

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

Thirtieth Session
Geneva, November 1 to 3, 2023

PCT MINIMUM DOCUMENTATION: STATUS REPORT

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). The Task Force made much progress in its review of the PCT minimum documentation. After intensive work in the Task Force as well as discussions at various sessions of the Meeting of International Authorities under the PCT (MIA) and PCT Working Group, the PCT Assembly, at its fifty-fifth (24th ordinary) session (July 6 to 14, 2023), adopted the set of proposed amendments to Rules 34, 36 and 63 that were presented in document PCT/WG/16/6 (document PCT/A/55/2). The Task Force is now focusing on the preparations required for the timely implementation of the revised legal framework which will govern the PCT minimum documentation as of 2026.

BACKGROUND

2. 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.

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documentation, in view of the fact that the WIPO Handbook on Industrial Property Information and Documentation is outdated, the definition and extent of patent literature having last been revised in November 2001, and the definition and extent of non-patent literature having last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

4. 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.

5. At its twenty-ninth session (June 20 to 22, 2022), the MIA agreed to add the following three objectives to the Task Force's mandate (see paragraph 22 of document PCT/MIA/29/4 and paragraph 51(c) of document PCT/MIA/29/10):

(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 cutoff 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.

6. Usually, the Task Force conducts its work using an electronic forum made available by WIPO ("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 has been working on Objectives B, C and D through a series of discussion rounds in the wiki.

8. 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:

(i) the national patent collections of some ISAs do not belong to the PCT minimum documentation;

(ii) the contents of the PCT minimum documentation vary depending on the ISA's official language(s) and the availability of English abstracts; and

(iii) 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. After intensive work in the Task Force as well as discussions at various sessions of the MIA and PCT Working Group, at the fifteenth session of the PCT Working Group (October 3 to 7, 2022), the EPO and the USPTO submitted proposals to amend the PCT Regulations and modify the Administrative Instructions (document PCT/WG/15/11). Annex I to document PCT/WG/15/11 sets out proposed amendments to Rules 34, 36 and 63. Annex II to document PCT/WG/15/11 sets out a draft Understanding on how the requirements in the proposed amendments to Rules 36 and 63 should apply to making patent collections available in the case where an intergovernmental organization has been established for the collaboration between national Offices of the States that are members of that organization and wishes to be appointed as an International Searching Authority, and that organization does not itself grant patents or publish patent applications. Annex III to document PCT/WG/15/11 sets out the technical and accessibility requirements and procedure for inclusion of patent and utility model documents, and non-patent literature (including traditional knowledge resources) in the PCT minimum documentation. All the said technical requirements and details are contained in a proposed new Annex H to the Administrative Instructions, with two proposed new sections of the Administrative Instructions referring to that Annex H.

11. At that session of the PCT Working Group, the proposed amendments to Rules 34, 36 and 63, and the draft Understanding regarding the interpretation of Rules 36 and 63 were supported in principle by the Working Group. Most of the proposed modifications to the Administrative Instructions were also supported. However, some comments were raised regarding the proposed Annex H to the Administrative Instructions (paragraph 59 of document PCT/WG/15/19). As a result, the Task Force was invited to further fine-tune the proposed provisions of the PCT Administrative Instructions and to bring this package back for discussion at the sixteenth session of the PCT Working Group (paragraph 60 of document PCT/WG/15/19).

12. The Task Force held its fifth session from November 14 to 18, 2022. At that session, the Task Force focused its work on improving the contents of the proposed new Annex H of the Administrative Instructions. Also, the Task Force started assessing the compliance of each ISA with the new requirements. Following that Task Force session, the Task Force members had the possibility to provide further comments on the revised proposals reflecting the changes discussed in that session, but no comments were raised.

13. At the sixteenth session of the PCT Working Group (February 6 to 8, 2023), the EPO and the USPTO submitted these revised proposals to amend the PCT Regulations and modify the PCT Administrative Instructions (document PCT/WG/16/6). The proposed amendments to Rules 34, 36 and 63, and the draft Understanding regarding the interpretation of Rules 36 and 63 were approved by the PCT Working Group at that session (document PCT/WG/16/9), and adopted (document PCT/A/55/2 and paragraph 32 of document PCT/A/55/4 Prov.) by the PCT Assembly at its fifty-fifth (24th ordinary) session (July 6 to 14, 2023). They will enter into force on January 1, 2026. With the adoption by the Assembly of the amendments to the PCT Rules,

the International Bureau will consult on the proposed modifications to the PCT Administrative Instructions through PCT Circulars based on the text in Annex III to document PCT/WG/16/6.

14. The Task Force held its sixth session from May 22 to 25, 2023. At that session, the Task Force endorsed the proposed modifications to the PCT Administrative Instructions contained in document PCT/WG/16/6, with a small amendment, i.e., the inclusion of an additional paragraph suggested by the International Bureau (paragraphs 38, 39 and 46 of document PCT/MD/6/6, attached as an Appendix to this document). The wording of that additional paragraph was posted on the wiki. Otherwise, that Task Force session focused on the implementation of the proposed revised legal framework that will govern the PCT minimum documentation as of 2026. In that regard, the Task Force agreed on the implementation roadmap proposed by the EPO for the patent documentation. Moreover, the Task Force approved the roadmap for the non-patent literature aspects and the review cycle of the future permanent Task Force, which were proposed by the USPTO.

15. Concerning the implementation roadmap for patent documentation, this consists of two phases.

(a) Phase 1 “Preparatory activities” covers actions up to the end of 2025 for patent Offices to be ready to meet the PCT minimum documentation requirements in force from January 1, 2026. This will involve preparing the Authority File under WIPO Standard ST.37 to indicate the availability of the abstract, description and claims in text-searchable format for patents published after that date. Each Office with a patent collection belonging to the PCT minimum documentation will also need to create a repository from where an ISA can bulk download PCT minimum documentation data, requiring all patent documents published on or after January 1, 2026, to be in text searchable format. All ISAs will also need to ensure that they can bulk download other PCT minimum documentation bulk collections from their repositories.

(b) Phase 2 “Operational activities” covers actions from 2026 onwards in terms of operational activities to handle patent documents published from January 1, 2026, and transition activities up until the end of 2035 to digitize back file publications published from January 1, 1991. For new publications, an Office will be required to include the additional Authority File information, store patent data in text searchable format in the repository at the latest two months after the publication date, and bulk download other PCT minimum documentation collections. In terms of transition activities, an Office will need to have included the additional information in its Authority file for patent documents published from January 1, 1991, and digitized these patent documents and stored the data in text searchable format in the repository of the Office before December 31, 2035.

16. For the implementation roadmap covering non-patent literature aspects, the future permanent Task Force would identify an ISA coordinator to lead/host a comprehensive review of the list of non-patent literature items in the PCT minimum documentation in November 2025, and then meet for the first comprehensive review in May 2026. The Task Force would then present its first revised list of items of non-patent literature for adoption at the Meeting of International Authorities later in 2026 in order for the International Bureau to publish the updated list in January 2027. ISAs would need to comply with the new list within two years of its adoption. Annual reviews of the list to remove obsolete and discontinued resources, as well as make metadata updates, would take place in May each year, chaired by a volunteer ISA on a rotational basis. The second comprehensive review would take place in May 2031. The public would also be able to suggest non-patent literature items for the Task Force to consider for inclusion in the PCT minimum documentation at the following comprehensive review.

17. International Authorities are invited to consult the wiki to follow the preparations for the implementation of the revised legal framework of the PCT minimum documentation (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 session of the Task Force is tentatively planned for May 2024.

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

[Appendix follows]

PCT Minimum Documentation Task Force

Sixth session

By videoconference, 22-25 May 2023

Summary of discussions

adopted by the Task Force

1. The PCT Minimum Documentation Task Force (“the Task Force”) held its sixth session by videoconference from 22 to 25 May 2023.
2. The list of participants is contained in the Annex to this document.

Item 1: Opening of the session

3. Mr C. Bogliolo, Head of Department, Legal Division and a.i. Unitary Patent Division, European Patent Office (EPO) welcomed the participants as Chair of the session. In his opening remarks, the Chair welcomed all participants and noted that this session was attended by a record number of 29 delegations, namely 23 International Searching Authorities (ISAs), WIPO and five observer Offices including the Saudi Authority for Intellectual Property (SAIP). The Chair thanked the participants for their valuable contributions to the Task Force's work in the electronic forum as well as the International Bureau of WIPO (“the International Bureau”) and the USPTO for the excellent cooperation to organise this session.
4. The Chair recalled the current state of play of the discussions and presented the agenda of the present session. The Chair emphasized that the set of proposed Rule changes presented in document PCT/WG/16/6 were approved by the PCT Working Group at its last session and have now been submitted to the PCT Assembly in July 2023 for adoption (document PCT/A/55/2). The Chair recalled that these Rule changes would be accompanied by new provisions of the PCT Administrative Instructions and that the proposed new Annex H to the PCT Administrative Instructions contains all the technical and accessibility requirements. The proposed new Annex H presented in document PCT/WG/16/6 is the result of extensive Task Force's discussions; it is presented at this Task Force's session for reference and final review. The Chair underlined that the present session focuses on the preparations that Offices whose collections belong to the PCT minimum documentation will need to make to implement the new PCT minimum documentation requirements in a timely manner. The International Bureau will make a presentation on WIPO Standard ST.37 for an authority file (document PCT/MD/6/5). The EPO will present a gap analysis regarding the status of compliance with the new requirements (document PCT/MD/6/3/REV). Afterwards, the EPO will present a roadmap regarding the preparations and activities to be performed by

2026 and during the 10-year transition period up until 2036 (document PCT/MD/6/2/REV). The Chair announced that, at the present session, the Task Force will also address the preparations needed for the non-patent literature part of new Annex H, in particular with respect to the future permanent Task Force. The United States Patent and Trademark Office (USPTO) will lead these discussions (document PCT/MD/6/4/REV).

5. Mr. Michael Richardson, Director, PCT Business Development Division, International Bureau, welcomed all participants and, in particular, the ones attending for the first time a meeting of this Task Force. The International Bureau thanked the EPO for organising and chairing the meeting.
6. The Task Force adopted the agenda as set out in document PCT/MD/6/1/REV.

Item 2: Proposed modifications to the PCT Administrative Instructions: for reference and final review

7. Discussions were based on document PCT/WG/16/6.
8. The Chair recalled that the proposed modifications to the PCT Administrative Instructions contained in document PCT/WG/16/6 were the outcome of extensive Task Force's discussions. The Chair invited delegations having any remaining comments regarding the said proposed modifications to take the floor to share their comments.
9. The China National Intellectual Property Administration (CNIPA) noted that they still had some concerns regarding the mandatory character of the three extra columns in the authority file. The CNIPA explained that it is not opposed to the inclusion of the three extra columns, but that it would prefer that these three extra columns be optional rather than mandatory, as per WIPO Standard ST.37. The Chair suggested that this matter be discussed after WIPO's presentation on WIPO Standard ST.37.
10. No other comments were raised.

11. The Task Force took note of the contents of document PCT/WG/16/6 and agreed with its contents, pending further discussions relating to the authority file under agenda items 3 and 4.

Items 3 and 4: Patent documentation: Preparations for the implementation of the new requirements by 2026 and 10-year roadmap for the transition up until 2036

12. Discussions were based on document PCT/MD/6/3/REV and two PowerPoint presentations PCT/MD/6/2/REV and PCT/MD/6/5. Agenda items 3 and 4 are so closely related that they were discussed together.
13. The International Bureau presented the PowerPoint document **PCT/MD/6/5** on WIPO Standard ST.37 for an authority file.
14. The Chair thanked the International Bureau for its presentation and for its proposals to help Offices in preparing standard-compliant authority files. The Chair asked in particular whether the International Bureau would be willing to review the authority files from the Offices to check whether they are standard-compliant. The International Bureau indicated that it was already offering this service, and that it was ready to do so for any interested Office.
15. The EPO presented document **PCT/MD/6/3/REV** which is a revised version of document PCT/MD/5/4/REV3 that was posted on the wiki in December 2022. Document PCT/MD/6/3/REV reflects EPO's holdings in Espacenet as of 1 May 2023, contains all the

answers to the questionnaire received so far from other Offices, and provides an overview of the said answers. Document PCT/MD/6/3/REV provides also an informal overview on the Offices' intention to include or not their utility models in the PCT minimum documentation.

16. In reply to the concerns expressed by the CNIPA regarding the mandatory nature of the three columns in the authority file (see paragraph 9), the EPO explained that it believes that their presence in the authority files is a critical aspect of the reform since they provide very critical benefits for ISAs to be able to search efficiently in the PCT Minimum Documentation and thus to meet their obligations. The EPO further explained the nature of the expected benefits, namely:
 - These 3 indicators tell ISAs which documents in the authority file are electronically searchable or not from the providing patent Office (primary benefit); and
 - For those patent documents that are electronically searchable, these 3 indicators also inform about the language of publication of the electronically available abstract, description, and/or claims (secondary benefit).
17. The EPO underlined that, without these three extra columns, there is no way for a recipient Office to know which patent documents in the authority file are available in text-searchable format or not. The EPO noted that this is the critical issue because Offices do not just want to know if a patent number is available or not from a providing patent Office, but they also want to know if that patent Office has full text versions of the abstract, description and claims. The EPO added that it understands that there might be some concerns to include these three extra columns due to the volume of documents of an Office's collection, but that the 10-year transition period is providing additional time for Offices to update their authority files with indicators in the 3 extra columns for documents published on or after 1991. The USPTO supported the position of the EPO.
18. The Chair asked whether, after these explanations, the CNIPA could join the consensus on this matter, or, should this not be the case, whether the CNIPA could explain further the reasons of its concerns.
19. The CNIPA indicated that it has understood the explanations from the EPO and reiterated that it is not opposed to the inclusion of the three extra columns, but it believed that it would be preferable that these three extra columns to be optional. There were no further comments from Task force members on this matter.
20. The Chair concluded that the consensus was to go ahead with the proposed modifications to the PCT Administrative Instructions, as contained in document **PCT/WG/16/6**. The Chair added that the CNIPA's concerns have been duly noted by the Task Force, and suggested that the EPO could continue to work bilaterally on this matter with the CNIPA. The CNIPA agreed to this approach.
21. The EPO presented the PowerPoint document **PCT/MD/6/2/REV** showing a proposed roadmap for the preparations and activities to be performed by 2026 and during the 10-year transition period up until 2036.
22. The Chair underlined that the aim of the Task Force is for all Offices concerned to be ready by 1 January 2026. Offices which are more advanced in the implementation of the new requirements are encouraged to help the others. The Chair stressed that in 2025 the focus will be on the testing to be ready for 1 January 2026.
23. In reply to a question from the Korean Intellectual Property Office (KIPO), the EPO confirmed that Authorities would be allowed to download the data of other Offices to store that data in their own databases. The EPO also confirmed that examiners would also be

allowed to access the data through other services (e.g. Espacenet). The EPO explained that, should such other services be temporarily not available, this would not be an excuse to say that the data was not available. It was noted that it would be at each Office's discretion to decide how its examiners search the data of other Offices, but the system chosen should be stable and reliable.

24. No comments were raised on the roadmap contained in document PCT/MD/6/2/REV, and the Task Force endorsed the roadmap.
25. The Indian Patent Office (IPO - India) recalled that, at the previous session, it proposed that the patent documentation part of the PCT minimum documentation be made available on PATENTSCOPE. IPO - India enquired what was the view of Task Force members on this matter.
26. The International Bureau replied that it is willing to make PATENTSCOPE as comprehensive as possible and to include all patent collections of the PCT minimum documentation to the extent that it has the necessary authorisations. The International Bureau recalled that the current wording of paragraphs 3 and 4 of proposed new Annex H to the PCT Administrative Instructions only obliges Offices to make their patent collections available to International Authorities for the purpose of conducting prior art search and related activities. These paragraphs do not require Offices to provide their data to the International Bureau. The International Bureau added that paragraph 5 of proposed new Annex H however clarifies that Offices are free to have bilateral or multilateral agreements with other Offices or the International Bureau regarding the use of their patent data. The International Bureau would encourage Offices, which have not done so, to provide their data to the International Bureau on the basis of a bilateral agreement.
27. IPO - India thanked the International Bureau for its explanations. IPO - India pointed out that it would be important to ensure that all International Authorities could access the patent data belonging to the PCT minimum documentation. IPO - India underlined that not all Offices have the same capacities and invited Task Force members to share their views regarding the accessibility issue. There was no comment from Task Force members and the Chair suggested to pursue that discussion after the presentation of the practical implementation of the roadmap had been addressed (see paragraphs 32 ff, below).
28. In reply to a question from the Swedish Intellectual Property Office (PRV) regarding proposed new Rule 34.1(f) PCT, the EPO explained that the current wording requires Offices to provide only the earliest comprehensive publication of the prior art information. The EPO added that the Task Force wanted to avoid obliging Offices to provide all the versions of a patent document. The PRV noted that, for its front file, it would be able to provide the full text of such publications, but that, for its back file, it would need more time to provide the full text. The EPO invited the PRV to contact bilaterally the EPO should the PRV require further advice or assistance in this regard.
29. The EPO clarified that there is no specific procedure for the inclusion of utility model documents in the PCT minimum documentation and that Offices would simply need to follow for the utility model documents the same procedure as for the patent documents. In that regard, the EPO recalled that Rule 34.1(d) PCT provides that each Office making its patent documents and, where applicable, its utility model documents available in accordance with the new requirements shall (i) notify the International Bureau accordingly, (ii) make newly published documents available regularly, and (iii) provide to the International Bureau at least annually an authority file. The EPO drew also the attention to paragraph 22 of proposed new Annex H to the PCT Administrative Instructions which specifies inter alia that the notification to the International Bureau under Rule 34.1(d)(i) PCT shall specify the date as of which the

patent documents and, where applicable, the utility model documents are available in accordance with the new requirements.

30. The International Bureau clarified that the notification under Rule 34.1(d)(i) PCT could be made before the entry into force of the Rule changes on 1 January 2026 and that Offices were actually encouraged to notify well in advance so that the other Offices would have sufficient time to ensure that they are importing the data properly. It was added that such notification could be made as soon as the PCT Assembly has adopted the Rule changes.
31. KIPO enquired whether there are specific language requirements which would need to be fulfilled for utility models, e.g. whether an English abstract would need to be provided. The EPO replied that there are no specific language requirements and that the provision of an English abstract would not be required. The EPO added that, should an Office be willing to provide an English abstract in addition to the original publication, it would be welcome to do so.
32. The Chair invited the EPO to present the practicalities of the implementation of the roadmap contained in document PCT/MD/6/2/REV.
33. The EPO noted that there are some differences amongst Authorities regarding their level of compliance with the new requirements, but that by 1 January 2026 the new requirements will need to be met by everybody. The EPO explained that it therefore tried to find a working methodology which would be sufficiently flexible to take into account these differences, but at the same time sufficiently efficient to ensure progress. The EPO proposed to focus first on the activities to be performed by 2024, according to the roadmap of document PCT/MD/6/2/REV (see slide 9 of that document). The EPO announced that it envisages to prepare a checklist reflecting the said activities and to post that checklist on the wiki. The EPO added that all Offices would then be invited, at regular intervals, to complete that checklist with the aim of informing the others via the wiki of progress made and of any issues encountered. The EPO underlined that the aim of such regular “checkpoints” would be to be able to collectively address any issues in a timely manner.
34. The Chair enquired about the status of the mapping exercise based on the questionnaire of document PCT/MD/5/4/REV3. The Chair added that any Office having not yet replied to that questionnaire would be invited to do so by the first checkpoint. The Chair underlined that, if the Task Force manages to efficiently monitor progress via such checkpoints in the wiki, it would be sufficient to have the next Task Force session in May 2024. The Chair noted that it would be good to have a checkpoint before the next session of the Meeting of International Authorities under the PCT and maybe another checkpoint before the next session of the PCT Working Group, if felt relevant. The Chair asked therefore the International Bureau about the dates of the said sessions.
35. The International Bureau indicated that the dates of the next sessions of the Meeting of International Authorities and of the PCT Working Group are not yet set, but that the next session of the Meeting of International Authorities should not take place before October 2023. The International Bureau supported EPO's proposal of setting up regular checkpoints and indicated that it would investigate the possibility of using a shared document in the wiki for the above-mentioned checklist.
36. Regarding the status of the mapping exercise, the EPO replied that only four delegations did not yet reply to the above-mentioned questionnaire, i.e. OAPI, ARIPO, GCC, and the Turkish Patent and Trademark Office, and the EPO thanked all the participants that had replied to the questionnaire.

37. The Chair proposed that the first checkpoint could be at the end of September 2023. The Chair also suggested that, depending on the needs expressed by the Task Force members in the wiki, one or two informal roundtables could be organised where the Task Force members could have informal exchanges.
38. The International Bureau underlined the importance of being realistic in the context of the implementation of the new requirements. In that regard, the International Bureau pointed out that proposed new Rule 34.1(e) PCT states that "*The International Bureau shall validate the availability of the patent and utility model documents notified in accordance with paragraph (d) and publish in the Gazette details of the documents concerned and the date from which they will become a part of the minimum documentation. (...)*" The International Bureau noted that the date from which the documents will become part of the minimum documentation should always give enough time to allow Authorities maintaining databases to adjust import arrangements. Therefore, the International Bureau suggested adding a new paragraph to Annex H to the Administrative Instructions indicating that the International Bureau should conduct the validations referred to in Rule 34.1(e) PCT as soon as possible after receipt of a notification under Rule 34.1(d)(i) PCT and that the date published in the Gazette from which a collection becomes part of the minimum documentation should not be less than 2 months from the Gazette publication. The International Bureau recommended that any Offices wishing that their collections be part of the PCT minimum documentation from 1 January 2026 ensure that the collections are available and notified to the International Bureau by 1 July 2025 to ensure that there is time to address any technical issues.
39. The Chair invited Task Force members to comment, and noted the tacit consent of the Task Force. The Chair then invited the EPO to work with the International Bureau on the wording of that paragraph in draft Annex H.
40. Regarding the proposed regular checkpoints, the International Bureau suggested that they could take place on a quarterly basis until 1 January 2026, e.g., updates on the progresses could be provided at the end of March, June, September, and December. The EPO and the Visegrad Patent Institute (VPI) supported the International Bureau's suggestion. The Chair concluded that there was consensus to set up the checkpoints on a quarterly basis, and invited the EPO to schedule the checkpoints in the wiki accordingly.
41. The Chair then asked IPO - India whether the explanations on the practicalities of the implementation of the roadmap clarified its concerns regarding access to patent data (see paragraph 27, above).
42. IPO - India explained that the question that it previously raised was whether the Task Force members believe that the issue of the accessibility of the patent data should be more concretely addressed, e.g. by including all the patent documents belonging to the PCT minimum documentation in PATENTSCOPE.
43. The EPO pointed out that today there is an ecosystem of search tools from ISAs that ensures that the patent data can be searched. The EPO noted that there is a great variety of search tools. Including one specific search tool in the definition would not reflect the reality and including all would overcomplicate the definition. In addition, the EPO pointed out that the Task Force's mandate concerns the coverage of the PCT minimum documentation, but not the search tools to be used. It was added that, should IPO - India need any assistance

regarding search tools, the EPO would be ready to discuss this matter bilaterally. The Chair enquired whether discussing concrete examples could help IPO - India.

44. IPO - India invited the other Task Force members to share their views on whether the Task Force should further address this issue.
45. The Eurasian Patent Office (EAPO) indicated that a more centralised approach of sharing patent data could be beneficial, and that WIPO could play an active role in that regard. EAPO however considered that enshrining such approach in the PCT Administrative Instructions would not seem necessary. No other Task Force members took the floor on this matter.
46. *The Task Force took note of documents PCT/WG/16/6, PCT/MD/6/2/REV, PCT/MD/6/3/REV and PCT/MD/6/5, and agreed with the proposed modifications to the PCT Administrative Instructions contained in document PCT/WG/16/6, with the inclusion of the additional indications suggested by the International Bureau in paragraph 38, above. The Task Force also agreed to follow the roadmap contained in document PCT/MD/6/2/REV, and to monitor its progresses on the basis of quarterly checkpoints in the wiki and informal roundtables until its next session in May 2024.*

Item 5: Future permanent Task Force and other preparations for the non-patent literature part

47. Discussions were based on the PowerPoint presentation contained in document PCT/MD/6/4/REV.
48. After having recalled the background of the Task Force's discussions on Objective D, the USPTO drew the attention to the tasks of the future permanent Task Force and in particular to the two types of reviews of the non-patent literature list, namely:
 - an annual review to find obsolete and discontinued resources and to update any metadata from the list, and
 - a comprehensive review every five years to verify that the items on the list continue to meet the criteria for inclusion and to consider the inclusion of new resources.
49. The USPTO presented a roadmap showing the next steps for the non-patent literature aspects, i.e.:
 - in July 2023: adoption by the PCT Assembly of the revised Rules,
 - in November 2025: identification of the first ISA coordinator to lead/host the comprehensive review,
 - in May 2026: meeting of the permanent Task Force for the first comprehensive review,
 - October 2026: presentation of the first revised non-patent literature list to the Meeting of International Authorities for adoption,
 - January 2027: publication by the International Bureau of the updated non-patent literature list
 - May 2027: initial annual review conducted by a volunteer ISA (the initial review would be conducted by the first ISA coordinator; the following annual reviews would be conducted by volunteer ISAs on a rotational basis).
50. The USPTO also presented the suggested comprehensive review cycle which comprises the following main steps:
 - 6 months before the Task Force meeting (November 2025): identification of the ISA coordinator to host the Task Force meeting,

- 4 months before the Task Force meeting (January 2026): ISAs submit suggested revisions to wiki,
- comprehensive review meeting is held by the Task Force (May 2026),
- presentation of the revised non-patent literature list to the Meeting of International Authorities for adoption (October 2026),
- publication by the International Bureau of the updated non-patent literature list on the WIPO website (January 2027),
- 2 years after the adoption of the revised non-patent literature list by the Meeting of International Authorities (October 2028): all ISAs must be in compliance with the new list.

51. The International Bureau thanked the USPTO for its presentation and indicated that the proposed timing seems realistic. The International Bureau enquired regarding the envisaged period for the suggestion of resources by the public.
52. The USPTO replied that the public could provide suggestions during the whole five-year review cycle, except during the 4 months prior to the Task Force meeting. The International Bureau indicated that it has to reflect on what would be the best mechanism for the public to suggest resources, but that the issuance of dedicated Circulars could be an option. The Chair suggested the possibility of allowing the public to make suggestions via WIPO's website.
53. The Chair noted that there were no further comments and concluded that USPTO's proposed roadmap on the non-patent literature aspects and the proposed comprehensive review cycle were approved.

54. The Task Force took note of document PCT/MD/6/4/REV and approved the roadmap and review cycle contained in that document.

Item 6: Conclusions of discussions, report, closing remarks

55. The Chair thanked the participants for the constructive discussions and invited them to actively work on the implementation of the roadmap contained in document PCT/MD/6/2/REV. The Chair announced that the next session of the Task Force will tentatively take place in May 2024, but that, as earlier indicated, it might be preceded by informal roundtables, if felt necessary. The Chair closed the session by wishing everyone to stay healthy.

[Annex follows]

ANNEX

LIST OF PARTICIPANTS

TASK FORCE MEMBERS

AUSTRIAN PATENT OFFICE

AUSTRALIAN PATENT OFFICE

BRAZILIAN NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY

CANADIAN INTELLECTUAL PROPERTY OFFICE

CHINA NATIONAL INTELLECTUAL PROPERTY ADMINISTRATION

EGYPTIAN PATENT OFFICE

EURASIAN PATENT 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

INTELLECTUAL PROPERTY OFFICE OF SINGAPORE

ISRAEL PATENT OFFICE

JAPAN PATENT OFFICE

KOREAN INTELLECTUAL PROPERTY OFFICE

NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY OF CHILE

NORDIC PATENT INSTITUTE

SPANISH PATENT AND TRADEMARK OFFICE

SWEDISH INTELLECTUAL PROPERTY OFFICE

UKRAINIAN INTELLECTUAL PROPERTY INSTITUTE

UNITED STATES PATENT AND TRADEMARK OFFICE

VISEGRAD PATENT INSTITUTE

WORLD INTELLECTUAL PROPERTY ORGANIZATION

OBSERVERS

GERMAN PATENT AND TRADE MARK OFFICE

INTELLECTUAL PROPERTY OFFICE (UNITED KINGDOM)

NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY (FRANCE)

SAUDI AUTHORITY FOR INTELLECTUAL PROPERTY

SWISS FEDERAL INSTITUTE OF INTELLECTUAL PROPERTY

[End of Appendix and of document]