

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

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PCT MINIMUM DOCUMENTATION TASK FORCE: STATUS REPORT AND PROPOSED EXTENSION OF MANDATE

*Document prepared by the European Patent Office and the United States Patent and
Trademark Office*

SUMMARY

1. This document provides an update on the work of the PCT Minimum Documentation Task Force (“the Task Force”) led by the European Patent Office (EPO) and the United States Patent and Trademark Office (USPTO). Following discussions at the fourth meeting of the Task Force (document PCT/MD/4/5/REV, attached as an Appendix to this document), the EPO and USPTO have prepared proposals to amend the PCT Regulations and modify the Administrative Instructions (see document PCT/MIA/29/5).

2. In order to facilitate the transition to the proposed requirements for the PCT minimum documentation, this document proposes an extension to the mandate of the Task Force and to set up a standing Task Force to start operating when the revised requirements enter into force to follow up their implementation. The proposed standing Task Force would also deal with non-patent literature matters, including the future revisions of the list of items agreed on under Rule 34.1(b)(iii).

BACKGROUND

3. In 2005, the MIA decided to set up a Task Force 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 (document PCT/MIA/11/14). However, due to various reasons the process stalled for several years. In January 2016, there was consensus at the MIA to reactivate the Task Force and the International Bureau invited one of the International Searching Authorities (ISAs)

to take up the role of Task Force leader. In February 2016, the EPO responded positively to the call of the International Bureau and, thereafter, the Task Force was reactivated under the lead of the EPO.

4. 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documentation, in view of the fact that the WIPO Handbook on Industrial Property Information and Documentation is outdated, the definition and extent of patent literature having last been revised in November 2001, and the definition and extent of non-patent literature having last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:

- practicable access to periodicals, including their availability in electronic form;
- the range of fields of technology covered by periodicals;
- access conditions applicable to periodicals, including cost and text searchability.

(g) Recommend criteria for the inclusion of non-patent literature in the PCT minimum 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.

5. For the sake of efficiency, in the work plan endorsed by the MIA in early 2017 the objectives listed above have been grouped as follows (Appendix to document PCT/MIA/24/4):

(a) Objective A: Create an up-to-date inventory of the patent literature and non-patent literature parts of the current PCT minimum documentation.

(b) Objective B: Recommend criteria and standards for including a national patent collection in the PCT minimum documentation.

(c) 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.

(d) 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 the Indian Traditional Knowledge Digital Library database.

6. Usually, the Task Force conducts its work using the wiki. In addition, where felt appropriate to facilitate progress in the discussions, the Task Force meets either physically or virtually. The discussions on Objectives A, B and C are being led by the EPO and the discussions on Objective D are being led by the USPTO.

STATE OF PLAY

7. The discussions on Objective A were successfully concluded by end 2017, i.e. when the up-to-date inventory of the current PCT minimum documentation was adopted by the Task Force members. The up-to-date inventory of both the patent literature and the non-patent literature part of the PCT minimum documentation is available on the WIPO website. Since 2018, the Task Force is working on Objectives B, C and D through a series of discussion rounds in the wiki.

8. With regard to Objectives B and C, two main issues emerged early in the discussions, namely:

(a) The first issue relates to the language-based criteria currently contained in Rule 34.1 which give rise to the following situation:

- the national patent collections of some ISAs do not belong to the PCT minimum documentation;
- the contents of the PCT minimum documentation vary depending on the ISA's official language(s) and the availability of English abstracts; and
- the patent literature part of the PCT minimum documentation is limited to patent documents published in a limited number of languages.

(b) The second issue relates to utility models. Currently, Rule 34.1 explicitly mentions the utility certificates of France as being part of the PCT minimum documentation, but omits significant utility model collections that are important sources of relevant prior art.

9. The discussions soon revealed that Rules 34 and 36 would need to be amended and that such Rule changes would need to be accompanied by new provisions of the PCT Administrative Instructions dealing with the technical criteria.

10. Since its first meeting (May 21 and 22, 2019), the Task Force has been discussing proposals for Rule amendments presented by the EPO. The fourth meeting of the Task Force took place by videoconference from December 13 to 17, 2021 (two hours each day). At that meeting, the Task Force endorsed the revised proposals and an Understanding regarding the interpretation of the proposed Rule 36, and agreed to their finalization via the wiki (see paragraphs 85 and 86 of document PCT/MD/4/5/REV). Annexes I and II of document PCT/MIA/29/5 set out the finalized proposals to amend Rules 34 and 36, and the proposed Understanding that would be adopted with amendments.

11. Regarding the technical and accessibility requirements under Objectives B and C, at its first meeting, the Task Force examined proposals about extending the ST.37 Authority File format to re-purpose it for specifying clearly defined bibliographic and text components of patent data that should be present in patent collections belonging to the PCT minimum documentation. During the second meeting, the Task Force focused on the issue of the cut-off date as of which the proposed technical and accessibility requirements, in particular the availability of patent data in text-searchable machine-readable form, should become mandatory. At its third meeting, the Task Force made significant progress on both aspects and thus tasked the EPO with the preparation of a draft text for new provisions of the PCT Administrative Instructions setting out the technical and accessibility requirements of the patent documentation part of the PCT minimum documentation.

12. At its fourth meeting, the Task Force discussed proposals for draft PCT Administrative Instructions. At that meeting, further progress was made, in particular consensus was reached on the proposed cut-off date of January 1, 1991 (paragraphs 16 and 37 of document PCT/MD/4/5/REV). In response to a request for support in implementing the new framework made by one delegation, the Chair acknowledged that it would be important to support the whole community of International Authorities and patent Offices whose patent documentation is included in the PCT minimum documentation to ensure a smooth transition. In that regard, the Chair suggested that one course of action could be to:

(a) extend the mandate of the current Task Force up until the actual entry into force of the revised Rules 34 and 36 and the respective Administrative Instructions, with the additional tasks of:

- guiding and supporting Offices in being technically ready by the date of entry into force of the new legal framework for all applications published as of the said date of entry into force onwards as well as
- agreeing on a roadmap to support Offices in meeting the technical requirements from the cut-off date up until the said date of entry into force within the 10-year window; and

(b) ensure that the implementation of the agreed roadmap is included in the mandate of the (future) standing Task Force on PCT minimum documentation under the PCT MIA which will start operating after the entry into force of the new set of Administrative Instructions (paragraph 32 of document PCT/MD/4/5/REV).

13. The above suggestion was posted on the wiki for further consideration and endorsed by the Task Force.

14. Following its fourth meeting, the Task Force discussed via the wiki a fine-tuned version of the draft provisions of the PCT Administrative Instructions. The finalized proposals are included in Annex III to document PCT/MIA/29/5).

15. With regard to Objective D, since its second meeting, which took place from December 7 to 11, 2020, the Task Force has been discussing proposals from the USPTO for criteria for the review of the non-patent literature (NPL) and traditional knowledge-based prior art. More specifically, the proposals presented a process and criteria by which NPL, including traditional knowledge-based prior art, could be considered for inclusion to the list, and how the list could be maintained over time.

16. At its fourth meeting, the discussions in the Task Force focused on the requirements for resources to provide a search interface, to be institutionally available, and to be electronically available to the public, and the proposal to set up the Task Force as a permanent body (paragraphs 40 to 70 of document PCT/MD/4/5/REV). For non-patent literature different from traditional knowledge resources, the Task Force reached consensus on all technical aspects. The Task Force invited the USPTO to formalize the proposals for the non-patent literature as draft provisions of the PCT Administrative Instructions and work together with the EPO on a joint document containing all proposed changes to the Administrative Instructions (paragraphs 51, 52 and 70 of document PCT/MD/4/5/REV).

17. In addition, as far as traditional knowledge resources are concerned, the Indian Patent Office recalled the uniqueness and complexities of traditional knowledge resources and that the latter are not always available in electronic form to the public. The Indian Patent Office further recalled that it is requesting the inclusion of the Indian Traditional Knowledge Digital Library database as a whole in the PCT minimum documentation. The Indian Patent Office underlined that the criteria for evaluation of traditional knowledge resources needed to be distinct from the criteria for classic non-patent literature and clarified that it was not asking for a special treatment of the Traditional Knowledge Digital Library database, but for traditional knowledge resources in general (paragraphs 44 and 67 of document PCT/MD/4/5/REV). The Indian Patent Office further pointed out that “the discussions in the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), where consideration has been given to the special nature of traditional knowledge resources, would have significant bearing on the current discussions and was of the opinion that until the IGC is able to take a decision on the matter, the proposed criteria may be applied only to modern science and technology literature, with due provision to assess traditional knowledge resources differently” (paragraph 44 of document PCT/MD/4/5/REV).

18. The USPTO underlined that traditional knowledge resources have not been granted special status so far by the IGC. Furthermore, the USPTO recalled its strong position that whatever is contained in the PCT minimum documentation must also be made available to the public. The USPTO suggested that, if the IGC decides that traditional knowledge resources should be granted special status, the criteria could be revisited by the Task Force. It was recalled that all Task Force members, apart from the Indian Patent Office, seemed to agree with the concept of equal availability of resources to ISAs and the public. The USPTO noted that the position of the Indian Patent Office, i.e. that the proposed criteria could not apply to traditional knowledge resources in general, would imply that traditional knowledge was to be treated differently than other prior art, and pointed out that such a position has not been agreed to by the international IP community as a whole (paragraphs 45 and 69 of document PCT/MD/4/5/REV).

19. Since the fourth Task Force meeting, the USPTO has formalized the proposals as draft provisions of the PCT Administrative Instructions, which are presented in Annex III to document PCT/MIA/29/5).

20. The proposed amendments to the PCT Regulations and modifications to the Administrative Instructions referred to above are presented in document PCT/MIA/29/5 with a view to submitting the proposed Rule amendments to the PCT Working Group at its next session, scheduled to take place from October 3 to 7, 2022. If the Working Group agrees to

submit the proposals to the PCT Assembly, their intended entry into force would be on January 1, 2026, in order to be taken into account during the next round of reappointment of International Authorities.

21. For further details on the Task Force's discussions, International Authorities are invited to consult the wiki where all Task Force meeting documents are available (to request access to the wiki, you can send an email to pct.mia@wipo.int). Any International Authority can join the Task Force and contribute to the discussions in the wiki. The next meeting of the Task Force is tentatively planned from November 14 to 18, 2022.

PROPOSED EXTENSION OF THE MANDATE OF THE TASK FORCE

22. In order to facilitate the transition to the new requirements, it is proposed to extend the scope of the mandate of the current Task Force, as suggested by the Chair at the fourth meeting and endorsed by the Task force via the wiki (see paragraphs 12 and 13, above). Therefore, it is proposed to add the following objectives to the Task Force's mandate recalled in paragraph 4, above:

- (a) Guide and support Offices in being technically ready by the date of entry into force of the amended definition of the PCT minimum documentation to make available, in accordance with the technical and accessibility requirements, all patent documents, and where applicable utility model documents, published on or after the said date of entry into force.
- (b) Agree on a roadmap over the 10 years following the date of entry into force of the amended definition of the PCT minimum documentation to support Offices in meeting the technical requirements to make available all patent documents, and where applicable utility model documents, published on or after the cut-off date up until the said date of entry into force.
- (c) Ensure that the implementation of the agreed roadmap is included in the mandate of the (future) standing Task Force on PCT minimum documentation under the PCT MIA that will start operating after the entry into force of the amended Regulations and new provisions of the Administrative Instructions relating to the PCT minimum documentation.

23. It is also recommended that the MIA sets up a standing Task Force on PCT minimum documentation which would start operating after the entry into force of the revised Rules and Administrative Instructions. That Task Force would follow-up the implementation of the roadmap referred to above to support the transition to the new requirements, and also deal with non-patent literature matters (in the latter regard, see document PCT/MIA/29/5).

24. *The Meeting is invited:*

- (i) *to take note of the contents of the present document,*
- (ii) *to approve the extension of mandate of the current Task Force proposed in paragraph 22, above, and*
- (iii) *to approve the setting up of a standing Task Force on PCT Minimum Documentation, as recommended in paragraph 23, above.*

[Appendix follows]

PCT Minimum Documentation Task Force

Fourth session

By videoconference, 13-17 December 2021

Summary of discussions

adopted by the Task Force

1. The PCT Minimum Documentation Task Force (“the Task Force”) held its fourth session by videoconference from 13 to 17 December 2021.
2. The list of participants is contained in Annex I to this document.

Item 1: Opening of the session

3. Mr C. Bogliolo, Head of Department PCT Affairs, European Patent Office (EPO) welcomed the participants as Chair of the session. In his opening remarks, the Chair thanked all participants for having joined this virtual session, the USPTO for its work as leader of Objective D and WIPO for its support for the drafting of the proposed draft provisions of the PCT Rules and Administrative Instructions. The Chair welcomed the Swiss Office as new observer Office and noted that this session was attended by 19 delegations, namely 14 International Searching Authorities (ISAs), WIPO and four observer Offices (the French, German, Swiss and UK Offices).
4. The Chair recalled the current state of play of the discussions and presented the agenda of the present session. The USPTO and WIPO thanked the EPO for organising this meeting. Regarding Objective A, WIPO recalled that it has posted in October on the Task Force's electronic forum ("the wiki") a draft up-to-date inventory of the patent literature part of the current PCT Minimum Documentation for comments. WIPO announced that it will probably publish the up-to-date inventory on its website at the beginning of next year. WIPO informed the Task Force that the Director General had communicated a calendar of meetings for 2022 to WIPO Members and Observers (Circular C. N. 4090). The calendar listed the WIPO Assemblies to meet from 15 to 22 July and the 15th session of the PCT Working Group to take place from 3 to 7 October. The dates for the PCT MIA had not yet been fixed, but would probably take place around late March 2022. WIPO added that, in view of the PCT Assembly taking place prior to the PCT Working Group next year, 2023 would be the earliest date for submitting any proposals to the PCT Assembly to amend the PCT Regulations that might be agreed at the PCT MIA in 2022.
5. The Task Force adopted the agenda as set out in document PCT/MD/4/1.

Item 2: Objectives B and C: Technical and accessibility requirements for patent and utility model data, including bibliographic and text components of that data

6. Discussions were based on document PCT/MD/4/3/REV and a PowerPoint presentation PCT/MD/4/3/PPT.
7. The EPO presented a PowerPoint presentation PCT/MD/4/3/PPT (which was posted on the wiki) to set out the state of play of the discussions on the technical and accessibility requirements for patent and utility model data, and to recall the main problems addressed by the Task Force, namely:
 - what subset of PCT Minimum Documentation patent data should be electronically searchable, and
 - how to easily identify which PCT Minimum Documentation patent documents are electronically searchable or not.
8. The EPO noted that the PCT Minimum Documentation Task Force along with the Authority File Task Force jointly collaborated to revise WIPO Standard ST.37 to include the three additional indicators of whether the abstract, description, claims of a publication are text-searchable. The EPO underlined that the revisions were approved by the ninth session of the Committee on WIPO Standards (CWS) in November 2021 and incorporated into version 2.2 of WIPO Standard ST.37, which is now available on WIPO website at: https://www.wipo.int/standards/en/part_03_standards.html.
9. The EPO presented the proposals contained in document PCT/MD/4/3/REV and the Chair opened the floor for comments on each paragraph of the document. The following topics were discussed and clarified by the EPO whenever possible:
10. Regarding the language codes to be indicated in the authority file (paragraph 5, draft Annex H to the PCT Administrative Instructions), the Canadian Intellectual Property Office (CIPO) asked whether the language code of the original language should be indicated first and the one of the translation second, or whether the order does not matter. The EPO replied that the order does not matter.
11. The National Institute of Industrial Property (INPI - Brazil) asked whether the English language abstract in searchable text format would be mandatory (paragraph 5, draft Annex H). The EPO replied that it would not be mandatory, but that the abstract in searchable text format could be provided in whichever language.
12. The Japan Patent Office (JPO) asked for clarifications regarding the "access details" mentioned in paragraph 3 of draft Annex H. The China National Intellectual Property Administration (CNIPA) further asked whether Offices would have to provide the raw data or whether it would be sufficient to provide a link to a search interface where the raw data can be searched. WIPO underlined that it would be essential that ISAs have access to the raw data. The Chair then pointed out that the question was actually whether any Office would be against making its raw data available within the framework of the PCT Minimum Documentation. The Chair suggested to continue the discussions on this point based on a revised version of the document, which would take into account feedback received during the discussions and posted in the electronic forum.
13. The USPTO asked whether it had been considered to include in draft Annex H a reference to the public availability of the patent collections. The Chair suggested to discuss this matter later during the current session after Offices have reflected on this point.

14. Regarding the creation of the authority file, the JPO indicated that it would be burdensome for them to create an authority file for documents published before the cut-off date. The JPO suggested that it should be optional to create an authority file for documents published before the cut-off date. The EPO raised the question as to whether the creation of the authority file only for a part of the collection could be considered as ST.37 compliant. In that regard, WIPO noted that Standard ST.37 does not define any range. The Chair decided that this matter would need to be further discussed with a view to clarify whether an authority file not containing data, or containing only partial data, for the period running between 1920 and 1990 (prior to the cut-off date) should be considered as complying with the requirements under Annex H, which is based on WIPO Standard ST.37.
15. CNIPA expressed concerns about the compulsory nature of the three additional columns and the exception codes column of the authority file. The EPO confirmed that the three additional columns would indeed be mandatory whilst they could be filled with U for the period between 1920 and 1990 (prior to the cut-off date). The EPO recalled that Offices would benefit from a 10-year window to comply with their obligation as far as the period between 1991 and the time of entry into force of the new Administrative Instructions (at the latest 1.1.2026), but that the exception codes column could be made optional if the other three additional columns have been filled out. The Chair added that this latter point needed to be added to the wording in Annex H in order to address CNIPA's concerns. CNIPA indicated that it needed more time to evaluate the matter. The Chair indicated that CNIPA was welcome to provide the Task Force with its further feedback later in the session.
16. The JPO indicated that it agrees with the proposed cut-off date of 1 January 1991 (paragraphs 6 and 10, draft Annex H). The Chair welcomed JPO's decision to join the consensus on this matter.
17. The Intellectual Property Office of the UK (UKIPO) asked for a clarification regarding the abbreviations used in paragraph 13 of draft Annex H. The EPO agreed to correct the text in a revised version of the document.
18. The EPO explained that document PCT/MD/4/3/REV had added paragraph 18 of draft Annex H compared to the previous version in reply to the feedback received from a Task Force member. The Chair invited the participants to share any comments or drafting suggestions on this paragraph in the electronic forum.
19. The discussions on this item were resumed later in the session on the basis of document PCT/MD/4/3/REV2 which had been posted by the EPO on the wiki. The EPO explained the amendments which had been introduced in the latter revised version of the document.
20. Regarding the revised wording of **paragraph 3 of draft Annex H**, and in reply to a question from the Korean Intellectual Property Office (KIPO), the EPO underlined that the aim is to ensure that all International Authorities and the International Bureau may obtain the raw patent data from the source Offices. Further, in reply to a question from the JPO, the EPO indicated that, if an Office provides a search interface to its raw patent data, it would be recommended that access to such search interface is also made available.
21. WIPO noted that KIPO is already providing its raw patent data to WIPO twice a month and thus it should likely be able to meet this requirement very easily. The EPO added that this should also be the case for almost all ISAs who currently provide their raw patent data to the EPO. In that respect, WIPO confirmed that today most Offices are providing the raw patent data bi-weekly or monthly. However, it was not always clear how that data is being sent.

22. IPO - India and CNIPA indicated that they would need more time to examine the proposals. IPO - India added that they would provide their comments later in the wiki.
23. WIPO underlined that all ISAs should be able to access the raw patent data and, hence, that the goal is to make it available to them. WIPO mentioned that it would need to know how the Offices would make such raw patent data available. In that regard, one option would be that Offices send the documents to the International Bureau and then the International Bureau would make them available to all International Authorities. In view of the size of the collections, however, this would require significant investment for the International Bureau, which could make this option too expensive. Therefore, there could be a combination of various solutions, whereby, with respect to older collections, the International Bureau might, for example, burn DVDs and ship them off. WIPO indicated that it should be looked at how such huge data volumes are treated today at WIPO and at the EPO. It was underlined that it would be important to find a good way to give access to the data to International Authorities.
24. The Chair proposed to mandate the EPO and WIPO to work on rephrasing paragraph 3 of draft Annex H by end of January 2022. The Chair suggested that the amended paragraph 3 would be made available via the wiki to the Task Force members for feedback by mid-February 2022 (2 weeks for providing the feedback) so as to leave enough time to finalise the document to be submitted at the PCT MIA of March.
25. The EPO proposed to post the following two questions on the wiki to seek input from all Task Force members and observers, so that it can work with the International Bureau to find an acceptable wording for paragraph 3 of the draft Annex H of the Administrative Instructions under the PCT:
 - a) As an International Authority, what is your Office's preferred way of accessing text-searchable PCT Minimum Documentation raw patent data in either WIPO Standard ST.36 or ST.96 or in plain text format? In particular, would you prefer to access the raw patent data in bulk format by retrieving it directly from a secure repository owned by the providing patent Office e.g. via SFTP, or via a Web Service? Or would you prefer to access the text-searchable raw patent data via some other means?
 - b) As a source Office, what is your Office's preferred way of providing your text-searchable PCT Minimum Documentation raw patent data in either WIPO Standard ST.36 or ST.96 or in plain text format to the International Bureau and to International Authorities? Do you make already, or would you consider making in the future, a search interface available for use by other International Authorities?
26. The EPO kindly asked for feedback by 15 January 2022. On the basis of the information received from all delegations, the EPO and WIPO will formulate a new text for paragraph 3 detailing how the raw patent data is to be made available to the International Bureau and to International Authorities.
27. Regarding the changes introduced in the **explanatory note to paragraph 6 of draft Annex H**, the JPO agreed with the revised wording proposed by the EPO but indicated its preference for having the explanatory note introduced in the draft provisions of Annex H as such. The inclusion of the relevant contents of the explanatory note in the Administrative Instructions was agreed by the Task Force. At the report session, the JPO presented a minor correction to paragraph 6 in the Annex H (PCT/MD/4/3/REV3). The Task Force agreed with this suggestion. Furthermore, the International Bureau indicated that this paragraph needs further fine-tuning.

28. Regarding **paragraph 12 of draft Annex H**, the EPO clarified that paragraph 12 is related to paragraph 3 and therefore the changes envisaged to paragraph 3 would also possibly need to be reflected in paragraph 12.
29. Regarding **paragraph 15 of draft Annex H**, the EPO reminded that it was amended in view of a question received earlier with regard to the exception codes. It was explained that the introduced amendments clarify that the exception codes should not be compulsory. It was also noted that new text has been added to clarify how the new mandatory three columns should be filled. CNIPA agreed to the proposed changes to paragraphs 15 and 16 of draft Annex H. However, CNIPA stressed the fact that they were of the view that the three last new columns should also be made optional, as per ST.37. CNIPA also indicated that these requirements needed to be kept flexible enough to facilitate the inclusion of other Offices' patent collections in the PCT Minimum Documentation since it was already generally agreed to extend the coverage of the PCT Minimum Documentation and to include the collections of non-ISAs.
30. WIPO explained that a common standard was needed. It was mentioned that the Patentscope team is very small and that there is no capacity to import data from so many different Offices in different flavours. It was added that the wish for flexibility is understood but a standard is needed to get a useful result to produce high quality searches. The Chair also added that one could understand flexibility in many ways since not having a sufficiently strong common standard applicable to all source Offices would actually not make life of small and medium ISAs easier, quite the opposite.
31. IPO - India indicated that it could commit to the new requirements only when it is confident about the practical implementation of the tasks like the adoption of new formats for capturing data and creation of Authority files. Noting that this aspect may be more important in respect of old data, IPO - India asked whether a roadmap was planned for smooth transition to help all Offices gain the confidence before the date of implementation of the new provisions.
32. The Chair acknowledged that it would be important to support the whole community of International Authorities and patent Offices whose patent documentation is included in the PCT Minimum Documentation in order that the transition to the new requirements could be smooth for everybody. In that regard, the Chair suggested that one course of action could be to:
 - extend the mandate of the current Task Force up until the actual entry into force of the revised Rules 34 and 36 and the respective Administrative Instructions, with the additional tasks of (a) guiding and supporting Offices in being technically ready by the date of entry into force of the new legal framework for all applications published as of the said date of entry into force onwards as well as (b) agreeing on a roadmap to support Offices in meeting the technical requirements from the cut-off date up until the said date of entry into force within the 10-year window; and,
 - ensure that the implementation of the agreed roadmap is included in the mandate of the (future) standing Task Force on PCT Minimum Documentation under the PCT MIA which will start operating after the entry into force of the new set of Administrative Instructions.
33. The Chair asked the Task Force members to consider this proposal with a view to include this recommendation in the package presented at the PCT MIA in March 2022. The above suggestions were also posted in the wiki for further consideration and feedback by end January.

34. Regarding the revised wording of **paragraph 18 of draft Annex H**, the USPTO underlined that the proposed provisions should not affect the ability of Offices to provide copies of cited documents together with the search report. The USPTO was wondering whether the proposed wording would limit the dissemination by Offices of patent information. IPO - India also noted that it had earlier posted on the wiki its views about the need for standard data transfer agreements and stated that the proposed Annex H now refers to "use of data" in the last paragraph.
35. The EPO explained that concerns had been expressed by a delegation that International Authorities could take the raw patent data made available in the context of the PCT Minimum Documentation and offer it in products that are sold to the public. CNIPA further clarified that the PCT Minimum Documentation should be only used for the purposes of PCT examination work which includes the search and the provision of copies of cited documents to applicants and third parties. CNIPA considered that the PCT Minimum Documentation raw data should not be provided to third parties in bulk unless there are bilateral or multilateral agreements amongst Offices.
36. WIPO drew the attention to the fact that the new proposed wording should not impede International Authorities to use the PCT Minimum Documentation also for their national searches. This point was supported by the JPO. In order to address the matter, WIPO suggested the following wording: "conducting prior art searches and related activities, including providing copies of cited documents to applicants and third parties". The EPO, the USPTO and CNIPA supported that wording, which was endorsed by the Task Force.
37. CNIPA indicated that it would have preferred having 1 January 1995 as a cut-off date but could also agree with the proposed cut-off date of 1 January 1991 (paragraphs 6 and 10, draft Annex H). The Chair welcomed CNIPA's decision on this matter and concluded that with the JPO (see paragraph 16, above) and CNIPA joining the consensus, there was now full support within the Task Force regarding the cut-off date of 1 January 1991.
38. The Chair invited the EPO to prepare a new revised version of its document, i.e. document PCT/MD/4/3/REV3, reflecting the outcome of the discussions, to be annexed to the Summary by the Chair
39. *The Task Force took note of documents PCT/MD/4/3/REV, PCT/MD/4/3/REV2, and PCT/MD/4/3/REV3. The Task Force invited the EPO to take any further feedback received until end of January 2022 via the wiki and in particular to revise paragraph 3 of draft Annex H to the PCT Administrative Instructions as outlined in paragraphs 24 to 26, above, and, pending further comments and feedback received from Task Force members by end January, to include the recommendations contained in paragraph 32, above, in the package presented to the PCT MIA in March 2022.*

Item 3: Objective D: Criteria and standards for the review, addition and maintenance of non-patent literature and traditional knowledge-based prior art

40. Discussions were based on document PCT/MD/4/4 and a PowerPoint presentation PCT/MD/4/4/PPT (posted on the wiki).
41. The USPTO presented a PowerPoint presentation PCT/MD/4/4/PPT to set out the state of play of the discussions on non-patent literature and traditional knowledge-based prior art, and to invite the Task Force to discuss the outstanding points, namely:

- paragraph 7c of document PCT/MD/4/4 regarding the requirement for resources to provide a search interface,
- paragraph 7b of the same document regarding the requirement for resources to be electronically available to the public, and
- the proposal that the Task Force become a permanent body.

42. With regard to **paragraph 7c of document PCT/MD/4/4**, the USPTO presented the current wording of that paragraph, a wording suggestion provided by the EPO and an alternative proposal of the USPTO. It was underlined that in essence the said paragraph contains two requirements namely, a) "search interface" and b) "institutional availability" with the additional preference of "text-coded format". WIPO suggested to mention the institutional availability in a separate sentence. The USPTO explained why in its view resources must provide a search interface. In reply to a question from the Indian Patent Office (IPO - India), the USPTO clarified that "institutionally available" means that an organisation is able to subscribe on behalf of all authorized users, contrary to requiring multiple single personal subscriptions for users. The USPTO emphasised that the institutional availability is an important distinct requirement. The EPO indicated that in rare cases a source could be available in text-coded format but not provide a search interface. IPO - India stated that in its view the requirement to offer a search interface was a must and hence in paragraph 7c, the conditions "All eligible resources must provide a search interface" and "must be indexed in such a way that they could be incorporated into a search interface" could not be connected by "or" making the search interface an optional feature. IPO - India stated that not all Offices may be having the ability or may be willing to develop search interfaces for searching NPL resources that do not offer a search interface. The USPTO explained that if a resource has no search interface, then all ISAs do need to incorporate this resource into their own systems. However, not all Authorities might be able to do so. Hence, the possibility in some cases to have such a search interface possibly made available via the International Bureau or other International Authorities. The Chair asked whether any Task Force member would be against having the availability of a search interface as the single requirement whilst the other conditions derive from it. The Chair invited the USPTO to post in the wiki a revised wording of paragraph 7c.

43. With regard to **paragraph 7b of document PCT/MD/4/4**, the USPTO proposed to keep the current wording while the traditional knowledge special status discussions continue in the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), which is in their view the proper forum for such topics. The USPTO suggested moving forward to adopt the proposed criteria, with an understanding that if the IGC grants special status to traditional knowledge, then the standing Task Force committee could discuss criteria revisions.

44. IPO - India thanked the USPTO for their proposal but recalled that traditional knowledge information is not aligned to requirements and qualifications of modern science and technology literature and as such not always available in electronic form to the public. IPO - India then reiterated that the criteria for evaluation of traditional knowledge resources needed to be distinct from the criteria for classic non-patent literature (prior art) and clarified that they did not ask for special treatment of the Traditional Knowledge Digital Library (TKDL) database, but for traditional knowledge resources in general. The TKDL, being the global first of prior art databases of traditional knowledge, is just one of the examples to illustrate the distinctive nature and highlight the complexities of this type of prior art. IPO - India was also of the view that accepting the proposed criteria at this point of time may preclude a balanced review of traditional knowledge resources as distinctive non-patent literature and may be viewed as a disadvantage to countries rich in traditional knowledge.

The delegation further recalled that the discussions in the IGC, where consideration has been given to the special nature of traditional knowledge resources, would have significant bearing on the current discussions and was of the opinion that until the IGC is able to take a decision on the matter, the proposed criteria may be applied only to modern science and technology literature, with due provision to assess traditional knowledge resources differently.

45. The USPTO pointed out that traditional knowledge resources have not been granted special status so far by the IGC. Furthermore, the USPTO recalled that its strong position is that whatever is contained in the Minimum Documentation, and thus required to be consulted by made available to the ISAs must also be made similarly available to the public. It was added that, with a view to avoiding applicants filing applications only covering existing prior art, all resources must be treated equally. The USPTO noted that, if the IGC decides that traditional knowledge resources should be granted special status, the criteria could be revisited by the Task Force. The USPTO indicated that, if IPO - India maintains its position, no progress can be made and the non-patent literature part of the PCT Minimum Documentation will have to stay as it is. It was reminded that all Task Force members, apart from IPO - India, seemed to agree with the concept of equal availability of resources to ISAs and the public. Furthermore, the USPTO reported that they tried to have bilateral discussions on this topic with IPO - India but that so far no meetings could take place.
46. The Chair underlined that making no progress on Objective D is not desired in view of the importance of this matter for ISAs to perform a good quality work under the PCT. In the attempt to facilitate finding a compromise, the Chair asked the following two questions to IPO - India which were posted on the wiki:
 - Are some parts of the TKDL already meeting the criteria contained in document PCT/MD/4/4? If so, would it be a possible way forward to include these parts of the TKDL in the PCT Minimum Documentation?
 - In relation to the USPTO proposal, would it help to include in the draft provisions on NPL a revision clause which could be triggered by any ISA after a certain time frame (e.g. 2 or 5 years), if progress had been made during that time frame by the WIPO Intergovernmental Committee (IGC) on granting a special status to traditional knowledge? Such a revision clause would ensure that an ISA could submit a proposal to include traditional knowledge sources in the PCT Minimum Documentation to the (future) Standing Task Force for its consideration.
47. IPO - India thanked the USPTO for all its efforts on Objective D. IPO - India explained that they are not able to have a bilateral meeting with the USPTO as they needed internal discussions beforehand. IPO - India underlined that they have been contributing positively to the Objective D of the Task Force, and that their viewpoint is simply that the proposed criteria may be applied only to modern science and technology literature, with due provision to assess traditional knowledge resources differently, considering the unique and distinct requirements of traditional knowledge. Regarding the questions asked by the Chair to the Indian Patent Office, IPO - India agreed to provide the answers on Day 3 to the Task Force.
48. The Chair thanked IPO - India for its willingness to make progress on this matter and to meet the USPTO. In the latter regard, the Chair expressed his hope that the meeting between the USPTO and IPO - India could preferably take place before the PCT MIA in 2022.
49. With regard to the **proposal that the Task Force becomes a permanent body**, the EPO stated that they support having a standing Task Force for non-patent literature matters. The Chair suggested that, instead of having the proposal presented by one Authority to the PCT

MIA, the proposal could be submitted by the Task Force itself to the PCT MIA as part of the document(s) submitted for its consideration. The USPTO and CIPO supported that suggestion, which was endorsed by the Task Force.

50. CNIPA suggested that other document formats could be added in addition to the electronic format to ensure comprehensiveness and consistency of the non-patent literature part of the PCT Minimum Documentation. In reply to CNIPA, the USPTO recalled that the original intent of the review of the PCT Minimum Documentation was to improve and modernise. The USPTO added that non-electronic resources have become particularly difficult to access in view of the pandemic. The USPTO indicated that the only paper documents available at the USPTO are the ones coming from the current PCT Minimum Documentation. It was stressed that the idea being to modernize the PCT Minimum Documentation, only electronically available and searchable resources should be included.
51. The Chair emphasised that the PCT Minimum Documentation is indeed to be seen as a minimum and that each Authority may use in addition any documents that are at its disposal. The Chair invited the USPTO to formalise the proposals for the non-patent literature as draft provisions of the PCT Administrative Instructions and added that the intention was to merge the latter proposals with draft provisions of the PCT Administrative Instructions proposed by the EPO in order to present all proposals in one package to the PCT MIA 2022. The USPTO asked about the timing of when the document would be needed, and expressed concerns as the document as a whole hasn't reached consensus. USPTO stated brackets can be placed around the section or document as a whole to reflect the lack of a finalized document.
52. The Chair closed this initial discussion with some pre-concluding remarks, i.e.:
 - a) The contents of paragraph 7c of document PCT/MD/4/4 were agreed in principle but a rewording of that paragraph is needed. A proposed new wording should be posted in the wiki by the USPTO for consideration later in the present session;
 - b) There seems to be consensus on the contents of 7b of document PCT/MD/4/4 as far as classic non-patent literature is concerned. As far as traditional knowledge-based prior art is concerned, it is hoped that the questions raised by the Chair could facilitate a way forward;
 - c) The proposal to recommend that the PCT MIA sets up a standing Task Force was agreed in principle (on the basis of the detailed proposal already discussed at the previous session) and this proposal should be submitted by the Task Force to the PCT MIA as part of the package submitted for its consideration; and
 - d) The USPTO is kindly asked to formalise the proposals for the non-patent literature as draft provisions of the PCT Administrative Instructions and work together with the EPO on a joint document containing all proposed changes to the Administrative Instructions.
53. The discussions on this item were resumed later in the session on the basis of document PCT/MD/4/4/REV which had been posted by the USPTO on the wiki.
54. The USPTO presented the updated **paragraph 7c** of its revised document which had been shared via the wiki upfront. In this update, the USPTO tried to incorporate the EPO's suggestion regarding the "text-coded format". Furthermore, the USPTO added some clarification on the "institutional access". The EPO expressed its support to the revised wording.

55. IPO - India enquired whether the revised wording implies that there could be documents that would require International Authorities to develop themselves a search interface. In addition, IPO - India proposed that a clarification be introduced with regard to the "institutional access" that the access to the institution shall be irrespective of the geographical locations of the institution. IPO-India further clarified the need for this requirement by stating that the offices operating from different geographical locations will not face difficulties in being treated as a single subscriber while negotiating with the Publishers of resources. It added that in view of the availability of modern technology, there is no constraint in treating the offices located at multiple locations as single subscriber. IPO-India further stated that since the Task Force is going ahead with state-of-the-art technology being reflected in all criteria, it can be stipulated that the institutions shall be treated as a single subscriber irrespective of multiple geographical locations of the institution noting that it eliminates the need for such tough negotiations.
56. The USPTO explained that there are non-patent literature providers which do not offer a search interface themselves but who are indexing their content in such a manner that it is available via another provider's search interface. With regard to the second question raised by IPO - India, the USPTO understood the issue and mentioned that their Office is also located in different geographical places. WIPO indicated that the proposed text seems not to exactly reflect what the USPTO stated earlier in the discussions. It was noted that the text does not reflect that the resources must provide a search interface. IPO - India requested more time to reflect on this topic.
57. It was agreed that the USPTO will reflect on the feedback received and post yet another updated version of its document for further consideration during the session.
58. The discussions on this item were resumed later in the session on the basis of document PCT/MD/4/4/REV2 which had been posted by the USPTO on the wiki.
59. The USPTO presented the updated version of paragraph 7c of PCT/MD/4/4/REV2 which tries to incorporate the outcome of the above-mentioned discussions.
60. IPO - India suggested indicating in paragraph 7c that "institutionally accessible" means that the resource must be available for subscription or purchase by an institution treating the institution as a single subscriber/purchaser irrespective of the presence of the institution in multiple geographic locations, with the same terms of use and search functionality of the resource being applicable to all authorized users of the institution.
61. CIPO reminded that at present, since most people are working from home, people are working all over the country and not in a specific Office. CIPO enquired about the exact meaning of geographic locations (locations of the Office per se or where the employees actually live and work). The USPTO replied that it could mean both.
62. Further discussions followed on the text proposal from IPO - India with regard to the relation of institutions and publishers. The USPTO further clarified that institutionally available refers only to the means of subscription. The fee policy of publishers is not in scope.
63. IPO - India stressed the fact that it seems that publishers have different conditions for different Offices. The USPTO confirmed that they also had issues with publishers with regard to the multiple locations of the Office. IPO - India underlined that the costs are perceived individually and also the actual costs are not able to be shared due to contractual limitations. IPO-India stated that including the condition of treatment as single subscriber irrespective of geographical locations would offer a level playing field for all Authorities when the NPL list is considered for inclusion. The USPTO expressed concerns regarding the fact

that the geographic locations are actually a different topic. The chair noted, and the USPTO supported, the fact that it was not within the mandate of the Task Force to, and that in fact the Task Force couldn't, guarantee equal treatment by publishers.

64. The Chair concluded that there was now consensus on the latest version of paragraph 7c showed on the screen, whilst noting the need for IPO - India to further reflect on this matter and to come back with their feedback via the wiki at the latest by end January.
65. The Chair invited the USPTO to post on the wiki a further revised version of its document (PCT/MD/4/4/REV3) reflecting the status quo (last screen shot) with respect to paragraph 7c. Document PCT/MD/4/4/REV3 which was posted on the wiki is attached as Annex V to this document.
66. The Chair invited IPO - India to reply to the two questions mentioned in paragraph 46 above. Before answering to these questions, IPO - India clarified its position and the steps taken both vis-à-vis the responses provided to USPTO as well as the discussions being held internally at the Indian Patent Office to make progress on this matter. It requested the Task Force to appreciate its position until a conclusion could be arrived at. It stated that it had been expressing its view points at the IGC, the MIA and the Task Force. IPO-India once again clarified that its stand is that until the IGC is able to take a decision on the matter, the proposed criteria may be applied only to modern science and technology literature, with due provision to assess traditional knowledge resources differently. IPO-India requested that this is not to be construed erroneously as India's actions to block the progress at the Task Force, thereby ignoring the contributions that it had been making in the Task Force to take ahead Objective D.¹
67. In reply to the first question, IPO - India reiterated that the criteria for evaluation of traditional knowledge resources for inclusion as NPL in the PCT Minimum Documentation need to be distinct from the criteria for modern non-patent literature, keeping in mind the uniqueness and complexities of resources like TKDL. Reference was made to the discussions in the previous meetings to state that the inclusion of the TKDL database as a whole in the PCT Minimum Documentation is being sought. This was also emphasised during the second session of the PCT Minimum Documentation Task Force (7-11 December 2020): "India emphasized the specificities and advantages of TKDL. IPO - India also clarified that it requests the inclusion in the PCT Minimum Documentation of the TKDL database and not of the individual titles".
68. In reply to the second question, IPO - India noted that irrespective of whether the resource is related to traditional knowledge or not, the review of the new NPL criteria and NPL in the PCT Minimum Documentation list, within a definite timeframe of say, 2-5 years, will be required after the implementation of the proposed criteria. India proposed traditional knowledge resources as a distinct, mainstream prior art in NPL rather than as a provision under a revision clause.
69. The USPTO expressed its disappointment. It was underlined that the work on Objective D was going on for several years and that a consensus among International Authorities had now been built with only one Authority, IPO - India, blocking consensus. The USPTO indicated that the position expressed by IPO - India, i.e. that the proposed criteria could not apply to traditional knowledge resources in general, would imply TK was to be treated

¹ Paragraph 66 has been subject to further consideration by IPO – India as per footnote 1 of the first version of the Summary of discussions (document PCT/MD/4/5) dated 17.12.2021. IPO – India submitted the present new version of paragraph 66 in the electronic forum on 23.12.2021. There was no objection to this proposed revised wording but one Authority noted however in that context that the terminology “modern science and technology literature” used by IPO – India was not otherwise used and does not have a properly accepted definition in the framework of WIPO and its Committees when referring to non-patent literature different from traditional knowledge

differently than other prior art, and reiterated its position that such a position has not been agreed to by the international IP community as a whole. Further it also would create a situation whereby other countries having traditional knowledge resources, like Korea and China, could not request the inclusion of their traditional knowledge resources in the PCT Minimum Documentation even if such resources would meet the proposed criteria. The USPTO considered that the position taken by IPO - India was thus regrettable for traditional knowledge resources in general. In addition, it was underlined that, if IPO - India keeps this position, it will not be possible to update the non-patent literature part of the PCT Minimum Documentation.

70. The Task Force took note of documents PCT/MD/4/4, PCT/MD/4/4/REV, PCT/MD/4/4/REV2 and PCT/MD/4/4/REV3. The Task Force invited IPO - India and the USPTO to address the pending issues bilaterally, as suggested in paragraph 48, above, by end of January at the latest. Further, the Task Force invited the USPTO to include its part in draft PCT Administrative Instructions as outlined in paragraphs 51 and 52, above, and to include the recommendation contained in paragraph 49, above, in the package presented to the PCT MIA in March 2022.

Item 4: Objective B: Proposed amendments of Rules 34 and 36 PCT

71. Discussions were based on document PCT/MD/4/2.

72. The EPO drew the attention to the fact that the draft Rule amendments contained in Annex I to document PCT/MD/4/2 are very similar to those contained in Annex II to document PCT/MD/3/5. The EPO presented the few changes which had been made.

73. Regarding **Rule 34.1 PCT**, the EPO explained that the introduced changes were the following ones:

- Are some parts of the TKDL already meeting the criteria contained in document PCT/MD/4/4? If so, would it be a possible way forward to include these parts of the TKDL in the PCT Minimum Documentation?
- Current paragraph (f) (renumbered as (g)) of Rule 34.1 PCT, which had been previously deleted, had been kept in order to clarify the meaning of "published" for the purposes of the contents of the PCT Minimum Documentation.

74. The USPTO indicated that the proposed amendment of (e) was fine for them. This amendment was also accepted by the other Task Force members.

75. The USPTO suggested a small editorial change to paragraph (b)(i) of Rule 34.1 PCT, namely adding an "and" at the end of that paragraph. That change was approved by the Task Force.

76. The USPTO enquired regarding proposed paragraph (f) of Rule 34.1 PCT about the exact meaning of "more prior art information" and about how an Office could know whether a subsequently published version of an application contains more prior art information than the first published version. IPO - India had similar concerns and asked whether there is a need to add subsequent publications as the purpose is to define the minimum documentation and the Authorities are free to search further documents. The EPO explained that "more prior art information" means more technical information and that it might depend on the patent systems how that information could be identified. The USPTO underlined that, in view of their patent law, also changes of applicant / inventor could be in fact very

important in this context. The Chair invited the EPO and the USPTO to further reflect together on the wording of that paragraph with a view to proposing a better wording to the Task Force via the wiki by end January.

77. Regarding proposed paragraph (g) of Rule 34.1 PCT, IPO - India enquired about the meaning of the term "published" both for applications and for patents. The EPO explained that the meaning of publication changed over the years and that today everything is done electronically. WIPO stated that this is a difficult legacy and that national laws seem not to be always updated on these matters. WIPO underlined the difference between old times where there were only one or two copies of the patent application and the situation where Offices would create multiple copies and send them around the world for having them made available for the public. It was indicated that it would be possible to consider that an Office has a publication system of its applications where multiple copies of the entire application are disseminated by an Office as an official act of the Office and where an Office has an efficient numbering system for the applications. IPO - India was content with WIPO's explanations. The Task Force examined the wording of proposed paragraph (g) and adopted a slightly revised wording (insertion of "and patents" was agreed upon).
78. Regarding **Rule 36.1 PCT**, the EPO explained that the introduced changes were the following ones:
- In paragraph (ii), the reference to 1920 had been deleted since it was superfluous (already contained in Rule 34 PCT) and could be misunderstood in that paragraph.
 - For paragraph (iii), since at the last Task Force meeting the wording of that paragraph was discussed but not agreed upon, a wording was suggested.
79. The Task Force briefly discussed these changes and adopted them without further amendments.
80. The EPO recalled that, at the last Task Force meeting, the Task Force agreed on the principle of specifying in an Understanding how the requirements of the proposed amendments to Rule 36 PCT should apply in the case where an intergovernmental organization having no published patent documents or applications wishes to be appointed as an ISA. The EPO presented Annex II to document PCT/MD/4/2 containing a draft wording for this understanding and thanked WIPO for having provided that draft wording.
81. CIPO expressed some concerns with regard to one aspect of the proposed wording, namely the fact that the requirements would apply to Offices that are themselves not International Authorities. CIPO suggested the following alternative wording:
- "In adopting the amendments to Rule 36.1 setting out the minimum requirements referred to in Article 16(3)(c), the Assembly agreed that, in the case of an intergovernmental organization that has been established for the collaboration between national Offices of the States that are members of that intergovernmental organization and does not itself issue patents or publish patent applications, the requirements in Rule 36.1(ii) for the intergovernmental organization to make patents and patent applications available for consultation as part of the minimum documentation shall ~~apply to be considered to be satisfied~~ if the national Offices of those States make those patents and patent applications so available in accordance with the requirements specified in the Administrative Instructions."*
82. WIPO noted that it would have to further reflect on CIPO's concerns and that it would try to propose a revised wording for this Understanding via the wiki by end January.

83. CNIPA thanked the EPO and considered that the proposed Rule amendments are an improvement. CNIPA agreed in principle with the amendments but asked for additional clarifications regarding the notification to be made to the International Bureau and the case where no English abstract is available. The EPO clarified that the envisaged notification system was two-fold, in the Rule with respect to what should be contained in the PCT Minimum Documentation and in the Administrative Instructions with respect to the technical details, and provided further clarifications regarding the abstract. CNIPA was content with those explanations.
84. CNIPA expressed further concerns regarding the proposed paragraph (c) of Rule 34.1 PCT as it felt that including utility model documents in the PCT Minimum Documentation as an optional recommended part was somewhat contradictory to the nature of the PCT Minimum Documentation. The EPO replied to CNIPA that the optional nature of utility models, both for source Offices to make them available or not, and for International Authorities to consult such collections or not, was the result the compromise which was found to take into account both the importance of utility model documents to perform good quality searches and the practical concerns expressed by some Authorities at various occasions. By having at least some utility model collections included in the PCT Minimum Documentation under the same conditions as the patent collections, we were facilitating the work of International Authorities willing to consult such collections. The EPO further clarified that, with a view to avoiding a contradiction in the wording of Rule 34 PCT, the utility model documents have been placed in a distinct paragraph.
85. The Chair concluded the discussions by inviting the EPO and the USPTO to work together on the wording of paragraph (f) of Rule 34.1 PCT with a view to posting a revised wording on the wiki, and by inviting WIPO to further reflect on the wording of the Understanding regarding the interpretation of proposed Rule 36 PCT.

86. The Task Force took note of document PCT/MD/4/2 and of the revised proposed Rule amendments set out in Annex II to this document. The Task Force invited the EPO to revise the wording of paragraph (f) of Rule 34.1 PCT as outlined in paragraphs 76 and 85, above, and WIPO to review the draft Understanding regarding the interpretation of proposed Rule 36 PCT, as outlined in paragraphs 82 and 85, above.

Item 5: Conclusions of discussions, report, closing remarks

87. The Chair thanked the participants for the constructive discussions and noted that, even there were still a few issues to be sorted out, much progress had been done again at the present session. As a result, a solid package could be presented to the PCT MIA of March 2022 for its consideration. The Chair reiterated that the aim was to present Rule changes to the PCT WG of October 2022 and indicated that, if needed, the EPO would convene yet another session of the Task Force after the PCT MIA. The Chair invited the Task Force members to actively contribute to the upcoming discussions in the wiki in January in order that further progress could be made to address pending issues prior to the PCT MIA. The EPO and the USPTO will present a joint status report regarding the progress made on Objectives B, C and D. That status report will include (i) the present Summary, and (ii) proposed draft changes to Rules 34 and 36 PCT as well as proposed changes to the Administrative Instructions on the basis of the documents annexed to the present summary and taking on board the feedback received in the electronic forum until end of January 2022. The Chair closed the session by wishing everyone to stay healthy.

[Annexes follow]

ANNEX I

LIST OF PARTICIPANTS

TASK FORCE MEMBERS

AUSTRIAN PATENT OFFICE

BRAZILIAN NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY

CANADIAN INTELLECTUAL PROPERTY OFFICE

EUROPEAN PATENT OFFICE

FEDERAL SERVICE FOR INTELLECTUAL PROPERTY OF THE RUSSIAN
FEDERATION

FINNISH PATENT AND REGISTRATION OFFICE

INDIAN PATENT OFFICE

INTELLECTUAL PROPERTY OFFICE OF THE PHILIPPINES

JAPAN PATENT OFFICE

KOREAN INTELLECTUAL PROPERTY OFFICE

NATIONAL INTELLECTUAL PROPERTY ADMINISTRATION (CHINA)

SPANISH PATENT AND TRADEMARK OFFICE

UKRAINIAN INTELLECTUAL PROPERTY INSTITUTE

UNITED STATES PATENT AND TRADEMARK OFFICE

WORLD INTELLECTUAL PROPERTY ORGANIZATION

OBSERVERS

GERMAN PATENT AND TRADE MARK OFFICE

INTELLECTUAL PROPERTY OFFICE (UNITED KINGDOM)

NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY (FRANCE)

SWISS FEDERAL INSTITUTE OF INTELLECTUAL PROPERTY

ANNEXES II to V
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