Entry into the National Phase

Correction of Translation

8. Where the translation of the international application contains an error, that error may be rectified by the applicant during the national phase before all designated Offices with the exception of the national Office of the Republic of Korea (which does not allow for such correction).

9. The scope of the translation of the international application may not, however, exceed the scope of the international application in its original language. Where, for example, as a result of incorrect translation, the scope of the international application in the language of the translation is narrower than in its original language, that scope may be broadened but must not exceed the original scope. Where the scope of the translation is broader than that of the international application in its original language, the designated Office or any other competent authority of the designated State may limit accordingly the scope of the international application or of a patent resulting from it (Article 46).

Amendments in the National Phase

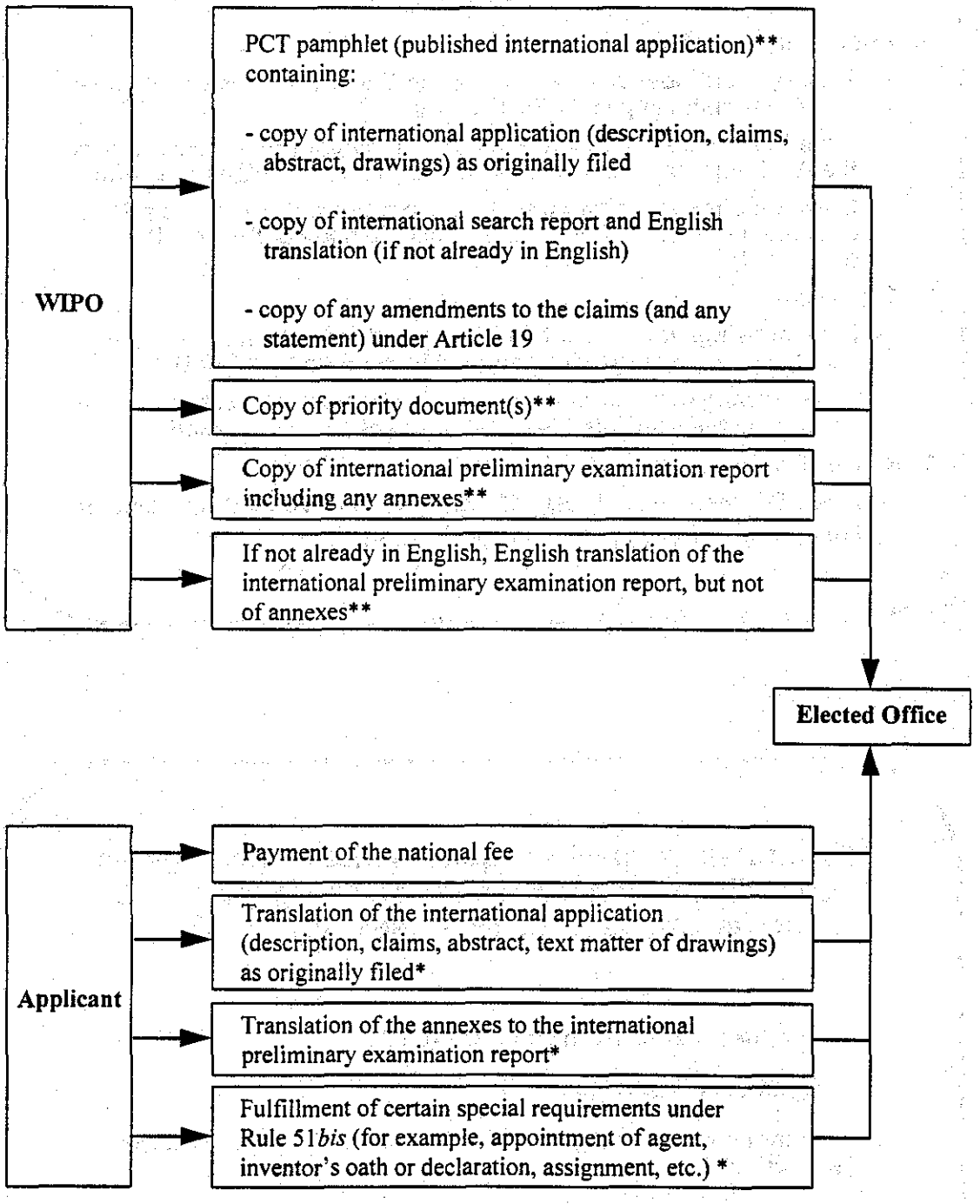
10. The PCT guarantees the applicant the opportunity to amend the description, the claims and the drawings before any designated or elected Office. Thus, in addition to any amendments made in the international phase, further amendments may be filed upon entering the national phase or within a prescribed time limit thereafter.

Legal Remedies; Protection Against Loss of Rights

11. Where, as a result of a mistake which was not timely corrected, an international application is considered withdrawn, the applicant may request review of that decision by each of the designated Offices. In addition to requesting review, the applicant has the opportunity to submit at the same time, to each designated Office, a request for excuse of failure to comply with a time limit. The legal basis of, and the conditions for, such a request are to be found in the applicable national law or regional convention, which applies equally to international applications. Where that law or convention provides for reinstatement, this can be requested. Where there is a possibility of requesting further processing of the application, this can also be done. Procedural safeguards are thus available in each designated State to PCT applicants in the same way as they are to applicants for national or regional applications not made via the PCT.

XV.5

Entry into the national phase under Chapter II before the elected Offices (within 30 months from the priority date)*



* For further details on the requirements and time limits applicable in a particular elected Office, see the relevant national chapter in Volume II of the *PCT Applicant's Guide*.

** Copies of the pamphlet and priority document(s) are sent, depending on the Office concerned, either during the international phase or, upon request from the Office to the International Bureau, after the applicant has entered the national phase.

Mistakes to avoid in entering national phase

1. Failure to monitor time limits for entering national phase
2. Failure to make necessary indications that application is entering the national phase, i.e., that it is not a direct national filing
3. Incorrect or incomplete translation of the international application (subject matter added and/or deleted)
4. Failure to pay the required fees

SUMMARY

Designated (or elected) Office

SUMMARY

JP

JAPANESE PATENT OFFICE

JP

Summary of requirements for entry into the national phase

Time limits applicable for the entry into the national phase:	Under PCT Article 22: 20 months from the priority date Under PCT Article 39(1): 30 months from the priority date
Translation of international application required into:[1]	Japanese
Required contents of the translation for the entry into the national phase:[1]	Under PCT Article 22: Description, claims (if amended, as originally filed or as amended, or both as originally filed and as amended, at applicant's option[2]), any text matter of drawings, abstract Under PCT Article 39(1): Description, claims, any text matter of drawings, abstract (if any of those parts amended, both as originally filed and as amended by the annexes to the international preliminary examination report[2])
Is a copy of the international application required?	No. However, where the international application was filed in Japanese, a copy of any amendments under PCT Article 19 may be required.
National fee:[3]	Currency: Yen (JPY) For patent: Filing fee: JPY 21,000 For utility model: Filing fee: JPY 14,000
Exemptions, reductions or refunds of the national fee:	None, but the fee for request for examination is reduced, where an international search report has been established
Special requirements of the Office (PCT Rule 51bis):	When the applicant is a legal entity, indication of the name of an officer representing that entity[4] Appointment of an agent if applicant is not resident in Japan[5] If no inventor has been indicated in the "Request" part of the international application, name and address of the inventor and a document of assignment[6]

[continued on next page]

1 Must be furnished within the time limit applicable under PCT Article 22 or 39(1).

2 Where no translation of amendments is filed, the amendments are considered not to have been made. However, amendments may be made at the time the applicant makes a request for examination or thereafter as specified in paragraph JP.10 of the National Chapter JP.

3 If not already paid within the applicable time limit under PCT Article 22 or 39(1), the Office will invite the applicant to pay the national fee within a time limit fixed in the invitation.

4 If not already complied with within the time limit applicable under PCT Article 22 or 39(1), the Office will invite the applicant to comply with the requirement within a time limit fixed in the invitation.

5 Must be appointed within three months after the expiration of the time limit applicable under PCT Article 22 or 39(1); there will be no invitation.

6 Must be furnished within the time limit applicable under PCT Article 22 or 39(1); if not furnished, the Office will invite the applicant to comply with the requirement within a time limit fixed in the invitation.

SUMMARY — Designated (or elected) Office — SUMMARY

JP — JAPANESE PATENT OFFICE — JP

[continued]

Special requirements of the Office (PCT Rule 51bis) [continued]:	Where the person of the applicant is changed after the international filing date, the document of assignment or other document proving the entitlement to file the application[7] Where the name of the inventor is changed (addition and/or deletion of the name of the inventor) after the international filing date, a document of assignment, a written oath of all inventors, a national form paper containing the correct indications concerning the inventor as well as a statement explaining the reason of the change and evidence for the facts contained in the statement[7]
Who can act as agent?	Any patent attorney or attorney at law or other person, resident in Japan

[7] Must be furnished within the time limit applicable under PCT Article 22 or 39(1); if not furnished, the Office will invite the applicant to comply with the requirement within a time limit fixed in the invitation.

SUMMARY **Designated (or elected) Office** SUMMARY

EA EURASIAN PATENT OFFICE (EAPO) EA

Summary of requirements for entry into the national phase

Time limits applicable for the entry into the national phase:	Under PCT Article 22: 21 months from the priority date Under PCT Article 39(1): 31 months from the priority date
Translation of international application required into:[1]	Russian
Required contents of the translation for the entry into the national phase:[1]	Under PCT Article 22: Description, claims (if amended, as amended only), any text matter of drawings, abstract Under PCT Article 39(1): Description, claims, any text matter of drawings, abstract (if any of those parts amended, only as amended by the annexes to the international preliminary examination report)
Is a copy of the international application required?	No
National fee:	Currency: US Dollar (USD) Unitary procedural fee (for filing, search, publication and other processing):[2] USD 800[3] Claim fee for each claim in excess of ten:[2] USD 50[3] Examination fee: USD 800[3] Maintenance fees:[4]
Exemptions, reductions or refunds of the national fee:	The unitary procedural fee is reduced by 25% where an international search report has been established
Special requirements of the Office (PCT Rule 51bis):[2]	Name and address of the inventor if they have not been furnished in the "Request" part of the international application Appointment of an agent if applicant has neither a residence nor his principal place of business within the territory of one of the States party to the Eurasian Patent Convention
Who can act as agent?	Any legal practitioner qualified to practice in patent matters in one of the States party to the Eurasian Patent Convention and inscribed in the register of patent attorneys kept in the Office

1 Must be furnished within two months from the expiration of the time limit applicable under PCT Article 22 or 39(1).

2 If not already complied with within the time limit applicable under PCT Article 22 or 39(1), the Office will invite the applicant to comply with the requirement within a time limit fixed in the invitation.

3 This fee is reduced by 80% where the applicant or, if there are two or more applicants, each applicant is a national and resident of any of the States mentioned in the footnote relating to the basic and designation fees to Annex C(IB) in Volume I/B. The reduction is not applicable to the legal entities whose ownership capital contains direct or indirect investments from persons who are nationals or residents of States other than those mentioned above.

4 The amounts of the fees for maintenance of a Eurasian patent with respect of each State party to the Eurasian Patent Convention are as fixed by each State. These fees are payable to the Office for each State in which the patent owner wishes the effect of the patent to continue, in each of the years following the grant by the anniversary of the international filing date.

National requirements simplified for PCT applications

1. Priority document
   - The applicant does not need to furnish the priority document since the IB transmits copies to the DO/EOs
   - If the DO/EO has not received a copy of the priority document from the IB, it must request a copy from the IB (not from the applicant)
   - Brazil requires a certified translation into Portuguese of the priority document (attached to it must be a simple copy of the priority document)
2. Drawings
   - If the drawings do not contain any text matter to be translated, a simple copy of the drawings as filed is required by a few DOs
   - If the drawings contain text matter to be translated, a set of drawings containing the translated text matter needs to be furnished
3. No certified translation of the international application
   - A few Offices (e.g., AU, GB, NZ, SG) require a "verified" translation
   - Otherwise, a simple translation is required

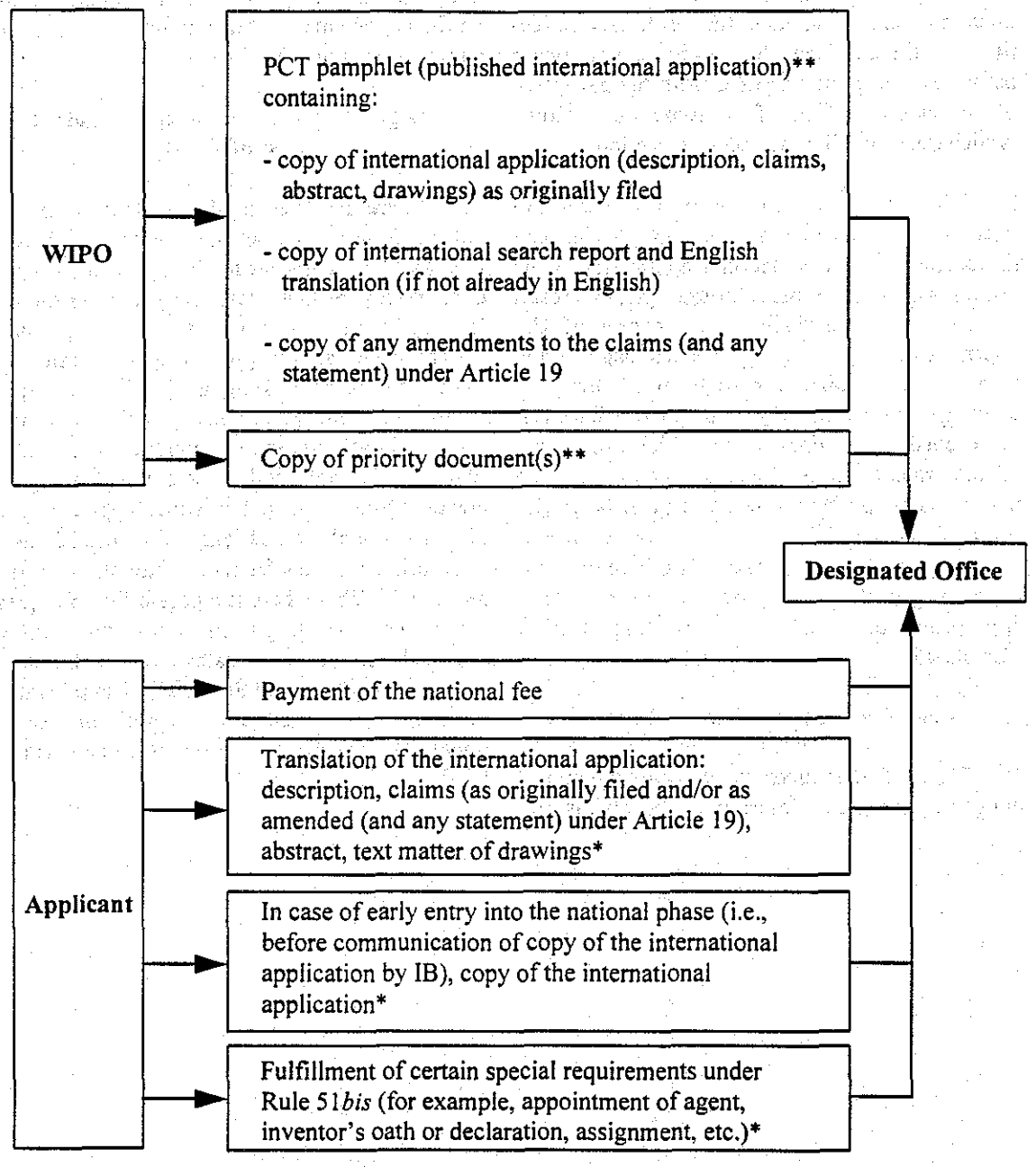
Singapore

Examples of special requirements which may be complied with after expiration of the time limit under Article 22 or 39(1) (see Rule 51*bis*)

1. Oath or declaration by the inventor (US)
2. Assignment documents
3. Appointment of local agent and submission of power of attorney (e.g., EP, JP)
4. Furnishing of the translation or other documents relating to the international application in more than one copy (e.g., EP: 3 copies of translation)
5. Certified translation of the international application (may be required by the examiner during national examination)

XV.4

Entry into the national phase under Chapter I before designated Offices (within 20 months from the priority date)*



* For further details on the requirements and time limits applicable in a particular designated Office, see the relevant national chapter in Volume II of the *PCT Applicant's Guide*.

** Copies of the pamphlet and priority document(s) are sent, depending on the Office concerned, either during the international phase or, upon request from the Office to the International Bureau, after the applicant has entered national phase.

National Phase

1. The national phase follows the international phase. Before processing and examination may start in the national phase in the designated or elected Offices, the applicant must perform certain acts thereby effecting "entry into the national phase". If the applicant does not enter the national phase, namely, if he does not perform these acts within the prescribed time limit, the international application loses its effect in the designated or elected States concerned with the same consequences as the withdrawal of any national application in that State (Article 24).

Basic Requirements for Entry into the National Phase

2. For entry into the national phase before a designated or elected Office, it is necessary that the national fee be paid to it and, where the international application has not been filed or published in the official language, or one of the official languages, of that Office, that a translation into an official language be filed. This must be done within a certain time limit, which is different depending on the circumstances: if the designated State concerned has been elected for the purpose of international preliminary examination within 19 months from the priority date, the time limit is 30 months from the priority date; in all other cases (i.e., if the designated State concerned has been elected after 19 months from the priority date or if the Chapter II procedure has not been used, or does not apply, in relation to that designated State), the time limit is 20 months from the priority date. The time limits for entry into the national phase are, in some Offices, even longer than 20 or 30 months. See Volume II of the *PCT Applicant's Guide* for further information.

3. The national fees to be paid are usually about the same as the fees required for the filing of a national or regional application. Some Offices, however, levy lower national or regional filing, search or examination fees, or refund certain fees, on account of the existence of the international search report or where an international preliminary examination report has been established. This offsets, at least partly, the costs of filing an international application.

4. Where the original drawings are of a good quality, the applicant is not required to file additional formal drawings with the designated or elected Offices, permitting substantial economies in some cases. It is therefore important to file drawings with the receiving Office that fully comply with the formal requirements of the Regulations under the PCT.

5. Where the priority of an earlier application is claimed and a certified copy of that application has been provided, it is not necessary to submit a certified copy of the priority document to each designated or elected Office. The International Bureau sends any required copies of the priority document to the Offices concerned.

Additional Special Requirements

6. Apart from the payment of the national fee and, where necessary, the filing of a translation, no designated or elected Office may require compliance with further requirements within the 20 or 30-month time limit. Certain additional requirements, such as appointment of an agent, indication of an address for service of notifications, declaration of inventor, assignment documents, and the like, are allowed, but the applicant must be given the possibility of complying with those additional requirements after the expiration of the time limits mentioned above.

Substantive Conditions of Patentability

7. The PCT leaves to each Contracting State freedom to prescribe the substantive conditions of patentability applied in the national phase. This is particularly true of what constitutes "prior art". However, since the requirements of prior art as defined in the PCT and its Regulations for the purposes of the international phase are generally as strict as, or stricter than, those defined in any national law, there is very little likelihood of unpleasant surprises of this kind occurring in the national phase. On the other hand, the PCT does not prevent any national law from requiring the applicant to furnish, in the national phase, evidence in respect of any substantive condition of patentability prescribed by that law.