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Meeting of International Authorities under the Patent Cooperation Treaty (PCT)

Thirty-First Session
Beijing, October 16 and 17, 2024

PCT MINIMUM DOCUMENTATION TASK FORCE: STATUS REPORT

Document prepared by the European Patent Office and the United States Patent and Trademark Office

SUMMARY

1. This document provides an update on the work of the PCT Minimum Documentation Task Force ("the Task Force") led by the European Patent Office (EPO) and the United States Patent and Trademark Office (USPTO). The Task Force made much progress in its review of the PCT minimum documentation. After intensive work in the Task Force as well as discussions at various sessions of the Meeting of International Authorities under the PCT (MIA) and PCT Working Group, the PCT Assembly, at its fifty-fifth (24th ordinary) session (July 6 to 14, 2023), adopted the set of proposed amendments to Rules 34, 36 and 63 that were presented in document PCT/WG/16/6 (document PCT/A/55/2). The Task Force is now focusing on the preparations required for the timely implementation of the revised legal framework which will govern the PCT minimum documentation as of 2026.

BACKGROUND

2. In 2005, the MIA decided to set up a Task Force to undertake a comprehensive review of the PCT minimum documentation. The Task Force was mandated to address issues relating to both patent documentation and non-patent literature, including traditional knowledge related databases (document PCT/MIA/11/14). However, due to various reasons the process stalled for several years. In 2016, the MIA reactivated the Task Force under the lead of the EPO. The mandate that was given to the Task Force in 2016 and work endorsed by the MIA in early 2017 (see paragraphs 3 and 4 of document PCT/WG/17/16) can be summarized as follows:

(a) Create an up-to-date inventory of the patent literature and non-patent literature parts of the current PCT minimum documentation.

(b) Recommend objective criteria and up-to-date standards for the inclusion in the PCT minimum documentation of both patent documentation and non-patent literature, including traditional knowledge-based prior art.

3. At its twenty-ninth session (June 20 to 22, 2022), the MIA agreed to add the following three objectives to the Task Force's mandate (see paragraph 22 of document PCT/MIA/29/4 and paragraph 51(c) of document PCT/MIA/29/10):

(a) Guide and support Offices in being technically ready by the date of entry into force of the amended definition of the PCT minimum documentation to make available, in accordance with the technical and accessibility requirements, all patent documents, and where applicable utility model documents, published on or after the said date of entry into force.

(b) Agree on a roadmap over the 10 years following the date of entry into force of the amended definition of the PCT minimum documentation to support Offices in meeting the technical requirements to make available all patent documents, and where applicable utility model documents, published on or after the cutoff date up until the said date of entry into force.

(c) Ensure that the implementation of the agreed roadmap is included in the mandate of the (future) standing Task Force on PCT minimum documentation under the PCT MIA that will start operating after the entry into force of the amended Regulations and new provisions of the Administrative Instructions relating to the PCT minimum documentation.

4. Usually, the Task Force conducts its work using an electronic forum made available by WIPO ("the wiki"). In addition, where felt appropriate to facilitate progress in the discussions, the Task Force meets either physically or virtually.

STATE OF PLAY

5. The discussions in the Task Force soon revealed that Rules 34 and 36 would need to be amended and that such Rule changes would need to be accompanied by new provisions of the PCT Administrative Instructions dealing with the technical criteria. After intensive work in the Task Force as well as discussions at various sessions of the MIA and PCT Working Group, the PCT Assembly, at its fifty-fifth (24th ordinary) session (July 6 to 14, 2023), adopted amendments to Rules 34, 36 and 63, and a draft Understanding regarding the interpretation of Rules 36 and 63 (document PCT/A/55/2 and paragraph 32 of document PCT/A/55/4). They will enter into force on January 1, 2026.

6. The Task Force held its sixth session from May 22 to 25, 2023. At that session, the Task Force focused in particular on the implementation of the proposed revised legal framework that will govern the PCT minimum documentation as of 2026. In that regard, the Task Force agreed on the implementation roadmap proposed by the EPO for the patent documentation. Moreover, the Task Force approved the roadmap for the non-patent literature aspects and the review cycle of the future permanent Task Force, which were proposed by the USPTO (document PCT/MD/6/6, attached as an Appendix to document PCT/MIA/30/2).

7. Concerning the implementation roadmap for patent documentation, this consists of two phases:

(a) Phase 1 "Preparatory activities" covers actions up to the end of 2025 for patent Offices to be ready to meet the PCT minimum documentation requirements in force from January 1, 2026. This will involve preparing the Authority File under WIPO Standard ST.37 to indicate the availability of the abstract, description and claims in text searchable format for patents published after that date. Each Office with a patent collection belonging

to the PCT minimum documentation will also need to create a repository from where an ISA can bulk download PCT minimum documentation data, requiring all patent documents published on or after January 1, 2026, to be in text searchable format. All ISAs will also need to ensure that they can bulk download other PCT minimum documentation bulk collections from their repositories.

(b) Phase 2 “Operational activities” covers actions from 2026 onwards in terms of operational activities to handle patent documents published from January 1, 2026, and transition activities up until the end of 2035 to digitize back file publications published from January 1, 1991. For new publications, an Office will be required to include the additional Authority File information, store patent data in text searchable format in the repository at the latest two months after the publication date, and bulk download other PCT minimum documentation collections. In terms of transition activities, an Office will need to have included the additional information in its Authority file for patent documents published from January 1, 1991, and digitized these patent documents and stored the data in text searchable format in the repository of the Office before December 31, 2035.

8. For the implementation roadmap covering non-patent literature aspects, the future permanent Task Force would identify an ISA coordinator to lead/host a comprehensive review of the list of non-patent literature items in the PCT minimum documentation in November 2025, and then meet for the first comprehensive review in May 2026. The Task Force would then present its first revised list of items of non-patent literature for adoption at the Meeting of International Authorities later in 2026 in order for the International Bureau to publish the updated list in January 2027. ISAs would need to comply with the new list within two years of its adoption. Annual reviews of the list to remove obsolete and discontinued resources, as well as make metadata updates, would take place in May each year, chaired by a volunteer ISA on a rotational basis. The second comprehensive review would take place in May 2031. The public would also be able to suggest non-patent literature items for the Task Force to consider for inclusion in the PCT minimum documentation at the following comprehensive review.

9. At the thirtieth session of the MIA (November 1 to 3, 2023), the EPO and the USPTO presented a status report on the Task Force’s work (document PCT/MIA/30/2). Authorities welcomed the progress made. The USPTO offered to be the ISA to coordinate and lead the first comprehensive review of the non-patent literature items in the PCT minimum documentation by the permanent Task Force in May 2026. The USPTO invited the International Bureau to set up a virtual workspace for non-patent literature experts from the ISAs to collaborate on the preparations for this review (paragraph 36 of document PCT/MIA/30/10). The MIA noted the contents of document PCT/MIA/30/2 and accepted the offer of the USPTO to lead the first comprehensive review of non-patent literature items in the PCT minimum documentation (paragraph 37 of document PCT/MIA/30/10).

10. On January 4, 2024, the International Bureau issued Circular C. PCT 1660 to consult the PCT membership on the proposed modifications to the PCT Administrative Instructions, based on the text in Annex III to document PCT/WG/16/6. At the seventeenth session of the PCT Working Group (February 19 to 21, 2024), the EPO and the USPTO provided an update on Task Force’s work (document PCT/WG/17/16), which was noted by the Working Group.

11. The Task Force held its seventh session from April 22 to 25, 2024. At that session, the International Bureau provided an update on the replies to Circular C. PCT 1660. The Task Force formally endorsed new provisions of the PCT Administrative Instructions setting out the technical and accessibility requirements of the renewed PCT minimum documentation. The modifications to the PCT Administrative Instructions were promulgated on June 19, 2024, through Circular C. PCT 1672 and will enter into force on January 1, 2026. Otherwise, at this session, the Task Force focused on the preparations required for the timely implementation of the new PCT minimum documentation requirements as of 2026. The Task Force reviewed and

validated a set of checklists prepared by the EPO to monitor progress with respect to the patent collections that are likely to belong to the renewed PCT minimum documentation. The participating Offices shared their respective preparation plans, progress and questions. Moreover, the Task Force confirmed the time plan proposed by the USPTO regarding the comprehensive review cycle of the future permanent Task Force, which will focus on updating the non-patent literature part of the PCT minimum documentation as from 2026 onwards. For further details on that session, see document PCT/MD/7/6, attached as an Appendix to this document.

12. As agreed at the seventh Task Force session in May 2024, the EPO posted on the wiki an updated version of the checklists presented during the session reflecting the suggestions from the Task Force and some terminological updates. The EPO invited all Task Force members to review and fill out the updated checklists before October 1, 2024. Based on the feedback received to these updated checklists, the EPO will perform a comprehensive analysis and prepare an intermediate report which should help prepare the testing phase for Offices to ensure they can provide access and bulk download patent data in the PCT minimum documentation after 2026. Moreover, to help Offices in their preparations towards meeting the new PCT minimum documentation requirements, in May 2024 the International Bureau proposed on the wiki to offer one-on-one clinics with the relevant experts from individual Offices to provide advice on a confidential basis.

13. International Authorities are invited to regularly consult the wiki to follow the preparations for the implementation of the revised legal framework of the PCT minimum documentation (to request access to the wiki, you can send an email to pct.mia@wipo.int). The next session of the Task Force is tentatively planned for May 2025.

14. The Meeting is invited to take note of the contents of the present document.

[Appendix follows]

PCT/MD/7/6
Date: 25.04.2024

PCT Minimum Documentation Task Force

Seventh session
By videoconference, 22-25 April 2024

Summary of discussions

adopted by the Task Force

1. The PCT Minimum Documentation Task Force ("the Task Force") held its seventh session by videoconference from 22 to 25 April 2024.

2. The list of participants is contained in the Annex to this document.

Item 1: Opening of the session

3. Mr. Bogliolo, Head of Department, Unitary Patent Division, European Patent Office (EPO) welcomed the participants as Chair of the session. In his opening remarks, the Chair noted that this session was attended by 28 delegations, namely 23 International Searching Authorities (ISAs), WIPO and four observer Offices including the French, German, Swiss and UK Offices. The Chair thanked the International Bureau of WIPO ("the International Bureau") and the United States Patent and Trademark Office (USPTO) for the excellent cooperation to organise this session. The Chair thanked all participants who actively contributed to the preparation of this meeting by completing the checklists of document PCT/MD/7/2 that aim at guiding the necessary preparations for implementation of the new patent documentation requirements, or who otherwise participated in discussions in the electronic forum. The Chair extended his thanks to the participants who prepared a presentation regarding their preparations for the implementation of the new patent documentation requirements.

4. The Chair recalled that the PCT Assembly, at its last session, adopted amendments to Rules 34, 36 and 63 PCT setting out a revised definition of the PCT minimum documentation which will enter into force on 1 January 2026. At its last session, the Task Force agreed on an implementation roadmap for the patent documentation as well as for the non-patent literature aspects. Finally, on 4 January 2024, the International Bureau has issued Circular C. PCT 1660 to consult the PCT membership on the proposed changes to the PCT Administrative Instructions, including new Annex H.

5. The Chair then introduced the proposed agenda of the present session. A couple of replies have been received regarding the Circular, hence the need for the International Bureau to first update on the replies to Circular C. PCT 1660, and present minor changes introduced to the draft Annex H to address the comments. The present session will otherwise focus on the

preparations required for the timely implementation of the revised legal framework that will govern the PCT minimum documentation as of 2026. On the basis of a presentation (document PCT/MD/7/4) prepared by the EPO, the Task Force will review the checklists contained in document PCT/MD/7/2 and the participants will be invited to share their respective preparation plans, progress or any issues encountered in this regard. After having discussed the preparations regarding the new patent documentation requirements, the Task Force will address the preparations for the implementation of the new non-patent literature documentation requirements under the lead of the USPTO.

6. Mr. Tsuyoshi Isozumi, Senior Director, PCT Services Department, International Bureau, welcomed all participants. He thanked the EPO for organising and chairing the Task Force meetings, and the USPTO for leading the discussions on the non-patent literature aspects. He indicated that, despite the few comments received in reply to Circular C. PCT 1660, the International Bureau hopes to be able to promulgate the PCT Administrative Instructions accompanying the Rule amendments in the coming weeks. He thanked all Offices which have completed the checklists of document PCT/MD/7/2 and those which will present their preparation plans at the present session. He expressed particular thanks to the USPTO for having offered to coordinate the first comprehensive review of non-patent literature items.

7. The USPTO thanked all participants and in particular the EPO for the great partnership on these PCT minimum documentation matters. The USPTO indicated that it was very pleased by the progress made by this Task Force and looking forward to continuing the good collaboration.

8. The Task Force adopted the agenda as set out in document PCT/MD/7/1/REV.

Item 2: Update on Circular C. PCT 1660

9. The International Bureau provided an update on the replies to Circular C. PCT 1660 which was issued on 4 January 2024. The International Bureau noted that, since the text of these proposed new provisions of the PCT Administrative Instructions had already been extensively discussed in previous Task Force sessions and via the wiki, it received just a few comments in reply to that Circular, namely:

    - An Office provided some comments which were mainly of a technical nature and which concerned technical aspects of the implementation of the new requirements. The International Bureau corresponded with that Office to clarify the matter, and encouraged the participants to raise any technical questions when going through the review if the checklists contained in document PCT/MD/7/2.

    - Another Office expressed some concerns about security in the sharing of bulk data. That Office asked that a clarification about data security be added in the proposed new provisions of the PCT Administrative Instructions.

10. To address the received comments and include some additional minor editorial clarifications, the International Bureau prepared a revised version of the proposed new provisions of the PCT Administrative Instructions which contains a few changes to draft Annex H to the Administrative Instructions. The International Bureau posted that revised version on the wiki just before this Task Force session. The International Bureau presented during the session the proposed changes:

    - The first proposed change relates to the term “International Authority” which is used several times in the text of proposed new Annex H that is set out in Circular C. PCT 1660. When the Task Force used that term in its discussions on new Annex H, it was referring to an International Searching and an International Preliminary Examining

Authority. However, Section 101(a)(vi) of the PCT Administrative Instructions defines "International Authorities" as "the receiving Offices, the International Searching Authorities, the International Preliminary Examining Authorities, and the International Bureau". Therefore, to clarify that the sharing of data referred to in draft Annex H concerns only International Searching and International Preliminary Examining Authorities, the International Bureau proposed to replace the term "International Authority" by "International Searching and Preliminary Examining Authority".

- The second proposed change is the insertion of the following additional sentence in paragraph 4 of draft Annex H: "The International Searching and Preliminary Examining Authority should also undertake to ensure the security of data of the providing Office to protect against unauthorized use or alteration that may include appropriate administrative, technical, IT and physical security measures." This additional sentence is a mere clarification addressing the comment raised by one Office regarding data security.

- Regarding paragraph 5 of draft Annex H, the International Bureau proposed to delete the words "for other purposes" to clarify that bilateral or multilateral agreements can still be drawn up to exchange patent data for search and preliminary examination purposes.

- Regarding paragraph 6 of draft Annex H, the International Bureau indicated that the word "in" would need to be added because it was missing.

- Regarding paragraph 7 of draft Annex H, the International Bureau proposed to add the following sentence: "An example of an authority file is provided in Appendix 1." The aim of this proposed change is to include a reference to Appendix 1 in the text of Annex H.

- Regarding paragraph 39 of draft Annex H, the International Bureau proposed to replace "is" by "are" to correct a grammatical error.

11. The International Bureau underlined that the proposed changes do not change the substance of the text, and are just clarifications or editorial corrections. Therefore, if the Task Force agrees with these proposed changes, the International Bureau will promulgate them without a further formal consultation process. The International Bureau hence proposed to give some reflection time to the Task Force members and that the discussions on this matter be concluded another day.

12. The Chair thanked the International Bureau for having prepared this proposed revised version of draft Annex H so quickly, and invited the Task Force members to provide comments on the second meeting day.

13. When discussions on this item resumed on the second meeting day, the International Bureau stated that shortly before the meeting, it posted a new revised version of the proposed new provisions of the PCT Administrative Instructions containing one small drafting change to the sentence that was recently added in paragraph 4 of draft Annex H: the terms "measures taken" were added to make the sentence easier to read. The International Bureau underlined that this change is a mere drafting improvement. No comments were raised.

14. In response to a comment received following discussions at the end of the second meeting day, the International Bureau posted a further new revised version of the PCT Administrative Instructions before the fourth meeting day to add some explanatory text to Appendix 1 to explain that Table 1 provided examples to illustrate data that should be included in the Authority File; Table 1 was not a format of an Authority File. No comments were raised. A

further revised version of Appendix 1 taking on board comments received at the second day of the meeting was presented by the International Bureau at the fourth day of the meeting. The Eurasian Patent Office (EAPO) raised the question of whether there would be sufficient time between the adoption of a new version of the ST.37 and the respective entry into force of such version. The Task Force noted the need to take this matter into consideration. The Task Force endorsed the proposed changes subject to further comments in the wiki by 3 May 2024.

15. *The Task Force agreed with the last revised version of the proposed new provisions of the PCT Administrative Instructions. The International Bureau will issue the circular promulgating these provisions in some weeks.*

Item 3: Preparations for the implementation of the new patent documentation requirements by 2026

16. Discussions were based on documents PCT/MD/7/2, PCT/MD/7/3 and the PowerPoint presentation PCT/MD/7/4 prepared by the EPO.

17. The EPO presented document PCT/MD/7/3 which is an Excel spreadsheet containing information about the patent and utility model collections that will belong to the PCT minimum documentation as of 1 January 2026. Document PCT/MD/7/3 reflects EPO's holdings in Espacenet as of 1 January 2024 as well as the information received by the EPO so far. Document PCT/MD/7/3 also provides an informal overview on the Offices' intention to include or not their utility models in the PCT minimum documentation. The EPO explained that document PCT/MD/7/3 contains a summary tab providing a high-level overview of the current status of the collections and some indicators of the expected preparatory work to be ready for 1 January 2026. The EPO recalled that this document also contains an individual tab for each collection.

18. The EPO thanked all participants that provided information about their collections either by updating the spreadsheet directly or via the checklists of document PCT/MD/7/2, with special thanks to the Egyptian Patent Office Egypt and the Saudi Authority for Intellectual Property (SAIP) that provided updated information regarding their implementation plans.

19. The Brazilian National Institute of Industrial Property (INPI - Brazil) indicated that it is in a situation where the information coverage about its collection is partial and that therefore it has not yet completed the checklists of document PCT/MD/7/2. The EPO invited INPI - Brazil to nevertheless complete these checklists on the basis of the information available so far. The EPO explained that the aim of this exercise is to update each other on the progress made and that more complete information can be provided when it will be available. INPI - Brazil indicated that it will then soon provide information on its collection.

20. The EPO presented its PowerPoint (document PCT/MD/7/4). The EPO recalled the agreed implementation roadmap for the patent documentation and the purpose of the checklists of document PCT/MD/7/2, namely to facilitate transparency and collaboration, by enabling Offices to periodically inform each other of their progress and any issues encountered during their preparations. In that regard, the EPO explained that these checklists help to monitor the progress in three main areas, namely:
    - checklists A and B regarding the preparation of a complete and correct inventory and the digitisation of the collections,
    - checklist C and D regarding the Authority File preparations, and
    - checklist E and F regarding providing and getting access to PCT minimum documentation data.

21. The EPO explained that each checklist aims at achieving a concrete milestone and recalled the desired milestones of the various checklists that are set out in document PCT/MD/7/2.

Inventory and digitisation of the collections

22. The EPO explained how **checklist A** helps in reaching the first milestone, i.e. to have a complete and correct inventory list of patent numbers of all documents in the collection that belong to the PCT minimum documentation.

23. Regarding question 3 of checklist A concerning the existence of a correct inventory, the International Bureau stated it had observed that the data coverage of some patent collections in PATENTSCOPE was broader than the data coverage in the Authority Files pertaining to those collections. This suggested that the data in some Authority Files was incomplete, and thus did not accurately reflect the number of actual patents actually belonging to the concerned collections. The International Bureau therefore suggested that a recommendation be included in the checklists urging patent offices to use independent sources such as the official Gazette or Journal or equivalent when compiling the inventory list of patents in the collection that belong to the PCT minimum documentation. In that regard, it was added that cross-checking each other's Authority Files could be envisaged as part of the test activities, so that any omissions could be flagged and corrected.

24. EAPO, the Spanish Patent and Trademark Office and the Finnish Patent and Registration Office made a brief presentation about their respective progress and preparation plans. The details about the presented information can be found in their respective presentations which are available in the wiki. The Chair expressed sincere gratitude to these Offices for their presentations and congratulated them on their progress. In reply to a question from the Spanish Patent and Trademark Office, the International Bureau explained that it validates the format but not the contents of the Authority Files.

25. The Canadian Intellectual Property Office (CIPO) made a brief presentation about its Authority File. CIPO's presentation is also available in the wiki. The EPO and the International Bureau thanked very much CIPO for its presentation, which will help other Offices in their Authority File preparations.

26. The EPO recalled that the desired milestone for **checklist B** is to ensure that all documents published on or after 01.01.1991 and belonging to the PCT minimum documentation are properly digitised, and available electronically in the correct format.

27. CIPO indicated that all its documents as of 1991 are digitised in the correct formats, but that a very small percentage of its documents contains some parts/indications that could not be correctly digitised, e.g. due to some chemical formulas. CIPO asked whether a small percentage of corrupted documents was acceptable.

28. The EPO replied that, if the current exercise identifies documents which are partially or fully corrupted, it would be of benefit to the whole ISA community if these documents could be correctly digitised. The EPO recalled that for the digitisation of the back file there is a 10-year transition period and thus that CIPO still has time to address this issue. The EPO added that it is difficult to determine an acceptable percentage or degree of corruption of the documents, but that the Task Force should adopt a practical approach whilst striving to minimise digitisation errors to the greatest extent possible. The EPO explained that, when it encounters cases in which the claims are legible, but parts of the description are corrupted, it marks the claims as legible and the description as not available by indicating "DESC-N". In parallel, the EPO tries to correct the corrupted documents. The International Bureau

underlined that the aim of this exercise is to produce and obtain the highest quality collections possible. The International Bureau added that the Task Force should adopt a practical approach. If this exercise allows to identify problematic cases, it would be interesting to identify the problems, see which of those can be fixed at this stage and address the others at a later point in time.

29. Regarding the last point of checklist B, AP B.1.2.1, the International Bureau proposed that some further steps be added to help Offices in their digitisation efforts, e.g., to provide guidance regarding the choice of the XML format (ST.36 or ST.96) to be produced. The International Bureau also recommended that the checklist include advise for Offices to contact the International Bureau for assistance, where necessary. The EPO thanked the International Bureau for its suggestion and invited the participants wishing to make some suggestions to send them to the EPO by e-mail or to post them on the wiki.

Authority File preparations

30. The EPO recalled that the desired milestone for **checklist C** is to ensure that an Office has an Authority File that is compliance with WIPO Standard ST.37 ("ST.37") version 2.2 ("v.2.2") and contains the three necessary extra columns that can be shared with the International Bureau and the ISAs.

31. The International Bureau clarified that every Authority File published as part of WIPO's portal has been validated for compliance with the ST.37 Standard. The International Bureau further explained that, if an Authority File is not compliant, it is rejected and the respective Office receives feedback. Such Authority File has to be corrected by the respective Office. Once it has become compliant with ST.37, it is published on WIPO's portal. The International Bureau added that for the publication on WIPO's portal, an Authority File has to be compliant with ST.37 but not necessarily with version 2.2 of ST.37.

32. The International Bureau recommended adding some further steps in checklist C for the case where an Office does not already publish an ST.37 v2.2-compliant Authority File. The International Bureau noted that for some Offices it could be difficult to determine the next steps to be taken, and added that guidelines for authoring a WIPO ST.37 compliant authority file are published on WIPO's website. It was suggested to add a reference to these guidelines as well as an indication that the International Bureau could be contacted by e-mail for further assistance.

33. The EPO thanked the International Bureau for its suggestions, and agreed to work on them in collaboration with the International Bureau.

34. The International Bureau drew attention to the fact that many Offices publish their Authority Files also on their websites, but that it does not validate an Authority File before publication on an Office's website unless the Authority File is sent before to the International Bureau for review. As some issues have been spotted in some Authority Files on Offices' websites, it encouraged Offices to first provide their Authority Files for validation.

35. The Swedish Intellectual Property Office indicated that its Authority File covers every SE document published since 1885 and asked whether Offices will be required to create a separate Authority File for the documents belonging to the PCT minimum documentation. The EPO replied that this is not the case. The EPO recalled that only the documents published on or after 01.01.1991 need to be compliant with the new Annex H to the Administrative Instructions. The EPO explained that, if an Office has an ST.37 v2.2-compliant Authority File, it is sufficient to fill out the three extra columns for all documents published on or after 01.01.1991.

36. The EPO showed as an example a portion of its Authority File and explained that, even if it contains the three extra columns, it is not yet fully compliant with version 2.2 of ST.37. The EPO will ensure that its Authority File is fully compliant with version 2.2 of ST.37 by the end of this year. The EPO encouraged Offices to start immediately with their Authority File preparations.

37. The EPO recalled the desired milestone for **checklist D**, i.e. that each individual patent in an Office's PCT minimum documentation collection exists correctly in its Authority File, and its Authority File's three extra columns also contain the correct languages of publication of each patent's abstract, description and claims. The EPO pointed out that this checklist aims at ensuring that Offices have correctly filled entries in their Authority Files.

Providing and getting access to PCT minimum documentation data

38. The EPO recalled the desired milestone for **checklist E** of document PCT/MD/7/2, i.e. each Office has a repository where it stores electronic copies of each individual PCT minimum documentation document in its collection and that allows bulk downloading of its PCT minimum documentation data by other ISAs.

39. The Swedish Intellectual Property Office asked whether the repository should enable downloading only the text-searchable data, or both the text-searchable data and the documents in image format, e.g. PDF. The EPO replied that the repository should enable downloading both.

40. EAPO asked whether simple FTP is allowed, or whether secure FTP should be used. The EPO replied that both are allowed, but that it would advise Offices to use the secure FTP protocol to prevent unauthorized access to the data. The International Bureau noted indeed that, according to paragraph 3 of new Annex H to the PCT Administrative Instructions, Offices have the choice. This matter is left at the discretion of the providing Office.

41. The EPO recalled the desired milestone for **checklist F** of document PCT/MD/7/2, i.e. each Office should be able to access all other PCT minimum documentation collections and download the data in bulk for free. The EPO underlined that there are many ways to have access to the PCT minimum documentation. More specifically, some Offices create their own search databases and download bulk data for these databases, but most ISAs access patent documents for prior art search through an external search engine provided by another Office or commercial provider, and therefore do not download bulk data. In that regard, the EPO recalled that last week it posted a question on the wiki to enquire whether Offices require access to bulk data from patent collections after 1 January 2026. The EPO explained that the replies to these questions will allow the Task Force to better assess practical aspects of the making available of patent data under the new requirements. The EPO thanked all the Offices having already replied to these questions and invited the others to provide their replies soon. The EPO announced that it will consider adding a column to the Excel spreadsheet (document PCT/MD/7/3) to incorporate in that spreadsheet all the received replies.

42. The International Bureau encouraged the participants to raise at this stage any questions or issues they might have, or otherwise to contact them by e-mail should they need some assistance regarding the digitisation of their collections or validation of their Authority Files. The Chair thanked the International Bureau for its readiness to help Offices. The EPO added that Offices could also directly contact the EPO should they have any questions regarding the implementation of the new requirements. The International Bureau and the

EPO encouraged the participants to post any questions or issues in the wiki to facilitate the sharing of information.

43. To conclude, the EPO briefly summarised the feedback received so far from the 17 Offices having posted their completed checklists. The majority of these Offices are busy with the gap analysis and still have some work to do to complete the digitisation of their collections. The EPO added that many of them are working on the setting up of a proper repository from where their patent data could be downloaded. In a nutshell, all these Offices are actively working to get ready by 1 January 2026. The EPO thanked all these Offices for their responses and their engagement. The Chair invited all Offices having not yet completed the checklists to do so by 1 October 2024. The EPO and the International Bureau will work together to ensure that all Offices, including those not attending the present session, will contribute.

44. The EPO announced that by mid-May 2024 it intends to post on the wiki an updated version of the checklists of document PCT/MD/7/2 reflecting the received suggestions and some terminological updates. The EPO invited all Offices, including those having already completed the checklists of document PCT/MD/7/2, to complete these updated checklists by 1 October 2024. The EPO added that, on the basis of the Offices' feedback to these updated checklists, in October or November 2024, the EPO will perform a comprehensive analysis and prepare an intermediate report containing for example information regarding the status of the Authority Files and the Offices intending to download bulk data. The EPO explained that this report will help preparing the testing phase. In that regard, the EPO announced that a first round of tests should take place before the next Task Force session and that a second round of tests should take place before the end of 2025.

45. The Austrian Patent Office requested some clarifications to the International Bureau regarding the delegation process foreseen under paragraph 6 of Annex H to the PCT Administrative Instructions. More specifically, the Austrian Patent Office asked whether an Office that would delegate the task of granting access to its data to an International Searching and Preliminary Examining Authority, or the International Bureau, would not need to create a repository and could simply provide its data in bulk to the respective Authority or the International Bureau. The International Bureau confirmed that this would be sufficient. The International Bureau explained that as far as it was concerned, it will accept bulk data and upload it on PATENTSCOPE, but it will not set up a permanent service allowing Offices to download bulk data on demand.

46. The China National Intellectual Property Administration (CNIPA) asked whether, in case an International Searching and Preliminary Examining Authority could not get access to the whole PCT minimum documentation after 1 January 2026 because a providing Office was not able to provide its data in bulk, that International Searching and Preliminary Examining Authority could lose for that reason its status as International Searching and Preliminary Examining Authority. The International Bureau replied that it did not believe that an Authority can be required to do something that is impossible. The Chair added that the Task Force is actively working on the implementation of the new requirements by all providing Offices so that hopefully this question will remain theoretical.

47. CNIPA asked whether, in case a providing Office is not ready as of 1 January 2026 to make available in text-searchable machine-readable form any patent or utility model document published by it on or after that date, such Office is required to provide PDF copies of the documents that it cannot make available in text-searchable machine-readable form. Moreover, CNIPA asked also for a clarification regarding the requirements that would apply to the PCT minimum documentation documents published between 1920 and 1991.

48. The EPO replied that the new provisions of the PCT Administrative Instructions require Offices to make available in text-searchable machine-readable form only documents published on or after 1 January 1991. Offices are welcome to make available in text-searchable machine-readable form also documents published between 1920 and 1991, but that this is not an obligation. For the documents published between 1920 and 1991, Offices are just required to provide ISAs with a copy of that document, preferably in electronic form, e.g., in PDF. The International Bureau recalled that paragraph 18 of new Annex H to the PCT Administrative Instructions provides that: *"For each patent document or utility model document that is part of the minimum documentation but not made available in text-searchable machine-readable form, the Office or its legal successor shall provide International Searching Authorities, upon request, with access to a copy, preferably in electronic form. The copies of such documents shall preferably be in machine-readable electronic image format, e.g. PDF. (…)"* The International Bureau explained that this provision actually addressed the two questions raised by CNIPA. Hence, for any document published between 1920 and 1991 to which the requirement of the availability in text-searchable machine-readable form does not apply, but also for any document published as of 1 January 1991 and not available in text-searchable machine-readable form, Offices will be required to provide a copy of these documents, preferably in electronic form. CNIPA thanked the EPO and the International Bureau for their explanations.

49. *The Task Force took note of documents PCT/MD/7/2, PCT/MD/7/3 and PCT/MD/7/4. The Task Force agreed to continue monitoring progress on the basis of an updated version of the checklists. The EPO will perform a comprehensive analysis and prepare an intermediate report by November 2024 at the latest. The first round of tests should take place before the next Task Force session.*

Item 4: Preparations for the implementation of the new non-patent literature documentation requirements by 2026

50. Discussions were based on the PowerPoint presentation (document PCT/MD/7/5) prepared by the USPTO.

51. After having recalled the background of the Task Force's discussions on Objective D, the USPTO drew the attention to the tasks of the future permanent Task Force and in particular to the two types of reviews of the non-patent literature list, namely:
    - an annual review to find obsolete and discontinued resources and to update any metadata from the list, and
    - a comprehensive review every five years to verify that the items on the list continue to meet the criteria for inclusion and to consider the inclusion of new resources.

52. The USPTO presented a roadmap showing the next steps for the non-patent literature aspects, i.e.:
    - in November 2025: identification of the first ISA coordinator to lead/host the comprehensive review (the USPTO having volunteered to be the first coordinator, this step is already met),
    - in May 2026: meeting of the permanent Task Force for the first comprehensive review,
    - October 2026: presentation of the first revised non-patent literature list to the Meeting of International Authorities for adoption,
    - January 2027: publication by the International Bureau of the updated non-patent literature list,
    - May 2027: initial annual review conducted by a volunteer ISA (the initial review would be conducted by the first ISA coordinator; the following annual reviews would be conducted by volunteer ISAs on a rotational basis).

53. The USPTO recalled the comprehensive review cycle which comprises the following main steps:
    - 6 months before the Task Force meeting (November 2025): identification of the ISA coordinator to host the Task Force meeting,
    - 4 months before the Task Force meeting (January 2026): ISAs submit suggested revisions to wiki,
    - comprehensive review meeting is held by the Task Force (May 2026),
    - presentation of the revised non-patent literature list to the Meeting of International Authorities for adoption (October 2026),
    - publication by the International Bureau of the updated non-patent literature list on the WIPO website (January 2027),
    - 2 years after the adoption of the revised non-patent literature list by the Meeting of International Authorities (October 2028): all ISAs must be in compliance with the new list.

54. The USPTO presented the respective responsibilities of the ISA coordinator and of the other Task Force members for the first comprehensive review. The responsibilities of the ISA coordinator will be:
    - to work with the International Bureau to set up a dedicated wiki space,
    - by January 2026:
        - to identify non-patent literature titles on the current PCT minimum documentation list that are not compliant with the new Administrative Instructions, to post the results to the wiki,
        - to develop a title evaluation checklist,
    - to share all relevant information prior to the May 2026 Task Force meeting.

55. The responsibilities of the other Task Force members for this review will be:
    - to use the title evaluation checklist:
        - to review the existing minimum documentation list and identify titles to be removed,
        - to identify titles to be added,
    - to post the lists of titles to be removed and added to the wiki, with a justification.

56. The USPTO thanked the International Bureau for having accepted to assist International Searching Authorities responsible for comprehensive and annual reviews by setting up dedicated wiki pages, or another tool should a better tool be found for that purpose.

57. The USPTO explained that the title evaluation checklist will be based on the criteria for inclusion of non-patent literature in PCT minimum documentation list that are set of in paragraphs 25 to 29 of new Annex H to the Administrative Instructions, as well as on the other aspects that should be considered according to paragraph 34 of new Annex H to the Administrative Instructions. The USPTO added that the aim of this evaluation checklist is to facilitate work of all Task Force members.

58. Finally, the USPTO presented the review schedule for 2026 to 2031. The USPTO explained that the comprehensive reviews that are scheduled for 2026 and 2031 will take place in the form of a meeting in May 2026 and May 2031, whereas the annual reviews will be facilitated via the wiki.

59. The Chair thanked very much the USPTO for all its work on the non-patent literature aspects and for the extremely clear presentation. The Chair invited the other Offices to already start reflecting whether they would be ready to volunteer to be the second ISA coordinator and to make proposals in that regard at the next Task Force session.

60. The Intellectual Property Office of Singapore recalled that for small offices, subscribing to individual publishers is costly and asked for some clarifications regarding the approach that would be adopted for considering the costs of subscription.

61. The USPTO replied that the aim would be that all Offices post their proposed changes regarding the non-patent literature list by January 2026 so that Offices could have sufficient time before the next Task Force meeting to do their internal assessment in terms of costs of the proposed changes. Should Offices have any cost related concerns, they would be able to share them at that meeting.

62. The Chair recalled that Offices are always welcome to post any future questions or issues in the wiki, and encouraged also the participants not to hesitate to directly contact other Task Force members to share issues and solutions.

63. *The Task Force took note of document PCT/MD/7/5. The Task Force endorsed the review schedule for 2026 to 2031 and other recommendations set out in document PCT/MD/7/5.*

Item 5: Conclusions of discussions, report, closing remarks

64. The Chair thanked the participants for the constructive discussions and invited them to continue actively working on the implementation of the new PCT minimum documentation requirements. The Chair announced that the next session of the Task Force will tentatively take place in May 2025. The International Bureau commented that an earlier session of the Task Force could be held if this was considered useful for Offices to implement the patent documentation requirements in time for their entry into force. The Chair closed the session by wishing everyone to stay healthy.

[Annex follows]

ANNEX

LIST OF PARTICIPANTS

TASK FORCE MEMBERS

AUSTRIAN PATENT OFFICE

AUSTRALIAN PATENT OFFICE

BRAZILIAN NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY

CANADIAN INTELLECTUAL PROPERTY OFFICE

CHINA NATIONAL INTELLECTUAL PROPERTY ADMINISTRATION

EGYPTIAN PATENT OFFICE

EURASIAN PATENT OFFICE

EUROPEAN PATENT OFFICE

FEDERAL SERVICE FOR INTELLECTUAL PROPERTY OF THE RUSSIAN FEDERATION

FINNISH PATENT AND REGISTRATION OFFICE

INDIAN PATENT OFFICE

INTELLECTUAL PROPERTY OFFICE OF THE PHILIPPINES

INTELLECTUAL PROPERTY OFFICE OF SINGAPORE

JAPAN PATENT OFFICE

KOREAN INTELLECTUAL PROPERTY OFFICE

NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY OF CHILE

NORDIC PATENT INSTITUTE

SAUDI AUTHORITY FOR INTELLECTUAL PROPERTY

SPANISH PATENT AND TRADEMARK OFFICE

SWEDISH INTELLECTUAL PROPERTY OFFICE

UKRAINIAN NATIONAL OFFICE FOR INTELLECTUAL PROPERTY AND INNOVATIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

VISEGRAD PATENT INSTITUTE

WORLD INTELLECTUAL PROPERTY ORGANIZATION

OBSERVERS

GERMAN PATENT AND TRADE MARK OFFICE

INTELLECTUAL PROPERTY OFFICE (UNITED KINGDOM)

NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY (FRANCE)

SWISS FEDERAL INSTITUTE OF INTELLECTUAL PROPERTY

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