

# BR/GT I/5 e/69

## Travaux Préparatoires EPC 1973

### Comment:

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INTER-GOVERNMENTAL CONFERENCE  
FOR THE SETTING UP OF A EUROPEAN  
SYSTEM FOR THE GRANT OF PATENTS

Luxembourg, 9 July 1960

BR/GT I/5/69

- Secretariat -

WORKING PARTY I

PRELIMINARY DRAFT

FOR A CONVENTION RELATING TO THE ESTABLISHMENT OF A  
EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

Articles 1 to 9

(Text drawn up by the drafting committee)

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P R E A M B L E

Note

The preamble should indicate that this Convention constitutes between the Contracting States a special arrangement within the meaning of Article 15 of the Paris Convention of 20 March 1883 for the Protection of Industrial Property, last revised at Lisbon on 31 October 1958, and an international treaty on the grant of patents effective in more than one State within the meaning of Article 44, paragraph 2, of the Treaty of .... for International Co-operation in the Field of Patents.

PRELIMINARY NOTE

The Drafting Committee has kept the provisions in the order in which they appear in document BR/GT I/2/69. This order can be reviewed at a later stage.

PART 1

GENERAL PROVISIONS

Article 1

European system for the grant of patents

This Convention hereby establishes a system of law, common to the Contracting States, for the grant of patents for invention.

Article 2

European patent

(1) Patents granted by virtue of this Convention shall be called "European patents".

(2) - omitted ; see Art. 24 a -

(2a) Subject to the provisions of this Convention the European Patent shall, in each of the Contracting States for which it is granted, have the effect of and be subject to the same conditions as a national patent granted by that State.

[This shall apply in particular to its term of the patent, the grounds of revocation and the exercise of the rights attached to the patent].

Article 2 a

Territorial limitation (1)

A European patent may be requested for some or all of the Contracting States.

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(1) This article is to be re-examined later particularly as to whether a European patent can be requested for only one State.

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Article 3

European Patent Office

European patents shall be granted by a patent office common to the Contracting States, which shall be called the "European Patent Office".

Article 4

- omitted -

Article 5

Persons entitled to apply for a European patent

Any natural or legal person, or any body equivalent to a legal person by virtue of the law governing it, possessing the nationality of one of the Contracting States or who is domiciled in or who has real and effective industrial or commercial establishments in the territory of one of the Contracting States may apply for a European patent. An application for a European patent may also be made by natural or legal persons, or any bodies equivalent to legal persons by virtue of the law governing them, possessing the nationality of a State, or who are domiciled in or who have real and effective industrial or commercial establishments in the territory of a State, in which nationals of the Contracting States enjoy the same benefits with respect to the protection of industrial property as those which the laws of such State confer upon its own nationals. The provisions of the laws of such States relating to judicial and administrative procedure and to jurisdiction, and to the designation of an address for service or the appointment of an agent, which may be required by the laws on industrial property, shall not be taken into consideration in this respect.

(2) - omitted -

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(1) In accordance with the memorandum it shall be for the authorities competent for the granting of European patents to decide whether the conditions of this article are satisfied.

Article 6

Coexistence of European and  
national patent laws

- omitted -

Article 7

Simultaneous protection

It shall remain open to the Contracting States to decide whether, and on what terms, the protection given to an invention by a European patent and the protection given by a national patent may be enjoyed simultaneously, in so far as the invention originates from one and the same inventor (1).

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(1) A new examination of this article is reserved for the discussion on article 19.

Article 8

Other international agreements

This Convention shall be without prejudice to any commitments entered into by the Contracting States by virtue of other international agreements.