



Europäisches
Patentamt
European
Patent Office
Office européen
des brevets

Speed of processing at the EPO

Timely delivery of quality products



John Beatty



EPO



September 18th, 2017

Agenda

- Early certainty: 6 / 12 / 15
- Accelerating & shortening the procedure: Your choices!
- Quality

Early Certainty across all processes

6

Searches
issued within
months

... including **written opinion**

12

Average
examination
months

... **median** time to grant (IGRA)

15

Standard
opposition
months

... **median** time to decision

Maximising **legal certainty** for the benefit of all

- Key to our **mission**:

*“as EPO, we support innovation, competitiveness and economic growth across **Europe** ...”*

- **Better for applicants:**

- knowing what your invention is worth, and so do investors
- allows timely and well reasoned decision making

- **Better for the public:**

- overview on prior art and patentability very early
- no blind spots in European IP

Why Early Certainty **now**?

- EPO's historical number 1 user complaint:
Timeliness!
- **We can do it now**
 - quality framework in place
 - improved efficiency
 - stocks and manpower allow it
- A response to **shortening of product life cycles**



Early Certainty from **examination**

- **Step-by-step** towards optimisation by 2020
- “Paris Criteria” of 1999: **Average** time to grant of **3 years**
- Translates to: Examination **on average** in **12 months**

12 months = time from valid examination request to proposal of grant published in file inspection

Overall Duration	Goal
✓ EP direct (1 st and 2 nd filings)	36 months
✓ E-PCT (EPO is ISA)	49 months
✓ E-PCT (EPO is not ISA)	61 months
✓ Divisional applications	24 months

Early Certainty: Some feedback from users



“In principle, nobody can be negative about Early Certainty.”

“Early Certainty for applicants and for third parties as to whether a patent application will be granted is, generally speaking, a positive thing.”

“A year of delay in grant can be fatal for a start-up seeking funding.”

“49 months from filing to grant gives sufficient time to effectively protect the invention.”

“There are situations where we are interested in our patent being granted later to protect our invention as effectively as possible.”

“After the patent is granted significant validation costs are due.”

Early Certainty: An **average** of 12 months examination

- Quality is **always** in first place
- One size does **not** fit all
- All applications are treated **individually**
 - number of exchanges is case dependent
 - predictable and consistent outcome at EPO quality standard
- An **average** of 12 months
 - Circa 48% of grants issued with first examination action
 - with Early Certainty: Issued on average in under 6 months
 - Flexibility to take longer as necessary, e.g.
 - to take account of post filing data
 - complicated cases

Performance management: results & actions



Increased production:

- 2015: **+14%**
 - 2016: **+8.5%**
-



Increased capacity:

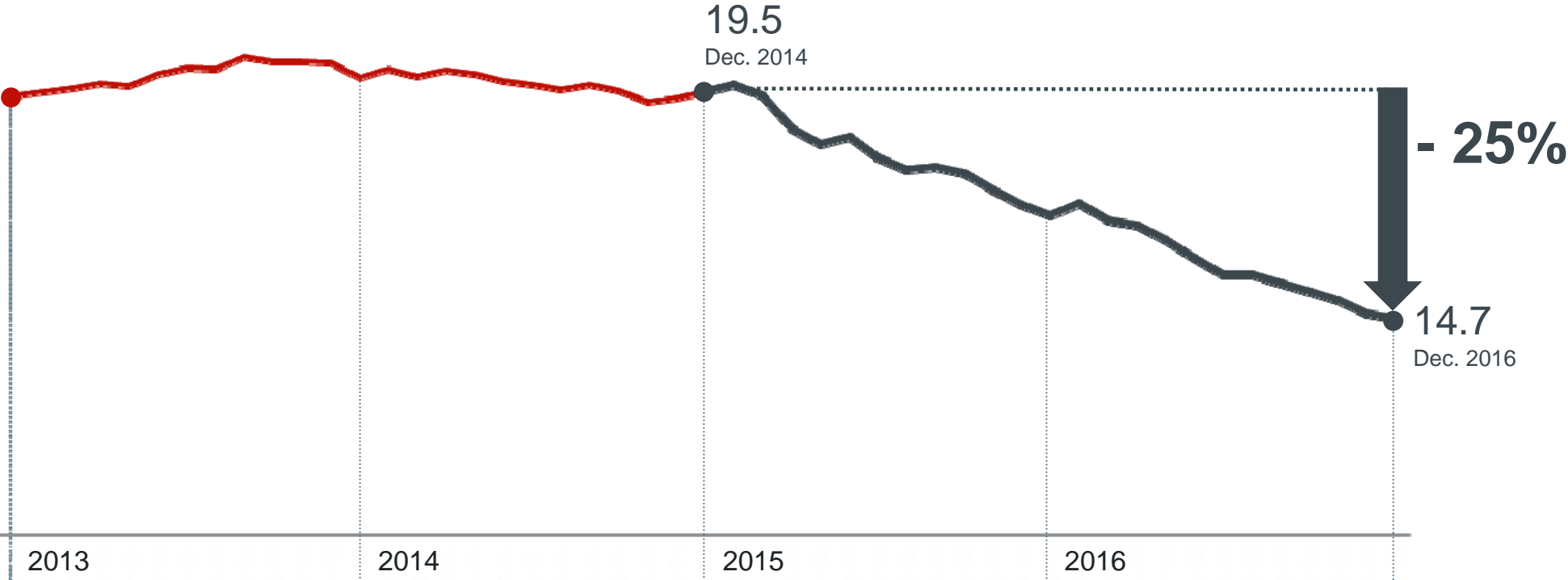
- circa **90%** of examiner time spent on search, examination and opposition
-



Management actions:

- focusing examiner efforts on search, examination and opposition
- expansion of part-time home working
- continuous training
- streamlining of the patent grant procedures

Stock in months of work (Search + Exam + Oppo)



Early Certainty is happening already ...

Goal	Actual*	Progress
6 Searches issued within months	4.9 months	Goal accomplished!
12 Average examination months	22.6 months	Gradual improvement – volumes are a challenge
15 Standard opposition months	23.7 months	Rapid improvement due to streamlined procedure

* September 2017

Early Certainty – early masters

Some Directorates master the timeliness already **now**:

Search Timeliness	Examination Timeliness	EP Examination Euro Direct	EP Examination Euro Divisionals
Actual Target	Actual Target	Actual Target	Actual Target
4.1 6.0	8.3 12.0	31.0 36.0	12.0 24.0

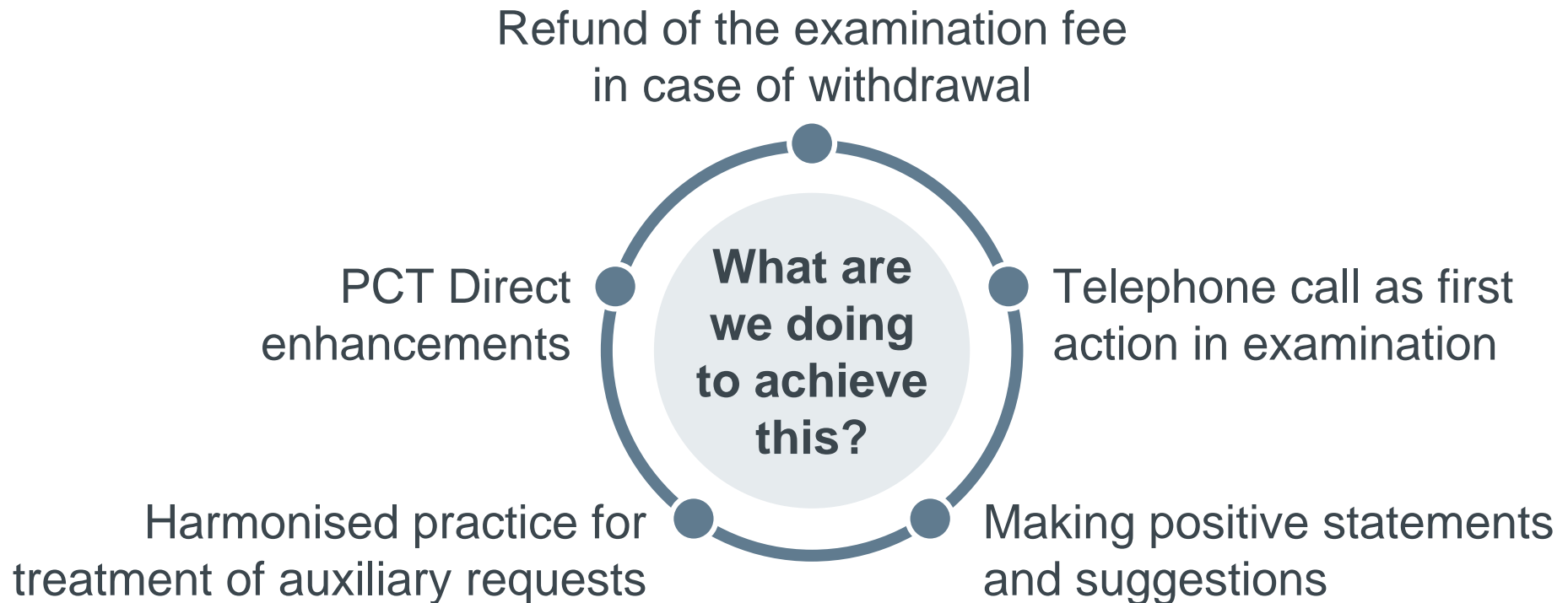
Early Certainty – total pendency today

	Actual*	Goal	Workload share
EP direct (1 st & 2 nd filings)	51.9 months	36 months	26%
Euro-PCT (EPO is ISA)	66.0 months	49 months	31%
Euro-PCTbis (EPO is not ISA)	73.9 months	61 months	32%
Divisionals	31.2 months	24 months	11%

Total pendency: from priority date (divisionals: date of receipt) until the first public announcement of the grant, median duration in months

* September 2017

Early Certainty from examination: 12 months **average** examination



Early Certainty from **opposition**

- **15-month timeline:**

- applies to **standard** cases: **One** opponent, **no** witness hearings, **no** legal complications
- extension of time limits only **exceptionally**

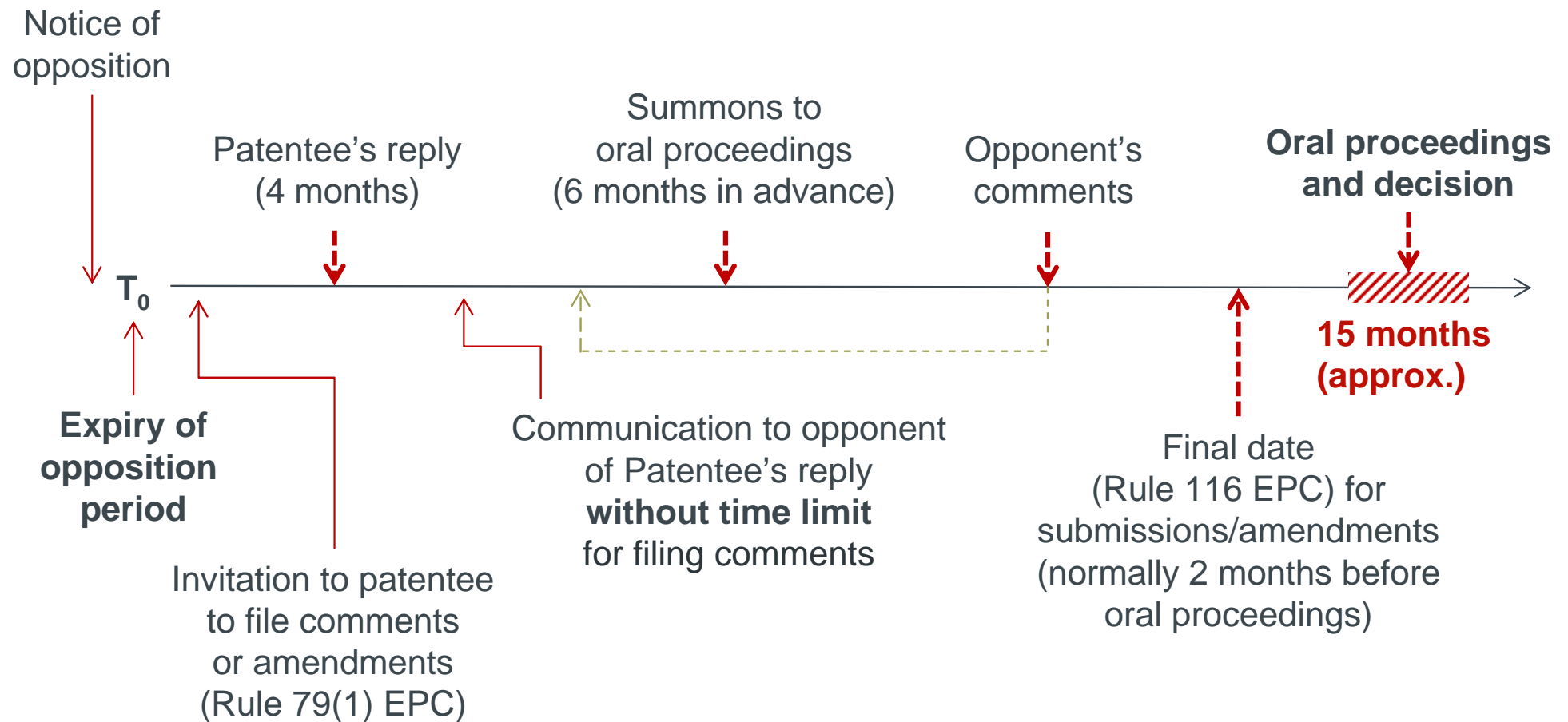
- **Parallel processing:**

- observations and/or amendments filed by the patentee are communicated to the **opponent** for information
- file forwarded to the **opposition division** for preparing the next action

- **Swift decision process:**

- **more** summoning to **oral proceedings** at the instance of the EPO
- summons are dispatched at least six months in advance
- final date for submissions: two months before oral proceedings

Early Certainty from **opposition**: The workflow



Early Certainty from **opposition**: Indicators

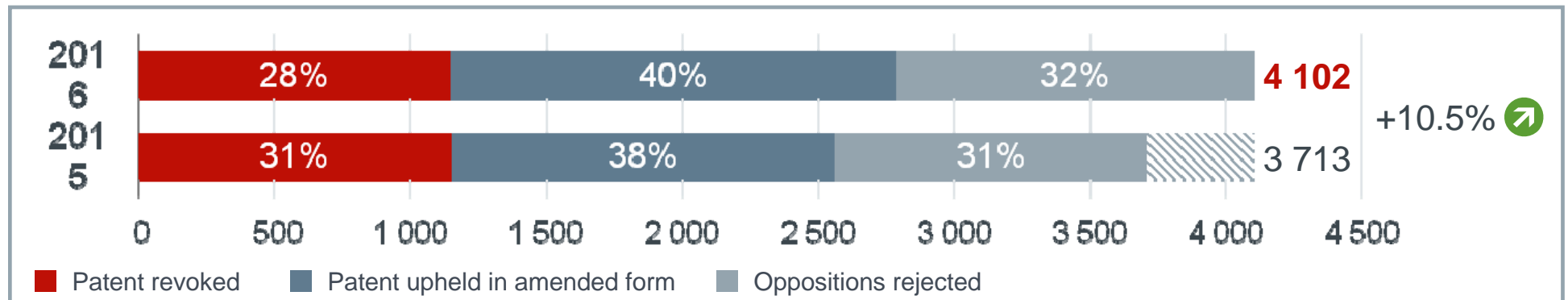
Opposed patents



Opposition rate

2012	2013	2014	2015	2016
4.7%	4.5%	4.7%	4.4%	4.0%

Outcome of decisions



Agenda

- Early Certainty: 6 / 12 / 15
- Accelerating & shortening the procedure: Your choices!
- Quality

Accelerating & shortening the procedure

Flexibility

- **You** decide when to accelerate and shorten the procedure
- **Your** choices!
 - **Waivers** (shortening the procedure)
 - **PACE** (accelerated processing)
 - **EPO as ISA** (shortening the procedure)
 - **PCT Direct** (increasing chances of a positive outcome)
 - **Early Entry into the European phase** (shortening the procedure)
 - **Patent Prosecution Highway** (sharing positive examination results)

Accelerating & shortening the procedure: **Your choice!**

You choose to accelerate the procedure using PACE

▶ receive examination communications within **3 months!**

You choose to waive the period of 6 months for further amending the application on own volition upon entry into the European phase

▶ advance processing by **6 months!**

You choose to waive the opportunity to confirm whether you wish to proceed with the application after search

▶ advance processing by **6 months!**

You choose early entry into the European phase

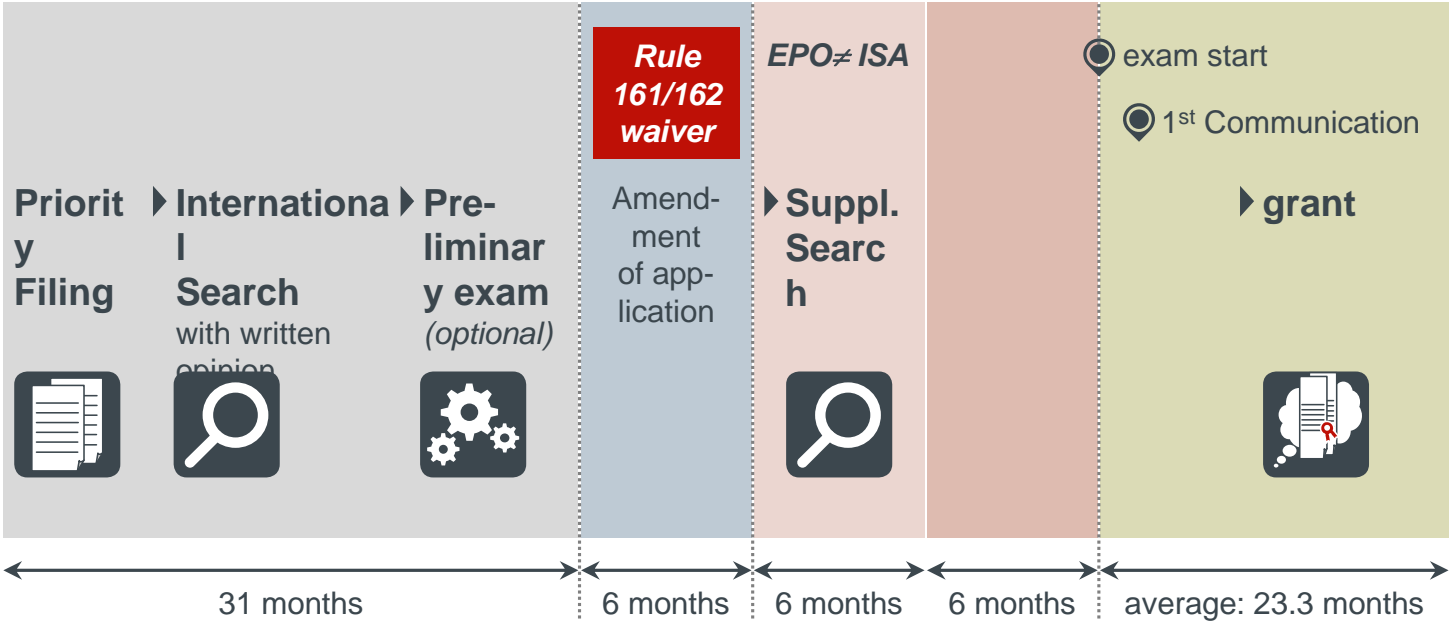
▶ advance processing by **up to 13 months!**

You choose to waive the opportunity to receive a further communication following filing amendments/corrections after receiving an intention to grant after PCT

▶ Save processing by **4 months!**

Waive the period of 6 months for further amending the application on own volition

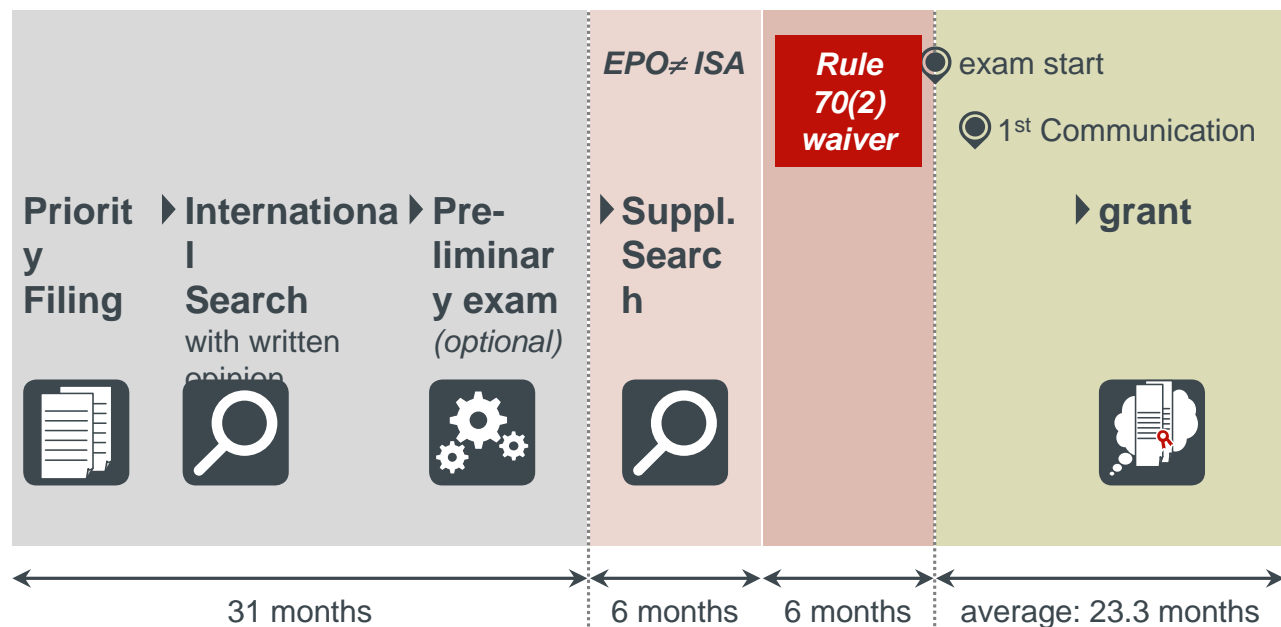
Your choice: Save 6 months



Rule 161/162 waiver ✓

Waive the opportunity to indicate whether you wish to proceed with the application after search

Your choice: Save 6 months

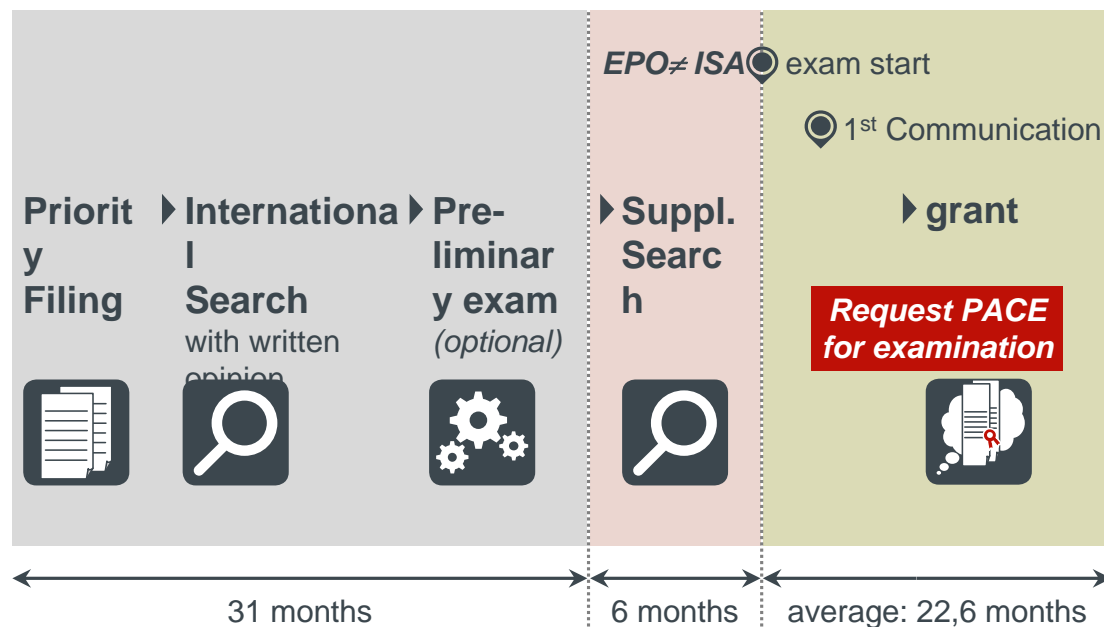


Rule 161/162 waiver ✓

Rule 70(2) waiver ✓

Request accelerated examination with PACE

Your choice: Communications issued within 3 months!
 No fee; no justification; non-public



Rule 161/162 waiver ✓

Rule 70(2) waiver ✓

Request PACE for examination ✓

Choose the EPO as International Search Authority

Your choice: No supplementary search required = save 6 months



- Rule 161/162 waiver ✓

- Rule 70(2) waiver ✓

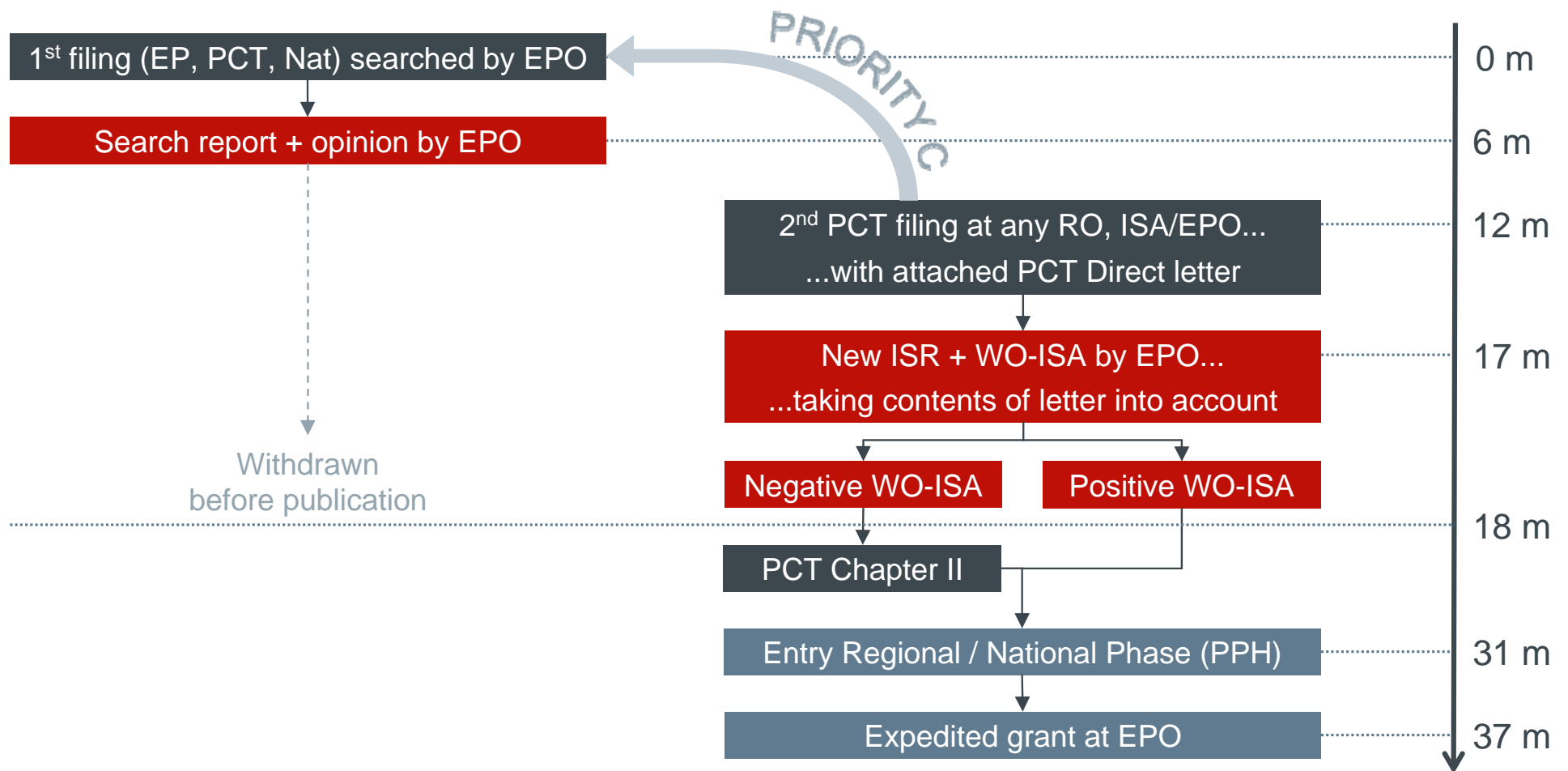
- Request PACE for examination ✓

- EPO is ISA ✓

PCT Direct

- **You file a 1st filing application searched by EPO**
- **You file a PCT application with EPO as International Search Authority** claiming priority from the 1st filing application
- **You reply and amend your PCT application** in response to the 1st search report and opinion established by the EPO
- **EPO establishes the search report and written opinion on the basis of your reply** and addressing the points raised **by you** therein

PCT Direct timeline



Your cost-effective strategy?

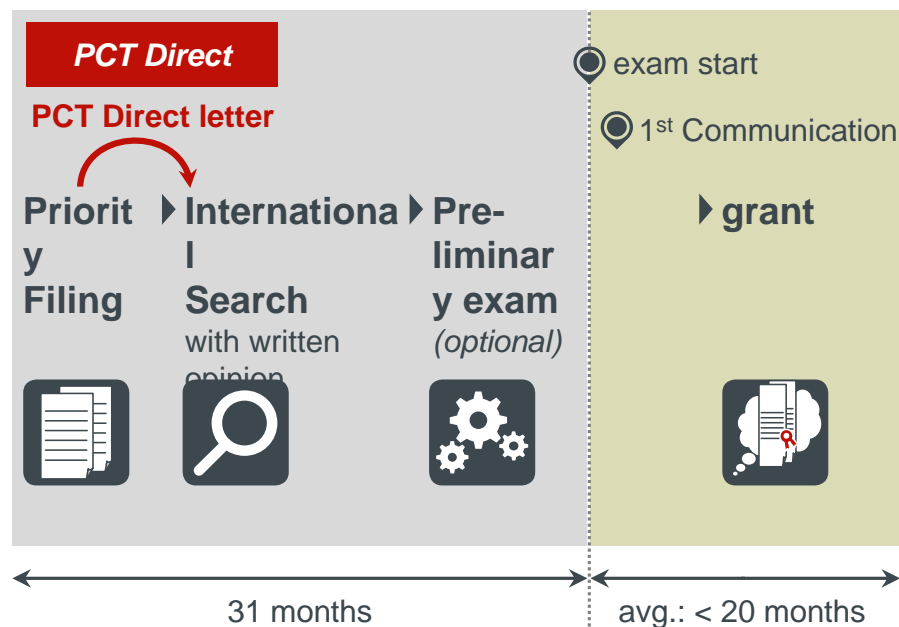
- **YES, low cost for global fast-track**
- Search fee **refund** for 2nd searched application!
 - **100%** refund if first filing search **fully** reused in 2nd search
 - **25%** refund if first filing search **partially** reused in 2nd search

1 st EP filing at EPO	▶	Search fee: €1 300
2 nd PCT filing at any RO, ISA/EPO with PCT Direct letter	▶	Search fee: €0

- Faster grant may lead to **savings on EPO renewal fees**

Priority examination after positive WO-ISA

Your choice: Use PCT Direct to maximise chances



- Rule 161/162 waiver ✓

- Rule 70(2) waiver ✓

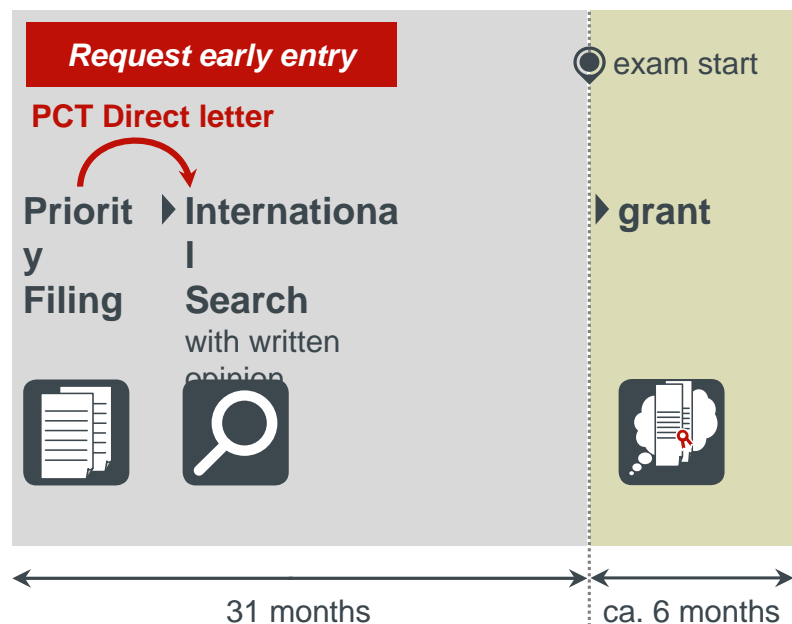
- Request PACE for examination ✓

- EPO is ISA ✓

- PCT-Direct ✓

Request early entry into the European phase

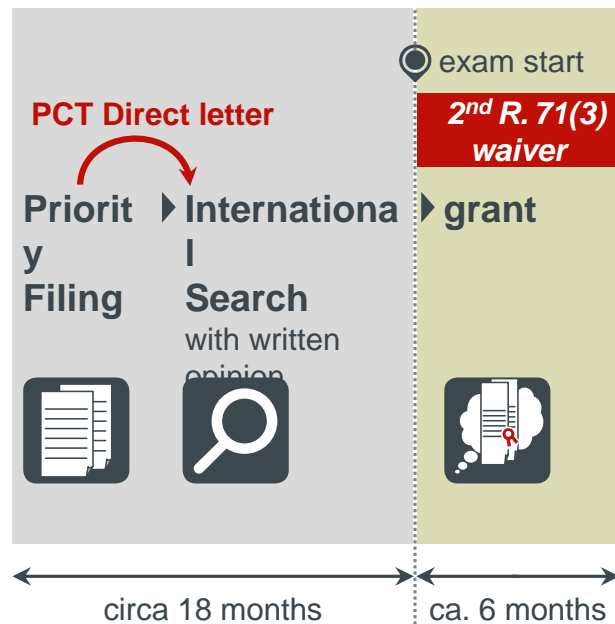
Your choice: Save up to 13 months after publication



- Rule 161/162 waiver ✓
- Rule 70(2) waiver ✓
- Request PACE for examination ✓
- EPO is ISA ✓
- PCT-Direct ✓
- Request for early processing ✓

Streamline final stage of grant

Your choice: Waive the right to a 2nd R.71(3) communication after corrections



Rule 161/162 waiver ✓

Rule 70(2) waiver ✓

Request PACE for examination ✓

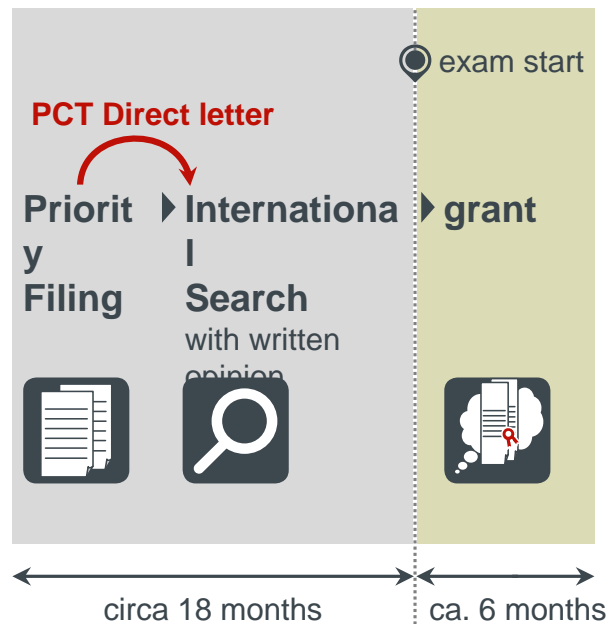
EPO is ISA ✓

PCT-Direct ✓

Request for early processing ✓

2nd Rule 71(3) waiver ✓

Export your invention all over the world with Patent Prosecution Highway



Agenda

- Early Certainty: 6 / 12 / 15
- Accelerating & shortening the procedure: Your Choices!
- **Quality**

Quality is enshrined in the EPC



Three-member examining divisions
(Article 18 EPC)



Third-party observations
(Article 115 EPC)



Applicants' right to be heard
e.g. oral proceedings (Article 116 EPC)



Oppositions
Three-member opposition divisions (Article 19 EPC)



The right to appeal EPO decisions (Article 106 EPC)
The Boards of Appeal is an independent body

The EPO Quality Policy

- Sets the official statement of the EPO about its intentions regarding quality
- Commits the EPO to continually improve its products and services
- Keystone of the quality management system



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The EPO Quality Policy

The EPO is dedicated to meeting or exceeding its stakeholders' needs and expectations and to remaining global quality leader in patent products and services. The performance and reliability of the EPO are based on the professional competence and personal responsibility of its management and staff. The management and staff commit themselves to the following principles:

Legal certainty The users of the European patent system expect that patents granted by the EPO have the highest presumption of legal validity. The EPO therefore grants patents and provides decisions fully consistent with the applicable legal framework, in particular the requirements of the EPC and other international treaties, in both an efficient and timely manner.	Involvement The EPO has a culture that encourages and empowers management and staff to participate in quality improvement activities.
Service The EPO provides reliable, efficient and effective services for the benefit and satisfaction of all users of the European patent system and European society.	Informed decision making Decisions taken at the EPO are based on facts enabling it to review, challenge and adapt planned actions as well as to improve the products and services it delivers.
Continual improvement The EPO commits itself to continually improving its training, tools, procedures and processes with a view to enhancing the thoroughness, consistency and timeliness of its products and services and the skills and competences of its staff.	Openness The EPO engages with its users to enhance the quality and effectiveness of its processes and services.
	Commitment The top management of the EPO is committed to this Quality Policy through active participation in quality improvement activities and leadership by example.

In pursuing these principles the EPO builds on the culture of quality and excellence that has established its reputation.

Recruit the best and invest in them

Minimum examiner requirements

- Master's degree in physics, chemistry, engineering or natural sciences
- Excellent knowledge of one official language (English, French and German) and the ability to understand the other two
- Citizenship of one of the 38 EPC member states

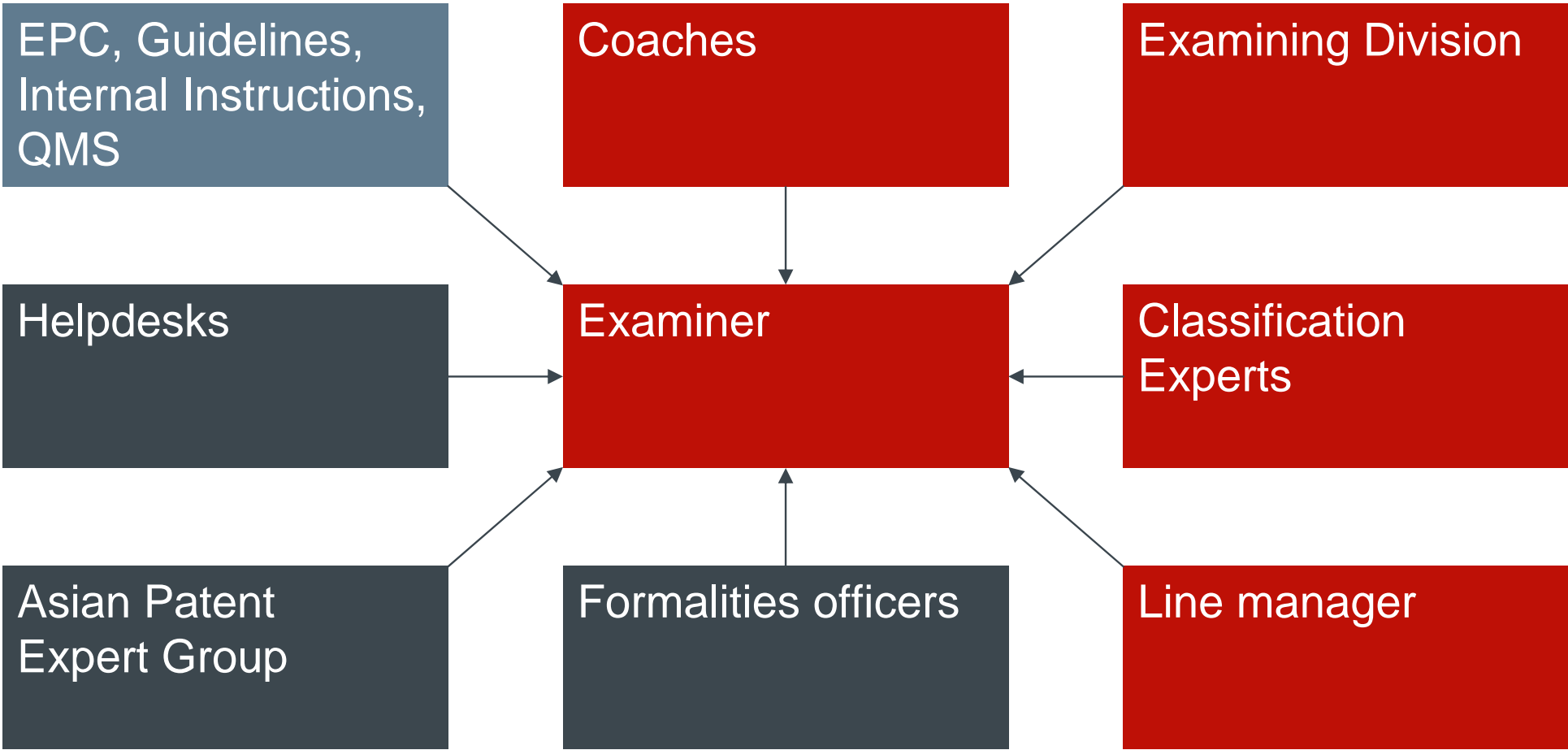
First two years

- 45.5 days instructor-led, interactive, classroom training
- On the job coaching by experienced examiners who see all actions prepared by new examiners

Career-long training

- Technical, legal, new tools
- In 2016, 89.5% of staff received at least one training activity
- An examiner is fully trained in about four years

Supportive and co-operative working



3-member divisions for all decisions

- **Quality check** in 100% of:
 - positive opinions
 - decisions
- **Consultation** before:
 - decisions are taken
 - oral proceedings are arranged
 - summons are issued
- **Sharing** of knowledge:
 - procedural
 - legal
 - technical

European Patent Convention

Article 18¹⁶
Examining Divisions

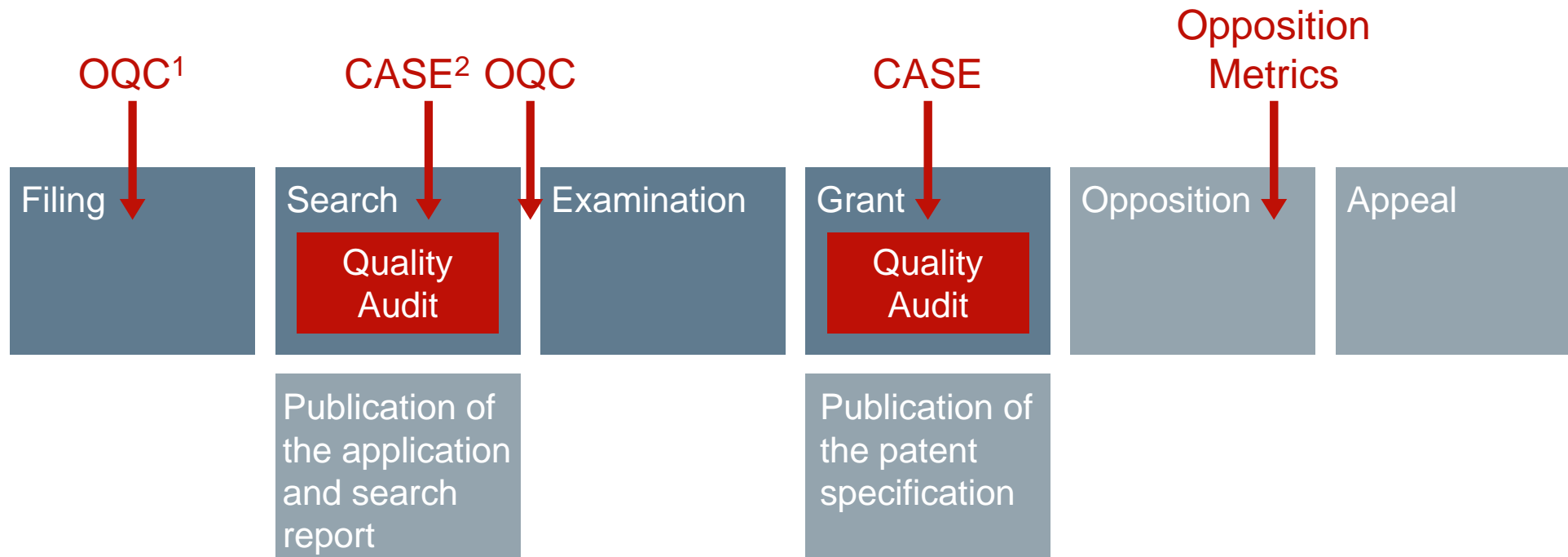
(1) The Examining Divisions shall be responsible for the examination of European patent applications.

(2)¹⁷ An Examining Division shall consist of three technically qualified examiners. However, before a decision is taken on a European patent application, its examination shall, as a general rule, be entrusted to one member of the Examining Division. Oral proceedings shall be before the Examining Division itself. If the Examining Division considers that the nature of the decision so requires, it shall be enlarged by the addition of a legally qualified examiner. In the event of parity of votes, the vote of the Chairman of the Examining Division shall be decisive.

Article 19¹⁸
Opposition Divisions

(1) The Opposition Divisions shall be responsible for the examination of oppositions against any European patent.

Quality assurance in the entire patent process



¹ OQC (Operational Quality Control)

- random selection of files extracted from recent production workload
- quality control of Patent Administration processes and products
- Nonconforming Product Procedure (NPC)

² CASE (Conformity Assurance for Search and Examination)

- in-process control
- ISO 9001 certified
- random sample of searches, all grants
- capture of quality-relevant data for continual improvement

Diligent monitoring of KPIs

Landing Page

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CPS
Document Databases
Machine translators

Inputs
Request for examination
Fees payment
EPC and rela
requirements
PACE requir

SHY
FBI
P/C/
P/C/

Qu
Version

Process 2.13
EP Examination

Doc. ID: epqims_h/2012/0002
Rev. No.: 5.00
Date: 19-01-2017
Page: 2 of 2

Indicators

Indicator 1: EPO examination timeliness
Frequency: Monthly
Median time from the date of a valid examination request to the first intention to grant (IGRA).

PI \leq 23.2 months 23.2 < PI < 24.5 months PI \geq 24.5 months

Indicator 2: Conformity Assurance for Search and Examination (CASE) – Quality of examination
Frequency: Quarterly
Percentage of conforming of AGRAs in CASE checks

PI \geq 95 % 90% \leq PI < 95% PI < 90%

Indicator 3: DQA product audit
Frequency: Yearly
Percentage of conforming grants in DQA product audit checks

PI \geq 85% 80% \leq PI < 85 % PI < 80%

Indicator 4: User Satisfaction on Examination
Frequency: Yearly
Average rating (1 very satisfied – 5 very unsatisfied)

a) DG1 USS
PI \leq 2.10 2.10 < PI \leq 2.20 PI > 2.20

b) POPA USS (global satisfaction indicator)
PI \leq 1.80 1.80 < PI \leq 1.90 PI > 1.90

Indicator 5: Correctness of bibliographic data at intention to grant
Frequency: Quarterly
Percentage of files containing Form 2056 and having a coding IGRA01 or having Forms 2911+2056 after a coding IGRA01

PI \geq 95 % 90% \leq PI < 95% PI < 90%

EP Applications Procedure 2016 – EPO

Flowchart showing the process from application to grant, including steps like Search, Examination, Opposition, and Appeal.

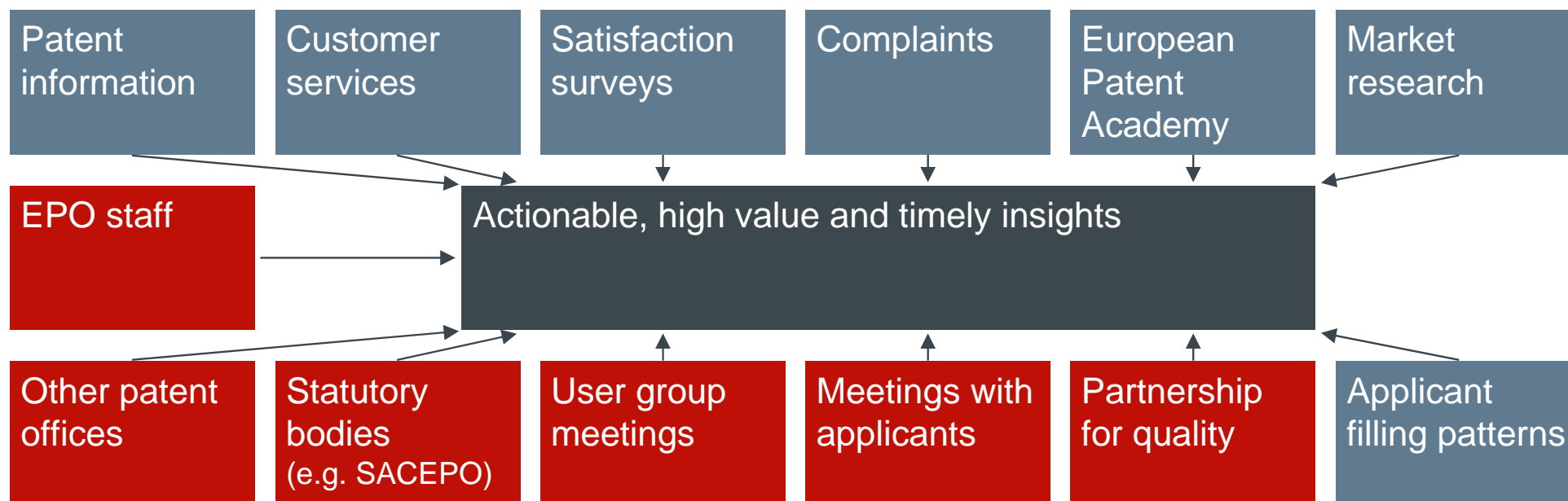
Bar charts showing performance metrics for various regions: TeC, BIO, PAOC, BER, AF.

Line charts showing trends for various metrics, including 'Trend' and 'Trend'.

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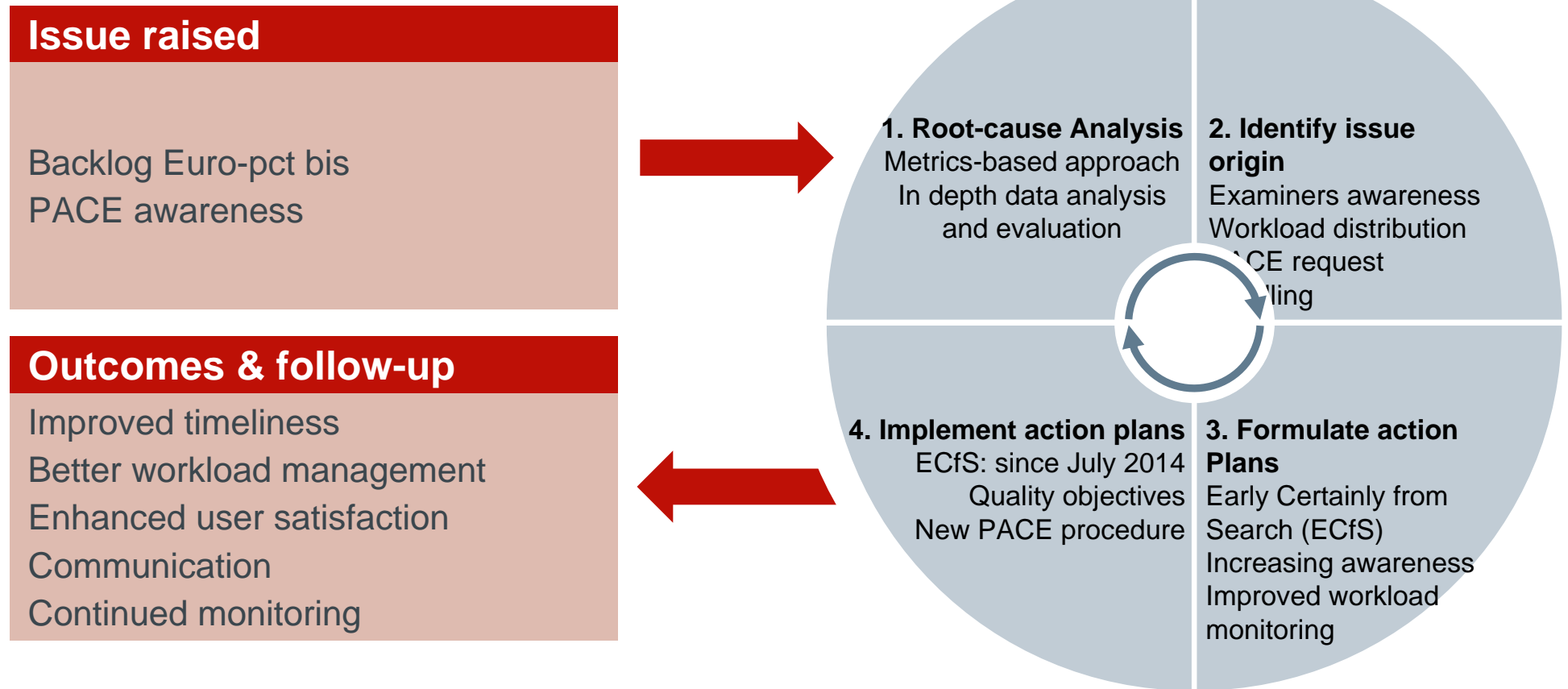
User feedback sources

- User feedback is collected and analysed from many sources
- It is a core element of the EPO's ISO 9001 certified QMS



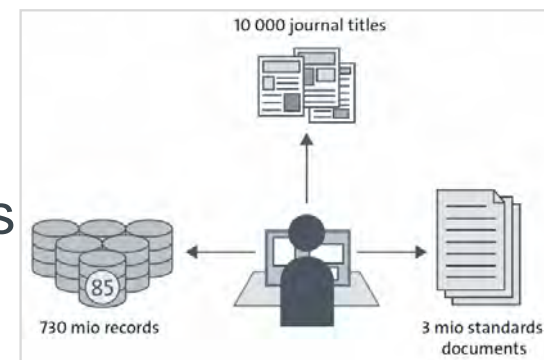
Metrics-based feedback (blue) is assessed statistically, non-metrics based feedback (red) includes oral feedback received, e.g. during meetings

ISO 9001 in practice: example → improving timeliness



730 million prior art records

- **85 databases**, including:
 - > **90 million** full-text patent documents
 - > **30 million** non-patent literature (NPL) documents
 - > **3 million** standards documents
- **Patent translate** collaboration with Google:
 - **patent-specific** machine translation
 - covers **29 languages** worldwide
 - **bulk translation** project adds translations of **all** available patent literature to our search databases
- **World-standard search** and **classification** tools



The EPO Quality Report 2016

- Published recently, the EPO's first ever annual Quality [Report](#)
- Informs the members states and interested stakeholders about all aspects of quality at the EPO
- Shows how the EPO sets the world standard for patent quality



Recap – timely delivery of quality products

- Highly qualified examiners
- European Patent Convention & guidelines for examination
- 3-member divisions
- Opposition & appeal
- Quality management
- Early Certainty
- Equal treatment for EP and PCT applications
- Massive documentation
- CPC classification
- Options for accelerating and shortening the procedure

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