

Patent Cooperation Treaty (PCT)

Common Quality Framework for International Search and Preliminary Examination

INITIAL REPORT ON QUALITY MANAGEMENT SYSTEMS

*prepared by the **AUSTRIAN PATENT OFFICE (APO)***

The Authority should provide general background information relevant to the quality management system (QMS) as set forth in this template.

The descriptions below each main heading of this template should be considered examples of the type and arrangement of information that should be included under each heading. Each Authority may provide additional information beyond that set forth in this template as desired.

CHANGES / MODIFICATIONS 2015 - 2016

- + 21.04 A functional department “Strategy & Data-Analysis” was established; additional information about the QM-Board
- + 21.08 (a) Meetings between the Technical Vice President and the heads of the department take place every week now
- + 21.10 (i) Additional information about the qualification of the examiners
- + 21.10 (v) The PDF “Quality Manual for the Technology Group” is also available as an online wiki version.
- + 21.10 (vi) Description of the Examiner Training Program
- + 21.11 (i) Handling of the PCT Search & Examination requests – use of the ePCT
- + 21.15 Detailed description with flow chart of the users’ communication possibilities and the impact of a complaint.

Changes/modifications marked in yellow

INTRODUCTION (PARAGRAPHS 21.01 - 21.03)

If applicable, the Authority may at this point indicate any recognized normative reference or basis for their quality management system besides Chapter 21, such as ISO 9001, under the heading "Normative Reference for QMS"

For example: "Normative reference for QMS: ISO 9001, EQS (European Quality System)"

Each Authority should then provide at least the information indicated in the descriptive boxes, under the following headings

The quality of search and examination of patent applications has always been a main emphasis of the APO's work concerning the processing of inventions. Great efforts have been made to construct and maintain a complete search documentation (including electronic tools) and a top level instruction level standard for the examiners.

Since the planning phase of the QMS in 2002 visits to other patent offices have been made. This continuous exchange of expertise and evaluation of the different methods and strategies helped to choose the optimum system for the APO and to constantly improve the implemented system.

The management of the APO decided to select the most suitable tools and processes from the considered schemes (ISO 9000, EFQM, TQM). Therefore a survey of examiners' and customers' opinion of the APO's performance was carried out. The results of this survey helped to design an effective and appropriate QMS with clear instructions, cross-checks, spot-checks and feedback mechanisms, which entered a test phase on September 1, 2003.

Thus, the APO as International Searching and Preliminary Examining Authority installed a quality management system (QMS) as demanded in Chapter 21 of the Guidelines for the Processing by International Searching and Preliminary Examining Authorities of International Applications under the Patent Cooperation Treaty (PCT-Guidelines) that came into force on January 1, 2004.

The APO participated in the UPP-project (Utilization Pilot Project), part of the European Patent Network Project, together with DE, DK and UK. The feedback from this project also has an impact on our QMS-system (see PCT Quality Report 2009). Since 2012, the APO has been participating in the UIP (Utilization Implementation Pilot) project, which is the UPP follow up project. Consequently, for each second filing before the EPO claiming the priority of a first filing made in Austria, the APO sends the result of the earlier search to EPO upon of the EPO's request. The EPO then may take those results into account when carrying out the international search. See page 24, paragraph 21.14 for further information on this topic.

An external review/audit for the search process took place in 2012 between the APO and the Swiss IGE.

In 2014 the management of the APO decided to use the CAF (Common Assessment Framework) as the best tool to assess the quality of the Austrian Patent Office. "The Common Assessment Framework (CAF) is the common European quality management instrument for the public sector. It is a free tool to assist public sector organisations to improve their performance. The CAF helps the organisations to perform a self-assessment with the involvement of all staff, to develop an improvement plan based on the results of the self-assessment and to implement the improvement actions." (source: Wikipedia)

A first review meeting of the CAF - self-assessment group took place in spring 2014 and a first review meeting in 2015. A plurality of quality-circles started in 2015.

1. LEADERSHIP AND POLICY

21.04 Confirm that the following are clearly documented, and that this documentation is available internally:

- (a) *The quality policy established by top management.*
- (b) *The roles and names of those bodies and individuals responsible for the QMS, as delegated by top management.*
- (c) *An organizational chart showing all those bodies and individuals responsible for the QMS.*

a) The quality policy established by the top management

In 2016, a new function division "Strategy and Data Analysis" was established. This department will coordinate all QM activities of the Austrian Patent Office. It is planned to redesign APO's QM system in 2017.

The quality policy in case of PCT-ISA/IPEA, patent granting and utility model registration process is set up under the guidance of the Technical Vice-President. The Austrian Patent Office uses the same QMS policy for the national granting procedure as well as for all PCT cases, in particular for PCT-ISA and PCT-IPEA issues.

The Quality policy is documented in the

"Quality Manual for the Group Technic"

→ see paragraph (21.10 (v))

b) The roles and names of those bodies and individuals responsible for the QMS; as delegated by the top management

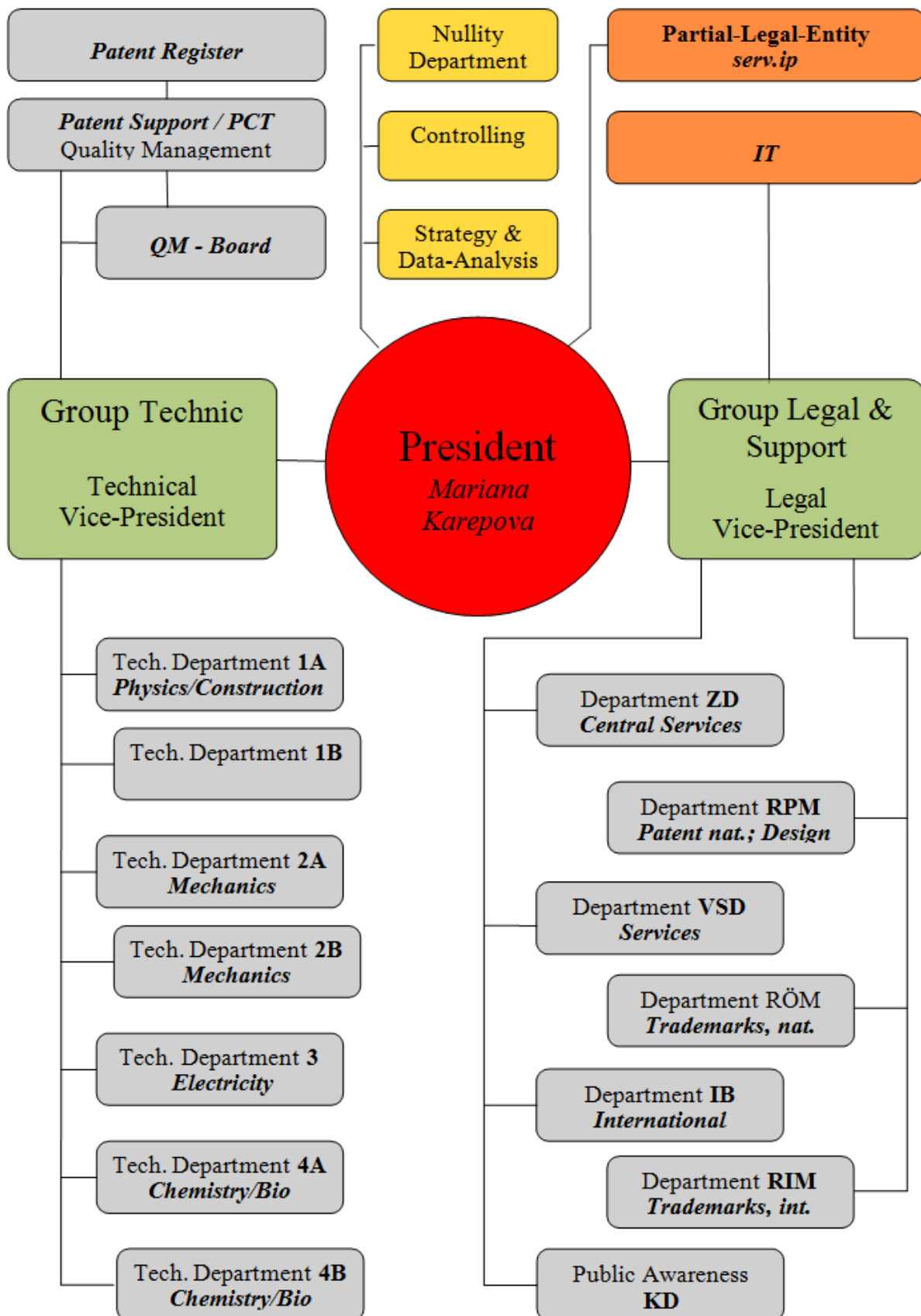
The Quality Management is organized under the supervision of the Technical Vice President by the Patent Support / PCT Department. This department is responsible for the relationship with WIPO concerning any PCT matters / receiving office / cooperation with WIPO and EPO; basic quality check of all ISRs, written opinions and IPERs. The same department is responsible for the administration/control of technical search and examination processes as well as for the implementation of the QMS.

A QM – Board is formed by the Technical Vice-President, the heads of the four main section departments (1A, 2A, 3 and 4A) and the head of Patent Support / PCT Department.

In this QM-Board, all quality-relevant processes are discussed, decisions are made about changes in the process and the corresponding measures are taken to improve the process and the information of both employees and the general public.

(See page 10, paragraph 21.08 and topic 8, page 30 paragraph 21.23-21.25)

c) An organizational chart showing all those bodies and individuals responsible for the QMS



21.05 Indicate (e.g. by means of a table) the extent of compatibility between the Authority's QMS and the requirements of Chapter 21 of these International Search and Preliminary Examination Guidelines. Alternatively, indicate where the Authority is not yet compliant with these requirements.).

[Sample table, to be amended as necessary]

Chapter 21 requirement				Extent of compliance		
				full	part	no
21.04		(a)	Quality policy available	✓		
		(b)	Identified roles and names for QMS responsibility	✓		
		(c)	Organizational chart available	✓		
21.05			Established compatibility of QMS with Chapter 21	✓		
21.06		(a)	Mechanisms to ensure effectiveness of the QMS	✓		
		(b)	Control of the continual improvement process	✓		
21.07		(a)	Communication of management about this standard to staff	✓		
		(b)	The PCT Guidelines are in line with the Authority's QMS	✓		
21.08		(a)	Management reviews take place	✓		
		(b)	Quality objectives are reviewed	✓		
		(c)	Communication of quality objectives throughout the Authority	✓		
21.09		(a)	Performance of a yearly internal review of the QMS in/to	✓		
		(b)	determine the extent to which the QMS is based on Chapter 21	✓		
			determine the extent to which S&E complies with PCT Guidelines	✓		
		(c)	an objective and transparent way	✓		
		(d)	using input incl. information according paragraph 21.24	✓		
		(e)	recording the results	✓		
21.10			Assurance to monitor and adapt to actual workload	✓		
	(i)		Infrastructure in place to ensure that a quantity of staff	✓		
		(a)	sufficient to deal with the inflow of work	✓		
		(b)	which maintains tech. qualifications to S&E in all technical fields	✓		
		(c)	which maintains the language facilities to understand languages according to Rule 34	✓		
	(ii)		Infrastructure to provide a quantity of skilled administrative staff	✓		
		(a)	at a level to support the technically qualified staff	✓		

Chapter 21 requirement			Extent of compliance		
			full	part	no
	(b)	for the documentation records	✓		
	(iii)	Ensuring appropriate equipment to carry out S&E	✓		
	(iv)	Ensuring documentation accord. to Rule 34	✓		
	(v)	(a) Instructions to help staff understand and act accord. the quality criteria and standards	✓		
		(b) Instructions to follow work procedures accurately and they are kept up-to-date.	✓		
	(vi)	(a) Training and development program to ensure and maintain necessary skills in search and examination	✓		
		(b) Training and development program to ensure awareness of staff to comply with the quality criteria and standards.	✓		
	(vii)	(a) System in place for monitoring resources required to deal with demand	✓		
		(b) System in place for monitoring resources required to comply with the quality standards in S&E	✓		
21.11	(i)	Control mechanisms to ensure timely issue of S&E reports	✓		
	(ii)	Control mech. regarding fluctuations in demand and backlog	✓		
21.12	(i)	Internal quality assurance system for self assessment	✓		
		(a) for compliance with S&E Guidelines	✓		
		(b) for channeling feedback to staff	✓		
	(ii)	System for measurement of data and reporting for continuous improvement	✓		
	(iii)	System for verifying the effectiveness of actions taken to correct deficient S&E work	✓		
21.14		(a) Contact person helping identify best practice between Authorities	✓		
		(b) Contact person fostering continual improvement	✓		
		(c) Contact person providing for effective comm. with other Authorities for feedback and evaluation	✓		
21.15	(i)	(a) Appropriate system for handling complaints	✓		
		(b) Appropriate system for taking preventive/corrective actions	✓		
		(c) Appropriate system for offering feedback to users	✓		
	(ii)	(a) A procedure for monitoring user satisfaction & perception	✓		
		(b) A procedure for ensuring their legitimate needs and expectations are met		✓	
	(iii)	Clear and concise guidance on the S&E process for the user	✓		

Chapter 21 requirement			Extent of compliance		
			full	part	no
	(iv)	Indication where and how the Authority makes its quality objectives publicly available		✓	
21.16		Established communication with WIPO and designated and elected Offices	✓		
21.17		QMS of Authority clearly described (e.g. Quality Manual)	✓		
21.18	(a)	Documents making up the Quality Manual have been prepared and distributed	✓		
	(b)	Media available to support the Quality Manual	✓		
	(c)	Document control measures are taken	✓		
21.19	(i)	Quality policy of the Authority and commitment to QMS	✓		
	(ii)	Scope of QMS	✓		
	(iii)	Organizational structure and responsibilities	✓		
	(iv)	the documented processes are carried out in the Authority	✓		
	(v)	Resources available to carry out processes and implementing the procedures	✓		
	(vi)	a description of the interaction between the processes and the procedures of the QMS.	✓		
21.20	(i)	Records which documents are kept and where they are kept	✓		
	(ii)	Records of results of management review	✓		
	(iii)	Records about training, skills and experience of staff	✓		
	(iv)	Evidence of conformity of processes	✓		
	(v)	Results of reviews of requirements relating to products	✓		
	(vi)	Records of the S&E process carried out on each application	✓		
	(vii)	Record of data allowing individual work to be tracked	✓		
	(viii)	Record of QMS audits	✓		
	(ix)	Records on actions taken re. non-conforming products	✓		
	(x)	Records on actions taken re. corrective actions	✓		
	(xi)	Records on actions taken re. preventive actions	✓		
	(xii)	Records referring to search process documentation	✓		
21.21	(i)	Recording of the databases consulted during search	✓		
	(ii)	Recording of keywords, combination of words and truncations during search	✓		
	(iii)	Recording of the languages used during search	✓		
	(iv)	Recording of classes and combinations thereof consulted during search	✓		

Chapter 21 requirement				Extent of compliance		
				full	part	no
	(v)		Recording of a listing of all search statements used in databases consulted	✓		
	(vi)		Records about other information relevant to the search	✓		
	(vii)		Records about limitation of search and its justification	✓		
	(viii)		Records about lack of clarity of the claims	✓		
	(ix)		Records about lack of unity	✓		
21.22			Report on its own internal review processes	✓		
21.23- 21.25			Additional information on further inputs to its internal reviews	✓		
21.26			Initial report called for by paragraph 21.26	✓		

21.06 Indicate with reference to the organizational chart those bodies and mechanisms management uses to ensure:

- (a) the effectiveness of the QMS; and
- (b) that the process of continual improvement progresses.

a) the effectiveness of the QMS

The Quality System at the Austrian Patent Office is designed as a four level process

First level: Quality assurance during the Search/Examination procedure

- + Management of the Authority for
 - Quantity of staff (inflow of work)
 - Support the technically qualified staff (equipment)
- + Group Technic for
 - Training of the technically qualified staff
 - Workload
- + Technical department for
 - Workload
- + Patent Support / PCT for
 - "Quality Manual for the Group Technic"
 - Creating the "Self Check List"

Second level: Quality assurance in the technical department

- + Technical department for
 - Check by a colleague
 - Check by the head of the department

Third level (only PCT cases): additional formalities check

- + Patent Support / PCT
 - Formal checks

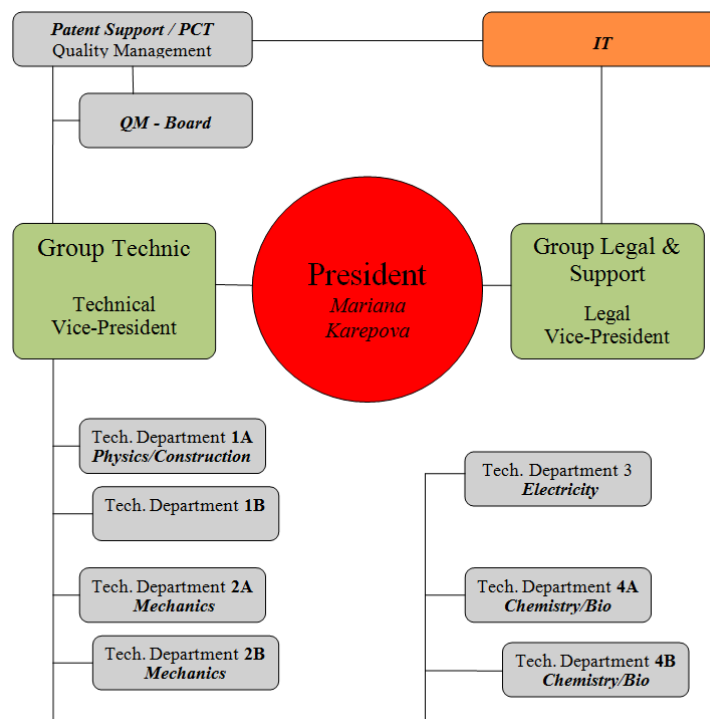
Forth level: Review/audit system for checking the Search/Examination

- + Technical vice President
- + QM-Board (See page 3, paragraph 21.04 (b), page 10, paragraph 21.08 and topic 8, page 30 paragraph 21.23-21.25)
- + Patent Support / PCT

b) That the process of continual improvement progresses

As shown in the following diagram, the continual improvement progress results from a permanent cooperation of the

- Technical Vice President
- Patent Support / PCT
- QM – Board
- IT Department
- Technical Departments



21.07 Indicate how management of the Authority communicates to its staff the importance of meeting treaty and regulatory requirements including:

- (a) those of this standard; and
- (b) complying with the Authority's QMS.

**a) Those of this standard &
b) Complying with the Authority's QMS**

The QMS in PCT cases and national procedure cases are equal (except additional check for PCT cases).

There are several ways for communication

- Meetings of the Head of the Group Technic and the Heads of the Technical Departments take place every week
- Meetings in the Technical Departments
- Intranet
- Modification of the guidelines and information about that
- Report of the QM - Board

21.08 Indicate how and when top management of the Authority or delegated officers:

- (a) conducts management reviews and ensures the availability of appropriate resources;
- (b) reviews quality objectives; and
- (c) ensures that the quality objectives are communicated and understood throughout the respective Authority.

a) Conducts management reviews and ensures the availability of appropriate resources

Each week there is a meeting between the Techn. Vice President and the heads of the technical Departments. During this meeting availability of appropriate resources is discussed and the necessary steps are taken.

b) Reviews quality objectives

After each QM-Board meeting an individual feedback is given from the respective member of the QM-Board member to the examiner.

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

In a circular, the examiners are informed about important results of the evaluation. This concerns in particular

- Lack of unity of invention
- „Omnibus claims“
- Obligatory documentation of (online) search strategy
- Sharp differentiation between "X" or "Y" – categories in search reports

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

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

c) Ensures that the quality objectives are communicated and understood throughout the respective Authority

Four times a year the QM-Board makes a report to the head of the office and this report is also published in the intranet.

21.09 Indicate whether top management or delegated officers of the Authority perform an internal review of the QMS in accordance with paragraphs 21.22-21.25:

- (a) at least once per year (cf. paragraph 21.22);
- (b) in accordance with the minimum scope of such reviews as set out in Section 8, namely:
to determine the extent to which the QMS is based on Chapter 21 (cf. paragraphs 21.22, 21.24(i));
to determine the extent to which Search and Examination work complies with PCT Guidelines (cf. paragraphs 21.22, 21.24(i));
- (c) in an objective and transparent way (cf. paragraph 21.22);
- (d) using input including information according to paragraphs 21.24 (ii)-(vi);
- (e) recording the results (cf. paragraph 21.25).

(See page 3, paragraph 21.04 (b), page 10, paragraph 21.08 and topic 8, page 30, paragraph 21.23-21.25)

2. RESOURCES

21.10 Explanatory note: The granting of ISA/IPEA status means that the Authority has demonstrated it has the infrastructure and resources to support the search and examination process. Chapter 21 calls for assurance that the Authority can continually support this process while accommodating changes in workload and meeting QMS requirements. The responses below, should provide this assurance.

Human resources:

*(i) Provide information about the infrastructure in place to ensure that a quantity of staff:
sufficient to deal with the inflow of work;*

*which maintains the technical qualifications to search and examine in the required technical fields;
and*

*which maintains the language facilities to understand at least those languages in which the
minimum documentation referred to in Rule 34 is written or is translated*

is maintained and adapted to changes in workload.

*(ii) Describe the infrastructure in place to ensure that a quantity of appropriately trained/skilled
administrative staff is maintained and adapted to changes in workload:*

*at a level to support the technically qualified staff and facilitate the search and examination
process, and*

for the documentation of records.

(i) Provide information about the infrastructure in place to ensure that a quantity of staff sufficient to deal with the inflow of work

The Austrian Patent Office has set up the "PCT" department ("Abteilung Stabsstelle / PCT") for the management of all PCT search and expert opinions with sufficient staff and resources. This makes it easier for qualified employees to search and examine. This department is also responsible for the management and control of the technical search and examination processes as well as for the implementation of QMS including guidelines, standard clauses and classification questions.

which maintains the technical qualifications to search and examine in the required technical fields

The APO has a staff of around 100 full-time employees with sufficient technical skills to conduct searches. The employment requirements (university degree, at least equivalent to Master's degree) guarantee the technical qualification for the search and examination in all technical areas. The examiners have access to translation tools via the Internet and EpoQueNet.

New employees have to complete a training program which covers 2-4 years, whereby the training consists of close supervision by an experienced examiner as well as a teaching program followed by written and oral examination. **After this training phase and this examination, the examiner becomes fully competent and works with minimal supervision.** The new employees benefit from a combination of practice and theoretical training.

The examination is then expected to be carried out according to the PCT guidelines and also under national law.

Examiners in training are used as recording clerks in nullity proceedings. This makes them familiar with the exact assessment of a patent, which gives a great feedback for Search.

Examiners after passing their examination get an important additional qualification through active participation in the opposition- and nullity senates. The experiences that are made in this context have a significantly positive effect on the understanding of the procedure during the search and examination activities.

The theoretical training consists of two principles

- The Search and use of Database Training
- The Legal Training

For further information about these trainings see paragraph: 21.10 (vi) Training resources page 16

which maintains the language facilities to understand at least those languages in which the minimum documentation referred to in Rule 34 is written or is translated

English and basic French skills are one of the conditions for recruitment of new staff. Language training for English and French is offered to the examiners to constantly improve their skills in these languages.

In addition, a working group with regular meetings for French has been installed. This working group consists of examiners from several technical departments. In the meetings PCT applications filed in French are discussed in detail, so that language skills are also improved with a training “on the job”, with a further opportunity to exchange experience between different departments.

ii) Describe the infrastructure in place to ensure that a quantity of appropriately trained/skilled administrative staff is maintained and adapted to changes in workload:

*at a level to support the technically qualified staff and facilitate the search and examination process
for the documentation of records*

See paragraph 21.10 (iii)

Material resources:

(iii) Describe the infrastructure in place to ensure that appropriate equipment and facilities such as IT hardware and software to support the search and examination process are provided and maintained;

(iv) Describe the infrastructure in place to ensure that at least the minimum documentation referred to in Rule 34 is available, accessible, properly arranged and maintained for search and examination purposes. State whether it is on paper, in microform or stored on electronic media, and where.

(v) Describe how instructions:

to help staff understand and adhere to the quality criteria and standards; and;

to follow work procedures accurately and consistently

are documented, provided to staff, kept up-to-date and adapted where necessary.

Describe the infrastructure in place to ensure that

(iii) appropriate equipment and facilities such as IT hardware and software to support the search and examination process are provided and maintained

Support to the technically qualified staff is given by the IT-department. This department supplies the staff with the necessary hard- and software. Each examiner uses a state-of-the-art personal computer which is connected via office-network to the necessary databases. The staff is also provided with software organizing records. The staff also has software that provides the necessary records. This software allows technically qualified staff to create reports for records that are stored in the Office databases for future use.

The text processing is automated, allowing generating the final reports and letters to the applicants (or the WIPO) directly from the electronic system after running through the quality assurance system. A management system for standardized clauses is installed, including the standardized clauses agreed in the PCT Quality subgroup.

(iv) at least the minimum documentation referred to in Rule 34 is available, accessible, properly arranged and maintained for search and examination purposes. State whether it is on paper, in microform or stored on electronic media, and where.

A computer aided search and examination process has been established. Each examiner has access to the Internet and to a plurality of databases which are mentioned below. These databases give the examiners many possibilities for enhancing and completing their State of the Art search beside the search in the PCT minimum documentation.

❖ EpoQueNet Databases:

- Patent Literature
 - Abstract-databases
 - EpoQueNet
 - WPI. WPIAP (Derwent)
 - Full-text cluster
 - TXTCN, TXTE, TXTF, TXTG, TXTI, TXTJP, TXTKR, TXTS, TXTUS
 - Full-text English translation cluster TXTTT
 - China (TXPCNEA, TXPCNEB, TXPCNEU, TXPCNEY)
 - Japan (TXPJPEA, TXPJPEB, TXPJPOEA, TXPJPOEB)
 - Korea TXPKREA, TXPKREB, TXPKREU, TXPKREY)
 - WO – A publications TXPWOTEA
- Non Patent Literature
 - Abstract-databases
 - ALLOYS, EMBASE (bio-medicine), FSTA (food)
 - INSPEC, MEDLINE, TDB (IBM Technical Bulletins)
 - PUBCOMP, PUBSUBS, TCM (traditional Chinese Medicine)
 - Full-text databases
 - XPAIP (American institute of Physics), XPESP
 - XPETSI, XPI3E, XPIEE, XPIETF, XPIOP
 - XPIPCOM, XPJPEG, XPMISC, XPOAC
 - XPRD (Research disclosure), XPTK (Traditional Knowledge)

❖ STN databases

- CAS databases
- BIOSIS

COMPDX

In addition to a still present extensive documentation on paper, microfiche and CD-ROMs provided from many countries are available and managed by the KD department.

(v) Describe how instructions

to help staff understand and adhere to the quality criteria and standards

The Quality manual is provided to the examiners by intranet and gives structured access to the guidelines regarding quality criteria and standards.

“Quality Manual for the Group Technic”

The manual is a pdf document. It is also available as an easily accessible document as an online WIKI version. The valid version is the PDF version.

The main topics in the guidelines are:

- 1) Quality System

2) Principles of the “Quality Management System”

3) Quality in practice

to follow work procedures accurately and consistently

The work procedures are described in the “Quality Manual”

Training resources:

(vi) Describe the training and development infrastructure and program which ensures that all staff involved in the search and examination process:

acquire and maintain the necessary experience and skills; and

are fully aware of the importance of complying with the quality criteria and standards

(vi) Describe the training and development infrastructure and program which ensures that all staff involved in the search and examination process

acquire and maintain the necessary experience and skills

A new Examiner starts her/his work at the office with a 2-4 years training program (see paragraph (21.10 (i))). There are permanent training and development activities for all staff involved in the search and examination process:

- Examiners with special know-how present workshops
- Helpdesk provides quick assistance; collects problems and solutions
- In-house journal with articles containing tips for efficient use of online-DBs etc.
- EpoQueNet-training at the EPO for advanced users
- “EpoQueNet-Café” – Exchange of experience among EpoQueNet-users
- Examiner exchange with other offices
- In-house seminars for CPC, FT, ...
- Special seminars for chemists
- Discussion forum with representatives / agents (e.g. STN)
- Management training.
- Visits to companies in the relevant industries

Description of “The Search and use of Database Training “

The Search and use of Database training is designed to show the examiners the opportunities that they have in database search. This training gives the examiners the theoretical basis for the search, the strategy to be applied and the scope of the search. In conjunction with their daily practice during the search and examination, the examiners reach the high qualification level necessary to carry out a search and examination independently at the Austrian Patent Office.

Search Strategy

- First steps, advanced, end of search
- Precision, completeness
- Additional Information outside of EpoQue (Internet, Register,....)

Search in Databases

- EpoQueNet in general: X-File, preparations, different databases,
- Use of "EpoQueNet-Internal": Function, possibilities; commands, operators, search with classes (IPC, CPC, FT, FI,..)
- Use of "EpoQueNet-X-Full": Function, possibilities; commands, operators, search with classes (IPC, CPC, FT, FI,..)
- Use of "EpoQueNet-Viewer": Function, possibilities,
- Use of special databases e.g. for chemistry, IEEE, Asia,

Description of "The Legal Training"

The legal training is based on a Wiki-System and is held in the form of workshops. Examiners read the particular Wiki-articles before each workshop. Every workshop takes 3-5 hours. During the workshop the content of the articles is presented and discussed. The articles contain a lot of examples, which are presented with solution, and other examples, which the examiners have to solve themselves before the course. These latter examples are discussed in the course as well.

The whole training runs over approx. one year. The training is open to all examiners, senior examiners join as well.

To become a "member of the patent office" a written and an oral exam have to be passed. For the young examiners the course is compulsory before they can take part in the exam.

Workshop-topics of current course in the order of the workshops, topics of each paragraph are presented and discussed on one morning:

Procedures

- Patentability, national patent-procedure, utility-model-procedure
- Expiration of a patent/utility-model, opposing-procedure
- Intellectual property right, instances, PCT-procedure
- Divisional application, conversion of the application (patent-application <->utility-model-application), branch-off-utility-model-application
- Inspection of files, biological material, expert-opinion, representatives
- Divisions of the Austrian Patent Office, decision making in the departments, proof-procedures in opposition and nullity, time-limits, recusal

Patent-systems

- Patent-systems, history of patent-systems

Entitlement

- Entitlement to file an application, declaration of lack of entitlement

Claims

- Claims, technical problem, technical effect, different kinds of features
- Dependent claims
- Person skilled in the art
- Clarity
- Disclosure
- Support of the claims
- Two-part form of the claims, amendments of patent
- Unity

Protection

- Rights conferred by patent
- Extent of protection
- Infringement-procedure, declaratory decision

Priority/relevant date

- Content of the application
- Amendments of the application
- Filing date
- Priority date

Novelty

- State of the art (prior art)
- Interpretation of claims
- Novelty
- Selection invention
- Categories in the search report

Inventive step

- Problem-solution approach
- Indications for inventive step

Technical character

Exceptions to patentability

Miscellaneous

- Additional patent
- Declaration of dependence
- Industrial applicability
- Nullity-procedure
- Supplementary protection certificate

Ending of the course

Survey over patent law

are fully aware of the importance of complying with the quality criteria and standards

During the permanent training and development activities the staffs acquire an awareness of the importance of complying with the quality criteria and standards.

Oversight over resources:

(vii) Describe the system in place for continuously monitoring and identifying the resources required:

to deal with demand; and

comply with the quality standards for search and examination.

(vii) Describe the system in place for continuously monitoring and identifying the resources required:

to deal with demand

There are two departments responsible for dealing with the demand

- Patent Support / PCT for compliance with the work flow and time limits
- Technical Departments for Search / Examination and time limits

comply with the quality standards for search and examination

Multiple parts of the APO are involved (see for detailed information paragraph 21.06 a) and 21.12)

- Management of the Authority
- Technical Vice President
- Patent Support / PCT
- Technical departments
- QM-Board

3. MANAGEMENT OF ADMINISTRATIVE WORKLOAD

21.11 Indicate how the following practices and procedures for handling search and examination requests and performing related functions such as data-entry and classification are implemented:

(i) Effective control mechanisms regarding timely issue of search and examination reports to a quality standard as set by the respective Authority; and

(ii) Appropriate control mechanisms regarding fluctuations in demand and backlog management.

i) Effective control mechanisms regarding timely issue of search and examination reports to a quality standard as set by the respective Authority

For PCT applications a prerequisite for timely issue of the search and examination report is to timely receive the Search Copy. Here we use the ePCT-notifications to early be aware of PCT applications for which we are selected as ISA. We monitor the list of IB/301 – Notification of

receipt of record copy by the IB. From this list we know for which PCT applications we should receive the Search Copy in the near future. Each week we go through this list to find the applications for which the delivery of the Search Copy seems delayed. Via ePCT we check the detailed status of those files and in case we cannot see any reason like “no payment until now” or “still defects in the application” we contact the RO via ePCT Message or e-mail to clarify the situation.

As in case we receive the search copy we immediately notify this via an ISA 202, we can in addition to our IB 301 monitoring use the ePCT report ISA-01 “Search reports outstanding” with the column “# where search copy date not known” to detect search copies which we already should have received but not have issued an ISA 202.

On the other hand we made the experience that sometimes we receive the payment before the search copy. We therefore also check for each payment list we receive from an RO if we already have started the Search for the respective applications.

This transition from a passive behaviour “wait for the Search Copy on paper” to a pro-active behaviour: detect missing search copies has helped us to receive some search copies earlier, which allows us to earlier start with the search.

In order to issue the search report in a useful time, despite having received the search copy late, we provide the examiners with not only the time limit according to PCT rule 42, but also with the time limit “15 months after priority” and “publication target date minus 1 month”, so as to inform the examiners when the search report must be issued for an A1-publication.

The timely creation of search and examination reports is supported by a stringent system to inform the examiner and her/his departmental head. Every month, a list of files containing deadlines is sent to examiners by the “Patent Support / PCT” department. The importance of keeping the time limits is discussed during the meeting of the heads of the departments (see 21.07 a) and if necessary action is taken to distribute the work load more evenly amongst the examiners.

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

ii) Appropriate control mechanisms regarding fluctuations in demand and backlog management

A control mechanism regarding fluctuations is installed by the IT department (see 21.11(i)). The Patent Support department is in charge of the backlog management. For this reason, the management and the directors of the technical departments receive every month a list of outstanding files.

4. QUALITY ASSURANCE

21.12 The following are required quality assurance measures for timely issue of search and examination reports of a quality standard in accordance with the Guidelines. Indicate how the following are implemented, including the use of any checklists to verify reports before their issue or for monitoring the quality standard as part of a post-issue review process:

(i) An internal quality assurance system for self-assessment, involving verification, validation and monitoring of searches and examination work:

for compliance with these Search and Examination Guidelines;

for channeling feedback to staff.

(ii) A system of measurement and collection of data and reporting. Show how the Authority uses the system to ensure the continuous improvement of the established processes.

(iii) A system for verifying the effectiveness of actions taken to correct deficient S&E work, eliminate the causes, and to prevent issues from recurring.

i) An internal quality assurance system for self-assessment, involving verification, validation and monitoring of searches and examination work

for compliance with these Search and Examination Guidelines, & for channeling feedback to staff

The APO has established an internal quality assurance system for self-assessment. It includes assessing whether the internal instructions of the PCT search and examination guidelines for searches and examination have been complied with. It also checks whether the feedback to personnel, including a system for measuring, recording and monitoring, is carried out correctly. The performance of the QMS is also analyzed to assess compliance with the requirements.

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

1. Self-check of the examiner using a checklist, where the most important criteria of quality (taking into account deficits and frequent errors known from a staff survey) are listed.
2. Check by the supervisor. A sample of at least 5% to 10% of the reports (for PCT: 100%) is submitted to a colleague of the examiner (cross-check). The colleague checks the quality of the search strategy and/or the clearness of the report. *This improves the internal communication and the mutual know-how transfer.* The result of the check can be discussed between the two involved colleagues alone, or together with the superior.
3. In PCT-cases there is an additional check (100% of the reports) by the PCT department.
4. Periodic audit of a random sample by the QM-board.

(See page 3, paragraph 21.04 (b), page 10, paragraph 21.08 and topic 8, page 30, paragraph 21.23-21.25)

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

There is special focus on

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

The cross-check serves as the basis for important professional discussions between examiners. In order to maximize the mutual effect through networking, the second examiner is changed case by case

The check by the supervisor gives the head of the department the opportunity to check the reports and to ensure the quality level in the department. If the cross-check leads to two different opinions, the head of the department is asked for advice on how to deal with this case. If in doubt, she/he must consult PCT, ST or a member of the QM Board..

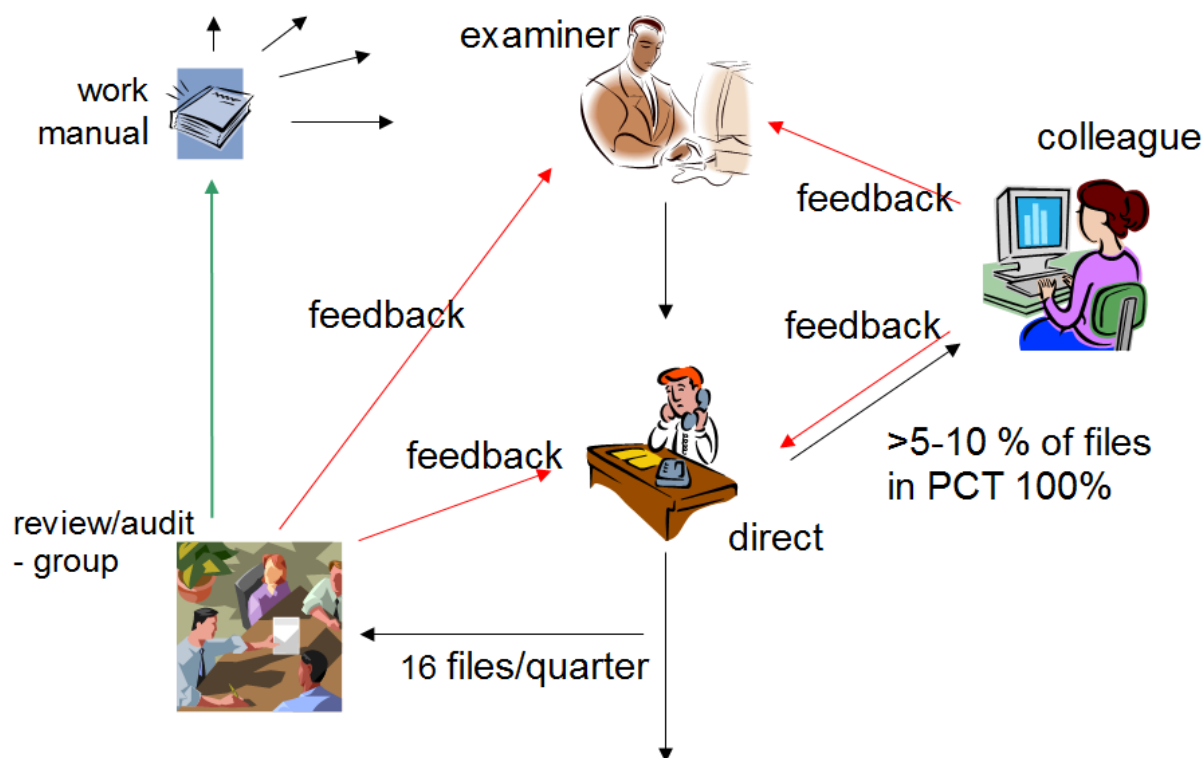
The QM-Board meets at least four times a year to discuss the results of the sample. It is guaranteed that the spot checks are spread over the departments equally and every examiner will be selected at least once in two years.

The evaluations are carried out by the members of the QM-Board in their technical section. In the evaluation meeting the QM-Board tries to detect general errors or shortcomings and drafts instructions to avoid these discovered defects.

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

Further information concerning the QM-Board, the internal review system of the APO is given at page 3, paragraph 21.04 (b), page 10, paragraph 21.08 and topic 8, page 30, paragraph 21.23-21.25).

Diagram showing the Quality Assurance Procedures



ii) A system of measurement and collection of data and reporting. Show how the Authority uses the system to ensure the continuous improvement of the established processes.

Timely issue of search and examination reports is supported by a stringent system to inform the examiner and her/his departmental head (see paragraph 21.11(i)). The quality standard of the reports consistent with the PCT Search and Examination Guidelines is guaranteed by the standard quality assurance system (explained above).

If there is a check done by the colleague, this is indicated in the database. Therefore it can be easily controlled by the management, if these checks are not done in the intended amount.

iii) A system for verifying the effectiveness of actions taken to correct deficient S&E work, eliminate the causes, and to prevent issues from recurring

The QM-Board (review/audit – group) issues a report to the head of the Authority. This report contains the result of the quarterly meeting of this group. A result of this report can be, if necessary, an amendment of the Quality Manual. The effectiveness of the earlier amendments can be assessed by the QM-Board meeting and, if is necessary, further actions taken.

5. COMMUNICATION

Inter-Authority communication:

21.13 Explanatory note: Each Authority should provide for effective communication with other Authorities.

(Note: This point is informative. No response is required by the template to paragraph 21.13)

21.14 Provide the name, job title and contact details of the Authorities designated quality contact person who will take responsibility for:

- (a) helping identify and disseminate best practice among Authorities;*
- (b) fostering continual improvement; and*
- (c) providing for effective communication with other Authorities to allow for prompt feedback from them so that potential systemic issues can be evaluated and addressed.*

Ms. DI Katharina Fastenbauer (Head of Patent Support / PCT & deputy Technical Vice President)

Mr. DI Gerhard Losenicky (Deputy Head of Patent Support / PCT)

a) – c)

Currently the APO is participating in the UIP project. The goal of this project is on one hand the use of national search results by the EPO, but also a feedback from a second examiner (EPO) to our national examiner. In future the APO examiner as well as the EPO examiner will benefit from the experience of the colleague of the other office. Therefore we expect further improvement of the work quality.

A result of this project is that since 1. October 2012 the APO transmits the search reports of national APO first filing applications to the EPO.

Until now, the Austrian Patent Office unfortunately receives no feedback from the European Patent Office. This feedback could increase the quality of the patent granting process and could therefore lead to better patents.

Communication and guidance to users:

21.15 Describe the system in place for monitoring and using customer feedback including at least the following elements:

- (i) *An appropriate system for handling complaints and making corrections; taking corrective and/or preventative action where appropriate; and offering feedback to users.*
- (ii) *A procedure for: monitoring user satisfaction and perception; and for ensuring their legitimate needs and expectations are met.*
- (iii) *Clear, concise and comprehensive guidance and information to users (particularly unrepresented applicants) on the search and examination process, giving details of where it is to be found e.g. link to Authority's web site, guidance literature.*
- (iv) *An indication of where and how the Authority makes its quality objectives publicly available for the users.*

- i) An appropriate system for handling complaints and making corrections; taking corrective and/or preventative action where appropriate; offering feedback to users.***

There are 3 options for an applicant to obtain feedback or to lodge a complaint.

1st option

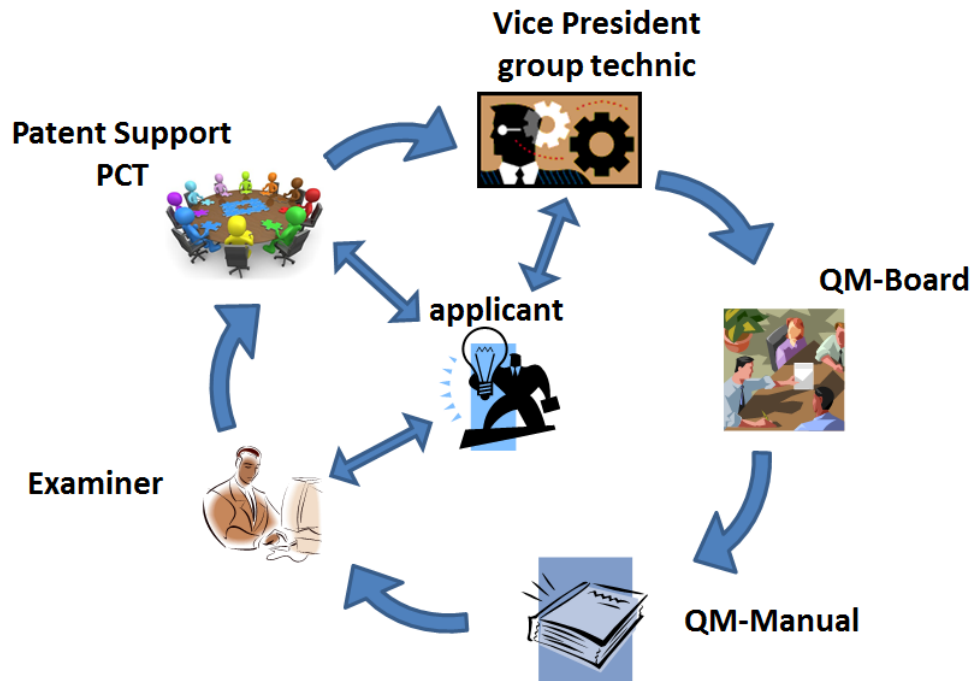
Communication between the users (applicants) and examiners is assured by easily contacting the examiner by telephone or/and e-mail. Most of the problems can be solved in this way.

2nd option

Communication between the users (applicants) and the Patent Support/PCT department is ensured by simply contacting an employee of this department by phone or/and e-mail. This option is often used in cases of formal problems.

3rd option

In the case of sustained problems or when a complaint is lodged, this is forwarded to the Technical Vice President.



All these options can, where appropriate, lead to an improvement of the process, corrective and/or preventative action, an adaption of the QM-manual or give better information to the user (e.g. improvement of the website).

ii) A procedure for:
monitoring user satisfaction and perception;
for ensuring their legitimate needs and expectations are met

All complaints will be managed by the Vice-President's office to ensure traceability. This overview is the basis for the further development of the office in the area of customer satisfaction.

iii) Clear, concise and comprehensive guidance and information to users (particularly unrepresented applicants) on the search and examination process, giving details of where it is to be found e.g. link to Authority's website, guidance literature.

& (iv) An indication of where and how the Authority makes its quality objectives publicly available for the users.

There is clear, concise and comprehensive guidance and information on the search and examination process (Search and Examination Guidelines in German language) on the APO's website, as well as guidance literature laid out in the library and customer service centre. In addition, there is a permanent consulting service (from experienced staff) at the APO, where the applicants can ask technical examiners or legally trained colleagues.

21.16 Communication with WIPO and designated and elected Offices:

Describe how the Authority provides for effective communication with the International Bureau and designated and elected offices. In particular describe how the Authority ensures that feedback is promptly evaluated and addressed.

Communication between WIPO and the "designated and elected office" at the APO is carried out by the "Patent Support / PCT" department.

This department will forward all feedbacks from WIPO to the management and / or to the head of the involved technical department or to the examiners concerned.

6. DOCUMENTATION

21.17 Explanatory note: The QMS of the Authority needs to be clearly described and implemented so that all processes in the Authority and the resulting products and services can be monitored, controlled, and checked for conformity. This is done in the documents that make up the Quality Manual of the Authority (see paragraph 21.18).

(Note: This point is informative. No response is required by the template to paragraph 21.17)

21.18 The documents that make up the Quality Manual serve to document the procedures and processes affecting the quality of work, such as classification, search, examination and related administrative work. In particular, the Quality Manual indicates where to find instructions on the procedures to be followed.

For the purposes of this report indicate:

- (a) the documents making up a Quality Manual that have been prepared and distributed;*
- (b) the media on which it is supported (e.g. Internal Publication, Internet, Intranet); and*
- (c) document control measures taken e.g. version numbering, access to latest version.*

i) the documents making up a Quality Manual that have been prepared and distributed

- The manual "Quality Manual for the Group Techniques" is described in 21.10(v))
- Guidelines for applicants (available soon with the English Website of the APO - Homepage)

ii) the media on which it is supported (e.g. Internal Publication, Internet, Intranet)

The "Quality Manual" is available as a PDF file for the whole staff via Intranet. It can be easily downloaded and printed.

The "Guidelines for Applicants" will soon be available on the English Website of the APO.

iii) document control measures taken e.g. version numbering, access to latest version

The newest versions of the documents are linked via Intranet or Internet.

21.19 Indicate whether the documents making up the Quality Manual include the following:

- (i) the quality policy of the Authority including a clear statement of commitment to the QMS from top management;
- (ii) the scope of the QMS, including details of and justification for any exclusions;
- (iii) the organizational structure of the Authority and the responsibilities of each of its departments;
- (iv) the documented processes carried out in the Authority such as receipt of incoming applications, classification, distribution, search, examination, publication and support processes, and procedures established for the QMS, or references to them;
- (v) the resources available for carrying out the processes and implementing the procedures;
and
- (vi) a description of the interaction between the processes and the procedures of the QMS.

The Quality Manual contains the Authority's quality policy, the scope of QMS, the documented process in the case of quality assurance and the procedures established for the QMS. The organization structure and the responsibility of each department of the APO are available via Intranet. The search, examination, publication and support process are the same as for the national granting procedure, so they are also described in the "Quality Manual".

Patent Support / PCT department organizes all cases of the Quality management. For this reason it is certain that interaction between the process and the procedures of the QMS is ensured.

21.20 Indicate which types of records the Authority maintains, such as:

- (i) a definition of which documents are kept and where they are kept;
- (ii) results of management review;
- (iii) training, skills and experience of personnel;
- (iv) evidence of conformity of processes, resulting products and services in terms of quality standards;
- (v) results of reviews of requirements relating to products;
- (vi) the search and examination processes carried out on each application;
- (vii) data allowing individual work to be tracked and traced;
- (viii) records of QMS audits;
- (ix) actions taken re. non-conforming products, e.g. examples of corrections;
- (x) actions taken re. corrective action;
- (xi) actions taken re. preventative action; and
- (xii) search process documentation as set out in Section 7.

i) a definition of which documents are kept and where they are kept

Quality manual which is available for each staff member via intranet

ii) results of management review

The report of the QM-Board is published four times per year via intranet. (see paragraph 21.08 b), c))

iii) training, skills and experience of personnel

This information is maintained in the "Central Services" which is under the head of the Legal Vice –President.

iv) evidence of conformity of processes, resulting products and services in terms of quality standards

- Quality manual which is available for each staff member via intranet

v) results of reviews of requirements relating to products

via intranet (see paragraph 21.20 (i))

vi) the search and examination processes carried out on each application

The records for each Search/Examination are stored via a document handling software in a central database

vii) data allowing individual work to be tracked and traced

yes; see paragraph 21.20 (vi) above

viii) records of QMS audits

The results of QM Audits are stored under the responsibility of the QM-Board.

ix) actions taken re. non-conforming products, e.g. examples of corrections

see paragraph 21.20 (vi)

x) actions taken re. corrective action

see paragraph 21.20 (vi)

xi) actions taken re. preventative action

see paragraph 21.20 (vi)

xii) search process documentation as set out in Section 7

The search process documentation is stored in the record for each Search/Examination in the central database

7. SEARCH PROCESS DOCUMENTATION

21.21 For internal purposes the Authority should document its search process.

The Authority should indicate

(a) which of the following are included in this record:

- (i) the databases consulted (patent and non-patent literature);
- (ii) the keywords, combinations of words and truncations used;
- (iii) the language(s) in which the search was carried out;
- (iv) the classes and class combinations searched, at least according to the IPC or equivalent;
- (v) a listing of all search statements used in the databases consulted.

(b) which other information relevant to the search itself is included in this record e.g. a statement of the subject of search; details of special relevance to internet searching; a record of documents viewed; on-line thesaurus, synonym or concept databases, etc.

(Explanatory note: The IA is requested to list other information it may collect to monitor and improve the search process)

(c) which special cases are documented and whether records are kept denoting any:

- (vi) limitation of search and its justification
- (vii) lack of clarity of the claims; and
- (viii) lack of unity.

a) - c)

The search process documentation is stored in the record for each Search/Examination. It contains at least a "History List" of the search process, containing all used parameters a) i) to v). If it is necessary, the Examiner can append additional information regarding the search process, for example those indicated in paragraphs b) and c).

8. INTERNAL REVIEW

21.22 Explanatory note: The Authority should report on its own internal review arrangements. These reviews determine the extent to which it has established a QMS based on the model of Chapter 21 and the extent to which it is complying with the QMS requirements and the Search and Examination Guidelines. The reviews should be objective and transparent to demonstrate whether or not those requirements and guidelines are being applied consistently and effectively and should be undertaken at least once a year. With reference to point 21.08 of this template, the Authority may provide additional information on its internal review arrangements under this section if it so wishes.

21.23-21.25 These arrangements are reported according to this template in Section 1, above, at points 21.04 - 21.09. The Authority may provide additional information on further inputs to its internal reviews under this section, if it so wishes.

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

randomly by the QM-Board. In other cases special processes like “grant of a patent” or process steps are analysed with a view to possible improvement.

The output of each review includes information on:

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

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

Improvement

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

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

(See page 3, paragraph 21.04 (b), page 10, paragraph 21.08 and topic 8, page 30, paragraph 21.23-21.25)

9. ARRANGEMENTS FOR AUTHORITIES TO REPORT TO THE MIA

21.26 There are two stages in the reporting arrangements outlined in Chapter 21: the initial report called for by paragraph 21.26(a), and supplementary annual reports in accordance with paragraph 21.26(b). At the second informal meeting of the Quality Subgroup in Canberra on February 6 and 7, 2012, the Subgroup recommended that, instead of submitting full reports every five years and cumulative updates in the intervening years, Authorities should submit each report in the form of a full report, making the differences from the previous year's report clear, for example using “track changes” or other form of highlighting. The template for the supplementary annual reports is therefore no longer used.

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

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

[End of document]