

## **Patent Cooperation Treaty (PCT) Working Group**

**Seventeenth Session**  
**Geneva, February 19 to 21, 2024**

### **LANGUAGES OF COMMUNICATION FOR THE INTERNATIONAL BUREAU**

*Document prepared by the International Bureau*

#### **SUMMARY**

1. The International Bureau wishes to improve its services by expanding the languages of communication with applicants and national Offices to any of the 10 languages of international publication, instead of only in English or French as at present. In the short term, this would be limited to communications that are sent only to the applicant and/or individual national Offices acting as receiving Office, International Searching Authority or International Preliminary Examining Authority, not to communications of types copied to all designated or elected Offices.
2. In view of the nature of the roles of the International Bureau, the effects of its international phase work on the national phase and the proposed arrangements for making correspondence available to the public with machine translation, the proposed changes will not create any new requirement for official translation of documents in the international phase. The International Bureau will nevertheless develop new IT systems to ensure that the International Bureau's communications (and other matter for which the necessary XML data is available) can be read on demand in any of the 10 languages of publication.

#### **BACKGROUND**

3. This proposal to expand the languages of communication with applicants and national Offices was originally presented to the PCT Working Group in document PCT/WG/15/6 as part of a proposal for allowing the International Bureau to communicate directly with applicants on issues concerning formalities checking. It was subsequently presented as a separate issue to the sixteenth session of the PCT Working Group in document PCT/WG/16/2.

4. At its sixteenth session, the Working Group invited the International Bureau to consider the comments made and bring a revised proposal to a future session of the Working Group (see paragraphs 7 and 8 of the Summary by the Chair of the session, document PCT/WG/16/9). While most delegations taking the floor agreed with the benefit of allowing communications in a wider range of languages, delegations sought further information on several issues, notably:

- (a) the cost to the International Bureau to set up and operate such an arrangement;
- (b) the extent to which communications in other languages might inconvenience third parties and designated Offices, and whether translations would be available to assist them; and
- (c) how the appropriate language would be selected in any particular case.

## **CURRENT COMMUNICATIONS LANGUAGES**

### **COMMUNICATIONS WITH RECEIVING OFFICES AND INTERNATIONAL AUTHORITIES**

5. At present, receiving Offices will generally communicate with applicants officially in the language of publication used in the request form and informally in their national official languages, where these are different. Similarly, International Authorities will typically correspond with applicants in the expected language of publication (which in most cases corresponds to the language of the search copy).

6. Consequently, the files available to designated Offices and the general public already contain the PCT forms used by the receiving Offices, International Authorities and applicant correspondence in any of the 10 languages of publication. The international search reports and international preliminary reports on patentability are significant to national phase processing and are the subject of official translations into English. Where the report data is available in XML, an unofficial translation is also made available into each of the languages of publication. There has never been any need for other correspondence to be translated since the other information needed for national phase processing is made available to designated Offices by the International Bureau in forms in English or French, containing names, addresses, dates, and checkboxes in standard formats that are readily understood without translation.

### **COMMUNICATION FROM THE APPLICANT TO THE INTERNATIONAL BUREAU**

7. Rule 92.2(d) was amended with effect from July 1, 2016 to allow for the possibility to extend the languages in which the applicant may write to the International Bureau beyond English and French to other PCT languages of publication, as may be permitted by the Administrative Instructions. As of that date, Section 104(c) of the Administrative Instructions has allowed applicants to send communications to the International Bureau in English, French or the language of publication if ePCT is used for the purpose. The provision also allows the Director General to issue decisions to extend the languages of correspondence for applicants using other means of communication, or to expand on the permitted languages for a given international application.

### **COMMUNICATION FROM THE INTERNATIONAL BUREAU TO THE APPLICANT OR TO A NATIONAL OFFICE**

8. At present, Rule 92.2(e) requires the International Bureau to respond to applicants or to any national Office in English or French, though in fact the day-to-day informal communications, such as telephone calls and email exchanges, are made in other languages familiar to both the formalities examiner at the International Bureau and the addressee.

9. The International Bureau communicates with applicants and Offices primarily on formality and procedural matters that are important to the international phase processing of international applications, but do not affect the scope of rights that may eventually be granted in the national phase. It is important that national Offices are able to understand the relevance of a form to the extent necessary to inform their immediate actions (for example that a change of name and address has been registered). However, the significance of a communication is usually apparent from the form number and the structured content (checkboxes, dates, names and addresses) contained within a standardized form template so that no formal translation is required (though it is proposed to introduce systems for high quality machine translation to further assist quick understanding when needed, as described below).

10. The main case where the International Bureau may make a reasoned decision (other than in its role as receiving Office) concerns decisions to omit or not to omit information from international publication under Rule 48.2(l) or public file access under Rule 94.1(e), where the importance to national Offices is merely that the relevant content should not be made available to the public, not the reasoning. These decisions affect the visible content of the file, but by their nature they do not affect the substantive processing of the application in either the international or national phase. They are also rare — only seven such decisions were issued in 2023.

11. In general, it would be desirable to allow the International Bureau to communicate formally with applicants and Offices in a wider range of languages so that the customers will receive the same level of services regarding the languages used, provided that this does not reduce the ability of other recipients of the communication to use the information contained.

12. Correspondence falls into four main categories:

(a) going only to the applicant (for example, Form PCT/IB/378, invitation to correct defects in the supplementary search request, is addressed only to the applicant);

(b) going only to an individual Office (for example, Form PCT/IB/313, notification of defects in the international application, is addressed only to the receiving Office);

(c) going to the applicant and copied to specific Offices with international phase roles (for example, Form PCT/IB/370, invitation to correct declarations in the request under Rule 4.17, is copied to the receiving Office); and

(d) going to the applicant and copied to all designated or elected Offices (for example, Form PCT/IB/307, notification of withdrawal of international application or designations, may be copied to many Offices, including all designated Offices if the withdrawal occurs after international publication).

13. With regard to category (a), while all designated Offices are able to process the content of forms delivered to them in English, some applicants ask for translation of the content of forms sent to them in English, including those that are entirely standard text, such as Form PCT/IB/308 (notices informing the applicant of the communication of the international application to designated Offices).

14. Furthermore, regarding category (d), in practice very few forms are actively transmitted to all designated Offices. As a result of Rule 93*bis*.1, most designated Offices receive forms “on request”, meaning in practical terms that the forms of interest are usually downloaded either manually from PATENTSCOPE or ePCT, or automatically using web services following national phase entry of the relevant international application.

15. The language to be used for any form should depend on what will best allow comprehension by all intended recipients.

## PROPOSAL

16. The Annex contains a proposal to amend Rule 92.2(e) to allow the extension of languages used by the International Bureau to communicate with applicants and Offices, regulated through the Administrative Instructions.

17. The main intended use of such an extension is to deal with communications that are directed only to the applicant, receiving Office, International Searching Authority and/or International Preliminary Examining Authority. These communications are directed to a specific and limited number of recipients, which usually all have the expected language of publication as a common language. Even within this group of communications, the offer of communications in other languages may include exceptions or limitations, in order either to ensure that the service offered was within the International Bureau's capabilities, or to require communications to be made in a language other than the one preferred by the applicant where there is a special need for the content to be understood accurately by other copy recipients.

18. In due time, applicants and Offices might be allowed to select language preferences explicitly. However, for the moment, where the Administrative Instructions permit the International Bureau to respond in a language other than English or French, the International Bureau would select the relevant language based on:

- (a) the language of the relevant incoming communication; or
- (b) the language of the request form (for example, where the communication is primarily directed to the applicant and is initiated by the International Bureau or follows an incoming communication that is not from the applicant).

19. It is not currently intended to extend the languages used for communications that are copied to all designated or elected Offices. It would also be possible to continue to limit certain communications to English or French if there were a particular reason for designated Offices to be able to view the contents of such documents even though they are not formally communicated to them.

20. Since all information communicated to designated and elected Offices would continue to be provided in English or French as at present, there would be no need to provide official translations of any of the matter proposed to be prepared in other languages. The International Bureau already has the capability to render forms in any of the 10 languages of communication, so the development costs are limited to creating the stylesheets for the relevant forms in the additional languages and enabling the selection of those languages for use by the examiner. There would be no additional costs to the International Bureau in operating such a system — if anything, costs might be slightly reduced because of efficiencies from examiners more frequently producing forms in their native language rather than English.

21. It is nevertheless desirable that third parties and designated Offices are able to understand the outcomes of the International Bureau's work, as well as the initial recipient of a form. All IB forms are already prepared using XML. Work is under way to offer systems similar to that already available in PATENTSCOPE for search reports and written opinions, whereby any document created by the International Bureau (and potentially other Offices) in standard XML formats can be viewed on demand in any of the 10 languages of publication. The appropriate language stylesheets would mean that the boilerplate text would show the standard language versions of those forms, together with appropriate check boxes and dates, as well as machine translation of free text, which as noted above is generally of limited significance to the national Offices for these forms created by the International Bureau.

*22. The Working Group is invited to consider the proposed amendment to the Regulations in the Annex to this document.*

[Annex follows]

PROPOSED AMENDMENTS TO THE PCT REGULATIONS<sup>1</sup>

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<sup>1</sup> Proposed additions and deletions are indicated, respectively, by underlining and striking through the text concerned.

**Rule 92**  
**Correspondence**

92.1 *[No change]*

92.2 *Languages*

(a) [No change]

(b) [No change]

(c) [Remains deleted]

(d) [No change] Any letter from the applicant to the International Bureau shall be in English, French or any other language of publication as may be permitted by the Administrative Instructions.

(e) Any letter or notification from the International Bureau to the applicant or to any national Office shall be in English, ~~or~~ French [or any other language of publication as may be permitted by the Administrative Instructions](#).

92.3 and 92.4 *[No change]*

[End of Annex and of document]