

## **Patent Cooperation Treaty (PCT) Working Group**

**Eighteenth Session**  
**Geneva, February 18 to 20, 2025**

### **PROPOSAL TO TRANSMIT THE COPY OF THE NOTIFICATION OF WITHDRAWAL (FORM PCT/RO/136) TO THE APPLICANT**

*Document submitted by China*

#### **SUMMARY**

1. According to the current rules of the Patent Cooperation Treaty (PCT), if an applicant files a notice effecting withdrawal of the international application under Rule 90*bis*.1, of a designation under Rule 90*bis*.2, or of a priority claim under Rule 90*bis*.3 to the receiving Office (RO), the receiving Office will, upon receipt of the request, transmit a Notification of Withdrawal (Form PCT/RO/136) to the International Bureau, who will notify the applicant (Form PCT/IB/307). During this period, the applicant cannot keep abreast of the processing of the withdrawal request. According to feedback from PCT users, it is proposed to transmit the copy of the Notification of Withdrawal to the applicant, so that receiving Offices willing to provide the relevant service may choose to transmit Form PCT/RO/136 to the International Bureau and the applicant at the same time. In order to do this, it is necessary to modify Form PCT/RO/136, Section 326 of the Administrative Instructions under the Patent Cooperation Treaty (“the Administrative Instructions”) and Chapter XVII of the PCT Receiving Office Guidelines.

#### **CURRENT PRACTICE REGARDING WITHDRAWAL BY THE APPLICANT**

2. According to the current rules of the PCT, if an applicant files a notice effecting withdrawal of the international application under Rule 90*bis*.1, of a designation under Rule 90*bis*.2, or of a priority claim under Rule 90*bis*.3 to the receiving Office (RO), the receiving Office will promptly transmit a Notification of Withdrawal (Form PCT/RO/136) to the International Bureau, who will then notify the applicant of its decision (Form PCT/IB/307). The main provisions are listed below.

### NOTIFICATION OF WITHDRAWAL (FORM RO/PCT/136)

3. Notification of Withdrawal (Form PCT/RO/136) is a notification the receiving Office transmits to the International Bureau when an applicant files a notice at the receiving Office effecting withdrawal of the international application under Rule 90*bis*.1, of a designation under Rule 90*bis*.2, or of a priority claim under Rule 90*bis*.3. Upon receipt of such a notice, the receiving Office marks the date of receipt on the notice of withdrawal and checks whether the withdrawal is effective, that is, whether:

- (a) the notice of withdrawal is received within the time limit referred to in Rule 90*bis*.1(a), 90*bis*.2(a) or 90*bis*.3(a), as the case may be; and
- (b) the notice of withdrawal is signed by or on behalf of the applicants.

### PROVISIONS CONCERNING THE TRANSMITTAL OF NOTICE EFFECTING WITHDRAWAL

4. Section 326 of the Administrative Instructions provides: “(a) The receiving Office shall promptly transmit to the International Bureau any notice from the applicant effecting withdrawal of the international application under Rule 90*bis*.1, of a designation under Rule 90*bis*.2 or of a priority claim under Rule 90*bis*.3 which has been filed with it together with an indication of the date of receipt of the notice. If the record copy has not yet been sent to the International Bureau, the receiving Office shall transmit the said notice together with the record copy.”

5. Paragraph 322 in Chapter XVII of the PCT Receiving Office Guidelines provides: “The receiving Office promptly transmits to the International Bureau any notice effecting a withdrawal under Rule 90*bis*.1, 90*bis*.2 or 90*bis*.3 (Form PCT/RO/136), of any notice effecting a withdrawal of kinds of protection (Form PCT/RO/132), with an indication of the date of receipt of the notice.”

### PROBLEMS

6. Since the withdrawal will have an important impact on the legal status of the PCT international application, applicants are generally concerned about the processing of such documents. At present, Form PCT/RO/136 is only transmitted to the International Bureau, which, upon receipt of the Form PCT/RO/136, will issue Form PCT/IB/307 to inform the applicant and other relevant Offices of the status of the withdrawal. During the period between the receipt of the applicant’s notice effecting withdrawal by the receiving Office and the transmittal of Form PCT/RO/136 to the International Bureau, the processing of documents is not transparent. When the China National Intellectual Property Administration (CNIPA) carried out a survey of PCT users, some enterprises raised this issue and hoped that it would be possible to transmit the copy of notification of withdrawal (Form PCT/RO/136) to the applicant.

### PROPOSAL TO TRANSMIT THE COPY OF THE NOTIFICATION OF WITHDRAWAL (FORM PCT/RO/136) TO THE APPLICANT

7. Accordingly, it is proposed to transmit the copy of notification of withdrawal (Form PCT/RO/136) to the applicant. For those receiving Offices which are willing to provide the relevant services, the receiving Offices may choose to send the Form PCT/RO/136 issued by them to the International Bureau and the applicant at the same time.

8. For this purpose, it is proposed to adjust Form PCT/RO/136, Section 326 of the Administrative Instructions and Chapter XVII of PCT Receiving Office Guidelines, as follows:

- (a) Revise Form PCT/RO/136. It is proposed to add an optional box to be ticked by receiving Offices wishing to provide the relevant services: “4. A copy of this notification is transmitted to the applicant.” at the bottom of the form. A remark may be added as well: “This is not final notification, and the final decision is subject to the notification made by the International Bureau.”;

(b) Revise Section 326 of the Administrative Instructions. It is proposed to add a new paragraph: “(e) If the Receiving Office so wishes, it may transmit Form PCT/RO/136 to the applicant by ticking the relevant box in Form PCT/RO/136.”;

(c) Revise Chapter XVII of PCT Receiving Office Guidelines. It is proposed to add a new paragraph: “324A. If the receiving Office is willing to do so, it can tick the relevant column in Form PCT/RO/136 and transmit the copy of Form PCT/RO/136 to the applicant.”

## **BENEFITS AND FEASIBILITY**

9. From the perspective of necessity, the proposal comes from the demand of PCT users, which can enable applicants to be informed of the processing of withdrawal in a timely manner. This increases the transparency of the processing of PCT applications and conforms to the concept of providing users with more convenient and efficient high-quality services under the PCT System.

10. From the perspective of feasibility, the transmission of Form PCT/RO/136 to the International Bureau and the applicant at the same time does not make any adjustment to the work of the International Bureau in transmitting Form PCT/IB/307, and it is only for those receiving Offices that have the conditions and the will to do so. It is not mandatory and therefore has no impact on other aspects of the PCT System.

11. *The Working Group is invited to consider:*

*(i) the proposed modifications to Form PCT/RO/136 in Annex I to this document;*

*(ii) the proposed modifications to the Administrative Instructions in Annex II to this document; and*

*(iii) the proposed modifications to the Receiving Office Guidelines in Annex III to this document.*

[Annexes follow]

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

**PCT**

NOTIFICATION OF WITHDRAWAL  
(PCT Administrative Instructions, Section 326)

To:

The International Bureau of WIPO  
34, chemin des Colombettes  
1211 Geneva 20  
Switzerland

Applicant's or agent's file reference	Date of mailing (day/month/year)
International application No.	International filing date (day/month/year)
Applicant	

1. The receiving Office hereby transmits a notice effecting withdrawal received from the applicant on:

\_\_\_\_\_

2. The withdrawal concerns:

the international application

the following designations of States:

for an ARIPO patent (AP)  
*(if the withdrawal concerns only some States, specify those States by indicating the two-letter country codes):*

all States designated for a Eurasian patent (EA)

for a European patent (EP)  
*(if the withdrawal concerns only some States, specify those States by indicating the two-letter country codes):*

all States designated for an OAPI patent (OA)

for a national patent *(specify the States by indicating the two-letter country codes):*

the priority claim *(if multiple priorities have been claimed, specify the priority claim(s) to which the withdrawal relates):*

3.  A copy of this notification is being sent to the International Searching Authority.

4.  **A copy of this notification is transmitted to the applicant. (This is not final notification, and the final decision is subject to the notification made by the International Bureau.)**

Name and mailing address of the receiving Office	Authorized officer
Facsimile No.	Telephone No.

Form PCT/RO/136 (~~October 1996; reprint January 2004~~ Draft for comments)

[Annex II follows]

DRAFT MODIFICATIONS TO THE ADMINISTRATIVE INSTRUCTIONS  
UNDER THE PATENT COOPERATION TREATY

**Section 326**

**Withdrawal by Applicant under Rule 90*bis*.1, 90*bis*.2 or 90*bis*.3**

(a) to (d) [No change]

(e) If the Receiving Office so wishes, it may transmit Form PCT/RO/136 to the applicant by ticking the relevant box in Form PCT/RO/136.

[Annex III follows]

DRAFT MODIFICATIONS TO THE PCT RECEIVING OFFICE GUIDELINES

**CHAPTER XVII  
WITHDRAWAL OF THE INTERNATIONAL APPLICATION,  
ANY DESIGNATION OR ANY PRIORITY CLAIM**

**Receipt of Notice Effecting Withdrawal of the International Application, Any Designation  
or Any Priority Claim under Rule 90*bis*.1, 90*bis*.2 or 90*bis*.3**

314 to 321. *[No change]*

**Transmittal of Notice Effecting Withdrawal**

322 to 324. *[No change]*

[324A. If the Receiving Office is willing to do so, it can tick the relevant column in Form PCT/RO/136 and transmit the copy of Form PCT/RO/136 to the applicant.](#)

[End of Annex III and of document]