

Chapter I – Introduction

1. General remark

Chapters C-II to C-IX set out the general procedure for the international preliminary examination under PCT Chapter II, together with guidance on particular matters where necessary. They do not provide detailed instructions on matters of internal administration.

Matters of substantive law, i.e. the requirements which a PCT application must fulfil, are dealt with in Parts F, Part G and Part H.

2. Work of an examiner

See ISPE Guidelines 3.05.

3. Purpose of international preliminary examination

While the search and the accompanying written opinion under Chapter I are mandatory for applicants, examination under Chapter II is optional. *GL/ISPE 3.02, 3.04*

The end product of the PCT procedure is the international preliminary report on patentability (IPRP) Chapter I or Chapter II. This report will be the result: *Rules 44bis and 70*

- i. either of further examination under Chapter II (see below) in the form of an international preliminary examination report (IPER) from the International Preliminary Examining Authority *Rule 70*
GL/ISPE 3.02
- ii. or, if no demand under Chapter II is filed, of the International Bureau's conversion of the WO-ISA into an IPRP of the International Searching Authority, which is made public at 30 months from the priority date or shortly thereafter together with any informal comments submitted by the applicant. Such comments will be annexed to the report. Since no demand for preliminary examination under Chapter II has been filed, there is no re-examination of the WO-ISA. *Rule 44bis*
GL/ISPE 2.18

In its capacity as an International Preliminary Examining Authority (i.e. under Chapter II of the PCT), the EPO is empowered to carry out international preliminary examination (IPE), the objective of which is to formulate a preliminary and non-binding opinion on whether the claimed invention appears to be novel, to involve an inventive step and to be industrially applicable. When appropriate an opinion will also be given on added subject-matter, unity, insufficient disclosure and clarity or support issues, as well as formal defects. *Article 33(1)*
GL/ISPE 19.02

The international preliminary examination does not lead to either a grant or a refusal of a patent; instead, at the end of the procedure, a report – the IPRP Chapter II or IPER – is established. The procedure under Chapter II allows the applicant to submit amendments and arguments in response to the WO-ISA and, if applicable, to a WO-IPEA, which will be taken into account when establishing the report. *Rule 66.1bis(b)*
GL/ISPE 3.19