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PCT MINIMUM DOCUMENTATION TASK FORCE: STATUS REPORT

Document prepared by the European Patent Office

SUMMARY

1. This document reports on the PCT Minimum Documentation Task Force (hereinafter “the task force”) and, in particular, presents in its Appendix the work plan and timetable proposed by the European Patent Office (EPO) in its role as task force leader for 2017 and 2018.

BACKGROUND

2. In 2005, the Meeting of International Authorities (MIA) decided to set up a task force, under the leadership of the EPO, to undertake a comprehensive review of the PCT minimum documentation. The task force was mandated to address issues relating to both patent documentation and non-patent literature, including traditional knowledge-related databases (see paragraphs 9 to 12 and 18 of document PCT/MIA/11/14). However, the process stalled in view of the lack of consensus on certain issues (see document PCT/MIA/13/5).

3. In 2012, the MIA decided to set up a task force with the aim of extending and updating the scope of the patent literature part of the PCT minimum documentation (see paragraphs 79 to 81 of document PCT/MIA/19/14, and Circular C. PCT 1359, dated September 28, 2012). Since then, the task force has operated using a dedicated electronic forum (hereinafter “the wiki”) facilitated by the International Bureau. However, the process was put on hold pending the outcome of the work on setting up prior art documentation standards being carried out within the context of the IP5 cooperation scheme (the IP Offices of China, Japan, the Republic of Korea and the United States of America, and the European Patent Office) (see document PCT/MIA/21/12).

4. In 2015, following the publication of “authority files” within the context of the IP5 cooperation scheme, the MIA decided to reactivate the task force, with the International Bureau as task force leader pending the appointment of an International Searching Authority (ISA) in its place (see paragraphs 62 to 65 and 73 of document PCT/MIA/22/22). Little progress was made in 2015.

5. In January 2016, there was again consensus at the MIA to reactivate the task force and the International Bureau invited one of the ISAs to replace it. The MIA invited the task force to resume its work on the basis of document PCT/MIA/23/5 (see paragraph 63 of document PCT/MIA/23/14), and “to recommence its discussions on the addition of databases, including traditional knowledge databases, to the PCT minimum documentation of databases, as set out in document PCT/MIA/12/6” (see paragraph 85(a) of document PCT/MIA/23/14).

6. At the MIA in 2016, India's request that the Indian Traditional Knowledge Digital Library database (TKDL) be included in the PCT minimum documentation (see document PCT/MIA/23/10) was denied. The MIA thus invited the Indian Patent Office “to submit a detailed working document to the Task Force, including a revised draft of the access agreement, setting out its proposals with regard to the inclusion of the Indian TKDL into the PCT minimum documentation, taking into account previous discussions in the Meeting, the Task Force and the IGC, as well as the discussions held at the present session of the Meeting” (see paragraph 85(b) of document PCT/MIA/23/14). It also invited the International Bureau “to work closely with the Indian Patent Office in the coming months with a view to moving the issue forward, where appropriate by means of informal consultations and written communications, such as PCT Circulars, to ensure proper preparation of the discussions to be held at the next session of the Meeting in 2017” (see paragraph 85(c) of document PCT/MIA/23/14).

7. In February 2016, the EPO responded positively to the call of the International Bureau and agreed to (once again) lead the task force on the basis of the mandate given by the MIA.

OBJECTIVES

8. Since 2005, the overarching objective of the task force has been to examine all factors relating to the maintenance and revision of the list of patent and non-patent literature collections belonging to the PCT minimum documentation, and to recommend objective criteria that patent and non-patent literature collections, in both paper and electronic formats, must adhere to in order to be considered for inclusion in the PCT minimum documentation.

9. The mandate given to the task force (see paragraph 9 of document PCT/WG/9/22), as noted by the PCT Working Group in May 2016, is as follows:

- (a) Clarify the extent of the existing PCT minimum documentation, in view of the fact that the WIPO Handbook on Industrial Property Information and Documentation is outdated, the definition and extent of patent literature having last been revised in November 2001, and the definition and extent of non-patent literature having last been revised in February 2010.
- (b) Make recommendations and draft standards which are reasonable for national offices to adhere to in order to have their national collections included in the PCT minimum documentation, and allow International Authorities and database providers to easily load the necessary information in a timely and reliable fashion. The question of whether utility models should also form part of the minimum documentation shall also be examined.

- (c) Propose clearly-defined components of patent data that should be present in all patent collections belonging to the minimum PCT documentation list (for example, bibliographic data, abstracts, full text, facsimile images, classification data), as well as the quality and dissemination criteria such data must adhere to, in order to improve searchability and facilitate data exchange between patent offices and commercial database providers.
- (d) Define the criteria necessary for a patent collection to become part of the PCT minimum documentation and the extent to which Authorities should be expected to include and search documents where they are in different languages or have equivalent technical disclosures to other patent documents.
- (e) Improve the availability of technical information from patent documents, in terms of the technical and linguistic coverage of the documents, and of the searchability of the information contained. This will further improve the quality of international searches, and ensure better access to patent information for third parties.
- (f) Make recommendations and propose mechanisms for reviewing and maintaining the non-patent literature part of the PCT minimum documentation, by taking into consideration factors such as:
 - (i) practicable access to periodicals, including their availability in electronic form;
 - (ii) the range of fields of technology covered by periodicals;
 - (iii) access conditions applicable to periodicals, including cost and text searchability.
- (g) Recommend criteria for the inclusion of non-patent literature in the PCT minimum PCT documentation, and in particular, conditions under which traditional knowledge-based prior art should be included. Moreover, the task force should work with the Indian authorities after receiving their revised detailed proposals for inclusion of the TKDL database in the PCT minimum documentation.

METHODOLOGY AND TIMESCALE

- 10. The task force will conduct its discussions using the wiki. As task force leader, the EPO intends to prepare and submit discussion papers for consideration of the other task force members, and to coordinate the discussions through a set of “discussion rounds”. The EPO also intends to set deadlines for comments, and shape the activities so that concrete proposals from the task force could be presented to the future sessions of the MIA and of the PCT Working Group.
- 11. In December 2016, the EPO has posted in the wiki a high level position paper on the activities of the PCT Minimum Documentation Task Force foreseen in 2017-2018 (see Appendix). This position paper presents *inter alia* the work plan and timetable proposed by the EPO in its role as task force leader for 2017 and 2018.

12. *The Meeting is invited to take note of the contents of the present document.*

[Appendix follows]



DATE: DECEMBER 7, 2016

EPO High Level Position Paper on the Activities of the PCT Minimum Documentation Task Force foreseen in 2017-2018

I. INTRODUCTION

I.1 What is the PCT minimum documentation?

1. The PCT minimum documentation is the minimum documentation, comprising both a patent literature part and a non-patent literature part, as defined by PCT Rule 34, that any Office or organisation must have at its disposal in order to be appointed as an International Searching Authority (ISA) and that any ISA shall in any case consult when it carries out an international search (PCT Articles 15 and 16).
2. Part 4 of the WIPO *Handbook on Industrial Property Information and Documentation* contains the list of patents documents and periodicals belonging to the PCT Minimum Documentation.
3. Part 4.1 of the aforementioned *Handbook on Industrial Property Information and Documentation* contains the Inventory of Patent Documents (period from 1920 to 2000) and was last updated in November 2001.
4. Part 4.2 of the aforementioned *Handbook on Industrial Property Information and Documentation* contains the List of Periodicals, which was last updated in February 2010.

I.2 Challenges with the PCT minimum documentation

- The scope of documents belonging to the PCT minimum documentation is imprecise
5. Regarding the patent literature part, PCT Rule 34 explicitly lists certain patent collections that are included in the PCT minimum documentation, but also states that parts of national collections not explicitly listed *may* be included in the minimum PCT documentation if certain conditions are met.

6. More precisely, patents issued by, and patent applications published in, any not explicitly listed country after 1920 as are in the English, French, German or Spanish language and in which no priority is claimed can be part of the minimum documentation provided that the Office owning the national collection sorts out the documents; and places the documents at the disposal of each ISA (see Rule 34.1(c)(vi)).
7. The last inventory of patent literature forming part of the PCT minimum documentation was taken in 2001, and in the intervening period, it is unclear whether these listed collections are still being made available to all ISAs, or whether other patent collections have since been made available.
8. Regarding the non-patent literature part, PCT Rule 34.1(b)(iii) provides that “such other published items of non-patent literature as the International Searching Authorities shall agree upon and which shall be published in a list by the International Bureau when agreed upon for the first time and whenever changed”. The definition and extent of non-patent literature part of the PCT minimum documentation was last revised in February 2010.
9. It is therefore necessary to have an up-to-date list of patent literature that forms part of the PCT minimum documentation today, so as to enable ISAs to ensure that their search collections are complete. This would help to improve the quality and consistency of international searches.
 - The PCT minimum documentation list was conceived and defined for the paper era, and needs to be updated to include capabilities available in today's digital era
10. PCT Rule 34 was drafted at a time when patents were only published in paper form, but today bibliographic information, full text, abstracts, images, claims and classification information are widely available digitally. With these new formats come new challenges relating to the formats in which prior art data are available, as well as the speed with which new prior art data can be made available. It would be beneficial for both International Search Authorities and users for the PCT minimum documentation to evolve in line with the digital prior art landscape.
 - Clear and precise criteria for the updating and the extension of the PCT minimum documentation are needed
11. As technology evolves, it is important for the technical coverage of prior art belonging to the PCT minimum documentation to be broad enough to ensure the quality of international searches. As such the list needs to be periodically maintained and updated, but no clear guidance exists providing a basis on which new patent collections and/or new non-patent literature collections can be included in the PCT minimum documentation.

I.3 PCT Minimum Documentation Task Force - Background

12. In 2005, the MIA decided to set up a task force to undertake a comprehensive review of the PCT minimum documentation and considered that the task force should address issues relating to both patent documentation and non-patent literature, including traditional knowledge-related databases (PCT/MIA/11/14). At that MIA it was also agreed that the EPO should act as task force leader. A task force was set up but the process appears to have halted in view of the lack of consensus on certain issues.
13. In 2012, in order to revive the process, the MIA decided to set up a task force with the aim of extending and updating the scope of the patent literature part of the PCT minimum documentation (Circular C. PCT 1359). The task force operates using an electronic forum (wiki).
14. Since 2012, the discussions have progressed very slowly due in particular to the work done in parallel by the IP5 Offices regarding the documentation of their own patent documents. After the completion of the latter work, i.e. the publication of "Authority Files" from each Office, the International Bureau proposed at the MIA 2015 to reactivate the PCT minimum documentation task force. However, no progress was made in 2015 due to the lack of leadership.
15. At the MIA 2016 there was again consensus to reactivate the PCT minimum documentation task force but the IB indicated that it would welcome an ISA to perform the role of task force leader. The EPO responded positively to the call of the International Bureau, and agreed to lead the PCT Minimum Documentation Task Force.
16. Furthermore, at the MIA 2016, India's request that the Indian Traditional Knowledge Digital Library database (TKDL) be included in the PCT minimum documentation was denied. The PCT minimum documentation task force was invited to recommence its discussions on setting out objective criteria for the addition of databases, including traditional knowledge databases, to the PCT minimum documentation, according to the mandate established in 2005.

II. OBJECTIVES OF THE PCT MINIMUM DOCUMENTATION TASK FORCE

17. Since 2005, the overarching objective of the task force has been to examine all factors relating to the maintenance and revision of the list of patent and non-patent literature collections belonging to the PCT minimum documentation, and to recommend objective criteria that patent and non-patent literature collections, in both paper and electronic formats, must adhere to in order to be considered for inclusion in the PCT minimum documentation.
18. The mandate given to the Task Force, as validated by the PCT Working Group in May 2016, is as follows:
 - (a) Clarify the extent of the existing PCT minimum documentation, in view of the fact that the WIPO Handbook on Industrial Property Information and

Documentation is outdated, the definition and extent of patent literature having last been revised in November 2001, and the definition and extent of non-patent literature having last been revised in February 2010.

- (b) Make recommendations and draft standards which are reasonable for national offices to adhere to in order to have their national collections included in the PCT minimum documentation, and allow International Authorities and database providers to easily load the necessary information in a timely and reliable fashion. The question of whether utility models should also form part of the minimum documentation shall also be examined.
- (c) Propose clearly-defined components of patent data that should be present in all patent collections belonging to the minimum PCT documentation list (for example, bibliographic data, abstracts, full text, facsimile images, classification data), as well as the quality and dissemination criteria such data must adhere to, in order to improve searchability and facilitate data exchange between patent offices and commercial database providers.
- (d) Define the criteria necessary for a patent collection to become part of the PCT minimum documentation and the extent to which Authorities should be expected to include and search documents where they are in different languages or have equivalent technical disclosures to other patent documents.
- (e) Improve the availability of technical information from patent documents, in terms of the technical and linguistic coverage of the documents, and of the searchability of the information contained. This will further improve the quality of international searches, and ensure better access to patent information for third parties.
- (f) Make recommendations and propose mechanisms for reviewing and maintaining the non-patent literature part of the PCT minimum documentation, by taking into consideration factors such as:
 - a. practicable access to periodicals, including their availability in electronic form;
 - b. the range of fields of technology covered by periodicals;
 - c. access conditions applicable to periodicals, including cost and text searchability.
- (g) Recommend criteria for the inclusion of non-patent literature in the PCT minimum PCT documentation, and in particular, conditions under which traditional knowledge-based prior art should be included. Moreover, the task force should work with the Indian authorities after receiving their revised detailed proposals for inclusion of the TKDL database in the PCT minimum documentation.

III. PROPOSED METHODOLOGY

19. WIPO has provided an electronic forum (Wiki Space) on its website for facilitating discussions between members of the PCT Minimum documentation task force. As task force leader, the EPO intends to prepare and submit discussion papers for consideration of the other task force members, and to coordinate the discussions through a set of 'discussion rounds'. The EPO also intends to set deadlines for comments, and shape the activities such that concrete proposals from the task force are presented to the MIA and the PCT Working Group.

III.1 Work Plan

20. Due to the interrelated nature of the seven objectives listed above under part II., the EPO proposes for the sake of efficiency to combine some of them as shown below:

Work Plan Objective	Sub-tasks
A. (1) Clarify the extent of the existing PCT minimum documentation, in view of the fact that the WIPO Handbook on Industrial Property Information and Documentation is outdated, the definition and extent of patent literature having last been revised in November 2001, and the definition and extent of non-patent literature having last been revised in February 2010.	
B. (2) Make recommendations and draft standards which are reasonable for national offices to adhere to in order to have their national collections included in the PCT minimum documentation, and allow International Authorities and database providers to easily load the necessary information in a timely and reliable fashion. The question of whether utility models should also form part of the minimum documentation shall also be examined.	

<p>C. (3) Propose clearly-defined components of patent data that should be present in all patent collections belonging to the minimum PCT documentation list (for example, bibliographic data, abstracts, full text, facsimile images, classification data), as well as the quality and dissemination criteria such data must adhere to, in order to improve searchability and facilitate data exchange between patent offices and commercial database providers</p>	<p>(4) Define the criteria necessary for a patent collection to become part of the PCT minimum documentation and the extent to which Authorities should be expected to include and search documents where they are in different languages or have equivalent technical disclosures to other patent documents.</p> <p>(5) Improve the availability of technical information from patent documents, in terms of the technical and linguistic coverage of the documents, and of the searchability of the information contained. This will further improve the quality of international searches, and ensure better access to patent information for third parties.</p>
<p>D. (6) Make recommendations and propose mechanisms for reviewing and maintaining the non-patent literature part of the PCT minimum documentation, by taking into consideration factors such as:</p> <ul style="list-style-type: none"> a. practical access to periodicals, including their availability in electronic form; b. the range of fields of technology covered by periodicals; c. access conditions applicable to periodicals, including cost and text searchability. 	<p>(7) Recommend criteria for the inclusion of traditional knowledge-based prior art in the non-patent literature part of the minimum PCT documentation, and in particular, work with the Indian authorities after receiving their detailed proposals for inclusion of the TKDL database in the PCT minimum documentation.</p>

21. To summarise, the EPO proposes that the objectives be tackled by the task force as follows:

- **Objective A:** Create an up-to-date inventory of the patent literature and non-patent literature parts of the current PCT minimum documentation.
- **Objective B:** Recommend criteria and standards for including a national patent collection in the PCT minimum documentation.
- **Objective C:** Propose clearly-defined bibliographic and text components of patent data that should be present in patent collections belonging to the PCT minimum documentation.
- **Objective D:** Recommend criteria and standards for the review, addition and maintenance of non-patent literature and traditional knowledge-based prior art, and afterwards assess, on the basis of the criteria that will have been established, the revised proposal from the Indian authorities on TKDL.

22. The proposed grouping allows work to be carried out in parallel on the 4 objectives listed above.

23. The EPO intends to present discussion papers relating to Objectives **A**, **B** and **C** that shall serve as the basis for discussion rounds. Due to workload and time constraints considerations, the EPO wishes to invite one of the members of the task force to take the lead for Objective **D** by drafting discussion papers on this topic that can serve as a basis for discussion rounds. It is envisaged that the work shall be carried out throughout 2017 and 2018.

III.2 Timetable

24. The EPO intends to organise two rounds of discussions per year to guide the necessary work, as follows:

Feb – April 2017: Round 1 discussions
May 2017: Report to PCT Working Group
Sep – Nov 2017: Round 2 discussions
December 2017: Report to MIA

Feb – April 2018: Round 3 discussions
May 2018: Report to PCT Working Group
Sep – Nov 2018: Round 4 discussions
December 2018: Final Report to MIA with Recommendations

25. *The task force is invited, by January 13, 2017, to take note of the contents of the present document, to approve the Work Plan as presented, and one Office is invited to take the lead for Objective D (criteria for the inclusion of non-patent literature & traditional knowledge-based prior art, e.g. TKDL).*

ANNEX 1

Status of Current Issues discussed in the Task Force

As reported by the International Bureau during the 23rd session of the MIA in January 2016, the Task Force has focused its activities on the following three topics, with mixed results:

- Documenting Patent Collections
- Making National Patent Collections Available
- Minimum Documents and Data for Records to be Included

On Documenting Patent Collections

- i. The first major objective was to identify the practical scope of the patent literature portion of minimum documentation at present. The current Rule 34 is not very clear in this regard, because it explicitly lists certain patent collections that should be included in the minimum PCT documentation, but also states that parts of national collections not explicitly listed may be included in the minimum PCT documentation if they comply with certain conditions and also if they are made available to the ISAs by the Office owning the compliant national collection (see Rule 34.1(c)(vi)).

The last inventory of patent literature forming part of the minimum PCT documentation was taken in 2001, and in the intervening period, it is unclear whether these listed collections are still being made available to all ISAs, or whether other patent collections have since been made available.

None of the Task Force members responded to the questions concerning which Offices, beyond those whose collections are explicitly indicated in Rule 34.1(c), currently provided regular updated documents and information concerning their published patent collections, so this point needs to be re-visited in order to get an up-to-date inventory.

- ii. The second objective was to document the extent of each national patent collection to allow other Offices and database providers to verify that their information set was complete. In this regard, the task force explored the use of the IP5 “Authority File” format as a possible standard that national offices could use to document their own collections. The discussion round revealed that the 5 IP Offices published their Authority files in different formats (3 flavours of CSV and 2 flavours of XML), leading the International Bureau to request for a more consistent standard to be used across national collections. More discussions need to be held in this regard, taking into account the work of the PCT Authority File Task Force (also being led by the EPO).

On Making National Patent Collections Available

This area of work focused on identifying the formats in which Offices make their patent collections available (file formats, packaging means, frequency of updates, etc.), and to make recommendations for common standards in which Offices should be requested to publish their applications and bibliographic data for ease of use by others.

The front-files of most collections seem to be readily available electronically in formats that can be handled by database providers and other offices, but the quality of back-file data available varies considerably. There was no consensus on whether WIPO Standard ST.36 or ST.96 should be used for exchanging bibliographic data, and some more discussions are required to agree on a common format for publishing applications and bibliographic data.

Minimum Documents and Data for Records to Be Included

This area of work seeks to identify what the minimum content requirements should be for publications to be included in the PCT minimum documentation.

To date, the only requirement that publications in the PCT minimum documentation have to adhere to, is for the national offices to provide their publications to the ISAs in paper format. It is left up to each provider national office to decide to what extent and in which manner it chooses to provide its data in electronic format to ISAs (if at all), and similarly, any ISA is free to decide if and how it processes any incoming patent data electronically for the purpose of searching it electronically. In practice bilateral agreements exist between the offices and ISAs regarding provision of patent collections electronically, but it is highly desirable to agree on a set of minimum requirements for the provision of patent publications in electronically searchable format at source.

Not all portions (front-file vs. back-file) of a national collection may be electronically available to the same degree, and even Offices which act as ISAs may not have the resources to digitize their back-file data as completely and accurately as that for the applications which were originally processed and published electronically.

The three Offices in the Task Force that responded to questions raised by the IB on this topic agreed with the general principle of allowing more relaxed conditions in relation to older publications than for more recent publications. It therefore seems desirable to set higher requirements on the content for current publications, but lower requirements concerning older publications. This approach would allow for progressively refining the historical data over time in a manner which is open to all interested parties, especially as new technical capabilities to process full text data or providing better bibliographic information become available.

Further discussions on these three topics to build on what has already been agreed and to make more progress will be launched in 2017, in line with the revised Task Force mandate.

Regarding the inclusion of the Indian Traditional Knowledge Digital Library

India requested that the Indian Traditional Knowledge Digital Library (TKDL) be added to the PCT minimum documentation. An important factor to when evaluating India's request, was its accompanying stipulation that access to the TKDL required individual International Patent Offices to sign a TKDL (Non-disclosure) Access Agreement.

An extensive discussion on the proposal took place during the last MIA. Many Authorities expressed grave concerns about the very restrictive and unclear formulation of the TDKL Access Agreement and recommended revising the proposed Access Agreement before further considering the issue.

In response, the Government of India indicated that it was willing to revise the Access Agreement to address legitimate concerns about the aforementioned Access Agreement. The MIA invited the Indian Patent Office to submit to the PCT Minimum Documentation Task Force a detailed working document, including a revised draft of the access agreement, setting out its proposals with regard to the inclusion of the Indian Traditional Knowledge Digital Library (TKDL) in the PCT minimum documentation, taking into account discussions in the meeting and in other fora such as the IGC.

The Task Force has been informed that a detailed working document from the Indian Authorities setting out its revised access agreement and proposals for the inclusion of the Indian Traditional Knowledge Digital Library (TKDL) in the PCT minimum documentation is imminent.

ANNEX 2

PCT Rule 34, and related PCT Articles

Rule 34 Minimum Documentation

34.1 *Definition*

(a) The definitions contained in Article 2(i) and (ii) shall not apply for the purposes of this Rule.

(b) The documentation referred to in Article 15(4) ("minimum documentation") shall consist of:

(i) the "national patent documents" as specified in paragraph (c),

(ii) the published international (PCT) applications, the published regional applications for patents and inventors' certificates, and the published regional patents and inventors' certificates,

(iii) such other published items of non-patent literature as the International Searching Authorities shall agree upon and which shall be published in a list by the International Bureau when agreed upon for the first time and whenever changed.

(c) Subject to paragraphs (d) and (e), the "national patent documents" shall be the following:

(i) the patents issued in and after 1920 by France, the former *Reichspatentamt* of Germany, Japan, the former Soviet Union, Switzerland (in the French and German languages only), the United Kingdom, and the United States of America,

(ii) the patents issued by the Federal Republic of Germany, the People's Republic of China, the Republic of Korea and the Russian Federation,

(iii) the patent applications, if any, published in and after 1920 in the countries referred to in items (i) and (ii),

(iv) the inventors' certificates issued by the former Soviet Union,

(v) the utility certificates issued by, and the published applications for utility certificates of, France,

(vi) such patents issued by, and such patent applications published in, any other country after 1920 as are in the English, French, German or Spanish language and in which no priority is claimed, provided that the national Office of the interested country sorts out these documents and places them at the disposal of each International Searching Authority.

- (d) Where an application is republished once (for example, an *Offenlegungsschrift* as an *Auslegeschrift*) or more than once, no International Searching Authority shall be obliged to keep all versions in its documentation; consequently, each such Authority shall be entitled not to keep more than one version. Furthermore, where an application is granted and is issued in the form of a patent or a utility certificate (France), no International Searching Authority shall be obliged to keep both the application and the patent or utility certificate (France) in its documentation; consequently, each such Authority shall be entitled to keep either the application only or the patent or utility certificate (France) only.
- (e) Any International Searching Authority whose official language, or one of whose official languages, is not Chinese, Japanese, Korean, Russian or Spanish is entitled not to include in its documentation those patent documents of the People's Republic of China, Japan, the Republic of Korea, the Russian Federation and the former Soviet Union as well as those patent documents in the Spanish language, respectively, for which no abstracts in the English language are generally available. English abstracts becoming generally available after the date of entry into force of these Regulations shall require the inclusion of the patent documents to which the abstracts refer no later than six months after such abstracts become generally available. In case of the interruption of abstracting services in English in technical fields in which English abstracts were formerly generally available, the Assembly shall take appropriate measures to provide for the prompt restoration of such services in the said fields.

- (f) For the purposes of this Rule, applications which have only been laid open for public inspection are not considered published applications.

Article 1

Establishment of a Union

- (1) The States party to this Treaty (hereinafter called "the Contracting States") constitute a Union for cooperation in the filing, searching, and examination, of applications for the protection of inventions, and for rendering special technical services. The Union shall be known as the International Patent Cooperation Union.
- (2) No provision of this Treaty shall be interpreted as diminishing the rights under the Paris Convention for the Protection of Industrial Property of any national or resident of any country party to that Convention.

Article 2 **Definitions**

For the purposes of this Treaty and the Regulations and unless expressly stated otherwise:

- (i) "application" means an application for the protection of an invention; references to an "application" shall be construed as references to applications for patents for inventions, inventors' certificates, utility certificates, utility models, patents or certificates of addition, inventors' certificates of addition, and utility certificates of addition;
- (ii) references to a "patent" shall be construed as references to patents for inventions, inventors' certificates, utility certificates, utility models, patents or certificates of addition, inventors' certificates of addition, and utility certificates of addition;
- (iii) "national patent" means a patent granted by a national authority;
- (iv) "regional patent" means a patent granted by a national or an intergovernmental authority having the power to grant patents effective in more than one State;
- (v) "regional application" means an application for a regional patent;
- (vi) references to a "national application" shall be construed as references to applications for national patents and regional patents, other than applications filed under this Treaty;
- (vii) "international application" means an application filed under this Treaty;

(…)

Article 15 **The International Search**

- (1) Each international application shall be the subject of international search.
- (2) The objective of the international search is to discover relevant prior art.
- (3) International search shall be made on the basis of the claims, with due regard to the description and the drawings (if any).
- (4) The International Searching Authority referred to in Article 16 shall endeavor to discover as much of the relevant prior art as its facilities permit, and shall, in any case, consult the documentation specified in the Regulations.
- (5)(a) If the national law of the Contracting State so permits, the applicant who files a national application with the national Office of or acting for such State may, subject to

the conditions provided for in such law, request that a search similar to an international search ("international-type search") be carried out on such application.

(b) If the national law of the Contracting State so permits, the national Office or acting for such State may subject any national application filed with it to an international-type search.

(c) The international-type search shall be carried out by the International Searching Authority referred to in Article 16 which would be competent for an international search if the national application were an international application and were filed with the Office referred to in subparagraphs (a) and (b). If the national application is in a language which the International Searching Authority considers it is not equipped to handle, the international-type search shall be carried out on a translation prepared by the applicant in a language prescribed for international applications and which the International Searching Authority has undertaken to accept for international applications. The national application and the translation, when required, shall be presented in the form prescribed for international applications.

Article 16 **The International Searching Authority**

(1) International search shall be carried out by an International Searching Authority, which may be either a national Office or an intergovernmental organization, such as the International Patent Institute, whose tasks include the establishing of documentary search reports on prior art with respect to inventions which are the subject of applications.

(2) If, pending the establishment of a single International Searching Authority, there are several International Searching Authorities, each receiving Office shall, in accordance with the provisions of the applicable agreement referred to in paragraph (3)(b), specify the International Searching Authority or Authorities competent for the searching of international applications filed with such Office.

(3)(a) International Searching Authorities shall be appointed by the Assembly. Any national Office and any intergovernmental organization satisfying the requirements referred to in subparagraph (c) may be appointed as International Searching Authority.

(b) Appointment shall be conditional on the consent of the national Office or intergovernmental organization to be appointed and the conclusion of an agreement, subject to approval by the Assembly, between such Office or organization and the International Bureau. The agreement shall specify the rights and obligations of the parties, in particular, the formal undertaking by the said Office or organization to apply and observe all the common rules of international search.

(c) The Regulations prescribe the minimum requirements, particularly as to manpower and documentation, which any Office or organization must satisfy before it can be appointed and must continue to satisfy while it remains appointed.

- (d) Appointment shall be for a fixed period of time and may be extended for further periods.
- (e) Before the Assembly makes a decision on the appointment of any national Office or intergovernmental organization, or on the extension of its appointment, or before it allows any such appointment to lapse, the Assembly shall hear the interested Office or organization and seek the advice of the Committee for Technical Cooperation referred to in Article 56 once that Committee has been established.

[End of Appendix and of document]