

# WIPO



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(PCT UNION)

ASSEMBLY

**Fifth Session (3<sup>rd</sup> Extraordinary)\***  
**Geneva, June 9 to 16, 1980**

DRAFT TEXTS OF AMENDMENTS TO THE PCT REGULATIONS

*Submitted by the International Bureau*

1. The Annex to this document contains draft texts of amendments to Rules 4.8(b), 4.11, 11.2(d), 11.10(d), 11.13(j), 17.1, 22.5\*, 41, 47.1(c), 60.1(b)\*, 60.2 (b)\*, 90.3(a), 90.3(d)\*, 92.1, 92.4\* and 92*bis*\* of the Regulations under the PCT agreed to by the Assembly subject to approval of draft texts to be submitted by the International Bureau. The Annex also contains the draft text of an amendment to Rule 4.1(b) (ii) consequential upon the amendment of Rule 4.11.

2. The Rules whose numbers appear in paragraph 1 above without an asterisk were discussed in connection with document PCT/A/V/4, while those whose numbers appear marked with an asterisk were discussed in connection with document PCT/A/V/5.

[Annex follows]

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\* *Editor's Note:* This electronic document has been created from the paper original and may contain errors. Please bring any such errors to the attention of the PCT Legal Division by e-mail at [pct.legal@wipo.int](mailto:pct.legal@wipo.int)

ANNEX

*Rule 4.1(b) (ii)*

- (ii) a reference to any earlier international, international-type or other search.

*Rule 4.8(b)*

(b) If there is more than one applicant and the request does not refer to an agent representing all the applicants and it does not comply with the requirement of designating one of the applicants as provided in paragraph (a), the common representative shall be the applicant first named in the request who is entitled to file an international application with the receiving Office with which the international application was filed (Rule 19.1(a)).

RULE 4.11

REFERENCE TO EARLIER INTERNATIONAL, INTERNATIONAL-TYPE OR OTHER SEARCH

If an international or international-type search has been requested on an application under Article 15(5) or if the applicant wishes the International Searching Authority to base the international search report wholly or in part on the results of a search, other than an international or international-type search, made by the national Office or intergovernmental organization which is the competent International Searching Authority for the international application, the request shall contain a reference to that fact. Such reference shall either identify the application (or its translation, as the case may be) in respect of which the earlier search was made by indicating country, date and number, or the said search by indicating, where applicable, date and number of the request for such search.

*Rule 11.2(d)*

(d) Subject to Rule 11.10(d) and Rule 11.13(j), each sheet shall be used in an upright position (i.e., the short sides at the top and bottom).

*Rule 11.10(d)*

(d) Tables and chemical or mathematical formulae may be placed sideways on the sheet if they cannot be presented satisfactorily in an upright position thereon; sheets on which tables or chemical or mathematical formulae are presented sideways shall be so presented that the tops of the tables or formulae are at the right-hand side.

*Rule 11.13(j)*

(j) The different figures shall be arranged on a sheet or sheets without wasting space, preferably in an upright position, clearly separated from one another. Where the figures are not arranged in an upright position, they shall be presented sideways with the top of the figures at the right-hand side of the sheet.

RULE 17.1

OBLIGATION TO SUBMIT COPY OF EARLIER NATIONAL APPLICATION

(a) Where the priority of an earlier national application is claimed under Article 8 in the international application, a copy of the said national application, certified by the authority with which it was filed (“the priority document”), shall, unless already filed with the receiving Office, together with the international application, be submitted by the applicant to the International Bureau or to the receiving Office not later than 16 months after the priority date or, in the case referred to in Article 23(2), not later than at the time the processing or examination is requested. Where submitted to the receiving Office, the priority document shall be transmitted by that Office to the International Bureau together with the record copy or promptly after having been received by that Office. In the latter case, the receiving Office shall indicate to the International Bureau the date on which it received the priority document.

(b) Where the priority document is issued by the receiving Office, the applicant may, instead of submitting the priority document, request the receiving Office to transmit the priority document to the International Bureau. Such request shall be made not later than the expiration of the applicable time limit referred to under paragraph (a) and may be subjected by the receiving Office to the payment of a fee. The receiving Office shall, promptly after receipt of such request, and, where applicable, the payment of such fee, transmit the priority document to the International Bureau with an indication of the date of receipt of such request.

(c) If the requirements of neither of the two preceding paragraphs are complied with, any designated State may disregard the priority claim.

(d) The International Bureau shall record the date on which the priority document has been received by it or by the receiving Office. Where applicable, the date of receipt by the receiving Office of a request referred to under paragraph (b) shall be recorded as the date of receipt of the priority document. The International Bureau shall notify the applicant and the designated Offices accordingly.

*Rule 22.5*

Any power of attorney and any priority document filed with the international application referred to in Rule 3.3(a) (ii) shall accompany the record copy; any other document referred to in that Rule shall be sent only at the specific request of the International Bureau. If any document referred to in Rule 3.3(a) (ii) which is indicated in the check list as accompanying the international application is not, in fact, filed at the latest by the time the record copy leaves the receiving Office, that Office shall so note on the check list and the said indication shall be considered as if it had not been made.

RULE 41

THE INTERNATIONAL-TYPE OR OTHER SEARCH

*41.1 Obligation to Use Results; Refund of Fee*

If reference has been made in the request, in the form provided for in Rule 4.11, to an international-type search carried out under the conditions set out in Article 15(5) or to a search other than an international or international-type search, the International Searching Authority shall, to the extent possible, use the results of the said search in establishing the international search report on the international application. The International Searching Authority shall refund the search fee, to the extent and under the conditions provided for in the agreement under Article 16(3) (b) or in a communication addressed to and published in the Gazette by the International Bureau, if the international search report could wholly or partly be based on the results of the said search.

*Rule 47.1(c)*

The International Bureau shall send a notice to the applicant indicating the designated Offices to which the communication has been effected and the date of such communication. Such notice shall be sent on the same day as the communication. Each designated Office shall be informed, separately from the communication, about the sending and the date of mailing of the notice. The notice shall be accepted by all designated Offices as conclusive evidence that the communication has duly taken place on the date specified in the notice.

*Rule 60.1(b)*

(b) If the applicant complies with the invitation within the prescribed time limit, the demand shall be considered as if it had been received on the actual filing date, provided that the demand as submitted contained at least one election and permitted the international application to be identified; otherwise, the demand shall be considered as if it had been received on the date on which the International Preliminary Examining Authority receives the corrections.

*Rule 60.2(b)*

(b) If the applicant complies with the invitation within the prescribed time limit, the later election shall be considered as if it had been received on the actual filing date, provided that the later election as submitted contained at least one election and permitted the international application to be identified; otherwise, the later election, shall be considered as if it had been received on the date on which the International Bureau receives the corrections.

*Rule 90.3(a)*

(a) Appointment of any agent, or of any common representative within the meaning of Rule 4.8(a), shall be effected by each applicant, at his choice, either by signing the request in which the agent or common representative is designated or by a separate power of attorney (i.e., a document appointing an agent or common representative).

*New Rule 90.3(d)*

(d) A general power of attorney may be deposited with the receiving Office for purposes of the processing of the international application as defined in Rule 90.1(d). Reference may be made in the request to such general power of attorney, provided that a copy thereof is attached to the request by the applicant.

RULE 92.1

NEED FOR LETTER AND FOR SIGNATURE

(a) [Existing text]

(b) If the requirements provided for in paragraph (a) are not complied with, the applicant shall be informed as to the non-compliance and invited to remedy the omission within a time limit fixed in the invitation. The time limit so fixed shall be reasonable in the circumstances; even where the time limit so fixed expires later than the time limit applying to the furnishing of the paper (or even if the latter time limit has already expired), it shall not be less than 10 days and not more than one month from the mailing of the invitation. If the omission is remedied within the time limit fixed in the invitation, the omission shall be disregarded; otherwise, the applicant shall be informed that the paper has been disregarded.

(c) Where non-compliance with the requirements provided for in paragraph (a) has been overlooked and the paper taken into account in the international procedure, the non-compliance shall be disregarded.

NEW RULE 92.4

USE OF TELEGRAPH, TELEPRINTER, ETC.

(a) Notwithstanding the provisions of Rule 11.14 and Rule 92.1(a), any document, paper or letter subsequent to the international application maybe sent by telegraph or teleprinter or other like means of communication producing a printed or written document. The document, paper or letter shall be considered to have been submitted in a form complying with the requirements of the said provisions on the day on which it was communicated by the means indicated above, provided that, within 14 days after being so communicated, its contents are furnished in such form; otherwise, the telegraphic, teleprinter or other communication shall be considered not to have been made.

(b) Any national Office or intergovernmental organization [having any of the means of receiving communications referred to in paragraph (a) but] not wishing to receive a document, paper or letter pursuant to [that paragraph] [paragraph (a)] shall notify the International Bureau. The International Bureau shall publish the necessary information in the Gazette and, accordingly, the preceding paragraph shall not apply. The said notification may be withdrawn at any time and any withdrawal shall be published by the International Bureau in the Gazette.

## NEW RULE 92BIS

### CHANGES IN CERTAIN INDICATIONS IN THE REQUEST OR THE DEMAND

#### *92bis.1 Recording of Changes by the International Bureau*

The International Bureau shall, on the request of the applicant or the receiving Office, record changes in the following indications appearing in the request or demand:

- (i) person, name, residence, nationality or address of the applicant,
- (ii) person, name or address of the agent, the common representative or the inventor.

#### *92bis.2 Notifications*

(a) The International Bureau shall give notifications concerning changes recorded by it:

- (i) to the receiving Office where the change has been recorded on the request of the applicant,
- (ii) as long as the international search report or the declaration referred to in Article 17(2) has not yet issued, to the International Searching Authority,
- (iii) until the expiration of the time limit referred to in Article 22(1), to the designated Offices,
- (iv) as long as the preliminary examination report has not yet issued, to the International Preliminary Examining Authority,
- (v) until the expiration of the time limit referred to in Article 39(1) (a), to the elected Offices.

(b) A copy of each notification sent under paragraph (a) shall be sent to the applicant by the International Bureau.