

# BR/GT I/30 e/69

## Travaux Préparatoires EPC 1973

### Comment:

The collection represents purely an internal research tool for the purpose of Directorate Patent Law of the European Patent Office. No guarantee can be given for its completeness or correctness.

The documents produced before 1969 cannot be provided in English as this was not an official language in the period before that date. These documents therefore are provided in French and German.

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

Luxembourg, 27th November, 1969  
BR/GT I/30/69

                      
- Secretariat -

WORKING PARTY I

WORKING DOCUMENT

PRELIMINARY DRAFT  
CONVENTION FOR A

EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

Articles 113b, e, f, g

(Text drawn up by the Drafting Committee)

Article 113b

Functions of the European Patent Office in the  
context of the Patent Co-operation Treaty

(1) Subject to the provisions set out below, the European Patent Office shall act as a receiving Office and as a designated Office within the meaning of Chapter I of the Co-operation Treaty, once that Chapter has entered into force for at least one Contracting State to this Convention.

(2) Subject to the provisions set out below, the European Patent Office shall act as an International Preliminary Examining Authority within the meaning of Chapter II of the Co-operation Treaty, once that Chapter has entered into force for at least one Contracting State to this Convention, and all other conditions laid down by the Co-operation Treaty and by this Convention for the performance of the functions of an International Preliminary Examining Authority have been met.

(3) Subject to the provisions set out below, the European Patent Office shall act as an elected Office within the meaning of Chapter II of the Co-operation Treaty, once that Chapter has entered into force for at least one Contracting State to this Convention.

Article 113e

The European Patent Office as a designated or elected Office

(1) The European Patent Office shall act as a designated Office within the meaning of Article 2(ii) of the Co-operation Treaty for those Contracting States to this Convention which are designated in the international application if the applicant informs the receiving Office or, where appropriate, the International Bureau mentioned in that Treaty, within twelve months of the priority date, that he wishes to obtain a European patent for these States.

(2) In so far as any group of Contracting States has made use of the authorisation under Article 8a, such group may prescribe that it may only be designated as a whole and that the designation of some only of the States in the group shall be taken as the designation of all of these States, if the applicant has indicated that he wishes to obtain a European patent for the designated States of the group.

(3) The European Patent Office shall act as an elected Office within the meaning of Article 2(iii) of the Patent Co-operation Treaty if the applicant has elected any of the designated States referred to in paragraph 1 or 2 for which Chapter II of that Treaty has entered into force.

(4) The fee provided for in Article 68a, paragraph 2, shall not be payable for international applications.

Article 113f

International Search Report

The International Search Report under Article 18 of the Co-operation Treaty shall take the place of the report on the state of the art under Article 78, paragraph 1. The European Patent Office may, however, obtain an additional report on the state of the art from the International Patent Institute at The Hague, whenever it considers this to be necessary.

Note:

The question of the cost of the additional report on the state of the art must be considered further.

Article 113g

Publication of the international application

(1) As from its publication by the International Bureau pursuant to Article 21 of the Co-operation Treaty, an international application for which the European Patent Office is a designated Office under Article 113e, paragraph 1, shall confer upon the applicant the provisional protection granted pursuant to Article 20bis, subject to the provisions set out below.

(2) If the international application is published by the International Bureau in one of the languages specified in Article 34, paragraph 1, the provisional protection referred to in paragraph 1 above shall commence on the day of publication of the translation of the claims into both of the other languages specified in Article 34, paragraph 1.

(3) If the international application is not published by the International Bureau in one of the languages specified in Article 34, paragraph 1, the provisional protection referred to in paragraph 1 above shall commence on the day of publication of the translation of the application into one of the languages specified in Article 34, paragraph 1, and of the translation of the claims into both of the other languages.

(4) Publication of the international application by the International Bureau, together with the publication of the translation of the claims pursuant to paragraph 2 or of the translations pursuant to paragraph 3, shall take the place of the publication of the European patent application pursuant to Article 86a.