

For details on the procedure before the EPO as International Searching Authority, see GL/PCT-EPO B-III, 2.3.3. For the procedure before the EPO as designated or elected Office, see GL/EPO C-III, 1.3.

### **6.1 Correct element or part not furnished for the purpose of incorporation by reference**

R. 20.5bis(b) and (c)

The procedure to be followed varies depending on whether the correction is requested either on/before the date on which the requirements under Art. 11(1) for the accordance of an international filing date are fulfilled (see GL/PCT-EPO A-II, 6.1.1) or after that date (see GL/PCT-EPO A-II, 6.1.2).

Since the notification of incompatibility referred to in GL/PCT-EPO A-II, 6 had no impact on the procedure to be followed by the EPO as receiving Office in cases where the applicant did not request incorporation by reference, the processing of these requests has remained unchanged since the withdrawal of the notification of incompatibility.

#### **6.1.1 International filing date has not yet been accorded**

R. 20.5bis(b)

AI 310

GL/RO 203A

If the international filing date has not yet been accorded, the wrong element or part will be replaced with the correct one and the international filing date will be the date on which the requirements under Art. 11(1) are fulfilled, taking into account the correct element or part only. The EPO as receiving Office follows the procedure outlined in AI, section 310.

#### **6.1.2 International filing date has already been accorded**

R. 20.5bis(c)

AI 310 and 310bis

GL/RO 203A and B

If the requirements under Art. 11(1) have already been fulfilled and the international filing date has been accorded, the wrong element or part will be replaced with the correct one and the international filing date will be changed to the date on which the correct element or part was received, unless the applicant requests that the correct element or part be disregarded under Rule 20.5bis(e). The EPO as receiving Office follows the procedure outlined in AI, sections 310 and 310bis.

### **6.2 Correct element or part furnished for the purpose of incorporation by reference**

R. 20.5bis(a)(ii) and (d)

OJ EPO 2022, A71

AI 309

For international applications filed on or after 1 November 2022, the EPO as receiving Office will process requests for incorporation by reference under Rule 20.5bis(d) of the correct element or part. If the requirements of Rules 20.6(b) and 4.18 are fulfilled, the correct element or part will be considered to have been contained in the purported international application on the date on which one or more elements referred to in Art. 11(1)(iii) were first received by the receiving Office, without a change to the international filing date. The wrong element or part, marked as "ERRONEOUSLY FILED (RULE 20.5bis)", will remain in the international application. The EPO as receiving Office follows the procedure outlined in AI, section 309.

R. 19.4(a)(iii)

R. 20.5bis(a)(ii) and (d)

R. 20.8(a-bis)

AI 309(g)

GL/RO 195

For international applications filed until 31 October 2022, if the applicant requests within the time limit under Rule 20.7 that a correct element or part be incorporated by reference, the EPO as receiving Office will transmit the international application to the IB as receiving Office, provided the applicant authorises it to do so. No fee will be charged under Rule 19.4(b) for such transmittal. Unless the applicant has already submitted authorisation to