.
- (5) The abstract shall be so drafted that it constitutes an efficient instrument for purposes of searching in the particular technical field particularly by making it possible to assess whether there is a need for consulting the European patent application itself.

*Rule 35*General provisions governing the presentation  
of the application documents

- (1) Translations mentioned in Article 14, paragraph 2, shall be considered to be included in the term "documents making up the European patent application".
- (2) The documents making up the European patent application shall be filed in three copies. This shall not apply to the request for the grant of a European patent nor to those documents filed under Article 14, paragraph 2, first sentence.
- (3) The documents making up the European patent application shall be so presented as to admit of direct reproduction by photography, electrostatic processes, photo offset and micro-filming, in an unlimited number of copies. All sheets shall be free from cracks, creases and folds. Only one side of the sheet shall be used.
- (4) The documents making up the European patent application shall be on A 4 paper (29.7 cm x 21 cm) which shall be pliable, strong, white, smooth, matt and durable. Subject to the provisions of Rule 32, paragraph 2(h), each sheet shall be used with its short sides at the top and bottom (upright position).
- (5) Each of the documents making up the European patent application (request, description, claims, drawings and abstract) shall commence on a new sheet. The sheets shall be connected in such a way that they can easily be turned over, separated and joined together again.

*Rule 35 continued.*

(6) Subject to Rule 32, paragraph 1, the minimum margins shall be as follows:

top of first sheet, except that of the request:	8 cm
top of other sheets:	2 cm
left side:	2.5 cm
right side:	2 cm
bottom:	2 cm

The recommended maximum for the margins quoted above is as follows:

top of first sheet, except that of the request:	9 cm
top of other sheets:	4 cm
left side:	4 cm
right side:	3 cm
bottom:	3 cm

(7) The margins of the documents making up the European patent application, when submitted, must be completely blank.

(8) All the sheets contained in the European patent application shall be numbered in consecutive arabic numerals. These shall be placed at the top of the sheet, in the middle, but not in the top margin.

(9) The lines of each sheet of the description and of the claims shall preferably be numbered in sets of five, the numbers appearing on the left side, to the right of the margin.

(10) The request for the grant of a European patent, the description, the claims and the abstract shall be typed or printed. Only graphic symbols and characters and chemical or mathematical formulae may, if necessary, be written by hand or drawn. The typing shall be 1 1/2 spaced. All text matter shall be in characters, the capital letters of which are not less than 0.21 cm high, and shall be in a dark, indelible colour.

(11) The request for the grant of a European patent, the description, the claims and the abstract shall not contain drawings. The description, the claims and the abstract may contain chemical or mathematical formulae. The description and the abstract may contain tables. The claims may contain tables only if their subject-matter makes the use of tables desirable.

(12) Units of weights and measures shall be expressed in terms of the metric system. If a different system is used they shall also be expressed in terms of the metric system. Temperatures shall be expressed in degrees Celsius. If a different system is used they shall also be expressed in degrees Celsius. Densities shall be expressed in metric units. For the other physical values, the units recognised in international practice shall be used, for mathematical formulae the symbols in general use, and for chemical formulae the symbols, atomic weights and molecular formulae in general use shall be employed. In general, use should be made of technical terms, signs and symbols generally accepted in the field in question.

(13) The terminology and the signs shall be consistent throughout the European patent application.

(14) Each sheet shall be reasonably free from erasures and shall be free from alterations, overwritings and interlineations. Non-compliance with this rule may be authorised if the authenticity of the content is not in question and the requirements for good reproduction are not in jeopardy.

*Rule 43*

Late-filed or missing drawings

- (1) If the examination provided for in Article 91, paragraph 1(g), reveals that the drawings were filed later than the date of filing of the European patent application, the Receiving Section shall inform the applicant that the drawings and the references to the drawings in the European patent application shall be deemed to be deleted unless the applicant requests within a period of one month that the application be re-dated to the date on which the drawings were filed.
- (2) If the examination reveals that the drawings were not filed, the Receiving Section shall invite him to file them within one month and inform him that the application will be re-dated to the date on which they are filed, or, if they are not filed in due time, any reference to them in the application shall be deemed to be deleted.
- (3) The applicant shall be informed of any new date of filing of the application.

*Rule 83*

Calculation of time limits

- (1) Periods shall be laid down in terms of full years, months, weeks or days.
- (2) Computation shall start on the day following the day on which the relevant event occurred, the event being either a procedural step or the expiry of another period. Where the procedural step is a notification, the event considered shall be the receipt of the document notified, unless otherwise provided.
- (3) When a period is expressed as one year or a certain number of years, it shall expire in the relevant subsequent year in the month having the same name and on the day having the same number as the month and the day on which the said event occurred, provided that if the relevant subsequent month has no day with the same number, the period shall expire on the last day of that month.
- (4) When a period is expressed as one month or a certain number of months, it shall expire in the relevant subsequent month on the day which has the same number as the day on which the said event occurred, provided that if the relevant subsequent month has no day with the same number the period shall expire on the last day of that month.
- (5) When a period is expressed as one week or a certain number of weeks, it shall expire in the relevant subsequent week on the day having the same name as the day on which the said event occurred.

**Article 78**

## Requirements of the European patent application

- (1) A European patent application shall contain:
  - (a) a request for the grant of a European patent;
  - (b) a description of the invention;
  - (c) one or more claims;
  - (d) any drawings referred to in the description or the claims;
  - (e) an abstract.
- (2) A European patent application shall be subject to the payment of the filing fee and the search fee within one month after the filing of the application.
- (3) A European patent application must satisfy the conditions laid down in the Implementing Regulations.

**Article 80**

## Date of filing

The date of filing of a European patent application shall be the date on which documents filed by the applicant contain:

- (a) an indication that a European patent is sought;
- (b) the designation of at least one Contracting State;
- (c) information identifying the applicant;
- (d) a description and one or more claims in one of the languages referred to in Article 14, paragraphs 1 and 2, even though the description and the claims do not comply with the other requirements of this Convention.

**Article 82**

## Unity of invention

The European patent application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept.

**Article 90**

## Examination on filing

- (1) The Receiving Section shall examine whether:
  - (a) the European patent application satisfies the requirements for the accordane of a date of filing;
  - (b) the filing fee and the search fee have been paid in due time;
  - (c) in the case provided for in Article 14, paragraph 2, the translation of the European patent application in the language of the proceedings has been filed in due time.
- (2) If a date of filing cannot be accorded, the Receiving Section shall give the applicant an opportunity to correct the deficiencies in accordance with the Implementing Regulations. If the deficiencies are not remedied in due time, the application shall not be dealt with as a European patent application.
- (3) If the filing fee and the search fee have not been paid in due time or, in the case provided for in Article 14, paragraph 2, the translation of the application in the language of the proceedings has not been filed in due time, the application shall be deemed to be withdrawn.

**Article 91**

## Examination as to formal requirements

- (1) If a European patent application has been accorded a date of filing, and is not deemed to be withdrawn by virtue of Article 90, paragraph 3, the Receiving Section shall examine whether:
  - (a) the requirements of Article 133, paragraph 2, have been satisfied;
  - (b) the application meets the physical requirements laid down in the Implementing Regulations for the implementation of this provision;
  - (c) the abstract has been filed;
  - (d) the request for the grant of a European patent satisfies the mandatory provisions of the Implementing Regulations concerning its content and, where appropriate, whether the requirements of this Convention concerning the claim to priority have been satisfied;
  - (e) the designation fees have been paid;
  - (f) the designation of the inventor has been made in accordance with Article 81;
  - (g) the drawings referred to in Article 78, paragraph 1(d), were filed on the date of filing of the application.
- (2) Where the Receiving Section notes that there are deficiencies which may be corrected, it shall give the applicant an opportunity to correct them in accordance with the Implementing Regulations.
- (3) If any deficiencies noted in the examination under paragraph 1(a) to (d) are not corrected in accordance with the Implementing Regulations, the application shall be refused; where the provisions referred to in paragraph 1(d) concern the right of priority, this right shall be lost for the application.
- (4) Where, in the case referred to in paragraph 1(e), the designation fee has not been paid in due time in respect of any designated State, the designation of that State shall be deemed to be withdrawn.
- (5) Where, in the case referred to in paragraph 1(f), the omission of the designation of the inventor is not, in accordance with the Implementing Regulations and subject to the exceptions laid down therein, corrected within 16 months after the date of filing of the European patent application or, if priority is claimed, after the date of priority, the application shall be deemed to be withdrawn.
- (6) Where, in the case referred to in paragraph 1(g), the drawings were not filed on the date of filing of the application and no steps have been taken to correct the deficiency in accordance with the Implementing Regulations, either the application shall be re-dated to the date of filing of the drawings or any reference to the drawings in the application shall be deemed to be deleted, according to the choice exercised by the applicant in accordance with the Implementing Regulations.

CONCORDANCE LIST OF THE PROVISIONS  
OF THE EPC AND THE PCT

The following concordance list identifies those provisions of the EPC which are of interest to WIPO. The citation of the pertinent Article or Rule of the EPC is given along with its title. Following each citation the relevant provision of the PCT, etc. is set forth in brackets.

For the purpose of this list, it appears best to divide the provisions of the EPC of interest into two categories: namely, the interlocking provisions and the harmonizing provisions.

By "interlocking provisions" is meant those provisions which tie the EPC into certain conventions of particular concern to WIPO: namely, the Paris Convention (PC), the Patent Cooperation Treaty (PCT), and the Strasbourg Agreement (IPC). Broadly, the interlocking provisions relate to the application of the PC priority right within the EPC system, state the functions of the European Patent Office (EPO) within the PCT system, define the effects on the EPC system of certain features occurring with the PCT system (e.g., the international search report, the publication of the international application), and provide for the use of an international patent classification system within the EPC system.

By "harmonizing provisions" is meant those EPC provisions pertaining to the form or contents of the European application or pertaining to a procedural or substantive matter involved in the processing of an application under the EPC system for which corresponding provisions exist under the PCT. Harmonization between the EPC and the PCT in respect of these provisions benefits from the advantages to be derived from the functioning of the two systems in like manner.

#### A. List of interlocking provisions

The following provisions are considered to be the interlocking provisions.

##### 1. Interlocking provisions in respect of the Paris Convention:

###### Preamble

###### PRIORITY

Article 87 - Priority right (cf. PC Article 4 et al)

Article 88 - Claiming priority (cf. PC Article 4(D); PCT Article 8)

Article 89 - Effect of priority right (cf. PC Article 4(A)(B); PCT Article 8(2)(a))

Rule 38 - Declaration of priority and priority documents (cf. PCT Rules 4.10(a)(b), 17)

##### 2. Interlocking provisions in respect of the Patent Cooperation Treaty:

Preamble - (cf. PCT Article 45(1))

###### INTERNATIONAL APPLICATION PURSUANT TO THE PATENT COOPERATION TREATY

Article 150 - Application of the Patent Cooperation Treaty (cf. PCT Article 27, particularly 27(1), (4))

Article 151 - The European Patent Office as a receiving Office (cf. PCT Article 2(xv), Rule 19)

Article 152 - Filing and transmittal of the international application (cf. PCT Rule 19)

Article 153 - The European Patent Office as a designated Office (cf. PCT Article 2(xiii))

- Article 154 - The European Patent Office as an International Searching Authority (cf. PCT Article 16)
- Article 155 - The European Patent Office as an International Preliminary Examining Authority (cf. PCT Article 32)
- Article 156 - The European Patent Office as an elected Office (cf. PCT Article 2(xiv))
- Article 157 - International search report (cf. PCT Articles 17(2)(a), 18, 21, Rule 16)
- Article 158 - Publication of the international application and its supply to the European Patent Office (cf. PCT Articles 21, 22, 39)
- Article 104 - Transmittal of the international application to the European Patent Office (cf. PCT Rule 22.3)

3. Interlocking provisions in respect of the International Patent Classification (Strasbourg Agreement):

Rule 8 - Patent classification (cf. PCT Rule 43.3(a))

4. Interlocking provision in respect of the World Intellectual Property Organization:

Article 30 - Attendance of observers

Article 33(4) - Competence of the Administrative Council (cf. PCT Articles 16(3)(b), 32(3))

[Other noteworthy provisions are those set forth in Articles 142-149 (Part IX) which interlock the EPC with the prospective community Patent Convention of the European Common Market States.]

B. List of harmonizing provisions

The following provisions are considered to be the harmonizing provisions.

1. Articles

PATENTABILITY

Article 52 - Patentable inventions (cf. PCT Article 33(1), Rules 39, 67)

Article 53 - Exceptions to patentability (cf. PCT Article 21(6), Rules 9, 39.1(ii), 67.1(ii))

Article 54 - Novelty (cf. PCT Article 33(2), Rules 33, 64)

Article 55 - Non-prejudicial disclosures (cf. PC Article 11)

Article 56 - Inventive step (cf. PCT Article 33(3))

Article 57 - Industrial application (cf. PCT Article 33(4))

PERSONS ENTITLED TO APPLY FOR AND OBTAIN EUROPEAN PATENTS - MENTION OF THE INVENTOR

Article 58 - Entitlement to file a European patent application (cf. PCT Articles 9, 45(1), Rules 18.1, 18.2)

Article 59 - Multiple applicants (cf. PCT Rule 18.3, 18.4)

Article 60 - Right to a European patent (cf. PCT Rule 3.3(a)(ii))

Article 62 - Right of the inventor to be mentioned (cf. PC Article 4ter,  
PCT Articles 4(1)(v), 22(1))

EFFECTS OF THE EUROPEAN PATENT AND THE EUROPEAN PATENT APPLICATION

Article 67 - Rights conferred by a European patent application after  
publication (cf. PCT Article 29)

FILING AND REQUIREMENTS OF THE EUROPEAN PATENT APPLICATION

Article 75 - Filing of the European patent application (cf. PCT Article  
27(8))

Article 78 - Requirements of the European patent application (cf. PCT  
Article 3(2), Rules 15.4, 16.1(b))

Article 79 - Designation of Contracting States (cf. PCT Article 4(1)(ii),  
4(2), Rules 15.4(b), 32.1(b))

Article 80 - Date of filing (cf. PCT Article 11(1))

Article 81 - Designation of the inventor (cf. PCT Article 4(1)(v))

Article 82 - Unity of invention (cf. PCT Rule 13.1)

Article 83 - Disclosure of the invention (cf. PCT Article 5)

Article 84 - The claims (cf. PCT Article 6)

Article 85 - The abstract (cf. PCT Article 3(3))

PROCEDURE UP TO GRANT

Article 90 - Examination on filing (cf. PCT Articles 11(1), (2), 14(3)(a))

Article 91 - Examination as to formal requirements (cf. PCT Article  
14(1), 2, 3(b))

Article 92 - The Drawing up of the European search report (cf. PCT Articles  
15(3), 20(3), Rules 33.3, 42)

Article 93 - Publication of a European patent application (cf. PCT Article  
21, Rule 48.2(a))

COMMON PROVISIONS GOVERNING PROCEDURE

Article 120 - Time limits (cf. PCT Rule 80.5)

Article 122 - Restitutio in integrum (cf. PCT Article 48(1), Rule 82.2)

Article 123 - Amendments (cf. PCT Articles 28, 41, Rules 52, 78)

INFORMATION TO THE PUBLIC OR OFFICIAL AUTHORITIES

Article 128 - Inspection of files (cf. PCT Article 30)

Article 132 - Exchange of publications (cf. PCT Article 50)

REPRESENTATION

Article 133 - General principles of representation (cf. PCT Article 27(7))



TRANSITIONAL PROVISIONS

Article 162 - Progressive expansion of the field of activity of the European Patent Office (cf. PCT Article 65)

2. Rules

MENTION OF THE INVENTOR

Rule 17 - Designation of the inventor (cf. PCT Articles 4(v), 22(1), Rule 4.6)

PROVISIONS GOVERNING THE APPLICATION

Rule 26 - Request for grant (cf. PCT Rule 4)

Rule 27 - Content of the description (cf. PCT Rule 5)

Rule 29 - Form and content of claims (cf. PCT Rules 6, 13.3, 13.4)

Rule 30 - Claims in different categories (cf. PCT Rule 13.2)

Rule 32 - Form of the drawings (cf. PCT Rule 11.6(c), 11.13)

Rule 33 - Form and content of the abstract (cf. PCT Rule 8)

Rule 34 - Prohibited matter (cf. PCT Article 21(6), Rule 9)

Rule 35 - General provisions governing the presentation of the application documents (cf. PCT Rules 10, 11)

Rule 36 - Documents filed subsequently (cf. PCT Rule 11.14)

EXAMINATION BY THE RECEIVING SECTION

Rule 39 - Communication following the examination on filing (cf. PCT Article 11(2), Rule 20.6)

Rule 40 - Examination for certain physical requirements (cf. PCT Article 14(1)(a)(v), Rule 26.3)

Rule 41 - Rectification of deficiencies in the application documents (cf. PCT Article 14(1)(b), Rule 26.1, 4.10(b), 4.10(d))

Rule 42 - Subsequent identification of the inventor (cf. PCT Articles 4.1(v), 22(1))

Rule 43 - Late-filed or missing drawings (cf. PCT Article 14(2), Rule 20.2(a)(iii))

EUROPEAN SEARCH REPORT

Rule 44 - Content of the European search report (cf. PCT Rule 43)

Rule 45 - Incomplete search (cf. PCT Article 17(2))

Rule 46 - European search report where the invention lacks unity (cf. PCT Article 17(3), Rule 40)

Rule 47 - Definitive content of the abstract (cf. PCT Rules 38, 44.2, 44.3)

PUBLICATION OF THE EUROPEAN PATENT APPLICATION

Rule 48 - Technical preparations for publication (cf. PCT Article 21(5))

Rule 49 - Form of the publication of European patent applications and European search reports (cf. PCT Rule 48)

EXAMINATION BY THE EXAMINING DIVISION

Rule 51 - Examination procedure (cf. PCT Article 34(2)(b), Rule 66.1)

TIME LIMITS

Rule 83 - Calculation of time limits (cf. PCT Rule 80)

Rule 85 - Extension of time limits (cf. PCT Rule 80.5, 82)

AMENDMENTS AND CORRECTIONS

Rule 86 - Amendment of the European patent application (cf. PCT Article 19,  
Rule 66.2(b))

Rule 88 - Correction of errors in documents filed with the European Patent Office (cf. PCT Rule 91)

REPRESENTATION

Rule 100 - Appointment of a common representative (cf. PCT Rule 4.8)

Rule 101 - Authorizations (cf. PCT Rule 90)

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