

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

Thirty-Third Session
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TIME LIMIT FOR INTERNATIONAL SEARCH

Document prepared by the International Bureau

SUMMARY

1. This document proposes a common time limit for international search of three months from the date of receipt of the search copy and invites International Authorities to consider the necessary measures and timeframe to meet the proposed time limit.

BACKGROUND

2. [Rule 42](#) prescribes the time limit for an International Searching Authority (ISA) to establish the international search report (ISR). The applicable time limit is the later time limit to expire between three months from the date the ISA receives the search copy, or nine months from the priority date of the international application. The text of Rule 42 has remained unchanged since January 1, 1985, when flexibilities that were available to ISAs through negotiation with the International Bureau in the early stages of PCT operations were removed.

3. For the applicable time limit to be nine months from the priority date, an international application will either have no priority claim or the earliest filing date of the applications that are part of the priority claim will typically be slightly later than six months before the international filing date, depending on the timing of transmission of the search copy. Based on filings since 2023, this applies in approximately 19% of international applications. Among the five largest ISAs in terms of number of ISRs established, this proportion ranges from 5.0% for the United States Patent and Trademark Office (USPTO) to 35.5% for the China National Intellectual Property Administration (CNIPA).

4. The time limit to establish the ISR no later than nine months from the priority date was based on the time required for ISAs to integrate the most recent documents in their search files. During the preparatory discussions for the 1970 Washington Diplomatic Conference on the

PCT, the Working Group on the BIRPI Plan for Facilitating the Filing and Examination of Applications for the Protection of the Same Invention in a Number of Countries that met in Geneva from March 25 to 29, 1968, discussed the time allowed for establishing the ISR. In a Memorandum prepared by BIRPI (*Bureaux Internationaux Réunis pour la Protection de la Propriété Intellectuelle* – United International Bureaux for the Protection of Intellectual Property) that served as a basis for the discussions, a time limit of three months was proposed to prepare an ISR, but the three months could not start before six months had elapsed from the priority date. In proposing this limit, it was acknowledged that “one needs to leave six months to the Searching Authorities to integrate into their search files the most recent documents without which there would be a risk that the search would not cover essential prior art”. The Memorandum further proposed that the three-month period would start from the date on which the Searching Authority has received the application to be searched¹. During the discussions of the proposal, there were differing opinions on whether the six months for bringing search files up to date was too long, too short or about right under the circumstances at the time, though it was admitted that through better organization of transmittal and filing, the six months could be shortened².

PROPOSAL

5. The ways of transmitting patent information to ISAs and conducting prior art searches are entirely different from how this was done more than 50 years ago. The requirements for Offices to make available patent documents and use of data for international search and preliminary examination is set out in [Annex H](#) of the PCT Administrative Instructions. Paragraph 3 of Annex H requires each Office to ensure all published data is made available in a repository for access by ISAs preferably within one month after its publication date, and in any event, no later than two months. These limits therefore bring into question the need to maintain the date for establishing the international search report as nine months from the priority date based on the principle that, to ensure a complete search of relevant documents, the search could not begin until six months after the priority date.

6. This document proposes a single time limit for establishing the ISR or the declaration referred to in [Article 17\(2\)\(a\)](#) of three months from the receipt of the search copy, deleting the time limit of nine months from the priority date if this expires later. As an ISA should have access to all patent documents in the PCT minimum documentation published before the international filing date within two months of that date, a time limit to establish the international search report of three months from receipt of the search copy would give the ISA at least one month to perform the international search with full coverage of the relevant prior art defined by [Rule 33.1\(a\)](#). In 2025, the average time for receiving Offices to transmit the record copy to the International Bureau was 2.7 weeks from the international filing date. In practice, an ISA would therefore have at least 7 to 8 weeks to perform a search with confidence that search databases contained all patents published before the international filing date.

7. In addition to simplifying the setting of time limits for establishing the international search report, the proposed single time limit of three months from the receipt of the search copy would ensure that an applicant would receive an international search report and written opinion within approximately four months from international filing date. For an international application with no priority claim, this is five months earlier than the present time limit. The proposal would therefore provide the option for an applicant wishing to have early prior art search results of using the PCT System to obtain an ISR and written opinion instead of needing to file a national application. This could be particularly important to applicants who may not have a national Office that has access to the full PCT minimum documentation, a quality management system in

¹ Memorandum on Questions Concerning the Proposed International Search ([document PCT/II/2](#)), paragraphs 89 to 92.

² Report of Working Group on the BIRPI Plan for Facilitating the Filing and Examination of Applications for the Protection of the Same Invention in a Number of Countries ([document PCT/II/7](#)), paragraph 63

place covering prior art search, or search examiners with technical expertise in all fields, particularly highly specialized or emerging technologies.

8. While performing an earlier international search would find fewer patent publications published after the international filing date that constitute relevant prior art under [Rule 33.1\(c\)](#), these documents could be published as late as 18 months from the international filing date (or even later in certain specialized cases). Since all international searches should in principle be performed before international publication, the coverage will always risk being incomplete for patent documents constituting prior art under Rule 33.1(c). However, the benefits to the applicant of an early search effectively covering relevant prior art under Rule 33.1(a) would usually outweigh any slight reduction in the coverage of Rule 33.1(c) prior art.

INTERNATIONAL SEARCH REPORT STATISTICS

ISA by ST.3 Country or Office Code	Average number of applications per year where 9-month time limit applies	Average percentage of applications where 9-month time limit applies
CN	24,107	35.5
JP	11,379	24.1
EP	7,065	8.4
KR	4,270	13.9
US	1,153	5.0
TR	581	33.2
IN	516	20.0
CA	177	8.1
SE	158	24.9
BR	145	26.9
AU	143	6.4
ES	141	20.0
CL	105	39.3
SG	89	9.1
RU	70	9.8
IL	44	4.0
AT	27	28.0
XV	19	19.3
FI	19	10.1
SA	17	63.0
EG	15	41.0
PH	13	19.6
EA	9	26.5
XN	4	2.2
UA	2	16.4
Overall	50,268	19.0

Table 1: Average number and percentage of applications per year where 9-month time limit under Rule 42.1 applies for 2023 to 2025. Data for Saudi Arabia are based on 2025 only.

9. Table 1 shows the average number and percentage of applications per year for 2023 to 2025 where the time limit under Rule 42.1 for transmitting the ISR is nine months from the priority date. Overall, this time limit applies to about 50,000 international applications each year, representing 19% of searches. However, the percentage varies between ISAs; among the ISAs

with more than 100 international searches where the 9-month time limit applies, the percentage of searches in this category ranges from 5.0% at the USPTO to 39.3% at the National Institute of Industrial Property of Chile.

10. With more than 24,000 searches where the 9-month time limit applies per year, CNIPA has the most searches in this category, representing 35.5% of its international searches. The Japan Patent Office (JPO) has the second highest number of searches per year where the 9-month time limit applies at more than 11,000, representing just under one quarter of its international searches. Together, CNIPA and the JPO search more than 70% of all international applications where the 9-month time limit for transmitting the ISR applies.

11. Where the time limit under Rule 42.1 is nine months from the priority date, 98.1% of international search reports were transmitted within this deadline in 2025. Eleven ISAs transmitted all international search reports within nine months and 21 transmitted to the International Bureau more than 90% within the required timeframe.³ Figure C.21 from the [PCT Yearly Review 2026](#), reproduced as Figure 1, below, shows the timeliness in transmitting ISRs where the nine-month time limit from the priority date applies for 2025.



Figure 1: Timeliness in transmitting international search reports to the International Bureau measured from priority date by International Searching Authority, 2025

12. Table 2 shows the average time for transmitting the ISR to the International Bureau measured by days from three months after receipt of the search copy for applications where the time limit under Rule 42.1 is nine months from the priority date or international filing date. The eight ISAs with a negative average time (in green) would already meet a common time limit to transmit the ISR within three months from the receipt of the search copy. These ISAs are likely to apply a time limit of producing the ISR and written opinion within three months of search copy receipt to all international searches, as proposed.

13. For the 17 ISAs with a positive average transmittal value, Table 2 shows the earlier shift in processing needed to transmit the international search report and written opinion within the proposed time limit and the number of applications affected. Eight ISAs (in red) would need to bring international search forward for these cases by more than three months, eight ISAs (in orange) would need to bring international search forward by between one and three months, and one ISA (in yellow) would need to bring international search forward by under one month. For example, the Ministry of Intellectual Property of the Republic of Korea (MOIP) would need to process about 4,300 international applications 3.6 months or 109 days earlier than now, CNIPA would need to process about 25,000 international applications 2.7 months or 83 days earlier,

³ See Highlights in Section C “Statistics on the performance of the PCT System” of the PCT Yearly Review 2026.

and the European Patent Office (EPO) would need to process about 5,700 international applications 1.9 months or 59 days earlier.

ISA by ST.3 Code	Number of applications where 9-month time limit applies	Current transmittal relative to 3-month time limit in days	Approximate earlier shift in months needed to meet 3-month time limit
RU	54	119.2	4.0
SE	137	115.7	3.9
AT	23	115.7	3.9
FI	14	110.4	3.7
CL	118	109.4	3.6
KR	4,328	108.7	3.6
CA	188	97.7	3.3
TR	633	95.1	3.2
CN	24,966	82.2	2.7
UA	24	81.0	2.7
XN	2	72.0	2.4
BR	135	70.7	2.4
XV	18	68.8	2.3
PH	31	62.8	2.1
ES	121	62.6	2.1
EP	5,711	58.3	1.9
EA	3	19.3	0.6
IL	46	-2.4	Not applicable
IN	591	-7.5	Not applicable
US	945	-10.0	Not applicable
SA	2	-19.0	Not applicable
JP	11,592	-31.5	Not applicable
EG	12	-32.3	Not applicable
SG	117	-38.4	Not applicable
AU	128	-38.5	Not applicable
Overall	49,939	52.2	

Table 2: Average transmittal time of international search reports in 2025 relative to 3 months after receipt of the search copy for international applications where the time limit under Rule 42.1 is 9 months from the priority date. For positive relative transmissions, the required time shift in processing international searches in months is indicated. Negative values represent an average transmittal that is earlier than 3 months after receipt of the search copy.

TRANSITION TO COMMON TIME LIMIT UNDER RULE 42

14. For ISAs that do not establish ISRs within three months of receipt of the search copy when this time limit does not apply, the International Bureau acknowledges that considerable time would be required to bring forward international search by as much as four months to meet the proposed time limit. Except for ISAs where the numbers of international searches are small, an ISA would not be able to effect this change in the short term without a consequential impact to the timeliness of search and examination of domestic patent applications. However, several ISAs of differing sizes and workloads already meet this time limit. The International Bureau

therefore believes that the transition to a common time limit could be achieved at all ISAs in the long term.

15. International Authorities are invited to consider their respective workflows for international search reports that currently need to be established within nine months of the priority date and the necessary adaptations to make a transition to the proposed time limit with a view to estimating the time to align the establishment of all international search reports and written opinions to within three months of receipt of the search copy.

16. International Authorities would need to have established a common workflow for international searches before the entry into force of the proposed amendments to Rule 42.1. In some Authorities this would take longer than July 1, 2028, the standard date of entry into force if these amendments were adopted by the PCT Assembly in 2027. However, if Authorities agree in principle to the transmission of all international search reports and written opinions to the International Bureau within three months of receipt of the search copy, a medium-term date could be established as a target for the entry into force of the proposed amendments. Up to that date, the transmittal time for applications where the time limit is currently nine months from the priority date could be monitored, providing regular updates as International Authorities transition to the new time limit.

17. The Meeting is invited to comment on the proposed amendments to the PCT Regulations set out in the Annex to this document and the transition to the proposed time limit for international search.

[Annex follows]

PROPOSED AMENDMENTS TO THE PCT REGULATIONS

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Rule 42

Time Limit for International Search

42.1 Time Limit for International Search

The time limit for establishing the international search report or the declaration referred to in Article 17(2)(a) shall be three months from the receipt of the search copy by the International Searching Authority, ~~or nine months from the priority date, whichever time limit expires later.~~

[End of Annex and of document]