

BR/GT I/50 e/70

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

Brussels, 22 July 1970
BR/GT I/50/70

- Secretariat -

N O T E

Subject: First Preliminary Draft of a Convention Establishing
a European System for the Grant of Patents

- List of questions remaining open

1. The delegations taking part in Working Party I will find annexed a list of questions left open in the First Preliminary Draft of a Convention Establishing a European System for the Grant of Patents.
2. When drawing up this list, the Secretariat based itself partly on the notes in the published text of the First Preliminary Draft of the Convention and partly on the comments either in the minutes of the meetings of Working Party I, or in the minutes of the meetings of the Conference (in the latter case they concern mainly the instructions given by the Conference to Working Party I).
3. A large proportion of the open questions in this list has been covered by the suggestions of the Chairman of Working Party I in working documents BR/GT I/45/70, 46/70 and 49/70 submitted by him. It is the intention of the Chairman, time permitting, to go through this list with Working Party I at their fifth meeting from 7 - 11 September 1970. During this meeting all remaining questions will be settled, or a further procedure for dealing with them established.

LIST OF QUESTIONS REMAINING OPEN
IN THE FIRST PRELIMINARY DRAFT OF A CONVENTION
ESTABLISHING A EUROPEAN SYSTEM
FOR THE GRANT OF PATENTS (1)

Article	Subject-matter	Reference document (2)
Preamble		P.D.
2 para. 2	<ul style="list-style-type: none">- Maximum approach- Term of the patent	P.D. note 1 BR/40/70, point 4 P.D. note 2 BR/40/70, point 8
5		P.D. note on Article 5 BR/40/70, point 9
6 (formerly 7)	Possible extension of the provision to the provisional protection conferred by the application	BR/7/69, point 18
11 para. 4	Non-coincidence of the States designated in the two applications	P.D. note BR/7/69, point 26
13	Deletion of the 2nd variant (provisional decision of the Conference)	BR/40/70, point 11

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- (1) In the present Annex no mention is made of the comments which have been made in Working Party I or at the Conference, concerning the position finally to be allocated to the Articles of the Preliminary Draft.
- (2) P.D.: First Preliminary Draft of a Convention establishing a European System for the Grant of Patents; text published in 1970.

Article	Subject-matter	Reference document
17	Consequences when the inventor is not mentioned	BR/7/69, point 36
Former 19 (deleted)	Possible treatment of earlier national rights	P.D. Chapter III; foot note 1 BR/7/69, point 38
21 (former 24)	Possible deletion of Article 21 (cf. comments on Article 13)	BR/40/70, point 14
21 (former 24), para. 3	Assignment of the parent patents to different persons	P.D. note on Article 21, para. 3
21 (former 24), para. 7	Conversion to an independent application	P.D. note on Article 21, para. 7
23 (former 25)	Change of ownership of the patent	P.D. note
24 (former 26) to 29 (former 30)	Need for such provisions	P.D. note on these Articles BR/7/69, point 50 BR/12/69, points 9 to 94
33	Branch Examining Offices	BR/7/69, point 55 * BR/26/70, point 18 BR/GT I/13/69
34 para. 5 (former para. 4a)	Languages of publication of the application	BR/7/69, point 57
35	Scope of application of the provisions	P.D. note
36	Re-examination of the provision	P.D. note BR/7/69, point 60
40	Possible extension of the provision to the information and liaison branches	BR/7/69, point 65

Article	Subject-matter	Reference document
54 (former 55) and 55 (former 56)	Simplified revision procedure	P.D. note on these Articles BR/10/69, point 11
[58 (former 58 b)	Appointment of members of the Boards of Appeal	BR/26/69, point 24 <u>7</u> (1)
/Chapter IV of Part III	Classification	P.D. footnote 1 to this Chapter <u>7</u>
60 (former 61) cf. also Article 162	Contents of the publications	BR/10/69, point 61 BR/GT I/25/69
65 (former 67)	Time-limits for forwarding	P.D. note BR/10/69, points 29 and 30
66 (former 68)	Abstract of the application	P.D. note on Article 66, para. 1 BR/10/69, point 32 BR/40/70, point 15
67 (former 68a)	Designation fee	Note on Article 67, para. 2
[59 (former 68 c)	Notification of withdrawal	P.D. note <u>7</u>
73 (former 72) para. 5	Note from BIRPI	BR/26/70, point 26 and BR/35/70
74 (former 73)	Priority date for the state of the art	P.D. note BR/26/70, point 27 BR/40/70, point 16

(1) The items in square brackets concern matters which, it has been agreed, are to be dealt with in the implementing regulations. They have nevertheless been listed here to give a complete review of the items within the terms of reference of Working Party I.

Article	Subject-matter	Reference document
79 (former 78)	Partial refund of the examination fee	P.D. note BR/26/70, point 28 BR/GT I/24, page 7
85 (former 86a)	Publication of new or amended claims	P.D. note BR/40/70, point 17
88 and 89 (former 88a)	Adaptation of the deferred examination procedure	The instructions given by the Conference to Working Party I to the notes on the Articles in question in the P.D. into account For the recasting of these Articles, see BR/40/70, point 20
94 (former 94a)	Possible division during the opposition period	BR/12/69, point 33
95	Possible penalty when the applicant fails to present his observations	BR/10/69, point 80
97 (former 96)	Name for a patent granted before the expiry of the opposition period	BR/7/69, point 42 BR/10/69, point 82
100 (former 96 c), para. 1	Time limit	BR/26/70, point 31 b
101 (former 96 d)	- Grounds for opposition - Composition of the Examining Division - Reference in the European Patent Bulletin	P.D. note 1 BR/12/69, point 27 P.D. note 2 BR/40/70, point 22 P.D. note 3
104 (former 97 b)	Re-examination of this provision	BR/12/69, point 32
105 (former 101)	Re-examination of the provision in the light of Article 101 (96 d)	P.D. note on para. 1 to 3 BR/12/69, point 36

Article	Subject-matter	Reference document
105 (former 101), para. 4	Position of para. 4	BR/12/69, point 38
101 (former 96 d) to 106 (former 102)	<ul style="list-style-type: none"> - Possible additional provisions - Possibility of revocation proceedings during the opposition period 	<p>P.D. note 1 on these Articles</p> <p>P.D. note 2 on the said Articles</p>
108 (former 105), para. 2	Appeal against certain decisions	BR/12/69, point 42 BR/26/70, point 35
113 (former 110)	Cost of an additional report	P.D. note on Article 113, para. 3 BR/12/69, point 51 (reference to article 155)
116 (former 112 a)	Reference for an opinion to the Enlarged Board of Appeal by the President of the Office	P.D. note on Article 116, para. 1 b BR/40/70, point 24
122 (former 113 f)	Additional report	P.D. note on Article 113 para. 2 BR/12/69, point 69 BR/40/70, point 26
123 (former 113 g) para. 4	The effect of para. 4 on other provisions of the Convention	BR/12/69, point 71
124 to 128 (former 114 to 118)	To be examined	P.D. footnote 1 to Chapter VI of Part V BR/12/69, point 72
130 (former 120)	Possible national renewal fee for applications	BR/12/69, point 73, sub-section 2, 2nd dash and point 81 BR/26/69, point 39
Former Article 123	Possible assistance for the payment of renewal fees	BR/12/69, point 83

