

provided the missing part(s) and/or element(s) were completely contained in the priority document.

Similarly if applicants appear to have erroneously filed part(s) of the application and/or (an) entire element(s) thereof (i.e. all of the description and/or all of the claims), they may still furnish the correct part(s) and/or element(s) at a later date without affecting the international filing date, subject to the requirements of Rules 4.18 and 20.6(a) and provided the correct part(s) and/or element(s) were completely contained in the priority document (see GL/PCT-EPO A-II, 6).

Rule 20.5bis

The notification of incompatibility filed by the EPO as RO regarding Rule 20.5bis(a)(ii) and (d) (see GL/PCT-EPO A-II, 6) does not have any impact on the activity of the EPO as ISA, which depends on the decisions taken by the RO with regard to the international application and its filing date. Therefore, in cases where the international application was corrected by the RO under Rule 20.5bis, the EPO as ISA will carry out the search on the basis of the international application including the correct element(s) and/or part(s) if:

- (a) the RO notifies it of the correct element(s) and/or part(s) before the start of the search; or
- (b) the RO notifies it of the correct element(s) and/or part(s) after the start of the search (including after its completion) and the applicant pays an additional fee equal to the search fee within one month of the date of the invitation to do so issued by the EPO (Rule 40bis.1 and Article 2(1) RFees) (see GL/PCT-EPO B-III, 2.3.4).

The examiner checks whether the RO's assessment of the "completely contained" criterion was correct (see GL/PCT-EPO H-II, 2.2.2). If the RO erroneously considered that the missing part(s) and/or element(s), or correct part(s) and/or element(s), were completely contained in the priority document, the search should be extended to include documents which would be relevant if the application were to be redated (such documents can be cited as "L" in the ISR).

See also GL/PCT-EPO B-XI, 2.1.

#### **2.3.4 Correct elements or parts notified after the start of the search and additional fee**

The RO may notify the ISA of correct part(s) and/or element(s) after the ISA has begun to draw up the international search report. In such cases, the EPO as ISA will invite the applicant to pay an additional fee equal to the search fee within one month of the date of the invitation (Form 208) (Rule 40bis.1 and Article 2(1) RFees).

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If the EPO as ISA is notified of correct element(s) and/or part(s) after the search has started but before its completion and the additional fee is paid, the EPO will also complete the already initiated search and issue a non-official international search report and written opinion based on the international application as initially submitted. However, the non-official