PATENT COOPERATION TREATY (PCT)

PCT RECEIVING OFFICE GUIDELINES

(Guidelines for the processing by receiving Offices of international applications under the Patent Cooperation Treaty)

as in force from July 1, 2020

1. This document contains an addendum to the PCT Receiving Office Guidelines, established by the International Bureau of WIPO and modified after consultation with the receiving Offices under the PCT.

2. This document contains the complete text of PCT Receiving Office Guidelines that were amended following consultation under circular C PCT 1586, dated February 4, 2020.

3. The PCT Receiving Office Guidelines in this document will be consolidated with other amended content resulting from consultation under circular C PCT 1596, dated April 17, 2020, before the entry into force of all of the new PCT Receiving Office Guidelines on July 1, 2020.
CHAPTER II
GENERAL

30. **Excuse of Delay in Meeting Time Limits under Rule 82quater.1.** For actions to be performed before the receiving Office, any delay in meeting a time limit is to be excused under Rule 82quater.1 if the receiving Office is satisfied that the following conditions are met:

   (a) the time limit was not met due to war, revolution, civil disorder, strike, natural calamity, general unavailability of electronic communication services or other like reason in the locality where the interested party resides, has his place of business or is staying;

   (b) the relevant action has been taken as soon as reasonably possible;

   (c) the evidence provided by the interested party is in a form acceptable to the receiving Office; and

   (d) the evidence is received by the receiving Office not later than six months after the expiration of the time limit applicable in the given case. In the particular case of general unavailability of electronic communications services, the interested party must establish that the outage affected a widespread geographical area rather than being a localized problem, that it was unexpected or unforeseen, and that there was no alternative communication means available to him. Actions to be performed include the submission of documents, responses to invitations and the payment of fees. Whether the interested party has taken the relevant action “as soon as reasonably possible” is to be judged by the receiving Office on the facts of the case. Commonly, this would mean within a short period of the cause of the delay ceasing to apply. For example, in cases where a strike prevented an agent from reaching his office, it would be expected that the action should in most cases be taken either the next working day or shortly thereafter, depending on how much preparatory work had been disrupted. On the other hand, where a disaster has resulted in the complete destruction of an agent’s files, it would reasonably be expected to take longer to reassemble all the necessary documents and systems to allow the necessary action to be taken. Rule 82quater.1 does not specifically refer to the action being taken “as soon as reasonably possible after the removal of the cause of the delay”, because an interested party should still be expected to take reasonable steps to overcome problems in cases where it can be seen that the relevant emergency situation will continue for a considerable period and the interested party is not himself prevented by the emergency from taking remedial action. As to the form of evidence acceptable to the receiving Office, for example, a news report from a reliable mass media outlet, or a statement or announcement from the relevant national authority should normally be acceptable for this purpose. In the case of general unavailability of electronic communications services, a statement from the provider of Internet services or the company providing electricity to the interested party may also be acceptable. The excuse of delay only applies to time limits fixed in the Regulations and not to the priority period (for restoration of the right of priority, see paragraphs 166A to 166M). The receiving Office should promptly inform the interested party of its decision (Form PCT/RO/132). A copy of the request, any evidence furnished and the decision should be sent to the International Bureau (Section 111).

30A. **Excuse of Delay in Meeting Time Limits under Rule 82quater.2.** Rule 82quater.2 allows the receiving Office to excuse delays in meeting PCT time limits due to the unavailability of any of the permitted electronic means of communication at the Office. When a receiving Office which offers such excuse of delays becomes aware of planned or unforeseen outages in the electronic means of communication at the Office, it:

   (a) publishes information about the unavailability including its duration; and

   (b) notifies the International Bureau, which will accordingly publish the information to that effect in the Gazette.
30B. Receiving Offices will excuse delays in meeting time limits for this reason if the following conditions are met:

(a) the applicant indicates, where so required by the receiving Office, that the time limit was not met due to the unavailability of one of the permitted electronic means of communication at the receiving Office;

(b) the receiving Office acknowledges that the said electronic means of communication at the receiving Office was not available during the period of time concerned; and

(c) the relevant action was performed on the next working day on which the said electronic means of communication became available.

30C. The receiving Office promptly informs the applicant of its decision (Form PCT/RO/132) and sends to the International Bureau a copy of the decision and, where applicable, any request and evidence furnished (Section 111).

30D. Rule 82quater.2 only applies to time limits fixed in the Regulations and not to the priority period.

CHAPTER IV
ARTICLE 11(1) CHECK;
REQUIREMENTS FOR INTERNATIONAL FILING DATE

Defects under Article 11(1)

45A. If, in determining whether the purported international application fulfills the requirements of Article 11(1), the receiving Office finds that an entire element referred to in Article 11(1)(iii)(d) or (e), or a part of the description, claims or drawings (including the case of all drawings), has or appears to have been erroneously filed, it proceeds as described in paragraphs 195 to 199 and 203A to 206.

47. The applicant may respond to an invitation to correct the purported international application (Form PCT/RO/103) either by submitting a correction under Article 11(2), or, where the defect relates to the omission of an element referred to in Article 11(1)(iii)(d) (description) or (e) (claims), by confirming, under Rule 20.6(a), the incorporation by reference of the missing element. The second option is not available if the receiving Office has notified the International Bureau under Rule 20.8(a) that Rule 20.6(a) is incompatible with its national law. Such an Office either proceeds as described in Rule 20.8(a-tet) or promptly requests the International Bureau as receiving Office to agree, in accordance with the procedure outlined in paragraphs 278 to 281, to the transmittal of the international application under Section 333(b) and (c). Missing drawings are treated as "missing parts", not "missing elements" since they are not required for an international filing date to be accorded under Article 11 (see Chapter VIII).

CHAPTER VI
ARTICLE 14 CHECK AND
OTHER FORMAL REQUIREMENTS

Reference to Parent Application or Grant

116. If, for purposes of national processing, the applicant intends to make an indication under Rule 49bis.1(a) or (b) of the wish that the international application be treated, in any designated State, as an application for a patent of addition, certificate of addition, inventor's certificate of addition or utility certificate of addition (Rule 4.11(a)(i)), or the applicant intends to make an indication under Rule 49bis.1(d) of the wish that the international application be treated, as an application for a continuation or a continuation-in-part of an earlier application (Rule 4.11(a)(ii)),
the request shall so indicate under item 2 or 3 in the supplemental box and shall indicate the relevant parent application or parent patent or other parent grant. Where an indication made under Rule 4.11 does not appear to be correct or complete, the receiving Office may draw the applicant’s attention to this fact and inform him of the possibility of making a correction under Rule 26quater.1 before the International Bureau (Form PCT/RO/132). The inclusion in the request of such an indication shall have no effect on the all-inclusive designation for every kind of protection available under Rule 4.9(a).

CHAPTER VIII - MISSING PARTS OR ERRONEOUSLY FILED ELEMENTS OR PARTS IN THE INTERNATIONAL APPLICATION

Erroneously Filed Elements or Parts

194A. The receiving Office does not specifically check whether the international application contains any erroneously filed element or part but only checks the title of the invention as appearing in the beginning of the description against the one appearing in the request. However, in performing the checks referred to in the preceding paragraphs or otherwise, if it finds that any element or part of the international application has or appears to have been erroneously filed, it brings the applicant’s attention to this fact and informs him of the possibility of making a correction under Rule 26quater.1 before the International Bureau (Form PCT/RO/132). The inclusion in the request of such an indication shall have no effect on the all-inclusive designation for every kind of protection available under Rule 4.9(a).

Invitation to Applicant

195. If the receiving Office finds that any part of the international application appears to be missing or any element or part of the international application appears to have been erroneously filed, it invites (Form PCT/RO/107) the applicant under Rule 20.5(a) or 20.5bis(a), as the case may be, either to complete or correct the purported international application by furnishing the missing part or the correct element or part, or, where the missing part or the correct element or part is completely contained in the earlier application the priority of which is claimed in the international application, to confirm, in accordance with Rule 20.6(a), that the missing part or the correct element or part is incorporated by reference under Rule 4.18. The option of incorporation by reference is not available if the receiving Office has notified the International Bureau of an incompatibility with its national law under Rule 20.8(a) or (a-bis). In the case of a missing part, such an Office either proceeds as described in Rule 20.8(a-ter) or promptly requests the International Bureau as receiving Office to agree, in accordance with the procedure outlined in paragraphs 278 to 281, to the transmittal of the international application under Section 333(b) and (c). In the case of an erroneously filed element or part, such an Office transmits the international application to the International Bureau as receiving Office under Rule 19.4, unless the applicant does not agree with the transmittal or does not pay the required fee within the time limit, in which case the Office proceeds as described in Rule 20.8(a-ter) (Section 309(g)). A copy of the invitation (Form PCT/RO/107) is sent to the International Bureau and to the International Searching Authority.

196. Time Limit to Respond. The applicant may, within two months from the date of the invitation (Rule 20.7(a)), respond by either completing or correcting the international application according to Rule 20.5(a)(i) or 20.5bis(a)(i), or by confirming, under Rule 20.5(a)(ii) or 20.5bis(a)(ii), the incorporation by reference of the missing part or the correct element or part, as the case may be. Where the time limit for responding to the notification expires later than one year from the filing date of the earliest application whose priority is claimed, the receiving Office draws the applicant’s attention to that fact (Rule 20.5(a) or 20.5bis(a)). Form PCT/RO/107 contains a check-box for that purpose.
Sheets Pertaining to the International Application Received without Prior Invitation

197. The receiving Office may receive other sheets pertaining to a purported international application submitted on a date later than the date on which papers were first received, even though there has been no invitation under Rule 20.5(a) or 20.5bis(a).

198. **Time Limit.** Where no invitation has been issued by the receiving Office under Rule 20.5(a) or 20.5bis(a), the time limit to submit sheets completing or correcting the international application is two months from the date on which one or more elements referred to in Article 11(1)(iii) were first received by the receiving Office (Rule 20.7(a)(ii)).

**Processing of Later Received Sheets**

199. Where the receiving Office receives sheets pertaining to an international application after the date on which one or more elements referred to in Article 11(1)(iii) were first received, following an invitation under Rule 20.5(a) or 20.5bis(a) or without such invitation, the receiving Office determines whether these sheets are furnished to complete or correct the international application or whether the applicant intends to confirm the incorporation by reference of those sheets in accordance with Rule 20.6(a). The option of incorporation by reference is not available if the receiving Office has notified the International Bureau of an incompatibility with its national law under Rule 20.8(a) or (a-bis).

**Sheets Completing an International Application under Rule 20.5(b) or (c)**

200. Where the applicant did not confirm the incorporation by reference of missing parts but nevertheless furnished sheets completing the international application within the time limit under Rule 20.7, the receiving Office marks each later submitted sheet in accordance with Section 308bis. The receiving Office marks the date of receipt of the sheets completing the international application in the relevant box on the last sheet of the request, where applicable, corrects the international filing date marked on the first sheet of the request, still leaving legible the earlier date (Sections 310 and 310bis) and notifies (Form PCT/RO/126) the applicant accordingly. Since Rule 20.5(e) permits the applicant, after the international filing date has been corrected, to request that the missing part concerned be disregarded in order to retain the initial international filing date, the receiving Office should not transmit the later submitted sheets to the International Bureau and the International Searching Authority before the expiration of one month from the date of the notification (Form PCT/RO/126), unless the applicant has already confirmed his position before the expiration of that time limit.

200A. Where the applicant requests that the missing part concerned be disregarded, the receiving Office restores the international filing date to that which had applied prior to its correction, proceeds as outlined in Section 310bis(b) and notifies the applicant (Form PCT/RO/129) that the initial filing date has been reinstated. A copy of this form should be sent to the International Bureau and, where the search copy has already been transmitted, to the International Searching Authority.

**Procedure Where No Drawings Are Received in Response to the Invitation**

203. Where an invitation has been issued as outlined in paragraph 195 but no drawings are submitted, any reference to the said drawings is considered non-existent (Article 14(2)) and no further action is required from the receiving Office.
Sheets Correcting an International Application under Rule 20.5bis(b) or (c)

203A. Where the applicant did not confirm the incorporation by reference of correct elements or parts but nevertheless furnished correct sheets to replace the sheets that have been erroneously filed so as to correct the international application within the time limit under Rule 20.7, the receiving Office marks each later submitted sheet in accordance with Section 308bis. The receiving Office marks the date of receipt of the correct sheets in the relevant box on the last sheet of the request, where applicable, corrects the international filing date marked on the first sheet of the request, still leaving legible the earlier date (Sections 310 and 310bis) and notifies (Form PCT/RO/126) the applicant accordingly. The receiving Office will also remove the erroneously filed sheets from the international application (Sections 310 and 310bis). However, since Rule 20.5bis(e) permits the applicant, after the international filing date has been corrected, to request that the correct element or part be disregarded in order to retain the initial international filing date, the receiving Office should not transmit the later submitted sheets to the International Bureau and the International Searching Authority and remove the erroneously filed sheets from the international application before the expiration of one month from the date of the notification (Form PCT/RO/126), unless the applicant has already confirmed his position before the expiration of that time limit.

203B. Where the applicant requests that the correct element or part be disregarded, the receiving Office restores the international filing date to that which had applied prior to its correction, proceeds as outlined in Section 310bis(b) and notifies the applicant (Form PCT/RO/129) that the initial filing date has been reinstated and that the erroneously filed element or part will remain in the international application. A copy of this form should be sent to the International Bureau and, where the search copy has already been transmitted, to the International Searching Authority.

Confirmation of Incorporation by Reference of Missing Parts or Correct Elements or Parts under Rule 20.6(a)

204. If, within the time limit under Rule 20.7, the receiving Office receives a notice confirming the incorporation by reference of a missing part or a correct element or part, it checks whether all the requirements of Rule 20.6 have been complied with, as outlined in the following paragraphs.

205. The receiving Office checks whether:

(a) the request (Form PCT/RO/101) contains a statement under Rule 4.18 or, if such a statement was not in the request at the time of filing, if it was otherwise contained in, or submitted with, the international application;

(b) sheets embodying the element or part concerned as contained in the earlier application have been submitted;

(c) the applicant had claimed priority of an earlier application at the time of filing;

(d) the applicant has submitted the priority document for that earlier application or at least a simple copy of that earlier application;

(e) under the circumstances of Rule 20.6(a)(iii), the applicant submitted a translation or translations of the earlier application (see Section 305ter); and

(f) in the case of a part of the description, claims or drawings, the applicant has submitted an indication as to where the part is contained in the earlier application and, where applicable, in any translation of the earlier application.

205A. The receiving Office checks whether the missing part or the correct element or part submitted by the applicant is completely contained in the earlier application. For that purpose,
the Office compares the relevant element or part in the earlier application with the sheets submitted by the applicant under Rule 20.6(a)(i). Where the later submitted sheets seem to go beyond the correction of formal defects and to modify the substantive content of the application, the receiving Office may, where applicable, invite the applicant to request the authorization of the rectification of an obvious mistake from the competent ISA under Rule 91 (Form PCT/RO/108).

205B. Where the international application contains more than one priority claim at the time of filing, the applicant may incorporate by reference elements or parts from any of these earlier applications. If, in an effort to comply with the physical requirements of Rule 11, the sheets submitted contain a different numbering of claims, pages or paragraphs, differently numbered references or different reference signs in drawings than in the earlier application(s), these modifications as to formal aspects of the application should generally not be considered as changing what was contained in the earlier application(s).

205C. **Positive Finding.** Where the receiving Office finds that all the requirements of Rules 4.18 and 20.6(a) have been complied with, the Office proceeds as described in Section 309(b) and issues Form PCT/RO/114 accordingly. A copy of the notice, which should also include the indication by the applicant as to where the relevant element or part is contained in the earlier application, is sent to the International Bureau and to the International Searching Authority. The receiving Office considers that the missing parts or the correct elements or parts concerned have already been filed on the date on which one or more elements referred to in Article 11(1)(iii) were first received and maintains (or grants, if at this point this has not yet been done) the international filing date accordingly. In case the receiving Office does not receive all subsequently furnished sheets on the same day, the receiving Office issues as many Forms PCT/RO/114 as required, indicating on each Form on which date the later submitted sheets were received.

205D. **Negative Finding.** Where the receiving Office finds that not all the requirements of Rules 4.18 and 20.6(a) have been complied with or that the element or part concerned is not completely contained in the earlier application, the receiving Office issues Form PCT/RO/114 accordingly and treats the subsequently furnished sheets as if the incorporation by reference had not been confirmed and proceeds, after the expiration of the time limit under Rule 20.7, as described in Section 309(c) (see also paragraphs 200 to 203B). A copy of the notice (Form PCT/RO/114) is sent to the International Bureau and to the International Searching Authority.

**Sheets Submitted under Rule 20.6(a)(i) Which Contain Matter Not Completely Contained in Earlier Application**

205E. Where the applicant timely confirms the incorporation by reference of missing or correct elements or parts and furnishes a sheet or sheets containing such missing or correct elements or parts, but such sheets contain matter which was not completely contained in the earlier application and therefore cannot be incorporated by reference, the receiving Office may, according to its own practice, and depending on the case, correct the sheets *ex officio* with a view to bring them into conformity with the earlier application. The general manner of making *ex officio* corrections by the receiving Office is provided in paragraphs 161 to 163. Where there is more than one possibility of correcting the defect, the receiving Office should contact the applicant by telephone and/or in writing to clarify the applicant’s intention before making any *ex officio* correction. Alternatively, the receiving Office may informally contact the applicant informing him that he should re-submit the sheet(s) the contents of which correspond with the earlier application within the applicable time limit under Rule 20.7(a); otherwise the receiving Office proceeds under Rule 20.6(c).
Processing of Erroneously Filed Elements or Parts Following Incorporation by Reference of Correct Elements or Parts

205F. Where sheets submitted under Rule 20.6(a)(i) are furnished as a correct element or part to replace an element or part that has been erroneously filed and the receiving Office finds that all the requirements of Rules 4.18 and 20.6(a) have been complied with, it proceeds as described in Section 309(b) and includes the sheets embodying the correct element or part in the international application. Meanwhile, the sheets embodying the erroneously filed element or part should not be removed but still remain in the international application (Rule 20.5bis(d)). The receiving Office marks the words “ERRONEOUSLY FILED (RULE 20.5bis)” in the middle of the bottom margin of each of the sheets, and moves those sheets to the end of the corresponding element of the purported international application. Specifically, each element of the international application should be arranged in such an order that the correct element incorporated by reference is placed first, followed by the erroneously filed element, or, in the case of a part, the correct sheets are inserted in the appropriate place, and the erroneously filed sheets are moved to the end of the description, the claims or the drawings, as the case may be. The sheets of the correct element or part shall be numbered without taking into account the sheets of the erroneously filed element or part (Section 311(b)(iii)). The sheets of the erroneously filed element or part need not be renumbered.

205G. The receiving Office checks for compliance with the physical requirements referred to in Rule 11 to the extent that compliance is necessary for the purpose of reasonably uniform international publication (Rule 26.3(b)(ii)), including image scanning and OCR by the International Bureau. The receiving Office may either invite the applicant to arrange the pages of the international application in the manner as described in paragraph 205F, or if the receiving Office so wishes, it may arrange the pages of the international application in this manner by way of an ex officio correction (Section 311(b)(iii)).

Procedure Where Later Submitted Sheets Are Received outside the Time Limit

206. Where the date of receipt of the later submitted sheets is not within the applicable time limit under Rule 20.7, the later submitted sheets are not taken into account for the purposes of international processing. The date of receipt of the application and the international filing date remain those accorded earlier. The receiving Office proceeds as described in Section 310ter and notifies the applicant using Form PCT/RO/126.

SUBSTITUTE SHEETS UNDER RULE 26 AND OTHER REPLACEMENT SHEETS

Substitute Sheets under Rule 26

208. Where sheets containing corrections of formal defects are submitted to the receiving Office under Rule 26.4, the receiving Office checks whether:

(i) the defects have been corrected;

(ii) the contents of the proposed replacement sheet are identical with those of the sheet to be replaced; in case of doubt as to the identity of text matter or drawings contained in the proposed sheet with the relevant part of the international application other than the request, the receiving Office does not accept the proposed replacement sheet and invites the applicant to submit to it a new sheet containing only the corrections of the formal defects concerned. It may draw the applicant’s attention to the possibility of confirming incorporation by reference under Rule 20.6 (if the contents of the proposed replacement sheet are completely contained in the earlier application the priority of which is claimed in the international application and the time limit under Rule 20.7 has not expired), or submitting to the International Searching Authority a request for rectification of any obvious mistake which may be contained in the original sheet (paragraphs 302 to 308). Alternatively, with the applicant’s consent, the receiving Office may itself forward the sheet containing the discrepancy to the International Searching Authority. In
any event, the receiving Office does not insert a copy of that sheet into the home copy and does not send the sheet to the International Bureau. If replacement sheets filed by the applicant result in a change in the total number of sheets of the international application, the numbers of sheets indicated upon filing in Box No. IX of the request (check list) need not be changed; if the applicant files a replacement sheet for the last sheet of the request containing corrected numbers of sheets, such sheet should not be inserted into the international application;

(iii) the corrections have been filed within the time limit under Rule 26.2 (paragraphs 153 to 155) and in time to be included for publication of the international application, provided that any corrections received after the expiration of the time limit (and eventually even after international publication) but before a decision under Rule 26.5 is taken by the receiving Office must still be accepted (paragraph 154) (in such a case, the international application will be republished).

CHAPTER XVIII
ITEMS TO BE TRANSMITTED TO ANOTHER AUTHORITY

Items to Be Transmitted to the International Bureau

325. Where the receiving Office receives from the applicant items which should have been filed with the International Bureau, it marks the date of receipt on the items concerned and transmits them promptly to the International Bureau. The receiving Office may inform the applicant about the transmittal. This applies, in particular, to the following items:

(i) references to deposited microorganisms or other biological material filed later than the international application (Rule 13bis.3 and paragraphs 228 to 234);

(ii) a request to publish indications relating to a priority claim considered void (Rule 26bis.2(d) and paragraphs 171, 172 and 175);

(iii) a request to publish a request for rectification of an obvious mistake where the rectification was refused under Rule 91.3(d) together with substitute sheets that might have been proposed by the applicant (paragraph 306);

(iv) the correction or addition of declarations relating to national requirements under Rule 4.17 (Rule 26ter and paragraph 192F);

(v) amendments to the claims filed under Article 19 (Rule 46.1);

(vi) a notice of correction or addition of a declaration under Rule 26ter.1 (Section 317);

(vii) a notice of correction or addition of an indication referred to in Rule 4.11 (Rule 26quater.1); and

(viii) a supplementary search request under Rule 45bis.1.