

elements which have been accepted under this criterion are considered to be part of the application documents "as originally filed".

If the RO finds that the "completely contained" criterion is not met, the filing date of the application will be the date on which the part(s) or the element(s) was (were) subsequently furnished (unless, in the case of missing parts, the applicant withdraws the subsequently furnished parts). Where the EPO is ISA or IPEA, the examiner must check (as far as the documents needed are available) whether the RO's assessment of the "completely contained" criterion was correct.

See also GL/PCT-EPO A-II, 5.

2.2.2.1 Test for "completely contained"

The test for "completely contained" is stricter than the test for added subject-matter since it is a test whether the subsequently filed missing part or element was identical to the corresponding extract in the priority document, or a translation thereof.

Although the RO is responsible for the decision on whether the missing part(s) or element(s) was (were) completely contained in the priority document, the examiner must check (as far as the documents needed are available) that the decision taken was correct.

If the EPO is the RO, the examiner is only required to check for additional technical content. This entails ensuring that the missing text has been inserted into the application in such a position that it has exactly the same meaning as it had in the priority document.

If the EPO is not the RO, the identity of drawings and the word-for-word identity of (parts of) the description/claim(s) must also be checked by the examiner (unless the documents needed are not available at this stage).

2.2.2.2 Review by the examiner

If the missing part(s) or element(s) was (were) indeed completely contained in the priority document, the examiner will treat the file as having the filing date accorded by the RO. The examiner will proceed in the same way where he cannot check whether the missing part(s) or element(s) was (were) indeed completely contained in the priority document because, at the time he conducts the search or the preliminary examination, the priority document(s) or any other document needed (i.e. the subsequently filed sheet(s) embodying the missing part(s)/element(s) or the translation of the priority document) is (are) not available to the ISA or IPEA. If the documents needed for the check are not available, this will be indicated in the WO-ISA/IPER, in Section I of the separate sheet.

If the missing part(s) or element(s) was (were) not completely contained in the priority document, the decision on the filing date made by the RO is still valid for the international phase. However, the examiner will indicate in the WO-ISA/IPER in Section I of the separate sheet that there are doubts as to whether the missing part(s) or element(s) was (were) actually completely contained in the priority document. The search report and the WO-ISA or