

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

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

### **EXTENSION OF APPOINTMENT OF INTERNATIONAL SEARCHING AND PRELIMINARY EXAMINING AUTHORITIES**

*Document prepared by the International Bureau*

#### **SUMMARY**

1. This document proposes a procedure for the PCT Union Assembly to extend the appointments of International Searching Preliminary Examining Authorities, and to approve new agreements between the International Searching and Preliminary Examining Authorities and the International Bureau. For the timetable, the document proposes that draft agreements and extensions of appointment be approved by the PCT Union Assembly at its session in 2026, allowing sufficient time for Authorities to complete domestic procedures for ratification of the new agreements before the existing appointments expire on December 31, 2027. The document also discusses the documentation that each Authority will be required to submit for the Committee for Technical Cooperation to provide its advice on the extension of an appointment to assess the capabilities of each International Authority effectively while avoiding lengthy documents that create unnecessary burden on International Authorities preparing their applications and the members of the Committee examining them.

#### **BACKGROUND**

2. At its thirtieth session in November 2023, the Meeting discussed the extension of appointment of International Searching and Preliminary Examining Authorities beyond December 31, 2027, when all appointments are due to expire (see document PCT/MIA/30/4, and paragraphs 42 to 46 of the Summary by the Chair of the Meeting, document PCT/MIA/30/10). Paragraph 46 of the Summary sets out the follow up agreed by the Meeting:

“46. The Meeting invited the International Bureau, taking into account the comments made:

- (a) to give further consideration to how the review of applications for extension of appointment of the International Authorities can be conducted efficiently; and
- (b) to begin informal discussions with International Authorities on improving the agreements between the International Bureau and International Authorities, particularly with regard to streamlining the process of making changes to fees and the competence of the Authority.”

3. The Assembly of the PCT Union (“the Assembly”) will be required to approve the extension of appointment of each Office or organization wishing to continue operations from January 1, 2028. For each extension of appointment, the Assembly must approve an agreement under Articles 16(3)(b) and 32(3) relating to the functioning of the Office or organization as an International Searching and Preliminary Examining Authority (“Agreement”). Further details of this process are set out in paragraphs 2 to 4 of document PCT/MIA/30/4. Document PCT/MIA/31/3 invites comments at this session on a draft model Agreement for the upcoming extension of appointments.

4. This document proposes a timetable for the procedure of extension of appointment and discusses the format of the applications that each International Authority will be required to submit to the PCT Committee for Technical Cooperation (PCT/CTC) for it to provide its advice on the extension.

#### **PROCEDURE FOR EXTENSION OF APPOINTMENT**

5. The appointments of all International Searching and Preliminary Examining Authorities expire on December 31, 2027. Before the expiration, the PCT/CTC will be required to provide advice to the Assembly on the extension of appointment under Article 16(3)(e) for any Authority wishing to continue operations from January 1, 2028. Following the advice of the PCT/CTC, the Assembly can then decide on the extension of appointment and approve the Agreement between the International Bureau and each International Authority. After the Assembly has extended an appointment, any national procedures required to approve the Agreement for an International Authority will need to be completed in time for the Agreement to be signed by the end of 2027.

6. The PCT Assembly meets in July each year as part of the series of meetings of the Assemblies of the Member States of WIPO. The Assembly must therefore have approved the extension of all appointments as International Searching and Preliminary Examining Authorities by July 2027 at the latest.

7. The Meeting, at its thirtieth session in November 2023, discussed the national procedural issues for approval of agreements. Paragraphs 8 to 10 of document PCT/MIA/30/4 proposed beginning informal discussions of the procedure, rather than waiting until July 2026, the latest date to begin negotiations between the International Bureau and International Authorities for the renewal of their respective agreements. The discussions of this matter are set out in paragraph 44 of the Summary by the Chair of the session, document PCT/MIA/30/10, as follows:

“44. In relation to timing of the extension procedure, two Authorities noted the time that would be required after the approval of new agreements by the PCT Union Assembly to complete the domestic procedures for ratification by their respective national parliaments before the agreements could be signed and enter into force. One Authority suggested that it might be necessary to introduce a safety net provision in case of a major change in circumstances between the approval by the Assembly and the entry into force of the agreements where further reflection would be required.”

8. In view of the domestic procedures required in some States for ratification of the new agreements, the International Bureau proposes that the PCT Assembly should decide on the extension of appointments at its session in July 2026. This would provide 18 months for States and intergovernmental organizations to complete any procedures required before the new agreements can be signed with the International Bureau. Regarding possible changes in circumstances between July 2026 and December 2027, Article 16(c) requires any Office or organization to continue to satisfy the minimum requirements prescribed under the Regulations while it continues to remain appointed. The obligation to meet the requirements of Rules 36 and 63 therefore apply throughout the existing 10-year period of appointment, including any time between the Assembly extending an appointment and the entry into force of the Agreement that the Assembly approves with the extension. During a period of appointment, the annual quality reports are intended to help International Authorities and Contracting States identify and address any issues. Moreover, it remains open for Contracting States or any interested international organization to raise any concerns at any time with the relevant Authorities and, if necessary, with the Committee for Technical Cooperation under Article 56(4). The International Bureau therefore does not consider that any special arrangement for a safety net provision is required to deal with changes in circumstances between the decision of the Assembly and entry into force of the new agreements.

9. For the PCT Assembly to decide on the extension of appointments in July 2026, the PCT/CTC will have to provide its advice on each extension before that date. In line with the Understanding with regard to the procedures for appointment of International Authorities adopted in 2014 and last modified in 2018 (see document PCT/A/50/3) and the procedure followed for the extension of appointments in 2017, the International Bureau proposes that the PCT/CTC meets as an expert body as a back-to-back session of the PCT Working Group well in advance of the Assembly. This would require a session of the PCT/CTC be convened to provide advice on the extensions of appointment at the same time as the PCT Working Group earlier in 2026.

10. Since 2023, the PCT Working Group has met each year in February. If this annual meeting time continues and a session of the PCT/CTC is convened at the same time, International Authorities will be required to submit their application for extension of appointment and any required documentation preferably by December 1, 2025, and in any case no later than two months before the PCT/CTC takes place.

11. If a session of the PCT/CTC to provide advice on extension of appointment takes place around February 2026, the next session of the PCT Working Group, tentatively scheduled to take place in February 2025 (or the PCT/CTC if it has a reason to meet for any other purpose at that time) will need to approve the extension procedure and the documentation that each International Authority seeking extension of its appointment will need to submit to the PCT/CTC.

12. If International Authorities agree on the format of the agreements between Offices and the International Bureau in relation to their functioning as an International Searching and Preliminary Examining Authority proposed in document PCT/MIA/31/3 involving the removal of the Annexes, the PCT Assembly will need to adopt amendments to the Regulations to enter into force from January 1, 2028, before it extends the appointments and approves the draft Agreements, but the adoption of the amendments could take place at the same session. It is therefore proposed that any amendments to the PCT Regulations that will be consequential to changes in the agreements be submitted to the session of the PCT Assembly in July 2026 for adoption. The session of the PCT Working Group earlier in 2026 would consider those amendments for approval to submit to the PCT Assembly.

#### **APPLICATIONS FOR EXTENSION OF APPOINTMENT**

13. Rule 36 defines the minimum requirements that an Office or organization must satisfy before it can be appointed as an International Searching Authority and must continue to satisfy during its appointment. As of January 1, 2026, Rule 36 reads as follows:

## **Rule 36**

### **Minimum Requirements for International Searching Authorities**

#### 36.1 Definition of Minimum Requirements

The minimum requirements referred to in Article 16(3)(c) shall be the following:

(i) the national Office or intergovernmental organization must have at least 100 full-time employees with sufficient technical qualifications to carry out searches in the required technical fields;

(ii) that Office or organization must make available for consultation as part of the minimum documentation referred to in Rule 34, in accordance with the requirements specified in the Administrative Instructions, any patent issued, and any patent application published, by it, and where applicable by its legal predecessor(s);

(iii) that Office or organization must have in its possession, or maintain access to, at least the minimum documentation referred to in Rule 34, for search purposes in accordance with the Administrative Instructions;

(iv) that Office or organization must have in place a quality management system and internal review arrangements in accordance with the common rules of international search;

(v) that Office or organization must hold an appointment as an International Preliminary Examining Authority.

14. Rule 63 defines the minimum requirements that an Office or organization must satisfy between it can be appointed as an International Preliminary Examining Authority and must continue to satisfy during its appointment. The wording is similar to Rule 36 but refers to Article 32(3) in place of Article 16(3)(c), examination in place of search, and International Searching Authority in place of International Preliminary Examining Authority in subparagraph (v).

15. Amendments to Rule 34, setting out the minimum documentation that International Searching Authorities must consult during international search, will also enter into force on January 1, 2026. In preparation for these changes, the PCT Minimum Documentation Task Force is working with Offices whose patent collections are expected to be included in the PCT minimum documentation to ensure that their patent documents are available for bulk download by all International Authorities requiring access. Document PCT/MIA/31/6 provides a status report on the PCT Minimum Documentation Task Force.

16. The PCT/CTC will be required to review the minimum requirements for each International Searching and Preliminary Examining Authority to provide its advice to the Assembly on the individual extensions of appointment. As discussed in paragraph 6 of document PCT/MIA/30/4, the annual quality reports submitted under Chapter 21 of the International Search and Preliminary Examination Guidelines (“the Guidelines”) include much of the information that the PCT/CTC would require to assess whether an Office or organization meets the minimum requirements.

(a) The annual quality reports require each International Authority provides information on human resources to have sufficient staff to deal with the inflow of work which maintains the technical qualifications to search and examine in the required technical fields, as set out paragraph 21.15(i) of the Guidelines. While this covers the staff levels for processing incoming international searches and preliminary examinations, the reporting under this paragraph does not require absolute numbers of full-time examiners, or their technical qualifications.

(b) The annual quality reports also require International Authorities to describe their infrastructure such as IT hardware and software to support the search and examination process, and to ensure access to at least the minimum documentation, as set out in paragraphs 21.15(iii) and (iv) of the Guidelines.

(c) The annual quality reports describe the quality management system, setting out risk-based practices, quality assurance processes and internal review arrangements in Chapter 21 of the Guidelines.

17. Other than including details of the absolute number of examiners and their qualifications, the requirement in Rules 36.1(ii) and 63.1(ii) for an International Authority to make its patents and patent applications available for consultation as part of the minimum documentation is not part of the annual reporting on quality management systems. This requirement will be new in 2026. The European Patent Office, as co-leader of the PCT Minimum Documentation Task Force, has provided a series of checklists for Offices to prepare for meeting the requirements taking effect from January 1, 2026. These checklists cover establishing an inventory of patent documents that will be part of the minimum documentation from this date, ensuring that the documents are available electronically, producing an Authority File in compliance with version 2.2 of WIPO Standard ST.37 with each individual patent, having a repository to store patents for bulk download by other International Authorities, and having access to documents in the PCT minimum documentation. The International Bureau has also proposed one-on-one clinics to help Offices with these preparations.

18. As Offices in the PCT Minimum Documentation Task Force prepare to meet the requirements from January 1, 2026, each Authority could provide a report for the PCT/CTC on its implementation of the requirements to make its patent collection available as part of the minimum documentation. The application material for the PCT/CTC will be required around December 1, 2025, as explained in paragraph 10, above. The report for the PCT/CTC on implementation of the requirements could therefore be based on the work of the PCT Minimum Documentation Task Force and could be assisted by the Task Force, noting the proximity between the submission date to the PCT/CTC and the entry into force of the minimum documentation requirements.

19. The International Bureau therefore proposes that an application for extension of appointment that each International Searching and Preliminary Examining Authority will be required to submit to the International Bureau around December 1, 2025, for consideration by the PCT/CTC would contain the following elements:

(a) The annual report for 2025 on its quality management system. This report would be made available on the WIPO website and referred to in the application for extension of appointment. The reports are currently discussed by the Quality Subgroup of the Meeting of International Authorities before publication on the WIPO website, which takes place shortly after the closing of the Meeting of International Authorities. For the PCT/CTC to have the most up-to-date information, the quality reports for 2025 would need to be submitted by December 1, 2025, at the latest and published on the WIPO website upon receipt by the International Bureau.

(b) A report by the Authority on its implementation of the requirements for the PCT minimum documentation that take effect on January 1, 2026.

(c) An application form containing any information required by the PCT/CTC to assess whether the minimum requirements under Rules 36 and 63 have been met that is not present in the annual quality report or the report by the Authority on its implementation of the PCT minimum documentation requirements, and the contact details of an official who could answer any questions or provide further information to any member of the PCT/CTC. The information required in this form should be approved by the PCT Working

Group at its next session in February 2025 (or the PCT/CTC if it has a reason to meet for any other purpose at that time). However, this application form would be expected to be brief and less extensive than the application form used by Offices or intergovernmental organizations seeking initial appointment as an International Searching and Preliminary Examining Authority set out in Annex to document PCT/A/50/3. In this way, the application should contain all the necessary elements for the PCT/CTC to perform an effective assessment of the capabilities of International Authorities, while avoiding lengthy documents that create unnecessary burden on International Authorities preparing the applications and the members of the Committee examining them.

20. The Meeting is invited to comment on the format of the application that each International Authority will be required to submit to the PCT/CTC for extension of appointment. If International Authorities agree with the above proposal, discussions on the application form and any possible modifications to the annual quality reports for 2025 to facilitate the scrutiny by the PCT/CTC could take place on the Quality Subgroup wiki after this session.

### **PROPOSED TIMELINE**

21. The following timeline summarizes the procedure and application process discussed in this document:

- (a) October to December 2024 – Discussion on PCT Quality Subgroup wiki of application form and other elements in application for extension of appointment.
- (b) February 2025 – PCT Working Group approves the timetable for appointment and the format for applications for extension.
- (c) Before December 2025 – PCT Minimum Documentation Task Force works with International Authorities to ensure compliance with the requirements for the minimum documentation requirements from January 1, 2026.
- (d) December 2025 – Deadline for International Searching and Preliminary Examining Authorities to submit applications for extension of their appointments to the International Bureau.
- (e) December 2025 to February 2026 – members of the PCT Committee for Technical Cooperation review the applications for extension of appointment when they are published. Members should provide feedback and ask questions to any individual International Authority on any parts of the applications that might cause concern during the Committee or where they require further information or clarification.
- (f) January 1, 2026 – Entry into force of amendments to Rules 34, 36 and 63 relating to the requirements of the PCT minimum documentation.
- (g) February 2026 – PCT Committee for Technical Cooperation provides its advice on the extensions of appointment of each International Searching and Preliminary Examining Authority and approves a draft model agreement between the International Bureau and International Searching and Preliminary Examining Authorities to be used for preparing each individual draft agreement.
- (h) February 2026 – PCT Working Group considers amendments to the PCT Regulations necessary for any changes to the format of the draft model agreement between the International Bureau and International Searching and Preliminary Examining Authorities approved by the PCT Committee for Technical Cooperation.

- (i) July 2026 – PCT Assembly approves the extensions of appointment of International Searching and Preliminary Examining Authorities for a further 10 years from January 1, 2028, the draft agreements between the International Bureau and each International Searching and Preliminary Examining Authority, and any amendments to the PCT Regulations necessary for the draft model agreement.
- (j) July 2026 to December 2027 – Signature of each agreement following any national ratification required for signing the agreement.
- (k) January 1, 2028 - New agreements between the International Bureau and each International Searching and Preliminary Examining Authority enter into force, expiring on December 31, 2037, along with amendments to the PCT Regulations associated with the format of the agreements.

*22. The Meeting is invited to comment on the procedure for extension of appointment of International Searching and Preliminary Examining Authorities set out in this document.*

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