

FILING MEDIUM FOR ENTERING THE NATIONAL PHASE
BEFORE DESIGNATED OFFICES

1. This non-paper contains revised draft amendments to the PCT Regulations to assist further discussion of certain of the issues raised in relation to document PCT/WG/18/4 Rev. The revisions are indicated using **highlighting**.
2. The issues of concern in Rule 82 included:
 - (a) The availability of non-electronic systems would not help an applicant where the electronic system was not available at the last minute because it would generally already be too late to use them as a useful alternative;
 - (b) The amount of time for which a system must be unavailable was not clear, nor that it is the final day on which the action can be taken which is relevant;
 - (c) Safeguards need to cover payment of fees as well as provision of any documents required by Article 22.
 - (d) The circumstances in which proof might be required, including uncertainty over where a problem might lie (the applicant might not know whether a problem lay with the Office's systems or some other point).

REVISED DRAFT AMENDMENTS
TO THE PCT REGULATIONS

Rule 49

Copy, Translation and Fee under Article 22

49.1 to 49.3 [No change]

49.4 Means of Transmittal to Perform the Acts Referred to in Article 22 ~~Use of National Form~~

(a) Subject to paragraph (b), No applicant shall be required to use a national form when performing the acts referred to in Article 22.

(b) Any designated Office may prescribe requirements for the means of transmittal to perform the acts referred to in Article 22, provided that at least one of the means is easily usable by the applicant without the need to:

(i) have a residence or address in the State of the designated Office;

(ii) appoint an agent having the right to practice before that Office; or

(iii) provide any data beyond the minimum required to identify the international application and communicate with the applicant [or, where applicable, with the agent].

(c) Each designated Office shall notify the International Bureau of any prescribed requirements referred to in paragraph (b). The International Bureau shall publish any notification in the Gazette. Any requirements shall take effect no earlier than two months from their date of publication in the Gazette.

49.5 and 49.6 [No change]

Rule 82

Irregularities in the Mail Service or Electronic Means of Transmittal

82.1 *[No change]*

82.2 Unavailability of Electronic Means of Transmittal

(a) Any interested party may offer evidence that he has tried to furnish a document ~~[and/or pay a fee]~~ in order to meet the time limit of Article 22 or 39(1) by an electronic means of transmittal prescribed under Rule 49.4(b) but that the transmittal was unsuccessful due to the unavailability of that means for ~~[a significant period of time][at least one hour] on the last day prior to the of the expiration~~ of the time limit under Article 22 or 39(1) and no other ~~[electronic]~~ means prescribed by the designated Office was available ~~during the relevant period of at that time period.~~

(b) If the attempted furnishing of a document ~~[and/or the payment of a fee]~~ in accordance with paragraph (a) is proven to the satisfaction of the national Office or intergovernmental organization, the time limit under Article 22 or 39(1) shall be deemed to have been met, provided that the document ~~[and/or the fee]~~ was furnished ~~[or paid]~~ on the next working day on which the said electronic means of transmittal was available. No submission of proof is ~~[generally]~~ required if the unavailability of the electronic means of transmittal was ~~[or should have been]~~ known to the national Office or intergovernmental organization.

[End]