

Meeting of International Authorities under the Patent Cooperation Treaty (PCT)

**Nineteenth Session
Canberra, February 8 to 10, 2012**

THIRD PARTY OBSERVATIONS AND QUALITY FEEDBACK

Document prepared by the International Bureau

SUMMARY

1. The interface and data collection systems for a PCT third party observation system are almost complete. Circulars will shortly be issued concerning the Administrative Instructions, International Search and Preliminary Examination Guidelines and technical formats for delivering the contents of observations to national Offices.
2. The system for providing quality feedback to International Authorities is proposed to involve a designated (or elected) Office uploading a comment as a PDF (preferred) or Word document using a special code to identify it. Such comments will not be placed on file or transmitted to International Authorities using the regular PCT-EDI feeds, but instead will be delivered to a nominated quality unit e-mail address at the International Authority.

THIRD PARTY OBSERVATIONS

3. Work is almost complete on technical systems allowing third parties to make observations on international applications in accordance with the approach set out in document PCT/WG/4/7 and the comments reported in paragraphs 122 to 142 of document PCT/WG/4/17. The International Bureau intends to give a demonstration of the system during the session and to offer an opportunity for feedback.

4. It is currently intended that the system will notionally be brought into use on July 1, 2012, permitting observations on any international applications for which the time limit of 28 months from the priority date has not expired by that date. This will allow the modifications to the Administrative Instructions to come into force at the same time as those consequential on the changes to the PCT Regulations agreed by the Assembly at its 42nd session in September-October 2011. Since July 1, 2012 is a Sunday, it is possible that the system may in fact only become operational on July 2, 2012, but any time limits which would have expired on July 1 will automatically be extended to July 2 in accordance with Rule 80.5.

5. Circulars to consult on the necessary modifications to the Administrative Instructions and International Search and Preliminary Examination Guidelines, as well as concerning the technical formats for delivering the contents of observations to designated and elected Offices will be issued shortly. These will be copied to the Meeting for comment.

QUALITY FEEDBACK

6. As agreed by the 18th session of the Meeting (see paragraphs 52 to 55 of document PCT/MIA/18/17), the system to allow designated and elected Offices to give quality feedback to International Authorities has been separated from the third party observation system. The following arrangement is now proposed:

(a) Designated and elected Offices may give feedback to International Authorities by uploading a file containing that feedback to the International Bureau using PCT-EDI. The file would normally be either a PDF (preferred) or a Word document. The file is indexed using a special "min-spec"¹ document type code to identify it as being quality feedback for the International Searching Authority (provisional code "qfsa"), for an Authority specified for supplementary international search ("qfss") or for the International Preliminary Examining Authority ("qfpe"). The file name should also include an application number, which is either the international application to which the comments specifically refer, or else an example of an international application which is representative of more general trends, in which case the Office may wish to include information about other examples in the body of the document.

(b) Each International Authority will provide an e-mail address to which quality comments may be directed. The document will be routed by the International Bureau to the appropriate mailbox and will not appear on the file of the international application. The routing will be automatic except in the rare case of an application where more than one Authority is specified for supplementary international search, in which case the International Bureau will manually check the document and confirm which Authority the document is intended for.

7. It is proposed not to establish an official PCT Form for this purpose since it is assumed that the system will not be used in large volume and it is not clear that there would be benefits in trying to put together a standard layout at this stage, save perhaps to provide specific headings relating to databases and IPC codes which (in the opinion of the Office providing the feedback) should have been searched. Nevertheless, the Meeting may wish to request the quality subgroup to consider preparing an informal Word template to make available to designated and elected Offices to use if they so wish.

¹ PCT minimal specifications for transmitting documents to the International Bureau, available from the WIPO website at <http://www.wipo.int/patentscope/en/pct-edi/>

8. Clearly, this arrangement is very similar in practice to having documents e-mailed directly to the quality departments of International Authorities by designated Offices. The main benefit of this arrangement is that it will not be necessary to advertise the e-mail addresses of the quality departments. Consequently:

(a) The risk is reduced of those mailboxes receiving comments from sources other than Offices if they do not wish to do so, or additional general "spam".

(b) If the relevant e-mail address for an International Authority changes, the routing can be changed simply by notifying the International Bureau, rather than needing to inform all the designated Offices. In this situation, the International Bureau would also be able to retrieve documents which might have been misdirected in the meantime.

(c) Also, the International Bureau will be able to monitor the extent to which the system is used, to help evaluate the system.

9. The International Bureau does not see any difficulty with sending this information by e-mail since the feedback will only ever relate to international applications which have entered the national phase and are published. Consequently, the subject matter of the international applications themselves will not be confidential and the nature of the feedback is unlikely to be sufficiently sensitive as to warrant special arrangements for its protection.

10. The International Bureau and International Authorities should monitor the extent to which the system is used and the value of feedback received with a view to making any appropriate recommendations for improvement or alternative approaches to obtaining useful feedback.

11. The Meeting is invited to comment on the above arrangements for third party observations and quality feedback from designated and elected Offices.

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