



C.PCT 1056
-21.1

January 18, 2006

Madam,
Sir,

Proposed modifications of the Administrative Instructions under the PCT, the PCT Receiving Office Guidelines and Forms relating to receiving Offices and the International Bureau

This Circular is addressed to your Office in its capacity as receiving Office (RO), International Searching Authority (ISA), International Preliminary Examining Authority (IPEA) and/or designated or elected Office under the Patent Cooperation Treaty (PCT) for the purpose of consultation under PCT Rule 89.2(b). It is also addressed to certain intergovernmental and non-governmental organizations representing users of the PCT system.

This Circular concerns proposed modifications to the Administrative Instructions under the PCT (AIs), Receiving Office Guidelines (ROGLs) and certain PCT forms relating to ROs and the International Bureau (IB), consequential to amendments of the Regulations under the PCT adopted by the PCT Assembly at its thirty-fourth (15th ordinary) session held from September 26 to October 5, 2005 (see document PCT/A/34/6), which will enter into force on April 1, 2006. In addition, this Circular also proposes certain other clarifications and simplifications not consequential to the entry into force of the amended Regulations on April 1, 2006. Such proposed changes are noted in the comments.

The amendments of the Regulations concern exceptions to the automatic designation of all States, the addition of Arabic as a language of publication, the publication of declarations relating to national phase requirements referred to in PCT Rule 4.17, and the discontinuation of the *PCT Gazette* in paper form.

/...

./ The proposed modified sections of the AIs along with comments explaining the changes are set out in Annex I of this Circular; modifications are highlighted by underscoring new text and striking-out deleted text.

./ The proposed modified paragraphs of the ROGLs along with comments explaining the changes are set out in Annex II of this Circular; again, modifications are highlighted by underscoring new text and striking-out deleted text.

./ The proposed modified Forms and detailed explanations of the proposed modifications to the Forms are set out in Annex III of this Circular; modifications are highlighted by a vertical line in the right or left margin and only revised pages are included.

For the ROGLs and the Forms, the International Bureau also proposes a number of minor editorial changes to harmonize the nomenclature in these texts with that in the PCT Regulations. Such changes include replacing all references to “computer readable” by “electronic” form, and all references to “pamphlet” by “published international application”. These editorial changes are not included in the Annexes to this Circular, which contains substantive changes only. If your Office would like to receive a copy of the ROGLs or the Forms containing all proposed modifications, please send a request by email to pct.legal@wipo.int.

Comments on the proposed modifications to the AIs, ROGLs and Forms

Noting that the modified AIs, ROGLs and Forms should be promulgated with effect from April 1, 2006, and that further consultation may be required after consideration of the comments received in response to this Circular, you are invited to provide comments, if any, to the International Bureau by February 15, 2006, preferably by fax to (+41-22) 910 00 30 or by email to pct.legal@wipo.int.

Yours sincerely,



Francis Gurry
Deputy Director General

Enclosures: Annex I – Proposed modified Sections of the AIs

Annex II – Proposed modified paragraphs of the ROGLs

Annex III – Proposed modifications to certain RO and IB Forms

PROPOSED MODIFIED SECTIONS
OF THE ADMINISTRATIVE INSTRUCTIONS

Section 209

Indications as to Deposited Biological Material on a Separate Sheet

(a) [No change]

(b) For the purposes of ~~the Israel Patent Office, the Japan Patent Office, the Korean Intellectual Property Office, the Mexican Institute of Industrial Property, and the Turkish Patent Institute~~ as designated Offices which have so notified the International Bureau under Rule 13bis.7(a), paragraph (a) applies only ~~to the extent that if~~ the said Form or sheet is included as one of the sheets of the description of the international application at the time of filing.

[COMMENT: The proposed modifications of Section 209(b) are not consequential to the amendments of the Regulations adopted by the Assembly with effect from April 1, 2006. It is proposed to modify Section 209 in order to avoid having to refer to specific designated Offices whose applicable national law requires that indications relating to deposited biological material be included in the description. The relevant information is available in the *PCT Applicant's Guide*, Annex L.]

Section 211

Declaration as to the Identity of the Inventor

(a) Any declaration as to the identity of the inventor, referred to in Rule 4.17(i), shall be worded as follows:

“Declaration as to the identity of the inventor (Rules 4.17(i) and 51bis.1(a)(i)):

in relation to [this] international application [No. PCT/...],

~~(i) ... (name) of ... (address) is the inventor of the subject matter for which protection is sought by way of [the] [this] international application”~~

~~(ii) this declaration is made for the purposes of (include as applicable):~~

~~(a) all designations [except the designation of the United States of America]~~

~~(b) the following designations for national and/or regional patents: ...”~~

(b) [No change]

(c) [No change]

[COMMENT: The amendment to PCT Rule 48.2(a)(x) adopted by the Assembly with effect from April 1, 2006, avoids the operational complexity of having to communicate declarations made under PCT Rule 4.17 to specific designated Offices chosen by the applicant. By including the declarations in the published international application, all Offices will automatically receive them as part of the published international application. In this context, it is proposed to modify Section 211 (and Sections 212 to 215, see below) by deleting the requirement for the applicant to indicate the designated Offices for which the declaration is made (see item (ii) of paragraph (a), which is proposed to be deleted). Comments on this proposal are invited, in particular from user groups, specifically on the need to maintain at least an option for applicants to indicate certain designated Offices for which a declaration is made, noting that applicants may have specific interests in making a particular declaration referred to in PCT Rule 4.17 in certain designated Offices only.]

Section 212
Declaration as to the Applicant's
Entitlement to Apply for and Be Granted a Patent

(a) Any declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent, referred to in Rule 4.17(ii), shall be worded as follows, with such inclusion, omission, repetition and re-ordering of the matters listed as items (i) to (viii) as is necessary to explain the applicant's entitlement:

"Declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent (Rules 4.17(ii) and 51*bis*.1(a)(ii)), in a case where the declaration under Rule 4.17(iv) is not appropriate:

in relation to [this] international application [No. PCT/...],

... (*name*) is entitled to apply for and be granted a patent by virtue of the following:

(i) to (vii) [No change]

(viii) the applicant's name changed from ... (*name*) to ... (*name*) on ... (*date*)"

~~(ix) this declaration is made for the purposes of (*include as applicable*):~~

~~(a) all designations [except the designation of the United States of America]~~

~~(b) the following designations for national and/or regional patents: ..."~~

(b) [No change]

[COMMENT: See the Comment on Section 211, above.]

Section 213
Declaration as to the Applicant's
Entitlement to Claim Priority of Earlier Application

Any declaration as to the applicant's entitlement, as at the international filing date, to claim priority of the earlier application, referred to in Rule 4.17(iii), shall be worded as follows, with such inclusion, omission, repetition and re-ordering of the matters listed as items (i) to (viii) as is necessary to explain the applicant's entitlement:

"Declaration as to the applicant's entitlement, as at the international filing date, to claim the priority of the earlier application specified below, where the applicant is not the applicant who filed the earlier application or where the applicant's name has changed since the filing of the earlier application (Rules 4.17(iii) and 51*bis*.1(a)(iii)):

in relation to [this] international application [No. PCT/...],

... (*name*) is entitled to claim priority of earlier application No. ... by virtue of the following:

(i) to (vii) [No change]

(viii) the applicant's name changed from ... (*name*) to ... (*name*) on ... (*date*)"

~~(ix) this declaration is made for the purposes of (*include as applicable*):~~

~~(a) all designations~~

~~(b) the following designations for national and/or regional patents: ..."~~

[COMMENT: See the Comment on Section 211, above.]

Section 215

**Declaration as to Non-Prejudicial
Disclosures or Exceptions to Lack of Novelty**

Any declaration as to non-prejudicial disclosures or exceptions to lack of novelty shall be worded as follows, with such inclusion, omission, repetition and re-ordering of the matters listed as items (i) to (iv) as is necessary:

“Declaration as to non-prejudicial disclosures or exceptions to lack of novelty (Rules 4.17(v) and 51*bis*.1(a)(v)):

in relation to [this] international application [No. PCT/...],

... (*name*) declares that the subject matter claimed in [the] [this] international application was disclosed as follows:

(i) to (iii) [No change]

(iv) place of disclosure (*if applicable*): ...”

~~— (v) this declaration is made for the purposes of (*include as applicable*):~~

~~— (a) all designations~~

~~— (b) the following designations for national and/or regional patents: ...”~~

[COMMENT: See the Comment on Section 211, above.]

Section 319

Procedure under Rule 4.9(b)

(a) Where the receiving Office finds that the request contains an indication under Rule 4.9(b) that the designation of a State is not made but the request does not contain a priority claim to an earlier national application filed in that State, the receiving Office shall promptly notify the applicant accordingly and shall draw the applicant's attention to Rule 26*bis*.

(b) If the receiving Office does not, before the expiration of the time limit under Rule 26*bis*.1(a), receive a notice correcting or adding a priority claim, it shall cancel *ex officio* the indication under paragraph (a), shall enclose that indication in square brackets, draw a line between the square brackets while still leaving the indication legible, enter, in the margins, the words “CANCELLED EX OFFICIO BY RO” or their equivalent in the language of publication of the international application, and promptly notify the applicant accordingly. If the record copy has already been sent to the International Bureau, the receiving Office shall also notify that Bureau.

[COMMENT: It is proposed to add a new Section 319 to provide guidance to receiving Offices for cases where an applicant made an indication under PCT Rule 4.9(b) but did not claim the priority of an earlier application filed in that State.]

Section 404

International Publication Number of International Application

The International Bureau shall assign to each published international application an international publication number which shall be different from the international application number. The international publication number shall be used on the ~~pamphlet~~published international application and in the Gazette entry. It shall consist of the two-letter code “WO” followed by a four-digit indication of the year of publication, a slant, and a serial number consisting of six digits (e.g., “WO 2004/123456”).

[COMMENT: The proposed modifications of Section 404 are consequential on the amendment of PCT Rule 48 adopted by the Assembly with effect from April 1, 2006 (deletion of the word “pamphlet”).]

Section 406

~~Pamphlets~~Publication of International Applications

(a) ~~Pamphlets referred to in Rule 48.1~~International applications shall be published on a given day of the week.

(b) ~~Pamphlets~~International applications may be published, for the purposes of Article 21, on paper or wholly or partly in electronic form.

(c) Details concerning the publication of ~~pamphlets~~international applications, and the form and particulars of the front page of each ~~pamphlet~~published international application, shall be decided by the Director General, after consultation with the Offices or Authorities which have a direct interest in those details.

[COMMENT: The proposed modifications to Section 406 are consequential to the amendment of Rule 48 adopted by the Assembly with effect from April 1, 2006 (deletion of the word “pamphlet”). The proposed modifications of paragraph (c) reflect the current practice of the International Bureau to consult on any changes concerning the details of the publication, and of the form and content of the front page.]

Section 407

The Gazette

~~—(a) The Gazette in paper form referred to in Rule 86.1(b)(i) shall be of A4 size and shall be reproduced recto-verso.~~

(~~b~~a) The Gazette ~~in electronic form~~ referred to in Rule 86.1(~~b~~ii) shall be published in electronic form ~~made available~~ on the Internet, ~~on CD-ROM~~ It may be made available ~~and~~ by any other electronic means as determined by the Director General after consultation with the Offices or Authorities which have a direct interest in the means by which the Gazette is published. ~~Details concerning the availability of the Gazette in electronic form shall be published in the Gazette in paper form.~~

(~~e~~b) In addition to the contents specified in Rule 86, the Gazette shall contain, in respect of each published international application, the data indicated in Annex D.

(~~d~~c) The information referred to in Rule 86.1(~~a~~)(v) shall be that which is indicated in Annex E.

(d) Details concerning the form and further particular content of the Gazette shall be decided by the Director General after consultation with Offices and Authorities which have a direct interest in those details.

[COMMENT: The proposed modifications of Section 407 are consequential to the amendments of PCT Rules 48 and 86 adopted by the Assembly with effect from April 1, 2006. The proposed addition of new paragraph (d) reflects the current practice of the International Bureau to consult on details concerning the form and content of the Gazette.]

Section 408 **Priority Application Number**

(a) *[Deleted]*

(b) If the number of the earlier application referred to in Rule 4.10(a)(ii) (“priority application number”) is furnished after the expiration of the prescribed time limit, the International Bureau shall inform the applicant and the designated Offices of the date on which the said number was furnished. It shall indicate the said date in the international publication by including on the front page of the ~~pamphlet~~published international application next to the priority application number the words “FURNISHED LATE ON ... (date),” and the equivalent of such words in the language in which the international application is published if that language is other than English.

(c) If the priority application number has not been furnished at the time of the completion of the technical preparations for international publication, the International Bureau shall indicate that fact by including on the front page of the ~~pamphlet~~published international application in the space provided for the priority application number the words “NOT FURNISHED” and the equivalent of such words in the language in which the international application is published if that language is other than English.

[COMMENT: The proposed modifications to Section 408 are consequential on the amendment of PCT Rule 48 adopted by the Assembly with effect from April 1, 2006 (deletion of the word “pamphlet”).]

Section 410
Numbering of Sheets for the Purposes of
International Publication; Procedure in Case of Missing Sheets or Drawings

(a) In the course of preparing the international application for international publication, the International Bureau shall sequentially renumber the sheets to be published only when necessitated by the addition of any new sheet, the deletion of entire sheets or a change in the order of the sheets. Otherwise, the numbering provided under Section 207 shall be maintained.

(b) Where a sheet or a drawing has not been filed or is not to be taken into consideration for the purposes of international processing under Section 309(c) or Section 310(d), the International Bureau shall include an indication to that effect in the ~~pamphlet~~[published international application](#).

[COMMENT: The proposed modifications to Section 410 are consequential to the amendment of PCT Rule 48 adopted by the Assembly with effect from April 1, 2006 (deletion of the word “pamphlet”).]

Section 422
Notifications Concerning Changes Recorded Under Rule 92bis.1

(a) The International Bureau shall give notifications concerning changes recorded by it under Rule 92bis.1(a), except changes which are the subject of notifications under Section 425:

(i) to the receiving Office;

(ii) as long as the international search report, or the declaration referred to in Article 17(2)(a), and the written opinion of the International Searching Authority have not been established, to the International Searching Authority;

(iii) to the designated Offices unless the change can be duly reflected in the ~~pamphlet~~[published international application](#) used for the purposes of the communication ~~of the international application~~ under Article 20;

(iv) as long as the international preliminary examination report has not been established, to the International Preliminary Examining Authority;

(v) to the elected Offices, unless the change can be duly reflected in the ~~pamphlet~~[published international application](#) used for the purposes of the communication ~~of the international application~~ under Article 20;

(vi) to the applicant; where the change consists of a change in the person of the applicant, the notification shall be sent to the earlier applicant and the new applicant, provided that, where the earlier applicant and the new applicant are represented by the same agent, one notification only shall be sent to the said agent.

(b) Where Rule 92bis.1(b) applies, the International Bureau shall notify the applicant accordingly and, if the change was requested by the receiving Office, that Office.

[COMMENT: The proposed modifications to Section 422 are consequential to the amendment of PCT Rule 48 adopted by the Assembly with effect from April 1, 2006 (deletion of the word “pamphlet”).]

Section 424

Procedure under Rule 4.9(b)

(a) Where the International Bureau finds, if the Receiving Office has failed to do so, that the request contains an indication under Rule 4.9(b) that the designation of a State is not made but the request does not contain a priority claim to an earlier national application filed in that State, the International Bureau shall promptly notify the applicant accordingly and shall draw the applicant's attention to Rule 26bis.

(b) If the International Bureau does not, before the expiration of the time limit under Rule 26bis.1(a), receive a notice correcting or adding a priority claim, it shall cancel *ex officio* the indication under paragraph (a), shall enclose that indication in square brackets, draw a line between the square brackets while still leaving the indication legible, enter, in the margins, the words "CANCELLED EX OFFICIO BY IB" or their equivalent in French, and notify the applicant and the receiving Office accordingly.

[COMMENT: It is proposed to add a new Section 424 to provide guidance to the International Bureau for cases where an applicant made an indication under PCT Rule 4.9(b) but did not claim the priority of an earlier application filed in that State.]

Section 433

Waivers Under Rule 90.4(d) ~~and 90.5(e)~~

(a) Where, in accordance with Rule 90.4(d), the International Bureau waives the requirement under Rule 90.4(b) that a separate power of attorney be submitted to it, the International Bureau shall publish a notice of this fact in the Gazette.

(b) The International Bureau may require a separate power of attorney in particular instances even if the International Bureau has waived the requirement in general.

[COMMENT: It is proposed to modify the title of Section 433, noting that PCT Rule 90.5(c) does not provide for the International Bureau to make a waiver. The proposed modification is not consequential on the amendments of the Regulations adopted by the Assembly with effect from April 1, 2006.]

Section 435

Communication of Publications and Documents

(a) Subject to paragraph (b), publications under Rule 87.1 and documents under Rule 93bis.1 shall be communicated in electronic form via the International Bureau's electronic data exchange services.

(b) Where so agreed between the International Bureau and the Authority or Office concerned, publications under Rule 87.1 and documents under Rule 93bis.1 may be communicated in other forms and by other means.

(c) Pursuant to Rule 93bis.1(b), where so agreed between the International Bureau and the Office concerned, the communication of documents under Rule 93bis.1 shall be considered to be effected at the time when the International Bureau makes the document available to that Office in electronic form via the International Bureau's electronic data exchange services.

(d) Technical details concerning the communication of publications under Rule 87.1 and of documents under Rule 93bis.1 shall be agreed between the International Bureau and the Authority or Office concerned.

[COMMENT: It is proposed to add a new Section 435 to specify that publications and documents are communicated to Authorities and Offices under PCT Rules 87.1 and 93bis.1, respectively, via the International Bureau's electronic data exchange services, (such as Communication on Request ("COR"), PCT Electronic Data Interchange ("EDI") and PCT Online File Inspection ("OFI")), provided that, if so agreed between the International Bureau and the Office or Authority concerned, publications and documents may be communicated in other forms and by other means (for example, documents may be communicated on paper).]

ANNEX D

**INFORMATION FROM ~~PAMPHLET~~ FRONT PAGE OF PUBLISHED INTERNATIONAL APPLICATION TO BE INCLUDED
IN THE GAZETTE UNDER RULE 86.1~~(a)~~(i)**

The following information shall be extracted from the front page of ~~the pamphlet of~~ each published international application and shall, in accordance with Rule 86.1~~(a)~~(i), appear in the corresponding entry of the Gazette:

1. as to the international publication:
 - 1.1 the international publication number
 - 1.2 the date of the international publication
 - 1.3 an indication whether the following items were published in the pamphlet:
 - 1.31 international search report
 - 1.32 declaration under Article 17(2)
 - 1.33 claims amended under Article 19(1)
 - 1.34 statement under Article 19(1)
 - 1.35 *[Deleted]*
 - 1.36 request for rectification under the third sentence of Rule 91.1(f)
 - 1.37 information concerning a priority claim which was considered not to have been made, published upon request made under Rule 26bis.2(c)
 - 1.4 the language in which the international application was filed
 - 1.5 the language of publication of the international application

2. as to the international application:
 - 2.1 the title of the invention
 - 2.2 the symbol(s) of the International Patent Classification (IPC)
 - 2.3 the international application number
 - 2.4 the international filing date
3. as to any priority claim:
 - 3.1 the application number of the earlier application
 - 3.2 the date on which the earlier application was filed
 - 3.3 where the earlier application is:
 - 3.31 a national application: the country in which the earlier application was filed
 - 3.32 a regional application: the authority entrusted with the granting of regional patents under the applicable regional patent treaty and, in the case referred to in Rule 4.10(b)(ii), a country party to the Paris Convention for the Protection of Industrial Property for which that earlier application was filed
 - 3.33 an international application: the receiving Office with which it was filed
4. as to the applicant, inventor and agent:
 - 4.1 their name(s)
 - 4.2 their mailing address(es)
5. as to the designated States:
 - 5.1 their names
 - 5.2 the indication of any wish for a regional patent
 - 5.3 the indication that every kind of protection available is sought, unless otherwise indicated
6. as to a statement concerning non-prejudicial disclosure or exception to lack of novelty:
 - 6.1 the date of the disclosure
 - 6.2 the place of the disclosure
 - 6.3 the kind of the disclosure (e.g., exhibition, scientific publication, conference reports, etc.)
 - 6.4 the title of the exhibition, publication or conference
7. as to any indication in relation to deposited biological material furnished under Rule 13*bis* separately from the description:
 - 7.1 the fact that such indication is published
 - 7.2 the date on which the International Bureau received such indication
8. as to any declaration referred to in Rule 4.17 which was received by the International Bureau before the expiration of the time limit under Rule 26*ter*.1:
 - 8.1 the fact that such a declaration was made and a reference to the applicable item in Rule 4.17 under which it was made
 - ~~8.2 an indication of those designations for the purposes of which such declaration was made.~~

[COMMENT: See the Comment on Section 211, above.]

ANNEX E

INFORMATION TO BE PUBLISHED IN THE GAZETTE UNDER RULE 86.1(a)(v)

1. The time limits applicable under Articles 22 and 39 in respect of each Contracting State.
2. The list of the non-patent literature agreed upon by the International Searching Authorities for inclusion in the minimum documentation.
3. The names of the national Offices which do not wish to receive copies under Article 13(2)(c).
4. The provisions of the national laws of Contracting States concerning international-type search.
5. The text of the agreements entered into between the International Bureau and the International Searching Authorities or the International Preliminary Examining Authorities.
6. The names of the national Offices which entirely or in part waived their rights to any communication under Article 20.
7. The names of the Contracting States which are bound by Chapter II of the PCT.
8. Index of concordance of international application numbers and international publication numbers, listed according to international application numbers.
9. Index of applicants' names giving, for each name, the corresponding international publication number(s).
10. Index of international publication numbers, grouped according to the International Patent Classification symbols.
11. Indication of any subject matter that will not be searched or examined by the various International Searching and Preliminary Examining Authorities under Rules 39 and 67.
12. Requirements of designated and elected Offices under Rules 49.5 and 76.5 in relation to the furnishing of translations.
13. The dates defining the period referred to in Rule 32.1(b) during which the international application, whose effects may be extended to a successor State under Rule 32.1, must have been filed.

[COMMENT: The proposed modification of Annex E is consequential to the amendment of PCT Rule 86 as adopted by the Assembly with effect from April 1, 2006.]

[Annex II follows]

PROPOSED MODIFIED PARAGRAPHS
OF THE RECEIVING OFFICE GUIDELINES

55. Pursuant to Article 3(4)(i), the international application (that is, all elements of the international application: request, description (other than any sequence listing part thereof), claims, abstract, any text matter of the drawings) must be in “a prescribed language.” This requirement means that description (other than any sequence listing part thereof), claims, abstract and any text matter of the drawings must be in the language, or one of the languages, which the receiving Office, pursuant to Rule 12.1(a), accepts for the filing of international applications, and that the request must be in any language of publication which the receiving Office accepts for the filing of requests (Rule 12.1(c)). The languages of publication for international applications are [Arabic](#), Chinese, English, French, German, Japanese, Russian and Spanish (Rule 48.3(a)).

[COMMENT: The proposed modification is consequential to the amendment of PCT Rule 48.3 adopted by the Assembly with effect from April 1, 2006.]

101. **Exclusion of Certain States from Designation.** Under Rule 4.9(b), the applicant may, by marking the applicable check-box(es), indicate that Germany, [Japan](#), the Republic of Korea and/or the Russian Federation are not designated for any kind of national protection. This possibility is restricted to those ~~three~~^{four} States as no other State has notified the International Bureau that Rule 4.9(b), which provides for the possibility to exclude States from designation, is applicable in respect to the designation of that State. Therefore, no other State can be excluded from the automatic and all-inclusive coverage of designations and no withdrawals of designations are allowed in the request. If the applicant adds in the request explicit indications as to the designation of a specific contracting State or a withdrawal of a designation, such indication should be deleted *ex officio* by the receiving Office, as provided in Rule 4.18(b) and Section 303 (paragraphs 161 to 165). However, the applicant may submit a separate notice of withdrawal of designation under Rule 90*bis*.2. The designations of Germany for the purposes of a European patent and of the Russian Federation for the purposes of a Eurasian patent are not affected so that both States remain designated for regional protection if the respective checkboxes are marked. Regarding further details concerning the indication that Germany, [Japan](#), the Republic of Korea or the Russian Federation shall not be designated for any kind of national protection, see the Notes to the request form relating to Box No. V.

[COMMENT: new title, “Exclusion of Certain States from Designation” is proposed to be added for clarity. Additionally, the word “Japan” is proposed to be added to the body of Paragraph 101. These proposed modifications are consequential to the amendment of PCT Rule 4.9(b) adopted by the Assembly with effect from April 1, 2006, and to the notifications received by the IB from the four States under that Rule.]

102. **Priority Claim from Excluded State.** Under Rule 4.9(b), the applicant may only exclude the designation of Germany, Japan, the Republic of Korea and/or the Russian Federation in Box No. V, if the priority of an earlier national application filed, respectively, in Germany, Japan, the Republic of Korea and/or the Russian Federation, is claimed in Box No. VI. If, on the date of filing, the request contains an indication under Rule 4.9(b) for a State, but does not contain a priority claim to an earlier national application filed in that State, the applicant shall be promptly notified and his attention drawn to Rule 26*bis* (Form PCT/RO/132). In accordance with Section 319, if, by the expiration of the time limit under Rule 26*bis*.1(a), no notice correcting or adding a priority claim has been received, the indication in Box No. V shall be enclosed in square brackets and a line drawn between the square brackets, which leaves the indication legible, and in the margin, shall be indicated the words “CANCELLED EX OFFICIO BY RO”. The receiving Office shall promptly notify the applicant and the International Bureau accordingly (Form PCT/RO/146).

103. *States Not Bound by the PCT on the International Filing Date.* States which are not Contracting States on the date of filing the international application are not designated by filing a request and cannot be designated in the request or subsequently. If the applicant has added in Box No. V of the printed request form States which have become party to the PCT after the international filing date, the receiving Office cancels *ex officio* the purported designation of any State which is not a Contracting State (Section 318 paragraphs 161 to 165).

~~103.—[Deleted]~~

[COMMENT: The proposed new Paragraph 102 provides a receiving Office procedure for cases where an applicant may have made an error concerning an exclusion under modified PCT Rule 4.9(b) adopted by the Assembly with effect from April 1, 2006. The substance of old Paragraph 102 will be re-numbered as new Paragraph 103.]

192C. Where the request contains one or more declarations referred to in Rule 4.17, the receiving Office may check (Rule 26ter.2(a)) that:

(i) each declaration is worded as prescribed by Sections 211 to 215, as applicable, ~~and indicates the designated States to which it applies~~ (as explained in the Notes to the request form). The standardized wording of the declaration of inventorship which is applicable only for the purpose of the designation of the United States of America is pre-printed in Box No. VIII (iv) since no part of that wording may be omitted by the applicant;

(ii) any declaration of inventorship in Box No. VIII (iv) is signed and dated directly by the inventor for the United States of America a signature by an appointed agent is not sufficient for that purpose.

The receiving Office carries out no further checks on any declarations contained in the request form. In particular, it does not check that the name(s) and address(es) of the person(s) making a declaration correspond to the name(s) and address(es) of the applicant(s) or inventor(s) indicated in Boxes Nos. II and III of the request form. It also does not check for the purposes of which State a given declaration is made under Rule 4.17.

[COMMENT: The phrase “and indicates the designated States to which it applies” is proposed to be deleted from paragraph 192C(i) consequential on the amendment to PCT Rule 48.2(a)(x) adopted by the Assembly with effect from April 1, 2006. See also the comment on Section 211 in Annex I.]

[Annex III follows]

PROPOSED MODIFICATIONS TO CERTAIN RO AND IB FORMS

(a) *PCT/RO/101 (the “Request”)*

In Box No. V, a new check box is proposed to be added for “JP Japan” in addition to the current check boxes for DE Germany, KR Republic of Korea and RU Russian Federation. This modification is consequential to the entry into force of amended PCT Rule 4.9(b) adopted by the Assembly with effect from April 1, 2006. All four States have notified the IB that paragraph (b) of PCT Rule 4.9 shall apply in respect of those States. The wording “at the time of filing” is also proposed to be added to Box No. V to highlight that the exclusion of designation must be made on the international filing date.

On page 2 of the NOTES TO THE REQUEST FORM, under the title “BOX No. V”, “JP Japan” is also proposed to be added, as noted above. An explanation of how to add a priority claim subsequent to the international filing date under PCT Rule 26bis.1 is also proposed. This modification is proposed to emphasize that a non-designation of a State may only be made if a priority claim to an earlier national application in that State is also indicated in the request. The proposed modification to the Notes explains that where an applicant may have made an error concerning an exclusion under PCT Rule 4.9(b) by not making a priority claim to an earlier national application in that State concerned, he may add a priority claim under PCT Rule 26bis.1 to correct the situation.

Further in the NOTES TO THE REQUEST FORM on page 4, the paragraph entitled “Designated States to Which the Declarations Apply”, is proposed to be deleted in its entirety. On page 4 of the NOTES and under the title “BOX No. VIII(i)”, item (ii) is proposed to be deleted in its entirety. On page 5 of the NOTES and under the title “BOX No. VIII(ii)”, item (ix) is proposed to be deleted in its entirety, and under the title “BOX No. VIII(iii)”, item (ix) is also proposed to be deleted in its entirety. On page 5 of the NOTES and under the title “BOX No. VIII(v)”, item (v) is proposed to be deleted in its entirety. See also the comment on Section 211 (above).

(b) *PCT/RO/111 (“Notification Relating to Priority Claim”)*

This proposed modification is not consequential to the entry into force of the amended Regulations on April 1, 2006. Modifications are proposed here to better facilitate the work of ROs. ROs have been using Form PCT/RO/132 (“Communication in Cases for Which No Other Form Is Applicable”) for instances where the priority claim could not be corrected or added because the notice under PCT Rule 26bis.1(a) was received after the expiration of the applicable time limit. The wording proposed for Form PCT/RO/111 would harmonize the notice in such a situation for all ROs and avoid the use of inconsistent wording by use of Form PCT/RO/132, and ensure that the applicant is notified of the situation.

(c) *PCT/RO/156 (“Invitation to Correct Declarations Made in the Request Under PCT Rule 4.17”)*

The proposed modification is consequential to the entry into force of amended PCT Rule 48.2(a)(x) adopted by the Assembly with effect from April 1, 2006 (the publication of all declarations relating to national phase requirements referred to in PCT Rule 4.17).

(d) *PCT/IB/318 (“Notification Relating to Priority Claim”)*

See the comment on Form PCT/RO/111 (above). The wording of Form PCT/IB/318 is proposed to be modified to reflect the proposed modifications in Form PCT/RO/111.

(e) *PCT/IB/370 (“Invitation to Correct Declarations Made in the Request Under PCT Rule 4.17”)*

The proposed modification is consequential to the entry into force of amended PCT Rule 48.2(a)(x) adopted by the Assembly with effect from April 1, 2006 (the publication of all declarations relating to national phase requirements referred to in PCT Rule 4.17).

(f) *PCT/IB/371 (“Notification Relating to Declaration Made Under PCT Rule 4.17”)*

The proposed modification is consequential to the entry into force of amended PCT Rule 48.2(a)(x) adopted by the Assembly with effect from April 1, 2006 (the publication of all declarations relating to national phase requirements referred to in PCT Rule 4.17).

PCT

REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For receiving Office use only

International Application No.

International Filing Date

Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference
(if desired) (12 characters maximum)

Box No. I TITLE OF INVENTION	
Box No. II APPLICANT <input type="checkbox"/> This person is also inventor	
Name and address: <i>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)</i>	Telephone No.
	Facsimile No.
	Teleprinter No.
	Applicant's registration No. with the Office
State <i>(that is, country)</i> of nationality:	State <i>(that is, country)</i> of residence:
This person is applicant for the purposes of: <input type="checkbox"/> all designated States <input type="checkbox"/> all designated States except the United States of America <input type="checkbox"/> the United States of America only <input type="checkbox"/> the States indicated in the Supplemental Box	
Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)	
Name and address: <i>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)</i>	This person is: <input type="checkbox"/> applicant only <input type="checkbox"/> applicant and inventor <input type="checkbox"/> inventor only <i>(If this check-box is marked, do not fill in below.)</i>
	Applicant's registration No. with the Office
State <i>(that is, country)</i> of nationality:	State <i>(that is, country)</i> of residence:
This person is applicant for the purposes of: <input type="checkbox"/> all designated States <input type="checkbox"/> all designated States except the United States of America <input type="checkbox"/> the United States of America only <input type="checkbox"/> the States indicated in the Supplemental Box	
<input type="checkbox"/> Further applicants and/or (further) inventors are indicated on a continuation sheet.	
Box No. IV AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR CORRESPONDENCE	
The person identified below is hereby/has been appointed to act on behalf of the applicant(s) before the competent International Authorities as: <input type="checkbox"/> agent <input type="checkbox"/> common representative	
Name and address: <i>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)</i>	Telephone No.
	Facsimile No.
	Teleprinter No.
	Agent's registration No. with the Office
<input type="checkbox"/> Address for correspondence: Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.	

Box No. V DESIGNATIONS				
<p>The filing of this request constitutes under Rule 4.9(a), the designation of all Contracting States bound by the PCT on the international filing date, for the grant of every kind of protection available and, where applicable, for the grant of both regional and national patents. However,</p> <p><input type="checkbox"/> DE Germany is not designated for any kind of national protection</p> <p><input type="checkbox"/> JP Japan is not designated for any kind of national protection</p> <p><input type="checkbox"/> KR Republic of Korea is not designated for any kind of national protection</p> <p><input type="checkbox"/> RU Russian Federation is not designated for any kind of national protection</p> <p><i>(The check-boxes above may only be used to exclude (irrevocably) the designations concerned if, at the time of filing, the international application contains a priority claim for that particular State, in order to avoid the ceasing of the effect, under the national law, of an earlier national application from which priority is claimed. See the Notes to Box No. V as to the consequences of such national law provisions in these and certain other States.)</i></p>				
Box No. VI PRIORITY CLAIM				
The priority of the following earlier application(s) is hereby claimed:				
Filing date of earlier application (day/month/year)	Number of earlier application	Where earlier application is:		
		national application: country or Member of WTO	regional application:* regional Office	international application: receiving Office
item (1)				
item (2)				
item (3)				
<input type="checkbox"/> Further priority claims are indicated in the Supplemental Box.				
<p>The receiving Office is requested to prepare and transmit to the International Bureau a certified copy of the earlier application(s) <i>(only if the earlier application was filed with the Office which for the purposes of this international application is the receiving Office)</i> identified above as:</p> <p><input type="checkbox"/> all items <input type="checkbox"/> item (1) <input type="checkbox"/> item (2) <input type="checkbox"/> item (3) <input type="checkbox"/> other, see Supplemental Box</p> <p><i>* Where the earlier application is an ARIPO application, indicate at least one country party to the Paris Convention for the Protection of Industrial Property or one Member of the World Trade Organization for which that earlier application was filed (Rule 4.10(b)(ii)):</i></p> <p>.....</p>				
Box No. VII INTERNATIONAL SEARCHING AUTHORITY				
<p>Choice of International Searching Authority (ISA) (if two or more International Searching Authorities are competent to carry out the international search, indicate the Authority chosen; the two-letter code may be used):</p> <p>ISA /</p> <p>Request to use results of earlier search; reference to that search (if an earlier search has been carried out by or requested from the International Searching Authority):</p> <p>Date (day/month/year) Number Country (or regional Office)</p>				
Box No. VIII DECLARATIONS				
<p>The following declarations are contained in Boxes Nos. VIII (i) to (v) (mark the applicable check-boxes below and indicate in the right column the number of each type of declaration):</p>				Number of declarations
<input type="checkbox"/>	Box No. VIII (i)	Declaration as to the identity of the inventor	:	
<input type="checkbox"/>	Box No. VIII (ii)	Declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent	:	
<input type="checkbox"/>	Box No. VIII (iii)	Declaration as to the applicant's entitlement, as at the international filing date, to claim the priority of the earlier application	:	
<input type="checkbox"/>	Box No. VIII (iv)	Declaration of inventorship (only for the purposes of the designation of the United States of America)	:	
<input type="checkbox"/>	Box No. VIII (v)	Declaration as to non-prejudicial disclosures or exceptions to lack of novelty	:	

NOTES TO THE REQUEST FORM (PCT/RO/101)

These Notes are intended to facilitate the filling in of the request form. For more detailed information, see the *PCT Applicant's Guide*, a WIPO publication, which is available, together with other PCT related documents, at WIPO's web site: www.wipo.int/pct/en/index.html. The Notes are based on the requirements of the Patent Cooperation Treaty (PCT), the Regulations and the Administrative Instructions under the PCT. In case of any discrepancy between these Notes and those requirements, the latter are applicable.

In the request form and these Notes, "Article", "Rule" and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions, respectively.

Please use a typewriter; check-boxes may be marked by hand with black ink (Rule 11.9(a) and (b)).

The request form and these Notes may be downloaded from WIPO's web site at the address given above.

**WHERE TO FILE
THE INTERNATIONAL APPLICATION**

The international application (request, description, claims, abstract and drawings, if any) must be filed with a competent receiving Office (Article 11(1)(i)) – that is, subject to any applicable prescriptions concerning national security, at the choice of the applicant, either:

(i) the receiving Office of, or acting for, a PCT Contracting State of which the applicant or, if there are two or more applicants, at least one of them, is a resident or national (Rule 19.1(a)(i) or (ii) or (b)), or

(ii) the International Bureau of WIPO in Geneva, Switzerland, if the applicant or, if there are two or more applicants, at least one of the applicants is a resident or national of any PCT Contracting State (Rule 19.1(a)(iii)).

APPLICANT'S OR AGENT'S FILE REFERENCE

A **file reference** may be indicated, if desired. It should not exceed 12 characters. Characters in excess of 12 may be disregarded by the receiving Office or any International Authority (Rule 11.6(f) and Section 109).

BOX No. I

Title of Invention (Rules 4.3 and 5.1(a)): The title must be short (preferably two to seven words when in English or translated into English) and precise. It must be identical with the title heading the description.

BOXES Nos. II AND III

General: At least one of the applicants named must be a resident or national of a PCT Contracting State for which the receiving Office acts (Articles 9 and 11(1)(i) and Rules 18 and 19). If the international application is filed with the International Bureau under Rule 19.1(a)(iii), at least one of the applicants must be a resident or national of any PCT Contracting State.

Indication Whether a Person is Applicant and/or Inventor (Rules 4.5(a) and 4.6(a) and (b)):

All of the inventors must be named also as applicants for the purposes of the designation of the United States of America (see "Different Applicants for Different Designated States", below).

Check-box "This person is also inventor" (Box No. II): Mark this check-box if the applicant named is also the inventor or one of the inventors; do not mark this check-box if the applicant is a legal entity.

Check-box "applicant and inventor" (Box No. III): Mark this check-box if the person named is both applicant and inventor; do not mark this check-box if the person is a legal entity.

Check-box "applicant only" (Box No. III): Mark this check-box if the person named is a legal entity or if the person named is not also inventor.

Check-box "inventor only" (Box No. III): Mark this check-box if the person named is inventor but not also applicant. This would be the case in particular where the inventor is deceased or the particular inventor is not an inventor for the purposes of the designation of the United States of America. Do not mark this check-box if the person is a legal entity.

In Box No. III, one of the three check-boxes must always be marked for each person named.

A person must not be named more than once in Boxes Nos. II and III, even where that person is both applicant and inventor.

Different Applicants for Different Designated States (Rules 4.5(d), 18.3 and 19.2): It is possible to indicate different applicants for the purposes of different designated States. At least one of all the applicants named must be a national or resident of a PCT Contracting State for which the receiving Office acts, irrespective of the designated State(s) for the purposes of which that applicant is named. *All of the inventors must be named also as applicants for the United States of America (except as indicated above) and the check-boxes "This person is also inventor" (in Box No. II) and/or "applicant and inventor" (in Box No. III) must be marked.*

For the indication of the designated States for which a person is applicant, mark the applicable check-box (only one for each person). The check-box "the States indicated in the Supplemental Box" must be marked where none of the other three check-boxes fits the circumstances; in such a case, the name of the person must be repeated in the Supplemental Box with an indication of the States for which that person is applicant (see item 1(ii) in that Box).

Naming of Inventor (Rule 4.1(a)(iv) and (c)(i)): The inventor's name and address must be indicated since the national law of the United States of America requires that the name of the inventor be furnished at the time of filing. It is strongly recommended to always name the inventor. For details, see the *PCT Applicant's Guide*, Volume I/A, Annexes B1 and B2.

Different Inventors for Different Designated States (Rule 4.6(c)): Different persons may be indicated as inventors for different designated States (for example, where, in this respect, the requirements of the national laws of the designated States are not the same); in such a case, the Supplemental Box must be used (see item 1(iii) in that Box). In the absence of any indication, it will be assumed that the inventor(s) named is (are) inventor(s) for all designated States.

Names and Addresses (Rule 4.4): The family name (preferably in capital letters) must be indicated before the given name(s). Titles and academic degrees must be omitted. Names of legal entities must be indicated by their full official designations.

The address must be indicated in such a way that it allows prompt postal delivery; it must consist of all the relevant administrative units (up to and including the indication of the house number, if any), the postal code (if any), and the name of the country.

Only one address may be indicated per person. For the indication of a special "address for correspondence", see the notes to Box No. IV.

Telephone, Facsimile and/or Teleprinter Numbers should be indicated for the person named in Box No. II in order to allow rapid communication with the applicant. Any such number should include the applicable country and area codes.

Applicant's Registration Number with the Office (Rule 4.5(e)): Where the applicant is registered with the national or regional Office acting as receiving Office, the request may indicate the number or other indication under which the applicant is so registered.

Nationality (Rules 4.5(a) and (b) and 18.1): For each applicant, the nationality must be indicated by the name or two-letter code of the State (that is, country) of which the person is a national. A legal entity constituted according to the national law of a State is considered a national of that State. The indication of the nationality is not required where a person is inventor only.

Residence (Rules 4.5(a) and (c) and 18.1): For each applicant, the residence must be indicated by the name or two-letter code of the State (that is, country) of which the person is a resident. If the State of residence is not indicated, it will be assumed to be the same as the State indicated in the address. Possession of a real and effective industrial or commercial establishment in a State is considered residence in that State. The indication of the residence is not required where a person is inventor only.

Names of States (Section 115): For the indication of names of States, the two-letter codes appearing in WIPO Standard ST.3 and in the *PCT Applicant's Guide*, Volume I/B, Annex K, may be used.

BOX No. IV

Who Can Act as Agent? (Article 49 and Rule 83.1bis): For each of the receiving Offices, information as to who can act as agent is given in the *PCT Applicant's Guide*, Volume I/B, Annex C.

Agent or Common Representative (Rules 4.7, 4.8, 90.1 and 90.2 and Section 108): Mark the applicable check-box in order to indicate whether the person named is (or has been) appointed as "agent" or "common representative" (the "common representative" must be one of the applicants). For the manner in which name(s) and address(es) (including names of States) must be indicated, see the notes to Boxes Nos. II and III. Where several agents are listed, the agent to whom correspondence should be addressed is to be listed first. If there are two or more applicants but no common agent is appointed to represent all of them, one of the applicants who is a national or resident of a PCT Contracting State may be appointed by the other applicants as their common representative. If this is not done, the applicant first named in the request who is entitled to file an international application with the receiving Office concerned will be considered to be the common representative.

Manner of Appointment of Agent or Common Representative (Rules 90.4 and 90.5 and Section 106): The appointment of an agent or a common representative may be effected by designating the agent or common representative in Box No. IV and by the applicant signing the request or a separate power of attorney. Where there are two or more applicants, the appointment of a common agent or common representative must be effected by each applicant signing, at his choice, the request or a separate power of attorney. If the

separate power of attorney is not signed, or if the required separate power of attorney is missing, or if the indication of the name or address of the appointed person does not comply with Rule 4.4, the power of attorney will be considered non-existent unless the defect is corrected. However, the receiving Office may waive the requirement that a separate power of attorney be submitted to it (for details about each receiving Office, see the *PCT Applicant's Guide*, Volume I/B, Annex C).

Where a general power of attorney has been filed and is referred to in the request, a copy thereof must be attached to the request. Any applicant who did not sign the general power of attorney must sign either the request or a separate power of attorney, unless the receiving Office has waived the requirement that a separate power of attorney be submitted to it (for details, see the *PCT Applicant's Guide*, Volume I/B, Annex C).

Agent's Registration Number with the Office (Rule 4.7(b)): Where the agent is registered with the national or regional Office that is acting as receiving Office, the request may indicate the number or other indication under which the agent is so registered.

Address for Correspondence (Rule 4.4(d) and Section 108): Where an agent is appointed, any correspondence intended for the applicant will be sent to the address indicated for that agent (or for the first-mentioned agent, if more than one is appointed). Where one of two or more applicants is appointed as common representative, the address indicated for that applicant in Box No. IV will be used.

Where no agent or common representative is appointed, any correspondence will be sent to the address, indicated in Box No. II or III, of the applicant (if only one person is named as applicant) or of the applicant who is considered to be common representative (if there are two or more persons named as applicants). However, if the applicant wishes correspondence to be sent to a different address in such a case, that address must be indicated in Box No. IV instead of the designation of an agent or common representative. In this case, and only in this case, the last check-box of Box No. IV must be marked (that is, the last check-box must not be marked if either of the check-boxes "agent" or "common representative" has been marked).

BOX No. V

Designations (Regional and national patents) (Rule 4.9): Upon filing of the request, the applicant will obtain an automatic and all-inclusive coverage of all designations available under the PCT on the international filing date, in respect of every kind of protection available and, where applicable, in respect of both regional and national patents. If the applicant wishes the international application to be treated, in a certain designated or elected State, as an application not for a patent but for another kind of protection available under the national law of the designated or elected State concerned, the applicant will have to indicate his choice directly to the designated or elected Office when performing the acts, referred to in Articles 22 or 39(1), for entry into the national phase. For details about various kinds of protection available in designated or elected States, see the *PCT Applicant's Guide*, Volume I/A, Annexes B1 and B2.

However, for the reasons explained below, it is possible to indicate, by marking the applicable check-box(es), that DE Germany, JP Japan, KR Republic of Korea and/or RU Russian Federation are not designated for any kind of national protection. Each of those States has notified the International Bureau that Rule 4.9(b) applies to it since its national law provides that the filing of an international application which contains the designation of that State and claims the priority, **at the time of filing** or subsequently under Rule 26bis.1 of an earlier national application (for DE: for the same kind of protection) having effect in that State shall have the result that the earlier national application ceases, where applicable, after the expiration of certain time limits, to have effect with the same consequences as the withdrawal of the earlier national application. The

designation of DE Germany for the purposes of a EP European patent and of RU Russian Federation for the purposes of a EA Eurasian patent are not affected by what is said above. For details see the *PCT Applicant's Guide*, Volume I/A, in the relevant Annex B1.

For details, see the *PCT Applicant's Guide*, Volume I/A, in the relevant Annex B1. Therefore, the applicant may wish to consider submitting, separately from the request, a separate notice of withdrawal of the designation concerned. **Important: Should a notice of withdrawal be filed, that notice will have to be signed by the applicant or, if there are two or more applicants, by all of them (Rule 90bis.5(a)), or by an agent or a common representative whose appointment has been effected by each applicant signing, at his choice, the request, the demand or a separate power of attorney (Rule 90.4(a)).**

BOX No. VI

Priority Claim(s) (Rule 4.10): If the priority of an earlier application is claimed, the declaration containing the priority claim must be made in the request.

The request must indicate the *date* on which the earlier application from which priority is claimed was filed and the *number* it was assigned. Note that that date must fall within the period of 12 months preceding the international filing date.

Where the earlier application is a national application, the *country* party to the Paris Convention for the Protection of Industrial Property, or the *Member* of the World Trade Organization that is not a party to that Convention, in which that earlier application was filed must be indicated. Where the earlier application is a regional application, the *regional Office* concerned must be indicated. Where the earlier application is an international application, the *receiving Office* with which that earlier application was filed must be indicated.

Where the earlier application is a regional application (other than an ARIPO application), or an international application, the priority claim may also, if the applicant so wishes, indicate one or more countries party to the Paris Convention for which that earlier application was filed (Rule 4.10(b)(i)); such an indication is not, however, mandatory. Where the earlier application is an ARIPO application, at least one country party to the Paris Convention or one Member of the World Trade Organization for which that earlier application was filed must be indicated (Rule 4.10(b)(ii)).

As to the possibility of correcting or adding a priority claim, see Rule 26bis and the *PCT Applicant's Guide*, Volume I/A, General Part.

Certified Copy of Earlier Application (Rule 17.1): A certified copy of each earlier application the priority of which is claimed (priority document) must be submitted by the applicant, irrespective of whether that earlier application is a national, regional or international application. The priority document must be submitted to the receiving Office or to the International Bureau before the expiration of 16 months from the (earliest) priority date or, where an early start of the national phase is requested, not later than at the time such request is made. Any priority document received by the International Bureau after the expiration of the 16-month time limit but before the date of international publication shall be considered to have been received on the last day of that time limit (Rule 17.1(a)).

Where the priority document is issued by the receiving Office, the applicant may, instead of submitting the priority document, request the receiving Office (not later than 16 months after the priority date) to prepare and transmit the priority document to the International Bureau (Rule 4.1(c)(ii)). Such request may be made by marking the applicable check-boxes which identify the respective documents. *Attention:* where such a request is made, the applicant must, where applicable,

pay to the receiving Office the *fee for priority document*, otherwise, the request will be considered not to have been made (see Rule 17.1(b)).

Dates (Section 110): Dates must be indicated by the Arabic number of the day, the name of the month and the Arabic number of the year – in that order; after, below or above such indication, the date should be repeated in parentheses, using two-digit Arabic numerals each for the number of the day and for the number of the month followed by the number of the year in four digits, in that order and separated by periods, slants or hyphens, for example, “21 March 2005 (21.03.2005)”, “21 March 2005 (21/03/2005)” or “21 March 2005 (21-03-2005)”.

BOX No. VII

Choice of International Searching Authority (ISA) (Rules 4.1(b)(iv) and 4.14bis): If two or more International Searching Authorities are competent for carrying out the international search in relation to the international application – depending on the language in which that application is filed and the receiving Office with which it is filed – the name of the competent Authority chosen by the applicant must be indicated in the space provided, either by its full name or two-letter code.

Request to Use Results of Earlier Search; Reference to that Search (Rules 4.11(a)(i) and (ii) and 4.1): The earlier search, if any, must be identified in such a manner that the ISA can retrieve the results easily. Where those results can be used, the ISA may refund the international search fee or a portion thereof.

BOX No. VIII

Declarations Containing Standardized Wording (Rules 4.1(c)(iii) and 4.17): At the option of the applicant, the request may, for the purposes of the national law applicable in one or more designated States, contain one or more of the following declarations:

- (i) declaration as to the identity of the inventor;
- (ii) declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent;
- (iii) declaration as to the applicant's entitlement, as at the international filing date, to claim the priority of the earlier application;
- (iv) declaration of inventorship (only for the purposes of the designation of the United States of America);
- (v) declaration as to non-prejudicial disclosures or exceptions to lack of novelty;

which must conform to the standardized wording provided for in Sections 211 to 215, respectively, and which must be set forth in Boxes Nos. VIII (i) to (v), as detailed below. Where any such declarations are included, the appropriate check-boxes in Box No. VIII should be marked and the number of each type of declaration should be indicated in the right-hand column. As to the possibility of correcting or adding a declaration, see Rule 26ter, Section 216 and the *PCT Applicant's Guide*, Volume I/A, General Part.

If the circumstances of a particular case are such that the standardized wordings are not applicable, the applicant should not attempt to make use of the declarations provided for in Rule 4.17 but rather will have to comply with the national requirements concerned upon entry into the national phase.

The fact that a declaration is made under Rule 4.17 does not of itself establish the matters declared; the effect of those matters in the designated States concerned will be determined by the designated Offices in accordance with the applicable national law.

Even if the wording of a declaration does not conform to the standardized wording provided for in the Administrative Instructions pursuant to Rule 4.17, any designated Office may accept that declaration for the purposes of the applicable national law, but is not required to do so.

Details as to National Law Requirements: For information on the declarations required by each designated Office, see the *PCT Applicant's Guide*, Volume II, in the relevant National Chapter.

Effect in Designated Offices (Rule 51bis.2): Where the applicant submits any of the declarations provided for in Rule 4.17(i) to (iv) containing the required standardized wording (either with the international application, or to the International Bureau within the relevant time limit under Rule 26ter, or directly to the designated Office during the national phase), the designated Office may not, in the national phase, require further documents or evidence on the matter to which the declaration relates, unless that designated Office may reasonably doubt the veracity of the declaration concerned.

Incompatibility of Certain Items of Rule 51bis.2(a) with National Laws (Rule 51bis.2(c)): Certain designated Offices have informed the International Bureau that the applicable national law is not compatible in respect of certain declarations provided in Rule 4.17(i), (ii) and (iii). Those designated Offices are therefore entitled to require further documents or evidence on the matters to which those declarations relate. For regularly updated information on such Offices, see the WIPO web site:
http://www.wipo.int/pct/en/texts/reservations/res_incomp.pdf.

BOXES Nos. VIII (i) TO (v) (IN GENERAL)

Different Declaration Boxes: There are six different declaration boxes in the pre-printed request form – one box for each of the five different types of declarations provided for in Rule 4.17 (Box No. VIII (i) to Box No. VIII (v)) and a continuation sheet (Continuation of Box No. VIII (i) to (v)) to be used in case any single declaration does not fit in the corresponding box. The title of each type of declaration which is found in the standardized wording provided for in the Administrative Instructions is pre-printed on the appropriate sheet of the request.

Separate Sheet for Each Declaration: Each declaration must start on a separate sheet of the request form in the appropriate Declaration Box.

Titles, Items, Item Numbers, Dotted Lines, Words in Parentheses and Words in Brackets: The prescribed standardized wording of the declarations includes titles, various items, item numbers, dotted lines, words in parentheses and words in brackets. Except for Box No. VIII (iv) which contains the pre-printed standardized wording, only those items which are applicable should be included in a declaration where necessary to support the statements in that declaration (that is, omit those items which do not apply) and item numbers need not be included. Dotted lines indicate where information is required to be inserted. Words in parentheses are instructions to applicants as to the information which may be included in the declaration depending upon the factual circumstances. Words in brackets are optional and should appear in the declaration without the brackets if they apply; if they do not apply, they should be omitted together with the corresponding brackets.

Naming of Several Persons: More than one person may be named in a single declaration. In the alternative, with one exception, a separate declaration may be made for each person. With respect to the declaration of inventorship set forth in Box

No. VIII (iv), which is applicable only for the purposes of the designation of the United States of America, all inventors must be indicated in a single declaration (see Notes to Box No. VIII (iv), below). The wording of declarations to be set forth in Boxes Nos. VIII (i), (ii), (iii) and (v) may be adapted from the singular to the plural as necessary.

BOX No. VIII (i)

Declaration as to the Identity of the Inventor (Rule 4.17(i) and Section 211): The declaration must be worded as follows:

“Declaration as to the identity of the inventor (Rules 4.17(i) and 51bis.1(a)(i)):

in relation to [this] international application [No. PCT/...],

... (*name*) of ... (*address*) is the inventor of the subject matter for which protection is sought by way of [the] [this] international application

Such a declaration is not necessary in respect of any inventor who is indicated as such (either as inventor only or applicant and inventor) in Box No. II or No. III in accordance with Rule 4.5 or 4.6. However, where the inventor is indicated as applicant in Box No. II or No. III in accordance with Rule 4.5, a declaration as to the applicant's entitlement to apply for and be granted a patent (Rule 4.17(ii)) may be appropriate. Where indications regarding the inventor in accordance with Rule 4.5 or 4.6 are not included in Box No. II or No. III, this declaration may be combined with the prescribed wording of the declaration as to the applicant's entitlement to apply for and be granted a patent (Rule 4.17(ii)). For details on such a combined declaration, see Notes to Box No. VIII (ii), below. For details as to the declaration of inventorship for the purposes of the designation of the United States of America, see Notes to Box No. VIII (iv), below.

BOX No. VIII (ii)

Declaration as to the Applicant's Entitlement to Apply for and Be Granted a Patent (Rule 4.17(ii) and Section 212): The declaration must be worded as follows, with such inclusion, omission, repetition and re-ordering of the matters listed as items (i) to (viii) as is necessary to explain the applicant's entitlement:

“Declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent (Rules 4.17(ii) and 51bis.1(a)(ii)), in a case where the declaration under Rule 4.17(iv) is not appropriate:

in relation to [this] international application [No. PCT/...],

... (*name*) is entitled to apply for and be granted a patent by virtue of the following:

- (i) ... (*name*) of ... (*address*) is the inventor of the subject matter for which protection is sought by way of [the] [this] international application
- (ii) ... (*name*) [is] [was] entitled as employer of the inventor, ... (*inventor's name*)
- (iii) an agreement between ... (*name*) and ... (*name*), dated ...
- (iv) an assignment from ... (*name*) to ... (*name*), dated ...
- (v) consent from ... (*name*) in favor of ... (*name*), dated ...
- (vi) a court order issued by ... (*name of court*), effecting a transfer from ... (*name*) to ... (*name*), dated ...
- (vii) transfer of entitlement from ... (*name*) to ... (*name*) by way of ... (*specify kind of transfer*), dated ...
- (viii) the applicant's name changed from ... (*name*) to ... (*name*) on ... (*date*)

Items (i) to (viii) may be incorporated as is necessary to explain the applicant's entitlement. **This declaration is only applicable to those events which have occurred prior to the international filing date.** The possible kinds of transfer of entitlement in item (vii) include merger, acquisition, inheritance, donation, etc. Where there has been a succession of transfers from the inventor, the order in which transfers are listed should follow the actual succession of transfers, and items may be included more than once, as necessary to explain the applicant's entitlement. Where the inventor is not indicated in Box No. II or No. III, this declaration may be presented as a combined declaration explaining the applicant's entitlement to apply for and be granted a patent and identifying the inventor. In such a case, the introductory phrase of the declaration must be as follows:

"Combined declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent (Rules 4.17(ii) and 51bis.1(a)(ii)) and as to the identity of the inventor (Rules 4.17(i) and 51bis.1(a)(i)), in a case where the declaration under Rule 4.17(iv) is not appropriate:"

The remainder of the combined declaration must be worded as indicated in the preceding paragraphs.

For details as to the declaration as to the identity of the inventor, see the Notes to Box No. VIII (i), above.

BOX No. VIII (iii)

Declaration as to the Applicant's Entitlement to Claim Priority of the Earlier Application (Rule 4.17(iii) and Section 213): The declaration must be worded as follows, with such inclusion, omission, repetition and re-ordering of the matters listed as items (i) to (viii) as is necessary to explain the applicant's entitlement:

"Declaration as to the applicant's entitlement, as at the international filing date, to claim the priority of the earlier application specified below, where the applicant is not the applicant who filed the earlier application or where the applicant's name has changed since the filing of the earlier application (Rules 4.17(iii) and 51bis.1(a)(iii)):

in relation to [this] international application [No. PCT/...],

... (name) is entitled to claim priority of earlier application No. ... by virtue of the following:

- (i) the applicant is the inventor of the subject matter for which protection was sought by way of the earlier application
- (ii) ... (name) [is] [was] entitled as employer of the inventor, ... (inventor's name)
- (iii) an agreement between ... (name) and ... (name), dated ...
- (iv) an assignment from ... (name) to ... (name), dated ...
- (v) consent from ... (name) in favor of ... (name), dated ...
- (vi) a court order, issued by ... (name of court), effecting a transfer from ... (name) to ... (name), dated ...
- (vii) transfer of entitlement from ... (name) to ... (name) by way of ... (specify kind of transfer), dated ...
- (viii) the applicant's name changed from ... (name) to ... (name) on ... (date)

Items (i) to (viii) may be incorporated as is necessary to explain the applicant's entitlement. **This declaration is only applicable to those events which have occurred prior to the international filing date.** In addition, this declaration is only applicable where the person or name of the applicant is different from that of the applicant who filed the earlier application from

which priority is claimed. For example, this declaration may be applicable where only one applicant out of five is different from the applicants indicated in respect of an earlier application. The possible kinds of transfer of entitlement in item (vii) include merger, acquisition, inheritance, donation, etc. Where there has been a succession of transfers from the applicant in respect of the earlier application, the order in which transfers are listed should follow the actual succession of transfers, and items may be included more than once, as necessary to explain the applicant's entitlement.

BOX No. VIII (iv)

Declaration of Inventorship (Rule 4.17(iv) and Section 214): The standardized wording for the declaration is pre-printed in Box No. VIII (iv).

The name, residence, address and citizenship must be included for each inventor. If the name and address of an inventor is not written in the Latin alphabet, the name and address must be indicated in the Latin alphabet. All inventors must sign and date the declaration even if they do not all sign the same copy of the declaration (Section 214(b)).

If there are more than two inventors, those other inventors must be indicated on the "Continuation of Box No. VIII (i) to (v)" sheet. The continuation sheet should be entitled "Continuation of Box No. VIII (iv)," must indicate the name, residence, address and citizenship for those other inventors, and at least the name and address in the Latin alphabet. In such a case, the "complete declaration" includes Box No. VIII (iv) and the continuation sheet. All inventors must sign and date a complete declaration even if they do not all sign the same copy of the complete declaration, and a copy of each separately signed complete declaration must be submitted (Section 214(b)).

Where the declaration was not included in the request, but **is furnished later**, the PCT application number **MUST** be indicated within the text of Box No. VIII (iv). **Where the declaration is included in the request**, the inventor(s) need not sign and date the declaration if they have signed Box No. X of the request.

BOX No. VIII (v)

Declaration as to Non-prejudicial Disclosures or Exceptions to Lack of Novelty (Rule 4.17(v) and Section 215): The declaration must be worded as follows, with such inclusion, omission, repetition and re-ordering of the matters listed as items (i) to (iv) as is necessary:

"Declaration as to non-prejudicial disclosures or exceptions to lack of novelty (Rules 4.17(v) and 51bis.1(a)(v)):

in relation to [this] international application [No. PCT/...],

... (name) declares that the subject matter claimed in [the] [this] international application was disclosed as follows:

- (i) kind of disclosure (include as applicable):
 - (a) international exhibition
 - (b) publication
 - (c) abuse
 - (d) other: ... (specify)
- (ii) date of disclosure: ...
- (iii) title of disclosure (if applicable): ...
- (iv) place of disclosure (if applicable): ...

Either (a), (b), (c) or (d) of item (i) should always be included in the declaration. Item (ii) should also always be included in the declaration. Items (iii) and (iv) may be incorporated depending upon the circumstances.

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

PCT

NOTIFICATION RELATING TO PRIORITY CLAIM

(PCT Rules 26bis.1 and 26bis.2 and
Administrative Instructions, Sections 302 and 314)

To:	
	Date of mailing (day/month/year)
Applicant's or agent's file reference	IMPORTANT NOTIFICATION
International application No.	International filing date (day/month/year)
Applicant	

The applicant is hereby **notified** of the following in respect of the priority claim(s) made in the international application.

1. **Correction of priority claim.** In accordance with the applicant's notice received on _____ the following priority claim has been corrected to read as follows:
 - even though the indication of the number of the earlier application is missing
 - even though the following indication in the priority claim is not the same as the corresponding indication appearing in the priority document:
2. **Addition of priority claim.** In accordance with the applicant's notice received on _____ the following priority claim has been added:
 - even though the indication of the number of the earlier application is missing
 - even though the following indication in the priority claim is not the same as the corresponding indication appearing in the priority document:
3. **As a result of the correction and/or addition** of (a) priority claim(s) under items 1 and/or 2, the **(earliest) priority date** is:
4. The priority claim (*see also item 5, below, if applicable*) is **considered not to have been made** because:
 - the applicant failed to respond to the invitation under Rule 26bis.2(a) (Form PCT/RO/110) within the prescribed time limit
 - the applicant's notice was received after the expiration of the prescribed time limit under Rule 26bis.1(a)
 - the applicant's notice failed to correct the priority claim so as to comply with the requirements of Rule 4.10

The applicant may, before the technical preparations for international publication have been completed and subject to the payment of a fee, request the International Bureau to publish, together with the international application, information concerning the priority claim. See Rule 26bis.2(c) and the *PCT Applicant's Guide*, Volume I, Annex B2(IB).
5. The priority claim cannot be corrected/added since the applicant's notice was received on _____ after expiration of the prescribed time limit under Rule 26bis.1(a).
6. In case where **multiple priorities** have been claimed, the above item(s) relate to the following priority claim(s):
7. A copy of this notification has been sent to the International Bureau and
 - to the International Searching Authority

Name and mailing address of the receiving Office	Authorized officer
Facsimile No.	Telephone No.

PATENT COOPERATION TREATY

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION RELATING TO PRIORITY CLAIM

(PCT Rules 26bis.1 and 26bis.2 and
Administrative Instructions, Sections 402(c) and 409)

To:

Date of mailing (day/month/year)	
Applicant's or agent's file reference	IMPORTANT NOTIFICATION
International application No.	International filing date (day/month/year)
Applicant	

The applicant is hereby **notified** of the following in respect of the priority claim(s) made in the international application.

- Correction of priority claim.** In accordance with the applicant's notice received on _____ the following priority claim has been corrected, according to paragraph 176 of the PCT Receiving Office Guidelines where applicable, to read as follows:
 - even though the indication of the number of the earlier application is missing
 - even though the following indication in the priority claim is not the same as the corresponding indication appearing in the priority document:
- Addition of priority claim.** In accordance with the applicant's notice received on _____ the following priority claim has been added:
 - even though the indication of the number of the earlier application is missing
 - even though the following indication in the priority claim is not the same as the corresponding indication appearing in the priority document:
- As a **result of the correction and/or addition** of (a) priority claim(s) under items 1 and/or 2, the (earliest) priority date is:
- Priority claim considered not to have been made**
 - The applicant failed to respond to the invitation under Rule 26bis.2(a) (Form PCT/IB/316) within the prescribed time limit.
 - The applicant's notice was received after the expiration of the prescribed time limit under Rule 26bis.1(a).
 - The applicant's notice failed to correct the priority claim so as to comply with the requirements of Rule 4.10.

The applicant may, before the technical preparations for international publication have been completed and subject to the payment of a fee, request the International Bureau to publish, together with the international application, information concerning the priority claim. See Rule 26bis.2(c) and the *PCT Applicant's Guide*, Volume I, Annex B2(IB).
- The priority claim cannot be corrected/added since the applicant's notice was received on _____ after the expiration of the prescribed time limit under Rule 26bis.1(a).
- Where **multiple priorities** have been claimed, the above item(s) relate(s) to the following priority claim(s):
7. A copy of this notification has been sent to the receiving Office and
 - to the International Searching Authority (*where the international search report and the written opinion of the International Searching Authority have not yet been issued*)
 - to the International Preliminary Examining Authority (*where a demand for international preliminary examination has been filed*)
 - the designated Offices (*in accordance with Rule 93bis*).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer
Facsimile No. +41 22 338 82 70	Telephone No. +41 22 338 XX XX

PATENT COOPERATION TREATY

From the INTERNATIONAL BUREAU

PCT

INVITATION TO CORRECT
DECLARATIONS MADE IN THE REQUEST
UNDER PCT RULE 4.17

(PCT Rules 4.17 and 26ter.2(a))

To:

Date of mailing (day/month/year)	
Applicant's or agent's file reference	REPLY DUE See below
International application No.	International filing date (day/month/year)
Applicant	

1. The applicant is hereby **invited to submit to the International Bureau a corrected declaration** within the time limit indicated below and as explained in the Annex. The applicant's attention is drawn to the fact that the declaration has **not been examined** for compliance with national law requirements of the designated State(s) for which that declaration is made.

When? Within 16 months from the priority date, provided that any corrected declaration which is received by the International Bureau after the expiration of that time limit shall be considered to have been received on the last day of that time limit if it reaches it before the technical preparations for international publication have been completed (Rule 26ter.1).

How? By submitting a replacement sheet containing a corrected declaration accompanied by a letter explaining the correction (see Section 216). See Sections 211 to 215 for the applicable standardized wording.

Where? Directly to the International Bureau at the address indicated below.
If the corrected declaration is submitted to the receiving Office, that Office shall mark the date of receipt on it and transmit it promptly to the International Bureau. The declaration shall be considered to have been submitted to the International Bureau on the date marked (see Section 317).

2. **Failure to correct the declaration within the time limit** will result in the declaration, **as originally filed**, being published as part of the international application (Rule 48.2(a)(x)).

Any declaration received after the expiration of the time limit under Rule 26ter.1 will have to be submitted by the applicant directly to the designated Offices concerned; it is only in the case of a signed declaration of inventorship for the purposes of the designation of the United States of America (Rule 4.17(iv)) that the original declaration will be returned to the applicant (see Section 419(d)).

3. **In respect of national phase processing**, the applicant's attention is drawn to Rule 51bis.2 which provides that the designated Office shall not, unless it may reasonably doubt the veracity of the declaration concerned, require any document or evidence relating to the subject matter of any declaration complying with Rule 4.17(i) to (iv) which is contained in the request or submitted to the International Bureau or directly to the designated Office. Note, however, that Rule 51bis.2 may not apply in respect of certain States. For further information, see Notes to the request form, Box No. VIII.

4. A copy of this Invitation is being sent to the receiving Office.

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 82 70	Authorized officer Telephone No. +41 22 338 XX XX
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PATENT COOPERATION TREATY

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION RELATING TO
DECLARATION MADE UNDER PCT RULE 4.17

(PCT Rules 26ter and 48.2(a)(x)
and Administrative Instructions, Section 419)

To:

Date of mailing (day/month/year)	IMPORTANT NOTIFICATION
Applicant's or agent's file reference	
International application No.	International filing date (day/month/year)
Applicant	

1. The applicant is hereby **notified** of the following regarding the declaration indicated below in respect of
(name(s) indicated in the declaration) _____

(i) declaration as to the identity of the inventor (Rules 4.17(i) and 51bis.1(a)(i) and Section 211)

(ii) declaration as to the applicant's entitlement, as at the international filing date, to apply for or be granted a patent (Rules 4.17(ii) and 51bis.1(a)(ii) and Section 212)

(iii) declaration as to the applicant's entitlement, as at the international filing date, to claim priority of the earlier application (Rules 4.17(iii) and 51bis.1(a)(iii) and Section 213)

(iv) declaration of inventorship (for the purposes of the designation of the United States of America) (Rules 4.17(iv) and 51bis.1(a)(iv) and Section 214)

(v) declaration as to non-prejudicial disclosures or exceptions to lack of novelty (Rules 4.17(v) and 51bis.1(a)(v) and Section 215)

2. **Addition or correction of the declaration within the time limit under Rule 26ter.1.**
The added or corrected declaration was received on _____
which was within the time limit under Rule 26ter.1.
Any declaration referred to under items 1(i) to (v), whether or not the declaration complies with Rule 4.17, will be published as part of the international application pursuant to Rule 48.2(a)(x).

3. **Failure to add or correct the declaration within the time limit under Rule 26ter.1.**
The declaration was received on _____
which was **after** the expiration of the time limit under Rule 26ter.1; therefore, that declaration, as added or corrected, referred to under items 1(i) to (v) will **not** be published as part of the international application, and any signed declaration referred to under item 1(iv) is attached. **Such declaration should be submitted by the applicant directly to the designated Office(s) concerned.**

4. The applicant's attention is drawn to Rule 51bis.2 which provides that the designated Office shall not, unless it may reasonably doubt the veracity of the declaration concerned, require any document or evidence relating to the subject matter of any declaration complying with Rule 4.17(i) to (iv) which is contained in the request or submitted to the International Bureau or directly to the designated Office. Note, however, that Rule 51bis.2 may not apply in respect of certain States. For further information, see Notes to the request form, Box No. VIII.

5. A copy of this notification is being sent to the receiving Office and the International Searching Authority.

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer
Facsimile No. +41 22 338 82 70	Telephone No. +41 22 338 XX XX