

PCT/EF/PFC 20/003
ORIGINAL: FRANÇAIS / ENGLISH
SITUATION AT: MARCH 1, 2021
SITUATION AU : 1 MARS 2021

**Administrative Instructions Under the
Patent Cooperation Treaty (PCT)**
Standard for the Electronic Filing and Processing of International Applications

**Instructions administratives du
Traité de coopération en matière de brevets (PCT)**
Norme concernant le dépôt et le traitement électroniques

PROPOSAL FOR CHANGE FILE/
DOSSIER RELATIF A LA PROPOSITION DE MODIFICATION

SUBJECT: Changes to Annex F, Appendix I, section 3.1 (modification of the package data DTD)		PROPOSED BY: IB	
SUJET : Modifications de la section 3.1 de l'appendice I de l'annexe F (modification de la DTD Paquet de données)		PROPOSÉES PAR : IB	
HANDLING: Expedited cycle TRAITEMENT : Cycle accéléré		PROPOSED DATE OF ENTRY INTO FORCE: 01.07.2021 DATE PROPOSÉE D'ENTRÉE EN VIGUEUR :	
Annex/ Annexe	Content/Contenu	Origin/ Origine	Date
1	Modification of package-data element to allow the inclusion of earlier search letters for "PCT Direct" Modification de l'élément package-data pour permettre l'inclusion de lettres de recherche antérieures pour "PCT Direct"	IB	27.10.2020
2	Comments	CR	07.01.2021
3	Comments	SG	02.02.2021
4	Comments	JPO	04.02.2021
5	Comments	WIPO	04.02.2021
6	Comments	RU	08.02.2021
7	Comments	KR	16.02.2021

8	Comments	US	17.02.2021
9	Comments	CN	19.02.2021
10	Comments	EP	23.02.2021
11	Comments	IB	01.03.2021

Next action:	Entry into force	By:	01.07.2021
Prochaine action :	Entrée en vigueur	Pour le :	

[Annex I follows/
L'annexe I suit]

Item 1	
Location:	Annex F, Appendix I, section 3.1 package-data DTD
Change:	<p>FROM:</p> <pre><!ELEMENT package-data (transmittal-info , signatories , dtext? , (application-request application-body-doc table- external chapter2-demand fee-calculation-sheet declaration-doc lack-of-signature biological-material separate-power-of-attorney general-power-of-attorney copy-general-power-of-attorney bib-changes notification amendment priority-document translation-of-application search-report-doc written-opinion trans-search-report preliminary-examination-report trans-preliminary- examination-report published-application sequence-list correspondence other-documents wrapped-document restore-rights-reason xmit-receipt-doc ro-request- receiving-info-doc pre-conversion-files-package)+)></pre> <pre><!ATTLIST package-data lang CDATA #REQUIRED dtd-version CDATA #IMPLIED file CDATA #IMPLIED produced-by (applicant RO ISA IPEA IB DO EO national-office regional-office) #REQUIRED date-produced CDATA #IMPLIED country CDATA #IMPLIED status CDATA #IMPLIED ></pre> <p>TO:</p> <pre><!ELEMENT package-data (transmittal-info , signatories , dtext? , (application-request application-body-doc table- external chapter2-demand fee-calculation-sheet declaration-doc lack-of-signature biological-material separate-power-of-attorney general-power-of-attorney copy-general-power-of-attorney bib-changes notification amendment priority-document translation-of-application search-report-doc written-opinion trans-search-report preliminary-examination-report trans-preliminary- examination-report published-application sequence-list correspondence other-documents wrapped-document restore-rights-reason xmit-receipt-doc ro-request- receiving-info-doc pre-conversion-files-package earlier- search-letter)+)></pre> <pre><!ATTLIST package-data lang CDATA #REQUIRED dtd-version CDATA #IMPLIED file CDATA #IMPLIED produced-by (applicant RO </pre>

	<pre> ISA IPEA IB DO EO national-office regional-office) #REQUIRED date-produced CDATA #IMPLIED country CDATA #IMPLIED status CDATA #IMPLIED > <!-- Applicant letter to ISA concerning earlier search ('PCT Direct') --> <!ELEMENT earlier-search-letter EMPTY> <!ATTLIST earlier-search-letter id ID #IMPLIED file CDATA #REQUIRED lang CDATA #IMPLIED carriers (internal- electronic external- electronic paper) #IMPLIED status CDATA #IMPLIED > </pre>
Reason:	<p>This change is to create, following comments received from the Spanish Patent and Trademark Office, a distinct document type in package data for earlier searched applications to make the identification of such documents more reliable when received at the ISA.</p> <p>The proposed changes are backwardly compatible.</p>

[End of Annex I /
 L'annexe II suit]

Comments from the Permanent Mission of Cost Rica to the United Nations

Costa Rica has no particular comments on this matter.

[Annex III follows /
L'annexe III suit]

Comments from the Intellectual Property Office of Singapore

The team at the Intellectual Property Office of Singapore thanks WIPO for your continued efforts to enhance the PCT regime. In response to Circular C. PCT 1615, we have the following query regarding the proposal for PCT/EF/PFC 20/006. It is uncertain what additional information are intended and how it will be displayed. Therefore, it would be useful to provide guidance or examples for reference.

[Annex IV follows /
L'annexe IV suit]

Comments from the Japan Patent Office

This is the reply from the Japan Patent Office (JPO) to the C.PCT 1615. The JPO would appreciate your giving consideration to the following comments.

Regarding the proposed change of PCT/EF/PFC 20/005, the JPO is aware of the necessity of the proposed change in line with the implementation of WIPO Standard ST.26 from January 1, 2022. The JPO has no objection with the proposed change of PCT/EF/PFC 20/005.

Regarding the proposed changes of PCT/EF/PFC 20/002, 003, 004 and 006, the JPO has not recognized any troubles of the current DTDs and any needs to change from PCT users or JPO examiners. Thus the JPO is not aware of the necessity of the proposed changes. If a majority of contracting parties is aware of the necessity of the proposed changes with any reason, the JPO requests that the use of the proposed DTDs be not mandatory since it would take a large amount of cost and time for the JPO to adopt the proposed DTDs for system conversion.

[Annex V follows /
L'annexe V suit]

Comments from the WIPO Standards Section

PFC-20-2003

- Relevant DTD: package-data
- Change proposed: new optional element earlier-search-letter
- Corresponding DRAFT ST.96 component, current under discussion by the XML4IP TF:

```
<xsd:element name=""PatentTransaction"" type=""pat:PatentTransactionType"">
  <xsd:annotation>
    <xsd:documentation>Root element, Wrap around for transaction of patent
data</xsd:documentation>
  </xsd:annotation>
</xsd:element>
<xsd:complexType name=""PatentTransactionType"">
  <xsd:sequence>
    <xsd:element ref=""com:TransactionHeader"" minOccurs=""0""/>
    <xsd:element ref=""pat:PatentTransactionBody""/>
  </xsd:sequence>
  <xsd:attribute ref=""com:st96Version"" use=""required""/>
  <xsd:attribute ref=""com:ipoVersion""/>
</xsd:complexType>
```

- Potential impact: Similar to package-data, new drafted ST.96 component PatentTransaction is currently being discussed by the XML4IP TF and will hopefully be included in future versions. Adding another potential element to send as 'packaged data' should have no impact on ST.96. PatentTransactionBody currently allows ApplicationBody, BibData (and SPSBibData), SearchReport, PatentPublication, PatentEventData, PatentDossier and LitigationBag.

[Annex VI follows /
L'annexe VI suit]

Comments from the Federal Service for Intellectual Property (Rospatent)

I am writing with regards to Circular C. PCT 1615 concerning Proposed changes to Annex F of the Administrative Instructions under the PCT and its appendices.

Rospatent is not currently using XML to deliver written opinions. At the moment the documents are sent in PDF. At the same time, our Office is planning to start delivering written opinions in XML in near future. Therefore, we do not have any comments regarding the Circular PCT 1615.

[Annex VII follows /
L'annexe VII suit]

Comments by the Korean Intellectual Property Office (KIPO)

Comment from STS (follow up with KIPO): "Potential impact: The proposed change will require a revision to ST.96 version 4.0 component TopUpSearchBasis. However, it is not clear which components should be provided as 1..n: the TopUpSearchAdditionalInformation component or just the TopUpSearchDate. According to the proposed changes to DTD, TopUpSearchAdditionalInformation should be updated, but it may need to change only the date component for business point of view. So it is suggested to discuss with KIPO, proponent of the PFC, what changes they proposed in PCT DTD."

KIPO's feedback

KIPO wants to have multiple dates in top-up-search-carried-out. Under the current written-opinion-components-v1-1.dtd, date is a CDATA attribute of top-up-search-carried-out and it is not so easy to expand multiple dates.

In order to clearly describe multiple dates, KIPO propose to repeat its parent element - top-up-search-carried-out. KIPO welcomes any possible solutions and further discussion on this issue.

```
# written-opinion-components-v1-1.dtd <!ELEMENT top-up-search-carried-out EMPTY>
<!ATTLIST top-up-search-carried-out
  date CDATA #REQUIRED
  document-found (yes | no) #REQUIRED>
```

For your information, ST.96 amendment works along with PFC 20/002, 004, 006 revision under issue-id 676, 677, 678 as attached.

[Annex VIII follows /
L'annexe VIII suit]

Comments by the United States Patent and Trademark Office (USPTO)

After consideration, please be informed that USPTO has no comments on this Circular at this time.

[Annex IX follows /
L'annexe IX suit]

Comments from the State Intellectual Property Office of the P.R.C (SIPO)

CNIPA has not different opinions about the proposed changes to Annex F of the Administrative Instructions under the PCT and its appendices.

[Annex X follows /
L'annexe X suit]

Comments from the European Patent Office

Following the Circular C.PCT 1615 you may find below EPO's feedback to each of the PFCs.

PFC-20-002

The EPO informs that, in Chapter 2 proceedings, its examiners perform one mandatory top-up search. Since the proposed change to the dtd is backwardly compatible, i.e. no IT changes required on IPEA/EP's side, the EPO does not object to this proposal.

PFC-20-003

The EPO supports a flawless processing of PCT Direct letters. It is crucial that, at the time of filing the application, the user be in a position to select the correct document type when uploading the PCT Direct letter. In that respect, the present PFC seems to fall short of any benefits for users. At present, the EPO has an automation in place for PCT Direct letters, under other-doc in other-documents. Therefore, should this PFC be eventually implemented, it is important for the EPO to ensure backward compatibility, i.e. the information that is already in the package data should be kept as is. Further, it must be kept in mind that all Offices will have to update the eOLF servers with the new DTD.

PFC-20-004

There is no comment from the EPO on this PFC.

PFC-20-005

There is no comment from the EPO on this PFC.

PFC-20-006

The EPO informs that its examiners are not following the practice suggested in the PFC. However, since this change is backwardly compatible there is no objection from the EPO. Further, the EPO suggest not encouraging a systematic use of color in filings but clearly indicating that those filings shall be made in color where necessary for a better understanding of the application.

[Annex XI follows /
L'annexe XI suit]

Comments from the International Bureau

The International Bureau would like to express its thanks to the Offices that have reviewed the proposal and provided comments.

In respect of the comments received, the international Bureau advises that it has taken into consideration the points raised:

- i. by the Japan Patent office in respect of the necessity of implementation for this PFC, noting that this PFC is necessary to support the migration of reports to XML authoring at KIPO and that with the DTD being backwardly compatible any current usage of the DTD by JPO will remain compatible;
- ii. by the WIPO Standards Section in respect of the need to record the dates of top-up-searches where the proposal; and,
- iii. by the European Patent Office in respect of the need to retain the 'other-doc' entry in the package data, noting that the retention of this coding would be implemented in the e-filing clients, the International Bureau agrees to maintain this coding and add the coding requested by the Spanish Patent and Trademark Office.

Considering the comments received from PCT member states and with no controversial comments outstanding, the International Bureau will adopt the proposal for entry into force on July 1, 2021.

[End of Annex XI and of document/
Fin de l'annexe XI et du document]