

Patent Cooperation Treaty (PCT) Working Group

Seventeenth Session
Geneva, February 19 to 21, 2024

DRAFT SUMMARY BY THE CHAIR

AGENDA ITEM 1: OPENING OF THE SESSION

1. The Chair of the Working Group, Ms. Dong Cheng (China), opened the session. Ms. Lisa Jorgenson, Deputy Director General, Patents and Technology Sector, welcomed the participants on behalf of Mr. Daren Tang, Director General of WIPO. Mr. Michael Richardson (WIPO) acted as Secretary to the Working Group.

2. The list of participants is set out in document PCT/WG/17/INF/2.

AGENDA ITEM 2: ADOPTION OF THE AGENDA

3. The Working Group adopted the revised draft agenda as set out in document PCT/WG/17/1 Prov. 2, with document PCT/WG/17/5 in item 18 being replaced by document PCT/WG/17/5 Rev.

AGENDA ITEM 3: ELECTION OF SECOND VICE-CHAIR FOR THE SESSION AND OFFICERS FOR THE EIGHTEENTH SESSION

4. There were no nominations for second vice-chair for the present session.

5. The Working Group unanimously elected Ms. Aleksandra Mihailović (Serbia) as Chair to take office following the end of the present session and to act for the eighteenth session.

AGENDA ITEM 4: PCT STATISTICS

6. The Working Group noted a presentation by the International Bureau on recent PCT statistics¹.

AGENDA ITEM 5: MEETING OF INTERNATIONAL AUTHORITIES UNDER THE PCT: REPORT OF THE THIRTIETH SESSION

7. Discussions were based on document PCT/WG/17/2.

8. The Working Group noted the Summary by the Chair of the thirtieth session of the Meeting of International Authorities under the PCT (document PCT/MIA/30/10), reproduced in the Annex to document PCT/WG/17/2.

AGENDA ITEM 6: COORDINATION OF TECHNICAL ASSISTANCE UNDER THE PCT

9. Discussions were based on document PCT/WG/17/19.

10. The Working Group noted the contents of document PCT/WG/17/19.

AGENDA ITEM 7: COORDINATION OF PATENT EXAMINER TRAINING

11. Discussions were based on document PCT/WG/17/11.

12. The Working Group:

(i) noted the responses to the Survey for Coordination of Patent Examiner Training in Small and Medium Offices;

(ii) noted the proposals to develop further introductory materials on patent examination to include in the e-learning repository under development and to add an electronic networking platform on that repository; and

(iii) invited the International Bureau to continue to work with interested Offices in developing training materials, taking into account comments made in the Survey for Coordination of Patent Examiner Training in Small and Medium Offices and during the session.

AGENDA ITEM 8: PCT ONLINE SERVICES

13. Discussions were based on document PCT/WG/17/20.

14. The Working Group noted the contents of document PCT/WG/17/20 and invited the International Bureau to continue the development of online services, taking into account the comments made.

AGENDA ITEM 9: FILING MEDIUM OF INTERNATIONAL APPLICATIONS AND RELATED DOCUMENTS

15. Discussions were based on document PCT/WG/17/15.

16. The Working Group:

(i) approved the proposed amendments to Rule 89*bis* as set out in Annex I to document PCT/WG/17/15, with a view to their submission to the Assembly; and

¹ A copy of the presentation is available on the WIPO website at:

(ii) invited the International Bureau to prepare and consult with the Offices and Authorities on proposed modifications to the PCT Administrative Instructions and the Receiving Office Guidelines which would be necessary to implement the amendments to Rule 89*bis* should they be adopted by the Assembly, taking into account the draft in Annex II to document PCT/WG/17/15 and the comments made.

AGENDA ITEM 10: LEGAL MEASURES TO SUPPORT ELECTRONIC PROCESSING

17. Discussions were based on document PCT/WG/17/9.

18. The Working Group invited the International Bureau to consider the comments made and to bring further proposals to a future session of the Working Group:

AGENDA ITEM 11: PERSONAL DATA PROTECTION AND THE PCT

19. Discussions were based on document PCT/WG/17/8.

20. The Working Group noted the contents of document PCT/WG/17/8.

AGENDA ITEM 12: LANGUAGES OF COMMUNICATION FOR THE INTERNATIONAL BUREAU

21. Discussions were based on document PCT/WG/17/6.

22. The Working Group approved the proposed amendment to Rule 92 as set out in the Annex to document PCT/WG/17/6, with a view to its submission to the Assembly.

AGENDA ITEM 13: FURTHER AMENDMENT TO RULE 26.3*ter* – INVITATION TO CORRECT DEFECTS UNDER ARTICLE 3(4)(i)

23. Discussions were based on document PCT/WG/17/7.

24. The Working Group:

(i) approved the proposed amendment to Rule 26 as set out in Annex I to document PCT/WG/17/21, with a view to its submission to the Assembly; and

(ii) invited the International Bureau to prepare and consult with the Offices and Authorities on proposed modifications to the PCT Administrative Instructions, the International Search and Preliminary Examination Guidelines and the Receiving Office Guidelines which would be necessary to implement the amendments to Rule 26 should they be adopted by the Assembly, taking into account the draft in Annex II to document PCT/WG/17/7 and the comments made.

AGENDA ITEM 14: CITATION OF NON-WRITTEN DISCLOSURES

25. Discussions were based on document PCT/WG/17/10.

26. The Working Group:

(i) approved the proposed amendments to Rules 33 and 64 set out in Annex II to document PCT/WG/17/21, with a view to their submission to the Assembly; and

(ii) invited the International Bureau to prepare and consult with the Offices and Authorities on proposed modifications to the PCT Administrative Instructions and the International Search and Preliminary Examination Guidelines which would be necessary to implement the amendments should they be adopted by the Assembly, taking into account the comments made.

AGENDA ITEM 15: REPORT OF SURVEY ON SEARCH STRATEGIES

27. Discussions were based on document PCT/WG/17/14.
28. The Working Group noted the contents of document PCT/WG/17/14.

AGENDA ITEM 16: COLOR DRAWINGS

29. Discussions were based on document PCT/WG/17/12.
30. The Working Group invited the International Bureau to consider how to amend Rule 11 to permit the filing and processing of international applications containing color drawings, taking into account the comments made.

AGENDA ITEM 17: GLOBAL IDENTIFIER AND THE PCT

31. Discussions were based on document PCT/WG/17/13.
32. The Working Group noted the contents of document PCT/WG/17/13.

AGENDA ITEM 18: CRITERIA FOR FEE REDUCTIONS TO CERTAIN APPLICANTS FROM CERTAIN COUNTRIES, NOTABLY DEVELOPING AND LEAST DEVELOPED COUNTRIES

33. Discussions were based on document PCT/WG/17/5 Rev.
34. The Working Group agreed to recommend to the Assembly:
- (i) that the criteria under Item 5 of the PCT Schedule of Fees be maintained, and that the Assembly should review the criteria again in five years' time;
 - (ii) to adopt the proposed modifications to the Directives for Updating the Lists of States Meeting the Criteria for Reduction of Certain PCT Fees set out in Annex II to PCT/WG/17/5 Rev.

AGENDA ITEM 19: SEQUENCE LISTINGS

- (A) IMPLEMENTATION OF WIPO STANDARD ST.26 IN THE PCT
35. Discussions were based on document PCT/WG/17/3.
36. The Working Group noted the contents of document PCT/WG/17/3.
- (B) SEQUENCE LISTINGS TASK FORCE: STATUS REPORT
37. Discussions were based on document PCT/WG/17/18.
38. The Working Group noted the contents of document PCT/WG/17/18.
- (C) TRANSMISSION OF SEQUENCE LISTINGS AS PART OF PRIORITY DOCUMENTS
39. Discussions were based on document PCT/WG/17/4.
40. The Working Group noted the contents of document PCT/WG/17/4.

AGENDA ITEM 20: PCT MINIMUM DOCUMENTATION TASK FORCE: STATUS REPORT

41. Discussions were based on document PCT/WG/17/16.
42. The Working Group noted the contents of document PCT/WG/17/16.

AGENDA ITEM 21: IP5 PCT COLLABORATIVE SEARCH AND EXAMINATION: FINAL REPORT

43. Discussions were based on document PCT/WG/17/17.

44. The Working Group noted the contents of document PCT/WG/17/17.

AGENDA ITEM 22: INFORMATION-SHARING WORKSHOP: PATENT PROSECUTION HIGHWAY (PPH) AND THE PCT

45. The Working Group held a sharing session on the Patent Prosecution Highway (PPH) and the PCT².

AGENDA ITEM 23: OTHER MATTERS

46. The International Bureau indicated that the eighteenth session of the Working Group was likely to be held around February or March 2025 and noted that informal discussions would continue to seek to make progress in the meantime particularly on technical matters regarding the development of full text processing and color drawings.

AGENDA ITEM 24: SUMMARY BY THE CHAIR

47. The Working Group noted the present summary, established under the responsibility of the Chair.

AGENDA ITEM 25: CLOSING OF THE SESSION

48. The Chair closed the session on February 21, 2024.

[Annexes follow]

² Presentations made during the sharing session are available from the WIPO website at ...

PROPOSED AMENDMENTS TO THE PCT REGULATIONS
REFERRED TO IN AGENDA ITEM 13

Rule 26

**Checking by, and Correcting before, the Receiving Office of Certain Elements of the
International Application**

26.1 to 26.3bis [No change]

26.3ter *Invitation to Correct Defects under Article 3(4)(i)*

(a) Where the abstract or any text matter of the drawings is filed in a language which is different from the language, subject to Rules 12.1bis and 26.3ter(e), of the description and the claims, the receiving Office shall, unless

(i) a translation of the international application is required under Rule 12.3(a) [into the language in which the international application is to be published](#), or

(ii) the abstract or the text matter of the drawings is in the language in which the international application is to be published,

invite the applicant to furnish a translation of the abstract or the text matter of the drawings into the language in which the international application is to be published. Rules 26.1, 26.2, 26.3, 26.3bis, 26.5 and 29.1 shall apply *mutatis mutandis*.

(b) to (e) [No change]

[Annex II follows]

PROPOSED AMENDMENTS TO THE PCT REGULATIONS
REFERRED TO IN AGENDA ITEM 14

Rule 33

Relevant Prior Art for the International Search

33.1 *Relevant Prior Art for the International Search*

(a) For the purposes of Article 15(2), relevant prior art shall consist of everything which has been made available to the public anywhere in the world by any means ~~of written disclosure (including drawings and other illustrations)~~ and which is capable of being of assistance in determining that the claimed invention is or is not new and that it does or does not involve an inventive step (i.e., that it is or is not obvious), provided that the making available to the public occurred prior to the international filing date.

(b) *[No change]* When any written disclosure refers to an oral disclosure, use, exhibition, or other means whereby the contents of the written disclosure were made available to the public, and such making available to the public occurred on a date prior to the international filing date, the international search report shall separately mention that fact and the date on which it occurred if the making available to the public of the written disclosure occurred on a date which is the same as, or later than, the international filing date.

(c) *[No change]* Any published application or any patent whose publication date is the same as, or later than, but whose filing date, or, where applicable, claimed priority date, is earlier than the international filing date of the international application searched, and which would constitute relevant prior art for the purposes of Article 15(2) had it been published prior to the international filing date, shall be specially mentioned in the international search report.

33.2 and 33.3 *[No change]*

Rule 64

Relevant Prior Art for the International Preliminary Examination

64.1 *Prior Art*

(a) For the purposes of Article 33(2) and (3), everything made available to the public anywhere in the world by any means ~~of written disclosure (including drawings and other illustrations)~~ shall be considered prior art provided that such making available occurred prior to the relevant date.

(b) [No change]

64.2 *Non-Written Disclosures*

In cases where the making available to the public occurred by means of an oral disclosure, use, exhibition or other non-written means ("non-written disclosure") before the relevant date as defined in Rule 64.1(b) and the date of such non-written disclosure is indicated in a written disclosure which has been made available to the public on a date which is the same as, or later than, the relevant date, ~~the non-written disclosure shall not be considered part of the prior art for the purposes of Article 33(2) and (3). Nevertheless,~~ the international preliminary examination report shall call attention to such non-written disclosure in the manner provided for in Rule 70.9.

64.3 [No change]

[End of Annex II and of document]