

BR/GT I/42 e/70

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

Brussels, 13 April 1970

BR/GT I/42/70

- Secretariat -

NOTE

by the Netherlands Delegation

Subject: Running-in period of the European Patent Office

1. The Paper by the Chairman, Dr. Haertel, gives a survey of revenue and expenditure, (a) in Annex 20, assuming immediate full opening, and (b) in Annexes 21 and 22, assuming progressive build-up, by areas of technology, in five consecutive two-year steps of 10%, 15%, 20%, 25% and 30%.
2. In both cases the period of 7 years from the date of filing the application, within which a request for examination may be made, has been taken into account as regards revenue, but has not been taken into account as regards expenditure. As regards expenditure, in both cases a preparatory stage of one year has been assumed,

during which the initial capital investment of \$4 million would be effected as well as, in case (a), the full expenditure and, in case (b), half the expenditure of a "normal" year. The expenditure in the years following this stage would, in case (a), be normal, and, in case (b), would progress from 10% to 15% etc. of normal expenditure. Considering the initial "sub-normal" workload to be expected in view of the 7-year request period, this does not seem realistic, and has an unnecessarily unfavourable influence on the deficits in the initial years.

3. In order to take the 7-year request period into account as regards expenditure too, the following calculation may be of use. Firstly, it follows from Annex 2, pages 2 and 3, middle column, that of the examiner working time of 199.6 days (rounded up to 200 days) required for 100 applications, 50 days, or 25%, are required for examination for obvious deficiencies; 119.6 (rounded up to 120), or 60%, are required for examination proper, and 30, or 15% for opposition proceedings. It may be assumed that examination for obvious deficiencies will take place immediately after the application has been filed, i.e. within the first year. Annex 17, column b, indicates that for 52 applications filed in one year, examination proper will be requested for 25 (or 48.0%) of these within the first two years (assuming that this number is spread equally over the two years, this would give 24.0% in each year), for 2 (or 3.9%) in the third year, for 5 (or 9.6%) in the fourth, fifth and sixth years, and for 10 (or 19.3%) in the seventh year. For opposition proceedings (where a period of one year after grant, i.e. after examination has been completed, applies), it is assumed that opposition

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would be made in the year following that in which examination was requested, i.e. in the second and third years after filing for 24% of applications, in the fourth year for 3.9%, in the fifth, sixth and seventh years for 9.6% and in the eighth year for 19.3%.

4. "Examining time" for applications filed in any one year is thus spread out as follows over that year and the seven subsequent years.

Year	Examination for obvious deficiencies	Examination	Opposition	Total	Running total
1	25%	$24\% \times 60\% = 14.4\%$	--- ---	39.4%	39.4%
2	-	$24\% \times 60\% = 14.4\%$	$24\% \times 15\% = 3.6\%$	18.0%	57.4%
3	-	$3.9\% \times 60\% = 2.3\%$	$24\% \times 15\% = 3.6\%$	5.9%	63.3%
4	-	$9.6\% \times 60\% = 5.8\%$	$3.9\% \times 15\% = 0.6\%$	6.4%	69.7%
5	-	$9.6\% \times 60\% = 5.8\%$	$9.6\% \times 15\% = 1.4\%$	7.2%	76.9%
6	-	$9.6\% \times 60\% = 5.8\%$	$9.6\% \times 15\% = 1.4\%$	7.2%	84.1%
7	-	$19.3\% \times 60\% = 11.6\%$	$9.6\% \times 15\% = 1.4\%$	13.0%	97.1%
8	-	- -	$19.3\% \times 15\% = 2.9\%$	2.9%	100.0%
	25%	60.1%	14.9%	100.0%	

This means that even in case (a) (immediate full opening) the workload would still be less than 40% of that to be finally expected for a normal year, and that it would therefore be unnecessary and undesirable to open the Office with a full complement. It is certainly desirable to work one year ahead, as has been done in Dr. Haertel's paper, to cover recruitment and training requirements; if expenditure is then based on staff

complement (workload), i.e. 39.4% in preparatory year 0, 57.4% in year 1, etc., while maintaining the extra \$4.000.000 initial investment in year 0, the following figures are obtained for the right-hand part of the table in Annex 20:

Year	Total income	Expenditure	Budget deficit	Running total
0		10,650,000	10,650,000	10,650,000
1	4,075,000	9,500,000	5,425,000	16,075,000
2	5,150,000	10,460,000	5,310,000	21,385,000
3	6,569,000	11,510,000	4,941,000	26,326,000
4	7,864,000	12,700,000	4,836,000	31,162,000
5	9,285,000	13,900,000	4,615,000	35,777,000
6	10,664,000	16,060,000	5,396,000	41,173,000
7	11,939,000	16,528,000	4,589,000	45,762,000
8	12,774,000	16,528,000	3,754,000	

The total deficit over the first 8 years then comes to about \$45 million instead of about \$80 million.

5. In case (b) (progressive build-up over a period of ten years), the percentages for "examiner working days" are as follows:

Year	Step I 10%	Step II 15%	Step III 20%	Step IV 25%	Step V 30%	Total %
1	3.9					3.9
2	5.7					5.7
3	6.3	5.9				12.2
4	7.0	8.6				15.6
5	7.7	9.5	7.9			25.1
6	8.4	10.5	11.5			30.4
7	9.7	11.5	12.7	9.9		43.8
8	10.0	12.6	13.9	14.4		50.9
9	10.0	14.6	15.4	15.8	11.8	67.6
10	10.0	15.0	16.8	17.4	17.2	76.4
11	10.0	15.0	19.4	19.2	19.0	82.6
12	10.0	15.0	20.0	21.0	20.9	86.9
13	10.0	15.0	20.0	24.2	23.1	92.3
14	10.0	15.0	20.0	25.0	25.2	95.2
15	10.0	15.0	20.0	25.0	29.2	99.2
16	10.0	15.0	20.0	25.0	30.0	100.0

If one again assumes working one year ahead, and an extra \$4 million for year 0, the amounts indicated in Annex 22 would then be:

Year	Income	Expenditure	Budget deficit	Running total
0		4,640,000	4,640,000	4,640,000
1	407,500	940,000	532,500	5,172,500
2	515,000	2,160,000	1,645,000	6,817,500
3	1,268,150	2,580,000	1,312,850	8,130,350
4	1,558,900	4,150,000	2,591,100	10,721,450
5	2,728,850	5,020,000	2,291,150	13,012,600
6	3,276,000	7,250,000	3,974,000	16,986,600
7	4,919,200	8,400,000	3,480,800	20,467,400
8	5,737,300	11,400,000	5,662,700	26,130,100
9	7,790,000	12,600,000	4,810,000	30,940,100
10	8,837,300	13,700,000	4,862,700	35,802,800
11	9,873,250	14,400,000	4,526,750	40,329,550
12	10,773,500	15,300,000	4,526,500	44,856,050
13	11,518,550	15,800,000	4,281,450	49,137,500
14	12,141,000	16,400,000	3,859,000	52,996,500
15	12,523,500	16,528,000	3,994,500	56,991,000
16	12,774,000	16,528,000	3,754,000	

The total deficit up to and including year 15 (after which the "normal" situation will be reached) then comes to close to \$57 million instead of \$105 million.

6. Finally, an observation from the organisational point of view on the build-up rate. In case (a), that of immediate full opening, a complement of 40%, i.e. 160 examiners, will be required in year 1; this would seem quite possible to achieve with one year's preparation, although rather difficult. This number would have to be expanded by 18%, or about 70 examiners, in year 2, after which the rate of expansion would be fairly low. In case (b), the Office would open with a complement of only 4% , i.e., 16 examiners, and would reach 25% (100 examiners) in the fifth year only, and 50% (200 examiners) in the eighth year. It would seem to me that the growth rate in the proposed progressive build-up is far too low. A certain experimental period on a fairly small scale may well be desirable, but it should not need to last more than, say, two years, after which rapid growth to full operation would seem desirable. If an immediate complete build-up is too fast, a small number of one year steps could be taken, starting for example with 10% and then going on to full operation in three steps of 30% each, so that full operation would be reached in 5 years, including preparatory year 0.
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