**PATENT COOPERATION TREATY**

Common Quality Framework for
International Search and Preliminary Examination

# Report Under Paragraph 21.17 of the PCT International Search and Preliminary Examination Guidelines

by: ***Austrian Patent Office APO (OEPA)***

on: ***20.12.2006***

Documents referred to in this report:

*[list any documents which appended to the report for information or publicly available documents which are referred to]*

*Each Authority must provide information with respect to its Quality Management System (QMS) arranged under the main headings as set forth in this template. The descriptions in this template below each main heading should be considered examples of the type and arrangement of information that should be included under each heading. Each Authority may provide additional information beyond that set forth in this template as desired.*

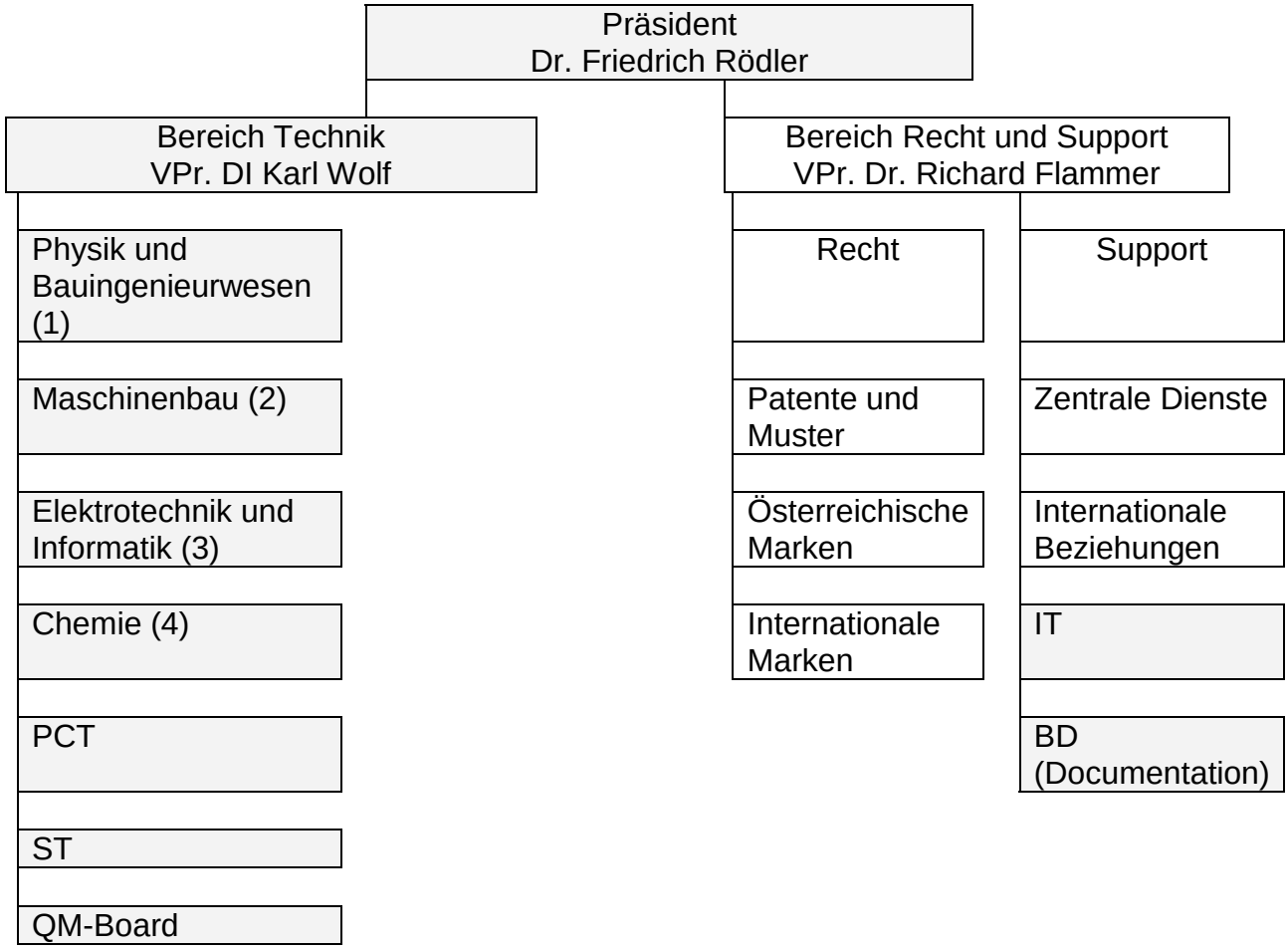
*This template is to be used for a main report under paragraph 21.17 of the PCT International Search and Preliminary Examination Guidelines. Updating reports may thereafter usually be presented in abbreviated format using template T21-18.*

## INTRODUCTION (PARAGRAPHS 21.01–21.02)

*The Authority should provide general background information relevant to the quality management system (QMS). The following may be included, if applicable:*

- *Recognised normative reference or basis for quality management system besides Chapter 21, e.g. ISO 9000.*
- *An organigram showing at least the organisational units responsible for implementation of the Authority's QMS. It could be referred to in the rest of the report, as necessary.*

The *Austrian Patent Office* APO (OEPA) as International Searching and Preliminary Examining Authority has installed a quality management system (QMS) as demanded in Chapter 21 of the *Guidelines for the Processing by International Searching and Preliminary Examining Authorities of International Applications under the Patent Cooperation Treaty* (**PCT-Guidelines**) entered in force on January 1, 2004.




The above extract of the Austrian Patent Office's organigram shows in grey the departments which are involved in the QMS for PCT.

| | |
|---|---|
| Section 1-4 | Technical Sections; each one comprising 2-3 technical departments (technical examiners) |
| PCT | Department responsible for the relation to WIPO concerning any PCT matters / receiving office / cooperation with WIPO and EPO; basic quality check of all ISRs, written opinions and IPERs |
| ST | Department responsible for administration/controlling of technical search and examination processes, implementation of QMS |
| QM-Board | Evaluation of the quality of search and examination products |

## Quality Management System (Paragraphs 21.03–21.09)

### Establishment and maintenance of QMS (Paragraph 21.03)

*The Authority should show that it has established and is maintaining, or is establishing, a QMS which:*

*(a) sets out basic requirements regarding resources, administrative procedures, feedback and communication channels required to underpin search and examination (S&E);*

*(b) incorporates a quality assurance scheme for monitoring compliance with these basic requirements and with PCT/GL/ISPE.*

Quality of the search and examination of patent applications was always the main emphasis of the OEPA's work concerning the processing of inventions. There have been made great efforts to build up and maintain an outstanding search documentation (including online tools) and a top level instruction level of the examiners.

Since the planning phase of the QMS in 2002 there are visits to other patent offices. This continuous experts experience exchange and evaluation of the different methods and strategies helped to choose the optimum system for the APO (OEPA) and to constantly improve the implemented system.

The management of the APO (OEPA) decided to select the best fitting tools and processes from the considered schemes (ISO 9000, EFQM, TQM). Therefore a survey of the examiners' and customers' opinion of the APO (OEPA)'s state of quality was carried out.

The results of this surveys helped to design an effective and appropriate QMS with clear instructions, cross-checks, spot-checks and feedback-mechanisms, which was entered in test on September 1, 2003.

Currently the APO (OEPA) is together with DE, DK and UK participating in the UPP-project (Utilisation Pilot Project), part of the European Patent Network Project. From this project we expect feedback and consequently impact for the improvement of our QMS-system.

### Resources - infrastructure (Paragraph 21.05)

*Provide information about the infrastructure in place which ensures the following:*

*(a) Adequate quantity of search and examination (S&E) staff, including:*

*(i) means for matching the quantity of S&E staff to the inflow of work;*

*(ii) means for ensuring that recruited S&E staff have the necessary technical qualifications;*

*(iii) means for ensuring that S&E staff have language skills, or have access to supporting translation arrangements, as necessary to meet Rule 34.*

*(b) Adequate quantity and skills of administrative staff to support S&E.*

*(c) Provision of appropriate equipment and facilities to support S&E.*

*(d) Provision of the minimum documentation supporting S&E, as referred to in Rule 34.*

*(e) Provision of up-to-date work manuals. These must include explanations of:*

*(i) quality criteria and standards;*

*(ii) descriptions of work procedures;*

*(iii) instructions ensuring that the work procedures are adhered to.*

*(f) Provision of an effective training and development program for all staff involved in S&E, including means to ensure the acquisition and maintenance of the necessary experience, skills and familiarity with work manuals.*

*(g) Continuously monitoring and identifying resources, other than staff, required to deal with demand and comply with quality standards for S&E.*

The APO (OEPA) has a staff of about 100 examiners, which is sufficient to deal with the inflow of work. The employment requirements (University degree; at least equivalent to master degree) guarantee the technical qualifications to search and examination in all technical fields. Language training for English and French is offered to the examiners to constantly improve their skills in these languages. Via Internet and SEA the examiners have access to translation arrangements.

Examiners are expected to do search and examination under PCT and also under national law. The training program spans 2-4 years of training-on-the job with close supervision, together with a training program ending with a written and an oral examination. After this training phase and this examination the examiner becomes fully proficient and works with minimal supervision.

The Austrian Patent Office has established the department “Abteilung PCT” for the administration of all search and expert opinion activities in the field of PCT of the APO (OEPA) with sufficient staff and resources at a level to support the technically qualified staff and facilitate the search and examination process. “Stabsstelle ST” is responsible for administration and controlling of technical search and examination processes, as well as for the implementation of QMS, including guidelines, standard clauses and classification matters.

In completion to the comprehensive documentation on paper, microfiche and CD-ROM managed by the BD Department and comprising additionally to the minimum documentation the patent documentation of many countries, a computer aided search and examination process has been established. Each examiner has access to the Internet and to the **SEA** (Epoque-system of the European Patent Office) from her/his desktop, providing at least the minimum documentation. The text processing is automated, allowing generating the final reports and letters to the applicants (or the WIPO) directly from the electronic system after running through the quality assurance system. A comfortable text elements management system was introduced, to ensure homogeneous formulations in the reports.

The work manuals are provided to the examiners by intranet and give structured access to the quality criteria and standards.

There are permanent training and development activities for all staff involved in the search and examination process:

- Examiners with special know how are holding workshops
- helpdesk provides quick assistance; collects problems and solutions
- in-house journal with articles containing tips for efficient use of online-DBs etc.
- EPOQUE-training at the EPO for advanced users
- examiner exchange with other offices
- in-house seminars for ECLA, FT, ...
- special seminars for chemists
- discussion forum with representatives / agents
- management training.
- Visits to companies in the relevant industries

The heads of the technical departments, of PCT and ST together with the technical Vice President of the APO (OEPA) have the responsibility for continuously monitoring and identifying the resources required to deal with the demand.

The QM-Board is observing that the reports comply with the quality standards for search and examination.

## Administration - procedures (Paragraphs 21.06(a) and (b))

*Provide information on those administrative procedures and control mechanisms which ensure the following:*

*(a) Timeliness of S&E and related functions, to quality standards in accordance with PCT/GL/ISPE.*

*(b) Coping with fluctuations in demand and backlog management.*

Timely issue of search and examination reports is supported by an automatic reminding system sending messages (e-mail) to the responsible examiner and her/his superior when the time limit for the report is coming close. The quality standard of the reports consistent with the PCT Search and Examination Guidelines is guaranteed by the standard quality assurance system (explained later) and a 100% check by experts for PCT-files (PCT).

The management of the APO (OEPA) and all examiners have access to statistical tools calculating the workload of each examiner, the departments and the different IPC-classes, monitoring fluctuations in demand and backlog in a very transparent way.

The evaluation and establishment of criteria is carried out by the **QM-Board**, a committee consisting of the heads of the four technical sections of the APO (OEPA) (physics/constructions, mechanical engineering, electrical engineering/IT, chemistry).

The results of customer surveys and complaints are evaluated and are taken into consideration for completion of the internal guidelines by the QM-Board.

## Quality Assurance Procedures (Paragraph 21.07)

*Provide information on procedures which ensure that S&E reports of a quality standard in accordance with PCT/GL/ISPE are issued. In particular, provide information on:*

*(a) Activities related to verification, validation and monitoring; as carried out in order to assess compliance of S&E work with PCT/GL/ISPE.*

*(b) Processes for measuring, recording, monitoring and analysing performance of the QMS to assess its conformity with the requirements of Chapter 21 and, if applicable, any other normative reference for the QMS.*

*(c) Activities related to verifying the effectiveness of actions taken to deal with deficiencies, including:*

*(i) those actions taken to eliminate, correct or authorise release of deficient S&E work which does not comply with the quality standards;*

*(ii) those actions taken to eliminate the causes of deficient S&E work and prevent the deficiencies from recurring.*

*(d) Activities ensuring the continuous improvement of established processes underpinning the issue of S&E reports.*

The APO (OEPA) has installed an internal quality assurance system for self assessment, involving the evaluation of search and examination work for compliance with the internal instructions and the PCT Search and Examination Guidelines and channelling feedback to staff, including a system for measuring, recording, monitoring and analyzing the performance of the QMS to allow assessment of conformity with the requirements.

This standard quality assurance system (applied to all searches performed by the APO (OEPA)) provides 4 steps:

1. Self-check of the examiner using a checklist, where the most important criteria of quality (defined under consideration of the employees-survey, known deficits and common errors) are listed
2. cross-check by a second examiner (4 eyes-check on same hierarchical level)
3. checks by the superior

in PCT-cases there is an additional check (100% of the reports) by the PCT

4. Periodic audit of a random sample of cases by the QM-board.

The **self-check** under consideration of the checklist guarantees a permanent reminding of the key-criteria. The occasional adapted checklist permits to give clear and adjusted reference to important items.
There is special focus on

- lack of unity of invention
- clarity and scope of claims - transparent analysis of subject matter
- obligatory documentation of (online) search strategy
- taking ECLA into consideration for search and classification is obligatory
- observation of time limits

The **cross-check** serves as basis for vital professional discussions between examiners. It is preferred to change the second examiner periodically, but is also permitted to install fixed teams.

The **superior level-check** gives the head of the department the possibility to inspect the reports and to ensure the quality level in the department. If the cross checks results in two different opinions, the head of the department will give advice and may settle how to process a special case. If he is in doubt, he has to consult PCT, ST or a member of the QM-Board.

The QM-Board meets at least four times a year to discuss the results of the random sample. It is guaranteed that the **spot checks** are spread over the departments equally and every examiner will be selected at least once in two years.

The evaluations are carried out by the members of the QM-Board in their technical section; they may call in an expert. In the evaluation meeting the QM-Board tries to find out general errors or shortcomings and is drafting instructions to avoid these discovered deficits.

The verification of the effectiveness of actions taken to address deficiencies and to prevent issues from recurring and the ensuring of the continuous improvement of the established processes is coordinated by the QM-Board, PCT and ST.

## Feedback arrangements (Paragraph 21.08)

*Give information on arrangements to:*

*(a) Provide feedback to staff informing them of results of verification, validation and monitoring carried out in order to assess compliance of S&E work, so that:*

*(i) deficient S&E work is corrected;*

*(ii) corrective action, i.e. action necessary to prevent recurrence, is identified and implemented;*

*(ii) best practice is identified, disseminated and adopted.*

*(b) Accommodate prompt feedback from WIPO, designated and elected offices; so that potential systemic issues, e.g. recurring deficiencies of S&E work, as identified by these bodies, are evaluated and addressed.*

Individual feedback is given from the respective member of the QM-Board to each examiner represented in the sample.

All activities of the QM-Board are communicated to the staff of the APO (OEPA) via intranet. The general feedback is provided without reference to the cases, where they have arisen.

E.G. the trial evaluation resulted in a circular asking the examiners to observe particularly

- lack of unity of invention
- „omnibus claims“
- obligatory documentation of (online) search strategy
- sharp differentiation between ”X” or “Y” – categories in search reports

- clear argumentation if the criteria of novelty / inventive step are not met
- correct first classification
- correct references in dependent claims

The effective communication with WIPO and designated and elected Offices is guaranteed by the PCT serving as interface for all in- and outgoing information.

## Communication, Guidance and Responses to Users (Paragraphs 21.06(c), 21.09)

*Give information on arrangements to:*

*(a) Provide communication channels for dealing promptly with enquiries and enabling appropriate two-way communication between applicants and examiners.*

*(b) Provide concise and comprehensive guidance and information to users (particularly unrepresented applicants) on the S&E process using the website of your Authority, guidance literature, and other means.*

*(c) Monitor and react to user needs and feedback, including:*

*(i) measuring user satisfaction and perception;*

*(ii) handling complaints;*

*(iii) correcting deficiencies identified by users;*

*(iv) taking corrective action, i.e. action to eliminate the cause of deficiencies, in response to recurring or systematic deficiencies identified by users.*

*(v) taking preventive action, i.e. action to eliminate the cause of potential deficiencies, in response to potential deficiencies or problems identified by users;*

*(vi) ensuring needs and legitimate expectations of users are met.*

The communication between the users (applicants) and examiners is assured easily reach by availability of telephone and e-mail contact to all examiners.

There is clear, concise and comprehensive guidance and information on the search and examination process included on the APO (OEPA)'s web site as well as guidance literature is laid out in the library and information centre. Additionally there is installed a permanent inquiry service (provided by experienced officials) at the APO (OEPA), where applicants can ask examiners for technical (or a lawyer for legal) advice.

## INTERNAL REVIEW (PARAGRAPHS 21.10–21.15)

*Paragraph 21.10 specifies that, in addition to a "quality assurance system for checking and ensuring compliance with the requirements set out in its QMS" [c.f. Paragraphs 21.03, 21.07], "each Authority should establish its own internal review arrangements to determine the extent to which it has established a QMS based on the above model". This model is set out by Chapter 21 as a whole [c.f. Paragraph 21.02]. Since a QMS which does not contain this provision for internal review would not meet the requirements of Chapter 21, the report under 21.17 should contain at least the information on the extent to which arrangements for internal review required by 21.10 are in place. These are as below.*

The APO (OEPA) has established an objective and transparent internal review, demonstrating whether or not the requirements and guidelines are being applied consistently and effectively. This review is undertaken four times a year on basis of spot-checks taken out of the process randomly by the QM-Board.

Required Arrangements for Internal Review (Paragraph 21.10)

*The Authority should show that arrangements are in place to ensure that:*

*(a) An internal review is carried out to determine:*

*(i) the extent to which a QMS complying with the model of Chapter 21 has been established;*

*(ii) the extent to which the Authority complies with the requirements of its QMS;*

*(iii) the extent to which the Authority complies with PCT/GL/ISPE.*

*(b) The internal review demonstrates whether or not the requirements of the QMS and PCT/GL/ISPE are being applied consistently and effectively.*

*(c) The internal review takes place at least once a year.*

The input to each review includes information on:

1. Conformity with the QMS requirements and the PCT Search and Examination Guidelines
2. corrective and preventative actions taken to eliminate the cause of non-compliance
3. follow-up actions from previous review
4. an analysis of the effectiveness of the QMS itself and its processes
5. should the occasion arise, feedback from customers, including designated and elected Offices as well as applicants and
6. Recommendations for improvement.

The collected data are analysed by the members of the QM-Board to determine to what extent the QMS requirements and the PCT Search and Examination Guidelines are being met. The results of the internal review are presented to all employees of the APO (OEPA) via intranet.

*Improvement*

With this system the APO (OEPA) can continually improve its performance according to the QMS requirements and is able to review the effectiveness of its QMS.

The management of the APO (OEPA) can identify and promptly take corrective action to eliminate the cause of any failure to comply with the QMS requirements and the PCT Search and Examination Guidelines.

## OPTIONAL INFORMATION UNDER PARAGRAPH 21.17

Guide to Internal Review Arrangements (Paragraphs 21.11–21.15)

*Paragraph 21.11 states that 21.12 - 21.15 are "proposed as a guide to the basic components of an internal review mechanism and reporting system", and are thus optional. Authorities may respond to the following points to indicate the provisions they have in place for Internal Review.*

*The Authority may show that the following arrangements are in place and will be used for the purpose of internal review:*

*(a) Arrangements providing information on conformity of S&E work; i.e. information from activities related to verification, validation and monitoring, as carried out in order to assess compliance of S&E work with PCT/GL/ISPE [c.f. point (a) under "Quality Assurance" above].*

*(b) Arrangements providing information on the effectiveness, and the extent of implementation, of the QMS and its processes; whereby it can be established to which extent the QMS complies with the requirements of Chapter 21 and, if applicable, any other normative reference for the QMS.*

## Reporting Arrangements

This initial report issubmitted to the Meeting of International Authorities under the PCT (MIA) describing what the APO (OEAP) has done to implement a QMS based on the broad requirements set out in the PCT Search and Examination Guidelines.

Annual reports will be prepared by the APO (OEPA), identifying the lessons learned and actions taken and making recommendations in light of the review.

[End of report]