

BR/GT I/52 e/70

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.

- Secretariat -

Working document
for Draft Implementing Regulations
to the Convention establishing a European System for the Grant of Patents
put forward by the Chairman of the
"Implementing Regulations" sub-Committee of Working Party I
(Re. Articles 64 to 130)

compared synoptically with

- the Preliminary Draft Implementing Regulations to the Convention relating to a European Patent Law, as drafted by the EEC "Patents" Working Party (unpublished working document 4419/IV/63 of 20 January 1964) and
- the Regulations under the Patent Co-operation Treaty (PCT)

K E Y

1962 Draft : indicates the Draft Convention relating to a European Patent Law drawn up by the EEC "Patents" Working Party and published in 1962.

1965 Draft : indicates the 1962 Draft, updated to take into account the amendments contained in the EEC "Patents" Working Party's working document 2335/IV/65 of 22 January 1965.

First Preliminary Draft : indicates the First Preliminary Draft of a Convention establishing a European System for the Grant of Patents, published in 1970 by decision of the Inter-governmental Conference for the setting up of a European System for the Grant of Patents.

Reports : indicates the reports by the Working Party I delegations on the provisions of the First Preliminary Draft, submitted at the second meeting of the Inter-governmental Conference on 13 and 16 January 1970 and published in 1970.

Minutes of the second meeting : indicates the Minutes of the second meeting of the Inter-governmental Conference (working document BR/26/70 of 30 January 1970, unpublished).

1964 Draft : indicates the Preliminary Draft Implementing Regulations to the Convention relating to a European Patent Law, as drafted by the EEC "Patents" Working Party (working document 4419/IV/63 of 20 January 1964, unpublished).

PCT : indicates the Patent Co-operation Treaty, signed in Washington on 19 June 1970.

PCT Regulations : indicates the Regulations under the Patent Co-operation Treaty.

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on the right-hand page

indicates that the text on the left-hand page is adopted without amendment.

under the text on the left-hand page

indicates that the text thus underlined has been deleted on the right-hand page

under the text on the right-hand page

indicates that the text thus underlined is new, in relation to the 1964 Draft. Completely new paragraphs are not, however, underlined.

Re. Article 66

Number 0

Sending of European patent applications

1964 Draft

European patent applications may be filed with the European Patent Office or with the authorities referred to in Article 66, paragraph 1(b), of the Convention either directly or by post.

Re. Article 64
(Former Article 66)

No. 1

Sending of European patent applications

P r o p o s a l

+ (Article 64)

Re. Article 66

No. 1

Time of filing of European patent applications

1964 Draft

(1) Where European patent applications are filed with the European Patent Office during working hours, the latter shall mark the documents referred to in Article 68, paragraph 1, of the Convention with the day, hour and minute of their receipt by the European Patent Office, whether they be delivered by hand or sent by post. Where applications are filed outside working hours, the European Patent Office shall take steps to determine the day of filing, such filing being deemed to have taken place one minute before the opening time of the European Patent Office if done before that time, and at 12p.m. if done after the hour of closing of the European Patent Office or on a day when the latter does not open.

(2) Where European patent applications are filed with the authorities referred to in Article 66, paragraph 1(b) of the Convention, these authorities shall record the day, hour and minute of the filing of applications made during working hours. For such filings and, where appropriate, for filings made outside working hours, the time of filing shall be determined in accordance with the provisions applicable to national patent applications.

Re. Article 64
(Former Article 66)

No. 2

Time of filing of European patent applications

P r o p o s a l

(1) Where European patent applications are filed with the European Patent Office, the latter shall mark the documents referred to in Article 66, paragraph 1, of the Convention, with the date of their receipt by the European Patent Office.

(2) Where European patent applications are filed with the authorities referred to in Article 64, paragraph 1(b), of the Convention, these authorities shall record the date of the filing of applications in accordance with the provisions applicable to national patent applications.

Notes

(1) The question arises whether the provisions proposed in paragraph 1 of this Article should not incorporate those laying down the requirements and time-limits subject to which international application documents may in turn be filed, these applications being deemed to be filed on the date of submission of the last of the documents required. Article 68 of the First Preliminary Draft does not seem to rule out this system as laid down in Article 11.2 of the P.C.T.

(2) For practical reasons, the provisions proposed in paragraph 2 refer back to national legislation as regards the recording of the date of filing of European patent applications with national authorities. There would indeed appear to be little chance of an alignment of these provisions on those governing the filing of applications with the European Patent Office itself, however desirable such an alignment might be.

Re. Article 66

No. 2

Certificate of filing of a European patent application

1964 Draft

(1) The authorities referred to in Article 66, paragraph 1, of the Convention shall deliver to the person filing an application a certificate of filing of the European patent application, the minimum indications on which shall comprise the file number, family name, given names, and address of the person filing the application, the title of the invention and the day, hour and minute of receipt of the documents of the European patent application.

(2) The authorities referred to in Article 66, paragraph 1(b), of the Convention shall without delay transmit to the European Patent Office either a copy of the certificate of filing referred to in paragraph 1 or an extract from the certificate of filing whose minimum indications shall comprise the file number, family name, given names and address of the person filing the application, and the day, hour and minute of receipt of the documents of the European patent application.

Re. Article 64
(Former Article 66)

No. 3

Certificate of filing of a European patent application

P r o p o s a l

(1) The authorities referred to in Article 64, paragraph 1, of the Convention shall deliver to the person filing an application a certificate of filing of the European patent application, the minimum indications on which shall comprise the family name and given names or official title and address of the person filing the application, the file number, the title of the invention and the date of receipt of the documents of the European patent application.

(2) The authorities referred to in Article 64, paragraph 1(b), of the Convention shall without delay transmit to the European Patent Office either a copy of the certificate of filing referred to in paragraph 1 or an extract from the certificate of filing, whose minimum indications shall comprise the file number, family name and given names or official title, and address of the person filing the application, and the date of receipt of the documents of the European patent application.

Note:

The phrase referring to legal entities has been harmonised with the provisions of Rule 4 of the P.C.T. Regulations.

Re. Article 66

No. 3

Filing of European patent applications with the
competent authorities of Contracting States

1964 Draft

(1) In the event of a European patent application being filed by several persons having their registered place of business or their ordinary residence in different Contracting States, only one of which has enacted provisions pursuant to Article 66, paragraph 2, of the Convention, the filing of the patent application shall be subject to these provisions.

(2) In the event of a European Patent application being filed by several persons having their registered place of business or their ordinary residence in different Contracting States several of which have enacted provisions pursuant to Article 66, paragraph 2, of the Convention, the filing of the patent application shall be deemed to have been carried out in accordance with the provisions enacted by these States on condition that the provisions enacted by one of these States have been complied with. Persons filing an application shall be required for information purposes to send a copy of the European patent application without delay to the central industrial property offices of the other Contracting States which have enacted provisions pursuant to Article 66, paragraph 2 of the Convention⁷.

(3) If, in the case referred to in paragraph 2, a European patent application is not filed with the competent national authority, the persons filing it must, within a period to be laid down by the Examining Section, notify the European Patent Office of the competent national authority to which the patent application must be transmitted in accordance with Article 66, paragraph 3, of the Convention. In the event of failure by persons making an application to comply with this requirement in due time, the Examining Section shall reject the application.

Note:

.....(2) Some members of the Working Party wish for the straight deletion of the sentence between square brackets, while another group of members would prefer to substitute provisions requiring, in the case referred to in paragraph 2, prior authorisation by the Contracting States in which the filing of the application is not taking place.

Re. Article 64
(Former Article 66)

No. 4

Filing of European patent applications with the
competent authorities of the Contracting
States

P r o p o s a l

(1) + (Article 64)

(2) + (Article 64)

(3) + (Article 64)

Note: See Note 2 Re. Article 66, No. 3, of the 1964 Draft.

Re. Article 67

No. 1

Non-transmission of European patent applications

1964 Draft

If, under the provisions of Article 67, paragraph 3, of the Convention, a European patent application is not forwarded to the European Patent Office, the latter shall be so informed by the central industrial property office of the Contracting State concerned.

Re. Article 65
(Former Article 67)

No. 1

Non-transmission of European patent applications

P r o p o s a l

+ (Article 65, paragraph 4)

Note:

-This provision is to be re-examined in the light of the solution adopted for Article 65, Paragraph 5, of the First Preliminary Draft.

Preliminary Note on the Proposals for Article 66

The following proposals re Article 66 Nos. 1 to 6 deal with the form and content of the documents comprising a European patent application.

The corresponding provisions of the 1964 Draft were given in Nos. 1 to 5 re Article 68.

The plan and contents of the new proposals follow very closely the corresponding rules in the PCT Regulations. Whereas the 1964 Draft dealt successively with the form and content of the request, description, claims and drawings, these proposals, like the PCT Regulations, group together under one provision (re Article 66, No. 6) those requirements for the form of the various documents which are common to all of them. In addition, the new proposals are much more detailed than the old ones.

Although it appeared necessary to place the corresponding provisions of the PCT Regulations next to the proposals, there was thought to be no point at this stage in following the previous layout and doing the same with the provisions of the 1964 Draft. The text of these provisions is however given in Annex I hereto, together with a table relating them to the new proposals (Annex II) (1).

(1) The two annexes are issued as a separate section.

Re. Article 66
(Former Article 68)

No. 1

Form and content of the request for grant of a patent

Proposal

PCT Regulations

(1) The request for grant of a European patent shall be submitted on a form drawn up by the European Patent Office. Printed forms shall be made available to applicants free of charge by the European Patent Office.

(2) The request shall contain:

(a) a petition for the grant of a European patent;

(b) the title of the invention, i.e. a precise and summary designation (excluding all fancy names).

Note on (b): The words within brackets are not mentioned in the PCT regulations. It was thought that the fact that the title of the invention had to be "precise" would automatically rule out fancy names. Further consideration must be given to whether, for the sake of absolute certainty, the phrase in question should be kept.

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3.1 The request shall be made on a printed form.

3.2 Copies of the printed form shall be furnished free of charge to the applicants by the receiving Office, or, if the receiving Office so desires, by the International Bureau.

4.1 (a) The request shall contain:
(i) a petition

4.2 The petition shall be to the following effect and shall preferably be worded as follows:
"The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty."

4.1 (a) The request shall contain:
(ii) the title of the invention

4.3 The title of the invention shall be short (preferably from two to seven words when in English or translated into English) and precise.

Re. Article 66 No. 1

page 2

Proposal

PCT Regulations

(c) the name, address, nationality, residence or registered office of the applicant, as well as information concerning any industrial or commercial establishment required under Article 5 of the Convention.

Names of natural persons shall be indicated by the person's family name and given name(s), the family name being indicated before the given name(s).

Names of legal entities, as well as companies considered to be legal entities by reason of the legislation to which they are subject, shall be indicated by their full, official designations.

Notes

1/ re (c), sub-section 1:

The proposed text is in harmony with PCT rule 4.5 (a) and with Article 5 of the First Preliminary Draft.

2/ re (c), sub-section 3:

The adjective "full", contained in PCT rule 4.4 (b), seems unnecessary in view of the European rules for the registration of corporate bodies.

Addresses shall be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address. They shall in any case comprise all the relevant administrative units, including the house number, if any. Where appropriate, the telegraphic and teletype address and the telephone number shall be indicated.

4.1 (a)

(iii) indications concerning the applicant and the agent, if there is an agent;

4.5 (a)

The request shall indicate the name, address, nationality and residence of the applicant or, if there are several applicants, of each of them.

4.4 (a)

Names of natural persons shall be indicated by the person's family name and given name(s), the family name being indicated before the given name(s).

4.4 (b)

Names of legal entities shall be indicated by their full, official designations.

4.4 (c)

Addresses shall be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address and, in any case, shall consist of all the relevant administrative units up to, and including, the house number, if any. Where the national law of the designated State does not require the indication of the house number, failure to indicate such number shall have no effect in State. It is recommended to indicate any telegraphic and teletype address and telephone number.

Proposal

PCT Regulations

The applicant's nationality shall be indicated by the name of the State of which he is a national.

The applicant's residence or registered office, as well as the registered office of any industrial or commercial establishment required under Article 5 of the Convention, shall be indicated by the name of the State on the territory of which the said residence, registered office or establishment is situated.

(d) the name, address and registered place of business of the applicant's agent, if he has appointed one. The provisions of paragraph (c), sub-sections 2, 3, 4 and 6 shall be applicable.

(e) where appropriate, indication that the application is directed towards obtaining a patent of addition or constitutes a divisional application - in such cases the request shall indicate the number of the patent application or patent to which the application in question refers;

(f) in cases covered by Article 16 of the Convention, the number of the earlier patent application.

4.5 (b) The applicant's nationality shall be indicated by the name of the State of which he is a national.

4.5 (c) The applicant's residence shall be indicated by the name of the State of which he is a resident.

4.1 (a) The request shall contain:

(iii) indications concerning the applicant and the agent, if there is an agent

4.7 If agents are designated, the request shall so indicate, and shall state their names and addresses.

4.1 (b) The request shall, where applicable, contain:

(iii) choices of certain kinds of protection

4.12 (a) If the applicant wishes his international application to be treated, in any designated State, as an application not for a patent but for the grant of any of the other kinds of protection specified in article 43, he shall so indicate in the request. For the purposes of this paragraph, Article 2(ii) shall not apply.

(b) In the case provided for in Article 44, the applicant shall indicate the two kinds of protection sought, or, if one of two kinds of protection is primarily sought, he shall indicate which kind is sought primarily and which kind is sought subsidiarily.

Proposal

PCT Regulations

(g) Where applicable, a declaration claiming priority for an earlier application, indicating the date, country and, if known, the number of the first application. Apart from this information, the declaration shall contain the family name, given name(s) and residence or the official designation and registered office of the person for whose application priority is claimed, if he is not the same person as the applicant for a European patent.

(h) Designation of the contracting State or States in which protection of the invention is requested.

(i) If there is more than one applicant and no common agent, one of the applicants or agents, if any, shall be named in the request as common representative.

Note on (i)

1. - This provision unlike PCT rule 4.8(a), also applies to the agents mentioned in the request. No real change in the rule seems to be entailed, however, insofar as reference can be made to PCT rule 2.1, according to which the term "applicant" also means "agent".

4.1 (b) The request shall, where applicable, contain:
(i) a priority claim

4.10 (a) The declaration referred to in Article 8(1) shall be made in the request; it shall consist of a statement to the effect that the priority of an earlier application is claimed and shall indicate:

(i) when the earlier application is not a regional or an international application, the country in which it was filed; when the earlier application is a regional or an international application, the country or countries for which it was filed;

(ii) the date on which it was filed;

(iii) the number under which it was filed

4.1 (a) The request shall contain:
(iv) the designation of States

4.9 Contracting States shall be designated in the request by their names

4.8 (a) If there is more than one applicant and the request does not refer to an agent representing all the applicants ("a common agent"), the request shall designate one of the applicants who is entitled to file an international application according to Article 9 as their common representative.

Re. Article 66 No. 1

page 5

Proposal

PCT Regulations

2. - The provisions of PCT rule 4.8(b), according to which, if the request fails to comply with the terms of rule 4.8(a), the applicant first named in the request is considered the common representative, have been omitted here. Such a rule may, however be prepared as one of the implementing provisions to the article corresponding to Article 161 of the 1965 Draft (notification).

(k) the signature of the applicant or his agent

(1) a list of the documents submitted with the request. This list shall also indicate the total number of sheets constituting the European patent application and the number of sheets making up each element of this application (request, description, claims and drawings).

(3) The request shall contain no matter other than that specified in paragraph 2.

Note: Consideration will have to be given as to whether the provision contained in paragraph 3 is appropriate to European procedure for the grant of patents.

4.1 (d) The request shall be signed.

4.15 The request shall be signed by the applicant

2.1 Whenever the word "applicant" is used, it shall be construed as meaning also the agent or other representative of the applicant, except where the contrary clearly follows from the wording or the nature of the provision, or the context in which the word is used, such as, in particular, where the provision refers to the residence or nationality of the applicant.

3.3 (a) The printed form shall contain a list which, when filled in, will show:

(i) the total number of sheets constituting the international application and the number of the sheets of each element of the international application (request, description, claims, drawings, abstract)

4.17 (a) The request shall contain no matter other than that specified in Rules 4.1 to 4.16

Re. Article 66

(former Article 68)

No. 2

Content of the description

Proposal

PCT Regulations

(1) The description shall be drawn up in a clear, correct and concise manner. It shall be written in the impersonal form.

(2) The description shall first state the title of the invention as appearing in the request and shall:

- (a) specify the technical field to which the invention relates;
- (b) indicate the state of the background art which, as far as known to the applicant, can be regarded as useful for understanding the invention, drawing up the report on the state of the art and for the examination. Documents reflecting the state of the background art should preferably be cited.
- (c) disclose the invention, as claimed, in such terms that the technical problem, even if not expressly stated as such, and its solution can be understood; indicate any advantageous effects of the invention with respect to the state of the background art.

5. 1

- (a) The description shall first state the title of the invention as appearing in the request and shall:
 - (i) specify the technical field to which the invention relates;
 - (ii) indicate the background art which, as far as known to the applicant, can be regarded as useful for the understanding, searching and examination of the invention, and, preferably, cite the documents reflecting such art;
 - (iii) disclose the invention, as claimed, in such terms that the technical problem (even if not expressly stated as such) and its solution can be understood, and state the advantageous effects, if any, of the invention with reference to the background art;

Re. Article 66
(former Article 68)
No. 2 (page 2)

Proposal

PCT Regulations

- (d) briefly describe the figures in the drawings, if any;
- (e) set forth at least the best mode contemplated by the applicant for carrying out the invention claimed, using examples where appropriate and referring to the drawings, if any, with a clear differentiation between known and new elements.⁷

Note:

The question of whether to keep the words between 7, taken from the 1964 Draft (Re Art. 68 No. 3 (2) d), will have to be considered. With the exception of this provision 7 and of the one made in paragraph (1), the proposed text, which conforms to the corresponding PCT provisions, develops to a considerable extent the contents of the 1964 Draft (Re Art. 68 No. 3 (2) (a) to (d)).

- (iv) briefly describe the figures in the drawings, if any;
- (v) set forth at least the best mode contemplated by the applicant for carrying out the invention claimed; this shall be done in terms of examples, where appropriate, and with reference to the drawings, if any, where the national law of the designated State does not require the description of the best mode but is satisfied with the description of any mode (whether it is the best contemplated or not), failure to describe the best mode contemplated shall have no effect in that State;

Re. Article 66

(No. 2 (page 3))

Proposal

PCT Regulations

(f) Where appropriate, indicate the potential applications of the invention in industry (the term "industry" shall be understood in the sense given to it in the Paris Convention for the Protection of Industrial Property).

(3) The description shall be presented in the manner and order specified in paragraph 2, unless, because of the nature of the invention, a different manner or a different order would afford a better understanding and a more economic presentation.

Note:

The form proposed for sub-section (f), which follows that used in the 1964 Draft (Re Article 68 No. 3 (2) (e)), is more concise than that of the corresponding

.../...

(vi) indicate explicitly, when it is not obvious from the description or nature of the invention, the way in which the invention is capable of exploitation in industry and the way in which it can be made and used, or, if it can only be used, the way in which it can be used; the term "industry" is to be understood in its broadest sense as in the Paris Convention for the Protection of Industrial Property.

(b) The manner and order specified in paragraph (a) shall be followed except when, because of the nature of the invention, a different manner or a different order would result in a better understanding and a more economic presentation.

Re. Article 66

(No. 2 page 4)

Proposal

PCT Regulations

Note:

...

PCT provision, from which it nevertheless retains the definition of the term "industry" as used in the Paris Convention.

The form of paragraph (3) follows the corresponding PCT provision, with certain stylistic modifications.

No. 3

Form and contents of claims

Proposal

PCT Regulations

(1) Claims shall be drawn up in a precise, clear and concise manner. They shall be written in the impersonal form.

(2) The definition of the matter for which protection is sought shall be in terms of the technical features of the invention. Wherever appropriate, claims shall contain:

(a) a statement indicating those technical features of the invention which are necessary for the definition of the claimed subject matter but which, in combination, are part of the prior art.

(b) a characterising portion - preceded by the expression "characterised in that", "characterised by", "wherein the improvement comprises", or any other expression to the same effect - stating concisely the technical features which, in combination with the features stated in sub-section (a), it is desired to protect.

Art. 6 - Treaty

...Claims shall be clear and concise ...

6.3 (b) Whenever appropriate, claims shall contain;

(i) a statement indicating those technical features of the invention which are necessary for the definition of the claimed subject matter but which, in combination, are part of the prior art;

(ii) a characterising portion -- preceded by the words "characterised in that," "characterised by", "wherein the improvement comprises," or any other words to the same effect -- stating concisely the technical features which, in combination with the features stated under (i), it is desired to protect.

Proposal

PCT Regulations

(3) Any claim stating the essential features of an invention may be followed by one or more claims concerning particular features of the execution of that invention, if these are not manifestly implicit.

Note:

This provision could be considered as duplicating that of No. 3 re Article 70.

(4) (a) Any claim which includes all the features of one or more other claims ("dependent claims") shall contain, if possible at the beginning, a reference to the other claim or claims and shall then state the additional features claimed. A dependent claim may only refer to more than one other claim in the form of an alternative ("multiple dependent claim"). No multiple dependent claim may be based on another multiple dependent claim.

(b) Any dependent claim shall be construed as including all the limitations contained in the claim to which it refers or, if the dependent claim is a multiple claim, all the limitations contained in the particular claim in relation to which it is considered.

(c) All dependent claims referring back to a single previous claim, and all dependent claims referring back to several previous claims, shall be grouped together to the extent and in the most appropriate way possible.

6.4 Dependent Claims

(a) Any claim which includes all the features of one or more other claims (claim in dependent form, hereinafter referred to as "dependent claim") shall do so by a reference, if possible at the beginning, to the other claim or claims and shall then state the additional features claimed. Any dependent claim which refers to more than one other claim ("multiple dependent claim") shall refer to such claims in the alternative only. Multiple dependent claims shall not serve as a basis for any other multiple dependent claim.

(b) Any dependent claim shall be construed as including all the limitations contained in the claim to which it refers or, if the dependent claim is a multiple dependent claim, all the limitations contained in the particular claim in relation to which it is considered.

(c) All dependent claims referring back to a single previous claim, and all dependent claims referring back to several previous claims, shall be grouped together to the extent and in the most practical way possible.

Re. Article 66

(No. 3 page 3)

Proposal

PCT Regulations

(5) The number of the claims shall be reasonable in consideration of the nature of the invention claimed. If there are several claims, they shall be numbered consecutively in arabic numerals.

(6) Claims shall not, except where absolutely necessary, rely, in respect of the technical features of the invention, on references to the description or drawings. In particular, they shall not rely on such references as: "as described in part ... of the description, " or "as illustrated in figure ... of the drawings."

6.1

- (a) The number of the claims shall be reasonable in consideration of the nature of the invention claimed.
- (b) If there are several claims, they shall be numbered consecutively in arabic numerals.

6.2

- (a) Claims shall not, except where absolutely necessary, rely, in respect of the technical features of the invention, on references to the description or drawings. In particular, they shall not rely on such references as: "as described in part ... of the description," or "as illustrated in figure ... of the drawings."

Re. Article 66

(No. 3 page 4)

Proposal

PCT Regulations

(7) If the European patent application contains drawings, the technical features mentioned in the claims shall preferably, if the intelligibility of the claim can thereby be increased, be followed by reference signs relating to these features and preferably placed between parantheses.

Note:

With reference to paragraph 5, sentence 1, see proposal (Re Article 71, No. 1) paragraph 1.

(8) No claim may concern a matter not present in the description.

6.2 (b) Where the international application contains drawings, the technical features mentioned in the claims shall preferably be followed by the reference signs relating to such features. When used, the reference signs shall preferably be placed between parentheses. If inclusion of reference signs does not particularly facilitate quicker understanding of a claim, it should not be made. Reference signs may be removed by a designated Office for the purposes of publication by such Office.

Article 6

.... They (the claims) shall be fully supported by the description.

Re. Article 66
(former Article 68 - No.5)

No. 4
Form of the drawings

Proposal

PCT Regulations

(1) On sheets containing drawings, the usable surface area shall not exceed 26.2 cm x 17 cm.

These sheets shall not contain frames round the usable or used surface. The minimum margins shall be as follows:

- top 2.5 cm
- left side 2.5 "
- right side 1.5 "
- bottom 1 cm

(2) Drawings shall be executed as follows:

(a) Drawings shall be executed in durable, black or blue, sufficiently dense and dark, uniformly thick and well-defined, lines and strokes without colourings.

(b) Cross-section shall be indicated by hatching which should not impede the clear reading of the reference signs and leading lines.

(c) The scale of the drawings and the distinctness of their graphical execution shall be such that a photographic reproduction with a linear reduction in size to two-thirds would enable all details to be distinguished without difficulty. If, as an exception, the scale is given on a drawing, it shall be represented graphically.

11.6 (c) On sheets containing drawings, the surface usable shall not exceed 26.2 cm x 17.0 cm. The sheets shall not contain frames around the usable or used surface. The minimum margins shall be as follows:

- top: 2.5 cm
- left side: 2.5 cm
- right side: 1.5 cm
- bottom: 1.0 cm

11.13 (a) Drawings shall be executed in durable, black or blue, sufficiently dense and dark, uniformly thick and well-defined, lines and strokes without colourings.

11.13 (b) Cross-sections shall be indicated by oblique hatching which should not impede the clear reading of the reference signs and leading lines.

11.13(c) The scale of the drawings and the distinctness of their graphical execution shall be such that a photographic reproduction with a linear reduction in size to two-thirds would enable all details to be distinguished without difficulty.

11.13(d) When, in exceptional cases, the scale is given on a drawing, it shall be represented graphically.

Re. Article 66 No.4

(former Article 68 - No.5)

(page 2)

Proposal

PCT Regulations

(d) All numbers, letters, and reference lines, appearing on the drawings, shall be simple and clear. Brackets, circles or inverted commas shall not be used in association with numbers and letters.

(e) All lines in the drawings shall, ordinarily, be drawn with the aid of drafting instruments.

(f) Elements of the same figure shall be in proportion to each other, unless a difference in proportion is indispensable for the clarity of the figure.

(g) The height of the numbers and letters shall not be less than 0.32 cm. For the lettering of drawings, the Latin and, where customary, the Greek alphabets shall be used.

(h) The same sheet of drawings may contain several figures. Where figures drawn on two or more sheets are intended to form one whole figure, the figures on the several sheets shall be so arranged that the whole figure can be assembled without concealing any part of the partial figures. The different figures shall be arranged without wasting space, preferably in an upright position, clearly separated from one another. The different figures shall be numbered consecutively in arabic numerals, independently of the numbering of the sheets.

11.13 (e) All numbers, letters, and reference lines, appearing on the drawings, shall be simple and clear. Brackets, circles or inverted commas shall not be used in association with numbers and letters.

11.13 (f) All lines in the drawings shall, ordinarily, be drawn with the aid of drafting instruments.

11.13 (g) Each element of each figure shall be in proper proportion to each of the other elements in the figure, except where the use of a different proportion is indispensable for the clarity of the figure.

11.13 (h) The height of the numbers and letters shall not be less than 0.32 cm. For the lettering of drawings, the Latin and, where customary, the Greek alphabets shall be used.

11.13 (i) The same sheet of drawings may contain several figures. Where figures on two or more sheets form in effect a single complete figure, the figures on the several sheets shall be so arranged that the complete figure can be assembled without concealing any part of the figures appearing on the various sheets.

11.13 (j) The different figures shall be arranged on a sheet or sheets without wasting space, preferably in an upright position, clearly separated from one another.

11.13 (k) The different figures shall be numbered in arabic numerals consecutively and independently of the numbering of the sheets.

Re. Article 66 No.4
(former Article 68 - No.5)

(page 3)

Proposal

PCT Regulations

(i) Reference signs not mentioned in the description and claims shall not appear in the drawings, and vice versa. The same features, when denoted by reference signs, shall, throughout the application, be denoted by the same signs.

(k) The drawings shall not contain text matter, except, when absolutely indispensable, a single word or words such as "water", "steam", "open", "closed", "section on AB", and, in the case of electric circuits and block schematic or flow sheet diagrams, a few short catch words indispensable for understanding. Any such words shall be placed in such a way that, if required, they can be replaced by their translations without interfering with any lines of the drawings.

(3) Flow sheets and diagrams are considered drawings.

11.13 (1) Reference signs not mentioned in the description shall not appear in the drawings, and vice versa.

11.13 (m) The same features, when denoted by reference signs, shall, throughout the international application, be denoted by the same signs.

11.11 The drawings shall not contain text matter, except a single word or words, when absolutely indispensable, such as "water," "steam," "open," "closed," "section on AB", and, in the case of electric circuits and block schematic flow sheet diagrams, a few short catch words indispensable for understanding.

Any words used shall be so placed that, if translated, they may be pasted over without interfering with any lines of the drawings.

7.1 Flow sheets and diagrams are considered drawings.

Proposal

PCT Regulations

The European patent application shall not contain:

(a) expressions or drawings contrary to public policy or morality;

(b) statements disparaging the products or processes of any particular person other than the applicant, or the merit or validity of applications or patents of any such person.

Mere comparisons with the prior art shall not be considered disparaging per se.

(c) Any matter obviously irrelevant or superfluous.

9.1 - The international application shall not contain:

(i) expressions or drawings contrary to morality;

(ii) expressions or drawings contrary to public order;

(iii) statements disparaging the products or processes of any particular person other than the applicant, or the merits or validity of applications or patents of any such person (mere comparisons with the prior art shall not be considered disparaging per se);

(iv) any statement or other matter obviously irrelevant or unnecessary under the circumstances.

Re. Article 66
(former Article 68)

No. 6 (new)

General provisions governing the presentation of the application documents

Proposal

PCT Regulations

(1) With the exception of the request for the grant of a European patent, the documents making up the European patent application shall be submitted in three copies.

(2) The documents making up the European patent application shall be so presented as to admit of direct reproduction by photography, electrostatic processes, photo offset and microfilming, in an unlimited number of copies. All sheets shall be free from cracks, creases, and folds. Only one side of the sheet shall be used.

(3) The documents making up the European patent application shall be on A4 paper (29.7 cm x 21 cm), which shall be pliable, strong, white, smooth, matt and durable. Subject to the provisions of Article ... paragraph 2 re Article 66, No.4 (h), each sheet shall be used with its short sides at the top and bottom (upright position).

11.1 (a) Subject to the provisions of paragraph (b), the international application and each of the documents referred to in the check list (Rule 3.3(a)(ii)) shall be filed in one copy.

(b) Any receiving Office may require that the international application and any of the documents referred to in the check list (Rule 3.3(a)(ii)), except the receipt for the fees paid or the check for the payment of the fees, be filed in two or three copies. In that case, the receiving Office shall be responsible for verifying the identity of the second and the third copies with the record copy.

11.2 (a) All elements of the international application (i.e., the request, the description, the claims, the drawings, and the abstract) shall be so presented as to admit of direct reproduction by photography, electrostatic processes, photo offset, and microfilming, in any number of copies.

(b) All sheets shall be free from creases and cracks; they shall not be folded.

11.3 All elements of the international application shall be on paper which shall be flexible, strong, white, smooth, non-shiny, and durable.

11.2 (d) Subject to Rule 11.13(j), each sheet shall be used in an upright position (i.e., the short sides at the top and bottom).

11.5 The size of the sheets shall be A4 (29.7 cm x 21 cm). However, any receiving Office may accept inter-

...

Re. Article 66
(former Article 68)
No. 6 (new)
(page 2)

Proposal

PCT Regulations

Note: Whether the requirements of paragraph (3), concerning the quality of the paper, should also cover the request is a point in question, since the forms will, in principle, be printed by the EPO.

(4) Each element of the European patent application (request, description, claims, drawings) shall commence on a new sheet. The sheets shall be connected in such a way that they can easily be turned over, separated and joined together again.

(5) Subject to Article ... (re Article 66 No. 4) paragraph 1, the minimum margins shall be as follows:

- top of first sheet, except that of the request: 8 cm
- top of other sheets: 2 cm
- left side: 2 cm 5
- right side: 2 cm
- bottom: 2 cm

The recommended maximum for the margins quoted above is as follows:

- top of first sheet, except that of the request: 9 cm
- top of other sheets: 4 cm
- left side: 4 cm
- right side: 3 cm
- bottom: 3 cm

...
national applications on sheets of other sizes provided that the record copy, as transmitted to the International Bureau, and, if the competent International Searching Authority so desires, the search copy, shall be of A4 size.

- 11.4 (a) Each element (request, description, claims, drawings, abstract) of the international application shall commence on a new sheet.

All sheets of the international application shall be so connected that they can be easily turned when consulted, and easily separated and joined again if they have been separated for reproduction purposes.

- 11.6 (a) The minimum margins of the sheets containing the request, the description, the claims, and the abstract, shall be as follows:

- top of first sheet, except that of the request: 8 cm
- top of other sheets: 2 cm
- left side: 2.5 cm
- right side: 2 cm
- bottom: 2 cm

- (b) The recommended maximum, for the margins provided for in paragraph (a), is as follows:

- top of first sheet, except that of the request: 9 cm
- top of other sheets: 4 cm
- left side: 4 cm
- right side: 3 cm
- bottom: 3 cm

Proposal	PCT Regulations
<p>(6) The margins of the European patent application, when submitted, must be completely blank.</p>	<p><u>11.6</u> (e) The margins of the international application, when submitted, must be completely blank.</p>
<p>(7) All the sheets contained in the European patent application shall be numbered in consecutive arabic numerals. They shall be placed at the top of the sheet, in the middle, but not in the margin.</p>	<p><u>11.7</u> (a) All the sheets contained in the international application shall be numbered in consecutive arabic numerals.</p> <p>(b) The numbers shall be placed at the top of the sheet, in the middle, but not in the margin.</p>
<p>(8) The lines of each sheet of the description and of the claims shall preferably be numbered in sets of five, the numbers appearing on the left side, to the right of the margin.</p>	<p><u>11.8</u> (a) It is strongly recommended to number every fifth line of each sheet of the description, and of each sheet of claims.</p> <p>(b) The numbers should appear on the left side, to the right of the margin.</p>
<p>(9) The request for the grant of a European patent, the description and the claims shall be typed or printed. Only graphic symbols and characters and chemical or mathematical formulae may, if necessary, be written by hand or drawn. The typing shall be 1½-spaced. All text matter shall be in characters the capital letters of which are not less than 0,21 cm high, and shall be in a dark, indelible colour.</p>	<p><u>11.9</u> (a) The request, the description, the claims and the abstract shall be typed or printed.</p> <p>(b) Only graphic symbols and characters, chemical or mathematical formulae, and certain characters in the Japanese language may, when necessary, be written by hand or drawn.</p> <p>(c) The typing shall be 1½-spaced.</p> <p>(d) All text matter shall be in characters the capital letters of which are not less than 0.21 cm high, and shall be in a dark, indelible colour, satisfying the requirements specified in Rule 11.2</p>

Proposal

PCT Regulations

(10) The request for the grant of a European patent, the description and the claims shall not contain drawings. The description and the claims may contain chemical or mathematical formulae. The description may contain tables. The claims may contain tables only if their subject matter makes the use of tables desirable.

(11) Units of weights and measures shall be expressed in terms of the metric system. If a different system is used, they shall also be expressed in terms of the metric system. Temperatures shall be expressed in degrees centigrade. If a different system is used, they shall also be expressed in degrees centigrade. Densities shall be expressed in metric units. For indications of heat, energy, light, sound and magnetism, as well as for mathematical formulae and electric units, the rules of international practice shall be observed. For chemical formulae, the symbols, atomic weights and molecular formulae in general use shall be employed. In general, use should be made of technical terms, signs and symbols generally accepted in the field in question.

(12) The terminology and the signs shall be consistent throughout the European patent application.

- 11.10 (a) The request, the description, the claims and the abstract shall not contain drawings.
- (b) The description, the claims and the abstract may contain chemical or mathematical formulae.
- (c) The description and the abstract may contain tables; any claim may contain tables only if the subject matter of the claim makes the use of tables desirable.

- 10.1 (a) Units of weights and measures shall be expressed in terms of the metric system, or also expressed in such terms if first expressed in terms of a different system.
- (b) Temperatures shall be expressed in degrees centigrade, or also expressed in degrees centigrade if first expressed in a different manner.
- (c) Density shall be expressed in metric units.
- (d) For indications of heat, energy, light, sound, and magnetism, as well as for mathematical formulae and electrical units, the rules of international practice shall be observed; for chemical formulae, the symbols, atomic weights, and molecular formulae, in general use, shall be employed.
- (e) In general, only such technical terms, signs and symbols should be used as are generally accepted in the art.

10.2 The terminology and signs shall be consistent throughout the international application.

Re. Article 66
(former Article 68)

No. 6 (new)

(page 5)

Proposal

PCT Regulations

(13) Each sheet shall be reasonably free from erasures and shall be free from alterations, overwritings, and interlineations. Non-compliance with this Rule may be authorised, in exceptional cases, if the authenticity of the content is not in question and the requirements for good reproduction are not in jeopardy.

11.12 Each sheet shall be reasonably free from erasures and shall be free from alterations, overwritings, and interlineations. Non-compliance with this Rule may be authorised, in exceptional cases, if the authenticity of the content is not in question and the requirements for good reproduction are not in jeopardy.

Documents filed subsequently

Proposal

PCT Regulations

The provisions of Article ...(re Article 66 Nos. 2 to 6) shall apply to documents amending elements of the European patent application.

11.14

Rules 10, and 11.1 to 11.13, also apply to any document-- for example, corrected pages, amended claims--submitted after the filing of the international application.

Re. Article 68

No. 6

Form and number of copies of documents furnished
during proceedings

1964 Draft

(1) Documents furnished during the course of proceedings before the European Patent Office shall, in principle, be type-written. There must be a margin of about 3 or 4 cms. on the left-hand side of each page.

(2) The President of the European Patent Office may prescribe that documents shall be furnished in duplicate. Furthermore, such documents as must be transmitted to other persons or as relate to several applications or patents, must be furnished in a corresponding number of copies. Where documents are not furnished in the required number of copies, they shall be deemed not to have been received.

(3) The provisions of this Article shall not be applicable in respect of European patent applications. However, the provisions of paragraph 2 shall apply to documents amending such applications, together with the provisions applicable to the said applications.

No. 8

Form and number of copies of documents furnished
during proceedings

P r o p o s a l

(1) Documents furnished during the course of proceedings before the European Patent Office shall in principle be type-written or printed. There must be a margin of about 2.5 cms. on the left-hand side of each page.

(2) +

Note:

1. The proposed paragraph 1 has been harmonized with the proposal for re Article 66, no. 6, paragraphs 5 and 9.

2. Note applicable solely to the German text.

3. The amendment to the first sentence is intended to make it more explicit. The phrase has been deleted from the second sentence in view of the proposal for re. Article 66 No. 7.

(3) The provisions of this Article shall not be applicable in respect of the documents making up European patent applications. However, the provisions of paragraph 2 shall apply to documents amending such applications.

Re. Article 68

No. 7

Signing of documents

1964 Draft

(1) All documents, with the exception of annexed documents, furnished during the course of proceedings before the European Patent Office must be signed.

(2) Where the provisions of paragraph 1 have not been observed, the European Patent Office shall invite the party concerned to comply therewith within a time limit to be laid down by that Office.

(3) If the party concerned complies with the behest of the European Patent Office in good time, he shall retain the benefit of the date of submission of the invalid document. Failing this, the document shall be deemed not to have been received.

(4) The provisions of this Article shall not be applicable in respect of European patent applications.

Re. Article 66
(former Article 68)
(No. 7)

No. 9

Signing of documents

P r o p o s a l

(1) +

(2) +

(3) +

(4) The provisions of this Article shall
not be applicable in respect of the documents
making up European patent applications.

Note:

This amendment is intended to make paragraph
(4) more explicit.

Re. Article 68

No. 8

Telegraphic and telex communications during the
course of proceedings

1964 Draft

(1) Documents furnished during the course of proceedings before the European Patent Office may, by way of exception to the provisions of Articles ... (Nos. 6 and 7 Re. Article 68) be sent to the European Patent Office by telegram or telex. However, a document reproducing the contents of such telegram or of telex and complying with the requirements of these Regulations must be produced within 2 weeks as from the receipt of the said telegram or telex.

(2) In the event of failure to produce the document referred to in the preceding paragraph in good time, the telegram or telex shall be deemed not to have been received.

(3) The provisions of this Article shall not be applicable in respect of European patent applications.

Re. Article 66
(former Article 68)

(No. 8)

No. 10

P r o p o s a l

(1) + (... Nos. 7 and 8 ...)

Note:

The amendment is intended to make this provision more explicit.

(2) +

(3) The provisions of this Article shall not be applicable in respect of the documents making up European patent applications.

Re. Article 68

No. 9

Payment of fees

1964 Draft

(1) The European Patent Office shall hold, in each of the Contracting States, a current bank account and a postal cheque account which may be used for the payment of fees.

(2) The fees provided for in the Rules relating to fees adopted pursuant to the Convention shall be payable only in one of the currencies of the Contracting States.

(3) The Administrative Council shall lay down the terms and conditions for the payment of fees and, having regard to these terms and conditions, the date upon which fees shall be deemed to have been duly paid.

Note:

The Working Party suggested that the provisions taken by the Administrative Council under paragraph 3 of this Article provide applicants with the option of opening a current account with the European Patent Office for the payment of fees.

Re. Article 66
(former Article 68)
(No. 9)

No. 11

Payment of fees

P r o p o s a l

(1) +

(2) +

(3) +

See Note in the 1964 Draft.

Re. Article 69

No. 1 (New)

Notification sent to the applicant informing him that
his patent application is deemed to be withdrawn

P r o p o s a l

If the European patent application is deemed to be withdrawn, the European Patent Office shall record this and shall so inform the applicant.

Notes:

1- See Note on Article 69 of the First Preliminary Draft.

2- This provision shall be applicable in all cases in which the European patent application is deemed to be withdrawn. For this reason it contains no reference to Article 69, which refers to particular cases only. It is only attached to this Article for the record.

Re. Article 69

Unity of invention

1965 Draft

Note:

Article 69 of the Convention is to be supplemented by a provision in the Implementing Regulations, drawn up as follows:

"The subject-matter of a European patent application shall be deemed to be consistent if the application contains:

- (a) in addition to a product, one or more methods for producing the product or one or more methods of using the product;
- (b) in addition to a method, a device for applying this method."

Re. Article 70
(Article 69 of the 1965 Draft)
No. 1 (New)
Claims in different categories

Proposal	PCT Regulations
Within the meaning of Article 70 of the Convention, the following may be included in the same European patent application	13.2 - Rule 13.1 shall be construed as permitting, in particular, either of the following two possibilities:
(a) +	(i) in addition to an independent claim for a given product, the inclusion in the same international application of one independent claim for one process specially adapted for the manufacture of the said product, and the inclusion in the same international application, of one independent claim for one use of the said product, or
(b) +	(ii) in addition to an independent claim for a given process, the inclusion in the same international application of one independent claim for one apparatus or means specifically designed for carrying out the said process.

Note: The fact that this proposal differs from the corresponding provision in the PCT Regulations does not preclude the application of more liberal rules.

Re. Article 70
(former Article 69)

No. 2 (new)

Claims in the same category

Proposals

Subject to Article 70 of the Convention, a European patent application may contain two or more independent claims in the same category (product, process, apparatus or use) which cannot readily be covered by a single generic claim.

PCT Regulations

13.3 Subject to Rule 13.1, it shall be permitted to include in the same international application two or more independent claims of the same category (i.e., product, process, apparatus, or use) which cannot readily be covered by a single generic claim.

Re. Article 70
(former Article 69)

No. 3 (new)
Dependent claims

Proposals

PCT Regulations

Subject to Article 70 of the Convention, a European patent application may contain a reasonable number of dependent claims, claiming specific forms of the invention claimed in an independent claim, even where the features of any dependent claim could be considered as constituting in themselves an invention.

13.4 - Subject to Rule 13.1, it shall be permitted to include in the same international application a reasonable number of dependent claims, claiming specific forms of the invention claimed in an independent claim, even where the features of any dependent claim could be considered as constituting in themselves an invention.

Re. Article 70

No. 1

Number of Claims

1964 Draft

Any European patent application comprising more than ten claims shall, in respect of each claim over and above that number, incur payment of the fee provided for in the Rules relating to fees adopted pursuant to the Convention.

Re. Article 71
(former Article 70)

No. 1

Number of claims

P r o p o s a l

(1) +

(2) Dependent claims shall constitute claims within the meaning of paragraph 1.

Notes:

(1) It would appear more appropriate to incorporate this provision in Article ... (re Article 66 No. 3).

(2) Paragraph 2 as proposed is intended to make this provision more explicit.

Re. Article 74

No. 1

Formalities in the event of assignment
of a right of priority

1964 Draft

The declaration referred to in Article 74, paragraph 1 of the Convention shall,
in addition to the particulars provided for in the aforementioned paragraph, bear the family
name, given name(s) and address or trade name and registered place of business of the
applicant claiming priority, if he is not the same person as the applicant for the
European patent. In that event the European Patent Office may require that the applicant
provide proof of his entitlement to avail himself of the priority.

Re. Article 75
(former Article 74)

No. 1

Proof of right to claim priority

P r o p o s a l

In the event of the applicant and the proprietor of the patent application in respect of which priority is claimed being two different persons, the European Patent Office may require that the applicant provide proof of his entitlement to avail himself of the priority.

Note:

The contents of the first part of the sentence in the 1964 Draft are incorporated in re Article 66, No. 1 paragraph 2g.

Re. Article 78

1964 Draft

Note:

It would be appropriate, at a later date, to include in the Implementing Regulations an article on the drafting of the reports on the state of the art referred to in Article 78 of the Convention, after the relevant rules have been drawn up in joint consultation with the IIB. This article would, in particular, determine the following:

- (a) the documents to be addressed to the IIB for the drawing up of reports on the state of the art;
- (b) whether such documents may or may not be retained by the IIB;
- (c) the general rules (form and content) governing the presentation of these reports;
- (d) the powers of the Administrative Council to lay down the details of the requirements in respect of reports on the state of the art.

Re. Article 79
(former Article 78)

P r o p o s a l

Note:

Rules of the type referred to in the 1964 Draft should be considered in joint consultation with the IIB. It should then be examined whether or not these rules should be divided between these Implementing Regulations and an administrative agreement to be concluded between the European Patent Office and the IIB.

Re. Articles 82 and 83
Amendment of claims and of documents

P r o p o s a l

Note:

It might be appropriate to examine whether it would be expedient to provide for a procedure governing the material requirements for the submission of applications for the amendments referred to in Articles 82 and 83 of the First Preliminary Draft. See in this connection Rules 46.5a and 66.8a of the P.C.T. Regulations:

(a) The applicant shall be required to submit a replacement sheet for every sheet of the claims which, on account of an amendment or amendments /under Article 197, differs from the sheet originally filed. The letter accompanying the replacement sheets shall draw attention to the differences between the replaced sheets and the replacement sheets. To the extent that any amendment results in cancellation of an entire sheet, that amendment shall be communicated in a letter.

Re. Article 83

No. 1

Summons

1964 Draft

(1) If the Examining Section desires to hear the applicant it must summon him, unless the applicant waives the summons.

(2) Should an applicant who has been duly summoned fail to attend a hearing, the Examining Section may forgo hearing him.

Re. Article 84
(former Article 83)

No. 1

Summons

P r o p o s a l

(1) +

(2) +

Re. Article 85

No. 1

Details to be included in the printed specifications
of provisional European patents

1964 Draft

(1) Without prejudice to the provisions of the Convention and to the other Articles
of these Regulations, the printed specification of a provisional European patent shall
include:

- (a) the patent number;
- (b) the date of publication of the grant of the patent;
- (c) the family name and given name(s) or designation and status of the proprietor and
the State of which he is a resident or in which he has his registered place of business;
- (d) the date of filing of the patent application
- (e) the classification code of the patent;
- (f) where appropriate, the name of the inventor mentioned;

Re. Article 85
(former Article 86a)

No. 1

Details to be included in the publication of a
European patent application

P r o p o s a l

(1) Without prejudice to the provisions of the Convention, the publication of a European patent application shall include the following indications:

- (a) the number of the European patent application;
- (b) the date of publication of the European patent application;
- (c) the family name and given name or official title of the applicant and the State of which he is a resident or in which he has his registered place of business;
- (c1) the title of the invention;
- (d) +
- (e) the classification code of the European patent application;
- (e1) in the case provided for in Article 34, paragraph 2, first sentence, of the Convention, the language used in the patent application;
- (f) +

Note:

1- The reference, in the preamble to paragraph 1, to the other Articles of the Implementing Regulations has been deleted, as these Regulations contain no other provisions on the publication of European patent applications.

2- The EEC "Patents" Working Party decided that the indication required under point (e1) should be included in the printed patent specification (minutes of the 8th meeting of the "Patents" Working Party - document 4344/IV/63, Page 20, last sentence). However, this was not done by the Drafting Committee. Such information could be required for publication of the European patent application.

Re. Article 85, No. 1 (page 2)

1964 Draft

- (g) where a priority has been claimed, the date, number and State of the first filing;
- (h) in the case of patents of addition, the number of the parent patent;
- (i) in the case of divisional patents, the date and number of the original application;
- (j) in the case provided for in Article 16, paragraph 3 of the Convention, the date and number of the earlier application;
- (k) in the case provided for in Article 24, paragraph 5 of the Convention, the number of the application or patent on which the European patent application or the provisional European patent was initially dependent.

Re. Article 85, No. 1 (page 2)

P r o p o s a l

(g) +

- (h) in the case of patents of addition, the number of the parent patent application or of the parent patents;
- (i) in the case of divisional patent applications, the date and number of the original patent application or of the patent granted on the basis of that application;
- (j) in the case provided for in Article 16 of the Convention, the date and number of the earlier patent application;
- (k) in the case provided for in Article 21, paragraph 7 of the Convention, the number of the patent application or patent on which the converted application for a patent of addition was initially dependent;

Re. Article 85, No. 1 (page 3)

Re. Article 103, No. 1 Particulars of the printed specification of the final European patent

1964 Draft

Re. Art. 103 , No. 1

2. The printed specification of the final European patent shall contain a list of the publications taken into consideration by the European Patent Office in the proceedings for confirmation of a provisional European patent.

Re. Art. 85, No. 1

2. The President of the European Patent Office may prescribe that other details should be provided on the printed specification of a provisional European patent.

Re. Article 85, No. 1 (page 3)

P r o p o s a l

(1) where appropriate, a list of the publications taken into consideration by the European Patent Office in proceedings for the grant of a European patent.

(2) The President of the European Patent Office may prescribe that the publication of the European patent application should include other indications.

Re. Article 88

No. 1

Form of the Request for Examination

1964 Draft

1. A request for the examination of a provisional European patent must be submitted in writing.

2. The request shall contain:

- (a) the family name, given name(s) and place of residence, or the designation, status and registered place of business of the applicant;
- (b) the number of the provisional Patent to which the request refers and the designation of the proprietor and subject matter of that patent;

- (c) the family name, given name(s) and place of residence of the applicant's agent, should he have appointed one.

3. Where the request is submitted by a third party, it shall in principle state any objections which the applicant may hold as to the validity of the provisional European patent, and in particular any precedents not mentioned in the report on the state of the art. Such relevant documents as may not have been attached to the application may be required by the European Patent Office within a period of time to be fixed by the latter. The European Patent Office may not take account of any objections not mentioned in the request or in respect of which the required documents have not been produced in good time.

Re. Article 88

No. 1

Form of the Request for Examination

P r o p o s a l

(1) A request for the examination of a European patent application must be submitted in writing.

(2) +

(a) the family name, given name(s) and place of residence, or the official title and registered place of business of the applicant;

(b) the file number of the European patent application to which the request refers and the designation of the person filing the claim and title of the invention;

(c) +

(3) Where the request is submitted by a third party, it shall in principle state any objections which the applicant may hold as regards the grant of the European patent, and in particular any precedents not mentioned in the report on the state of the art if this has already been drawn up. Such relevant documents as may not have been attached to the application may be required by the European Patent Office within a period of time to be fixed by the latter. The European Patent Office may not take account of any objections not mentioned in the request or in respect of which the required documents have not been produced in good time.

Notes:

(1) The amendment made to provision 2a corresponds to that made to the proposal re. Article 66, No. 1, provision 2c, third sub-section.

(2) The second and third sentences of paragraph 3 should be re-examined together with the corresponding provisions on opposition proceedings, in the light of Article 87 of the First Preliminary Draft.

Re. Article 88

No. 2

Refusal of a Request for Examination

1964 Draft

(1) Should the Examining Division find that a request for examination does not comply with the conditions laid down in Article ... (Re. Article 88, No. 1) paragraphs 1 and 2, it shall so inform the applicant and shall invite him to remedy such irregularities as may have been noted, within a time-limit to be fixed by the Examining Division.

(2) In the event of failure duly to correct the irregularities noted the Examining Division shall reject the request for examination.

Re. Article 88
No. 2
Refusal of a Request for Examination

P r o p o s a l

(1) Should the European Patent Office find that a request for examination does not comply with the conditions laid down in Article ... (Re. Article 88, No. 1), paragraphs 1 and 2, it shall so inform the applicant and shall invite him to remedy such irregularities as may have been noted, within a time-limit to be fixed by the European Patent Office.

(2) In the event of failure duly to correct the irregularities noted, the European Patent Office shall reject the request for examination.

Note:

Under Articles 54, 55 and 90 of the First Preliminary Draft, the examination and the finding referred to in paragraph 1 and the refusal referred to in paragraph 2 of this number may be made by either the Examining Section or the Examining Division, depending upon whether or not the report on the state of the art has already reached the European Patent Office. In view of this distribution of responsibilities, this proposal does not stipulate which department is to be responsible for the formal scrutiny of the request for examination, especially as, according to the Note on Articles 54 and 55 of the First Preliminary Draft, the final provisions of the First Preliminary Draft should incorporate a simplified procedure for the revision of these Articles.

Re. Article 88

No. 3

Ex officio continuation of confirmation proceedings
for a provisional European Patent

1964 Draft

(1) In the event of the death or incapacity of an interested third party within the meaning of Article 96, paragraph 2, of the Convention, confirmation proceedings for the provisional European patent shall be continued ex officio, even without the participation of the heirs or legal representatives.

(2) In the event of a request for examination having been submitted by a third party who, at the time of submission, was incapacitated or was not represented in accordance with the conditions laid down in Article 172, paragraph 2, first sentence of the Convention, and if the examination of the provisional European patent has been initiated, confirmation proceedings shall be continued ex officio. Such procedural steps as may already have been taken shall be deemed to be fully valid.

Re. Article 88

No. 3

CONTINUATION OF THE PROCEDURE FOR GRANT WHERE A REQUEST MADE
BY A THIRD PARTY IS INVALID

P r o p o s a l

- deleted

(1) In the event of a request for examination being submitted by a third party who, at the time of submission, was incapacitated or was not represented in accordance with the conditions laid down in Article of the Convention and in the event of the European Patent Office finding the request invalid once the examination of the European patent application has begun, grant proceedings shall be continued ex officio. Such procedural steps as may already have been taken shall be deemed to be fully valid.

Notes:

(1) Paragraph 1 of the 1964 Draft need not be retained, as only the applicant takes part in grant proceedings, as laid down in Article 93, paragraph 1, second sentence of the First Preliminary Draft.

(2) The proposed amendment to the first sentence of paragraph 1 arises from the abandonment of the provisional European patent; otherwise, the amendments relate purely to form and are intended to clarify the text, especially the differences between paragraphs 1 and 2 of the proposal.

(3) The reference, in the first sentence of paragraph 1 of the proposal, to failure to ensure representation constitutes an exception to the sanction laid down for such contingencies in Article 172 on compulsory representation, (paragraph 5, second sentence, of the 1962 and 1965 Drafts). It is assumed that the provisions of this Article will be adopted in the First Preliminary Draft.

Re. Article 88, No. 3 (page 2)

1964 Draft

(3) In the event of a request for examination submitted by a third party in accordance with the conditions referred to in paragraph 2 having been notified to the proprietor of the patent or published in the European Patent Bulletin before the expiry of the period laid down in Article 88, paragraph 2 of the Convention, and should the European Patent Office note the invalidity of the request before the opening of the examination of the provisional European patent, the said Office shall so notify the proprietor of the patent. In the event of his being notified after the expiry of the above-mentioned period, the proprietor of the patent may, notwithstanding Article 88, paragraph 2 of the Convention, submit a request for examination. Such request shall be deemed to have been submitted on the date of the previous request; such procedural measures as may already have taken place shall be deemed to be fully valid.

Re. Article 88, No. 3 (page 2)

P r o p o s a l

(2) In the event of a request for examination submitted by a third party in accordance with the conditions referred to in paragraph 1 having been notified to the applicant or published in the European Patent Bulletin before the expiry of the period laid down in Article 88, paragraph 2 of the Convention, and should the European Patent Office note the invalidity of the request before the opening of the examination of the European patent application, the said Office shall so notify the applicant. In the event of his being notified after the expiry of the above-mentioned period, the applicant may, notwithstanding Article 88, paragraph 2 of the Convention, submit a request for examination within a period of two months following the notification. This request shall be deemed to have been submitted on the date of the previous request; such procedural measures as may already have taken place shall be deemed to be fully valid.

Note:

A time limit has been inserted in the second sentence of paragraph 2 of the proposal to avoid allowing the applicant an indefinite period of time in which to file a request for examination.

Re. Article 102

No. 1

Summons

1964 Draft

(1) Should the Examining Division wish to hear a party, it shall summon that party. However,
such party may waive the summons in the event of there being no other parties to the proceedings.

(2) The date of the hearing shall be communicated to the other parties, who may take part in the hearing.

(3) Should a party who has been duly summoned fail to attend a hearing, the Examining Division may forgo hearing him.

Re. Article 97a
(former Article 102 No. 1)

No. 1

Summons

P r o p o s a l

(1) Should the Examining Division wish to hear the applicant, it shall summon him, unless he himself waives his right to appear.

- deleted -

(2) Should an applicant who has been duly summoned fail to attend a hearing, the Examining Division may forgo hearing him.

Note:

1 - Article 84 governs hearings before the Examining Section during the proceedings up to presentation of the request for examination and Article 106 deals with hearings before the Examining Division during the opposition proceedings. The First Preliminary Draft, however, has no provision covering hearings before the Examining Division during grant proceedings. The starting point was the fact that Working Party I was to draw up such a provision at its 5th meeting, basing it closely on Article 84 and numbering it 97, in view of the introduction of Articles 84 and 106. The proposal in the present number of the article denoted by ... is based closely on re Article 84 No. 1.

2 - The amendments made with respect to the 1964 Draft derive from the fact that participation of third parties in grant proceedings has been excluded. See Article 93, paragraph 1, second sentence.

Re. Article 103

No. 1

Particulars of the printed specification of the
final European patent

Re. Article 103

No. 1

Particulars of the printed specification of the
final European patent

1964 Draft

(1) The provisions of Article ... (re. Article 85, No. 1) shall be applicable in respect of the printed specification of the final European patent; the latter shall also bear the date of publication of the confirmation of the provisional European Patent.

- (1) Without prejudice to the provisions of the Convention and to the other Articles of these Regulations, the printed specification of a provisional European patent shall include:
- (a) the patent number;
 - (b) the date of publication of the grant of the patent;
 - (c) the family name and given name(s) or designation and status of the proprietor and the State of which he is a resident or in which he has his registered place of business;
 - (d) the date of filing of the patent application;
 - (e) the classification code of the patent;
 - (f) where appropriate, the name of the inventor mentioned as such;
 - (g) where a priority has been claimed, the date, number and State of the first filing;
 - (h) in the case of patents of addition, the number of the parent patent;
 - (i) in the case of divisional patents, the date and number of the original application;
 - (j) in the case provided for in Article 16, paragraph 3 of the Convention, the date and number of the earlier application;
 - (k) in the case provided for in Article 24, paragraph 5 of the Convention, the number of the application or patent on which the European patent application or the provisional European patent was initially dependent.

Re. Article 98
(former Article 96a)

No. 1

Particulars to be entered on the printed specification of a European patent

P r o p o s a l

Without prejudice to the provisions of the Convention, the printed specification of a European patent shall bear the following particulars:

- (a) +
- (b) +
- (c) the family name, given names or official designation of the proprietor, and the State of which he is a resident or in which he has his registered place of business;
- (cl) the title of the invention;
- (d) +
- (dl) the date of publication of the patent application;
- (e) +
- (el) in the case provided for in Article 34, paragraph 2, first sentence of the Convention, the language in which the application is filed;
- (f) +
- (g) +
- (h) +
- (i) in the case of patents granted on the basis of divisional applications, the date and number of the original patent application or of the patent granted on the basis of that application;
- (j) in the case provided for in Article 16 of the Convention, the date and number of the earlier patent application;
- (k) in the case provided for in Article 21, paragraph 7 of the Convention, the number of the patent application or patent on which the patent application (conversion of patent of addition) which resulted in the grant of an independent patent was originally dependent.

Note:

1 - The text of (a) to (m) has been harmonised with the proposed text of Articles 59, No. 1, paragraph 2 (Particulars to be entered in the Register of European Patents) and 86, No. 1, paragraph 1 (Particulars to be provided for publication of a European patent application). See those proposals and the notes attached.

Re. Article 103 - No. 1 and Re. Article 85 - No. 1 (page 2)

1964 Draft

(2) The printed specification of the final European Patent shall contain a list of the publications taken into consideration by the European Patent Office in the proceedings for confirmation of the provisional European patent.

(2) The President of the European Patent Office may prescribe that other details should be provided on the printed specification of a provisional European patent.

Re. Article 98 (former Article 96a) - No. 1 (page 2)

P r o p o s a l

(2)The President of the European Patent Office may
prescribe that other details should be provided on
the specification of a European patent.

Re. Article 86

No. 1

Certification of copies of the official title

1964 Draft

The proprietor of a European patent may obtain duplicate copies of the official title upon payment of the fee laid down by the Rules relating to fees adopted pursuant to the Convention.

Re. Article 99
(former Article 96b)

No. 1

Certification of Copies of the European Patent Certificate

P r o p o s a l

The proprietor of a European patent may obtain duplicate copies of the European patent certificate upon payment of the fee laid down by the Rules relating to fees adopted pursuant to the Convention.

Note:

The adjective "official" (official title or certificate) has been omitted in this proposal since it is not present in Article 99 of the Preliminary Draft.

DRAFTING OF THE PROVISIONS RELATING TO
ARTICLES 101 - 107 ON OPPOSITION PROCEEDINGS
HAS BEEN ADJOURNED.

Re. Article 108

No. 1

Content of the appeal and of the grounds for the appeal

1964 Draft

(1) The appeal shall contain:

- (a) the designation of the decision against which the appeal is being lodged;
- (b) the declaration that an appeal is lodged against this decision.

(2) The grounds for the appeal must indicate:

- (a) to what extent the decision is impugned;
- (b) the grounds on which the amendment or cancellation of the decision is requested.

Re. Article 111
(former Article 108)

No. 1

Content of the appeal and of the grounds for the appeal

P r o p o s a l

(1) +

(a) +

(b) +

(2) +

(a) +

(b) +

Re. Article 109

No. 1

Reimbursement of appeal fees

1964 Draft

The reimbursement of appeal fees shall be ordered in the event of interlocutory revision or where the Board of Appeal deems an appeal to be admissible, if such reimbursement is equitable by reason of a substantial procedural violation. In the event of interlocutory revision, reimbursement shall be ordered by the authority whose decision has been impugned and, in other cases, by the Board of Appeal.

Re. Article 112
(former Article 109)

No. 1

Reimbursement of appeal fees

P r o p o s a l

+

Re. Article 110

No. 2

Observations by the parties

1964 Draft

(1) The Board of Appeal shall transmit the appeal and the grounds for the appeal to those parties which, in addition to the appellant are taking part in appeal proceedings and shall invite them to submit their observations on the appeal within such time limit as it may specify.

(2) The Board of Appeal shall communicate the said observations to the other parties.

(3) The Board of Appeal may at any time invite the parties to submit further observations within such time limit as it may specify.

Re. Article 113
(former Article 110, No. 2)

No. 1

P r o p o s a l

(1) +

Note:

1.- The obligation to file a sufficient number of documents at the European Patent Office for forwarding to the parties concerned, pursuant to paragraph 1, first part of the sentence, and paragraph 2, and the sanction provided for non-compliance with this provision, are dealt with in paragraph 2, second sentence, and paragraph 3 of re Article 66, No. 8.

(2) +

(3) +

Re. Article 110

No. 2a

Waiving of right to participate

1964 Draft

(1) The parties to the appeal proceedings, other than the appellant and the proprietor of the patent, may at any time waive their right to participate in these proceedings. Such waiver must be declared to the European Patent Office; it shall be irrevocable. In the event of one of the parties to the appeal proceedings, other than the proprietor of the patent, not submitting observations within the time limit referred to in paragraph 1 of Article ...(re. Article 110, No. 2), he shall be deemed to have waived his right to participate in these proceedings.

(2) The procedural fees arising after the exercise of a waiver by one party may not be charged to him, under Article 165, paragraph 1 of the Convention, except to the extent that he is responsible for them.

Re. Article 113
(former Article 110 No. 2a)
No. 2
Waiving of right to participate

P r o p o s a l

(1) + (re Article 113 No. 1)

(2) + Article of the Convention

Note:

(1) This provision should now apply only to the opposition proceedings. Paragraph 1 will have to be revised when Working Party I has drawn up a provision on the procedure for the inspection of files, corresponding to Article 162 of the 1962/1965 Draft Conventions. It would then be necessary to add to sentences 1 and 3, in front of the words "proprietor of the patent", the words "applicant for or", if the European Patent Office is to notify the latter.

(2) The provisions corresponding to Article 165 of the 1962/65 Draft Conventions on the cost of appeal proceedings has not yet been drawn up by Working Party I.

Re. Article 110

No. 3

Application of certain provisions

1964 Draft

Save any provision to the contrary in the Convention in these Regulations, the provisions on proceedings for the grant and confirmation of European patents shall be applicable to appeal proceedings insofar as the application of these provisions is compatible with the appeal proceedings.

Re. Article 113
(former Article 110 No. 3)

No. 3

Application of certain provisions

P r o p o s a l

Save any provision to the contrary in the Convention or in these Regulations, the provisions on proceedings up to the filing of a request for examination and those on grant proceedings shall be applicable to appeal proceedings insofar as these provisions are compatible with the appeal proceedings.

Re. Article 111

No. 1

Summons

1964 Draft

(1) The parties shall be summoned to oral proceedings.

(2) If a party duly summoned to oral proceedings does not attend them, the hearing may take place and a decision be taken in his absence.

Re. Article 114

(former Article 111 No. 1)

No. 1

Summons

P r o p o s a l

(1) +

(2) +

Re. Article 111

No. 2

Conduct of oral proceedings

1964 Draft

(1) Discussions shall be opened and directed by the Chairman who shall be responsible for the conduct of the hearing.

(2) The Chairman shall argue the case with the parties and their representatives on the basis of the facts and of the law. Other members of the Board of Appeal may question the parties and their representatives.

(3) Following discussion of the case, the Chairman shall declare the oral proceedings closed. The Board of Appeal may order the re-opening of the oral proceedings.

Note: Rules of procedure of the Court of Justice of the European Communities

- Article 56 (1) : (1) +

- Article 57 : The President may, in the course of a hearing, put questions to the agents, legal advisers or legal representatives of the parties. Each judge and Advocate-General shall also have this right.

- Article 59 (2) : After the Advocate-General's submissions, the President shall declare the oral procedure closed.

- Article 61 : The Court may order the re-opening of the oral procedure.

Re. Article 114
(former Article 111 No. 2)

No. 2

Conduct of oral proceedings

P r o p o s a l

(1) +

Note:

These provisions are based on Articles 56
(1), 57, 59 (2) and 61 of the Rules of Procedure
of the Court of Justice of the European Communities,
dated 3 March 1959, quoted on the opposite page.

(2) +

(3) +

Re. Article 112

No. 1

Pronouncement of the decision of the Board of Appeal

1964 Draft

Where oral proceedings have taken place, the decision of the Board of Appeal may be given at the hearing during which these proceedings were closed.

Re. Article 115

(former Article 112 No. 1)

No. 1

Pronouncement of the decision on the appeal

P r o p o s a l

+ ... /peut/...

Note :

The question of whether the word
"may" is to be replaced by "shall" will have
to be considered

Re. Article 112

No. 2

Form of the decision of the Board of Appeal

1964 Draft

(1) The decision shall be signed by those members of the Board of Appeal who contributed thereto. In the event of a member being prevented from appending his signature, this fact shall be mentioned below the decision, together with an indication by the Chairman or, in the event of the latter being prevented, by the eldest assessor, of the reason for the prevention. Such mention shall be valid in place of the signature.

(2) The decision shall contain :

- (a) a statement that it is delivered by the Board of Appeal ;
- (b) where appropriate, the date of delivery ;
- (c) the names of the Chairman and of the other members of the Board of Appeal taking part ;
- (d) particulars of the parties, of their legal representatives and agents together with their names, residence and position in the proceedings ;
- (e) the conclusions of the parties ;
- (f) a brief summary of the facts ;
- (g) the grounds ;
- (h) the order of the Board of Appeal, including, where appropriate, a decision on costs.

Re. Article 115
(former Article 112 No. 2)

No. 2

Form of the decision of the Board of Appeal

Proposal

Rules of Procedure of the C.J.E.C.

(1) +

Note :

Paragraph 2 is based on the provisions of Article 63 of the Rules of procedure of the Court of Justice of the European Communities, dated 3 March 1959, quoted on the opposite page

(2) +

Article 63

The Judgement shall contain :

(a) +

a statement that it is delivered by the Court

(b) +

the date of delivery

(c) +

the names of the President and the Judges taking part
the name of the Advocate General
the name of the Registrar
particulars of the parties
the names of agents, legal advisors and legal representatives of the parties

(e) +

+
a mention that the Advocate General has been heard ;

(f) +

+

(g) +

+

(h) +

the order of the Court, including, where appropriate, the decision on costs

Re. Article 120

No. 1

Renewal fees in respect of patents of addition
which have become independent

1964 Draft

(1) ...

(2) A European patent of addition which has been converted into an independent European patent, under reference Article 24, paragraph 5, of the Convention, shall give rise to the payment of those renewal fees pursuant to Article 119 of the Convention, which would have been due as from the filing of the application, if this patent had been independent from the outset. Fees must be paid 4 months at latest after receipt of the declaration of conversion at the European Patent Office.

No. 1

Renewal fees in respect of applications for patents
of addition which have become independent

P r o p o s a l

- deleted ; in view of Article 129, paragraph 3, second sentence, of the Convention.

An application for a European patent of addition which has been converted into an application for an independent patent or is deemed to be an independent patent application pursuant to Article 88, paragraph 4, of the Convention shall give rise to the payment of renewal fees, within four months, in respect of the years which have elapsed. Where an application has been converted, the period of four months shall commence on receipt of the declaration of conversion at the European Patent Office. In the case provided for in Article 88, paragraph 4, second sentence, of the Convention, the said period shall commence on expiry of the period provided for in Article 88, paragraph 4, first sentence, of the Convention. Article 130, paragraphs 2 and 3, of the Convention shall apply.

Re. Article 120

No. 2

Renewal fees due in respect of divisional European patents

1964 Draft

The provisions of paragraph 2 of Article ...
(re. Article 120, no. 1) shall be applicable in respect
of the additional patents resulting from the division
of a provisional European patent.

Re. Article 130
(former Article 120)

- 111 -

No. 2

Renewal fees due in respect of applications
for divisional European patents

P r o p o s a l

Renewal fees due in respect of an application
for a divisional European patent must be paid within
four months of the filing of such application.

Note :

In view of the provisions of Articles
81 (§ 4), first sentence, and 129 of the Convention,
it seems unnecessary to specify here the principle
that renewal fees in respect of divisional applications
must be paid retroactively.

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

Brussels, 23 July 1970

BR/GT I/52/70

- Secretariat -

"Implementing Regulations" sub-Committee
of Working Party I

ANNEXES I and II
of BR/GT I/52/70

BR/GT I/52 e/70 ett/PB/cm

1964 Draft

Re Article 68

N° 1

Form and content of the request for grant of a patent

(1) The request for grant of a European patent shall be submitted separately and in writing, on strong white paper measuring 29 to 34 cm by 20 to 22 cm.

(2) The request shall contain :

- (a) particulars of the family name, given names and residence, or trade name, legal status and registered place of business, of the applicant as well as his nationality ;
- (b) particulars of the family name, given names and professional residence of the applicant's Patent Agent, in the event of his having appointed one ;
- (c) the title of the invention, that is to say a precise and summary designation thereof, excluding all fancy names ;
- (d) where appropriate, an indication that the application is made in respect of a patent of addition or constitutes a divisional application ; in that event, the request should show the number of the patent application or patent to which the application in question refers ;
- (e) in the case provided for in Article 16 of the Convention, the number of the previous patent application or patent ;
- (f) if there are several applicants and they have no common agent, the address to which official communications should be sent ;
- (g) the signature of the applicant or that of his Patent Agent ;
- (h) a list of the documents annexed to the request.

Re Article 68

N° 2

Form of description

- (1) The description of the invention shall be filed in triplicate.
- (2) The description shall be made on the reverse side of one or several sheets of strong, white paper measuring 29 to 34 cm from top to bottom by 20 to 22 cm wide; the pages shall be so connected that they can be easily separated and joined again and easily turned when consulted; pages shall be numbered.
- (3) The description shall be written or typewritten, reproduced by lithography or printing so as to be clearly legible in deep permanent black ink.
- (4) The presentation of the description shall be as follows :
 - (a) a margin of approximately 3 to 4 cm shall be set aside at the left-hand side of the page, and a space about 8 cm high must be left at the top of the first page and at the bottom of the final page;
 - (b) the heading shall show the family name and given names or trade name and legal status of the applicant and the title of the invention;
 - (c) an adequate space shall be left between lines to allow for the insertion of corrections;
 - (d) the description shall contain no drawings, apart from certain structural formulae;
 - (e) indications of weights and measures shall conform to the metric system, temperature indications shall be given in degrees centigrade and density as specific weight, in the case of electrical units, the rules commonly accepted in international practice shall be observed and, in the case of chemical formulae, the symbols for elements, atomic weight and molecular formulae in common usage shall be used;
 - (f) the description shall, as far as possible, be free from erasures, alterations and overwritings; such erasures, alterations and overwritings as may be included shall be noted in the margin or margins at the end of the description; they shall be initialed; they shall be made in identical manner on all copies of documents.

Implementing Regulations

1964 Draft

Re Article 68

N° 3

Content of the description

(1) The description shall be drawn up in a clear, correct and concise manner. It shall be written in the impersonal form.

(2) The description shall, as far as possible, give particulars of :

- (a) the exact technical point to which the invention relates ;
- (b) the state of the art in the field in question ;
- (c) the result which the invention should make it possible to obtain ;
- (d) the detailed means applied to obtain this result, such means being illustrated, where appropriate, by one or several examples, known elements being clearly differentiated from new elements ;
- (e) the potential industrial applications of the invention.

Implementing Regulations

1964 Draft

Re Article 68

N° 4

Form and content of claims

(1) Claims shall set forth the technical characteristics of the invention to be protected. Any claim setting forth the essential characteristics of an invention may be followed by one or more claims relating to details of the application of this invention should the latter not be plainly implicit.

(2) If several claims are included in the same application, they shall be numbered consecutively in Arabic numerals.

(3) Claims shall not contain any expression referring in a general manner to the description or to drawings, e.g. : "as described" or "as drawn". They may however include, where necessary, signs referring to drawings or to formulae.

(4) The provisions of Article ... (N° 2 re Article 68) and ... (N° 3 re Article 68) shall be applicable respectively, to the form and content of claims.⁷

(5) No claim may relate to an object not included in the description.

Note : The provisions of paragraph 4 shall only apply in the event of Article 70 of the Convention being amended in such a way that claims are no longer deemed to be part of the description.

Implementing Regulations

1964 Draft

Re Article 68

N° 5

Form of drawings

(1) Drawings shall be filed in triplicate.

(2) The format of each drawing sheet shall be 29 to 34 cm from top to bottom by 21 cm and, in exceptional cases, 42 cm wide. The area utilised where the 21 cm wide format is used, shall not exceed 25.7 cm x 17 cm and, where the format used is 42 cm wide, 25.7 c /35.5 cm/.

(3) Drawings shall be executed as follows :

- (a) one of the copies shall be executed upon one or several sheets of transparent, flexible, non-shiny and durable material. The other two copies shall be executed on strong, white, smooth, non-shiny paper ; the last-mentioned copies may consist of good quality lithographic copies. In the event of the copy on sheets of transparent, flexible material being reproduced by a printing process, the two other copies may be printed using the same plate. The three copies must be strictly identical.
- (b) drawings shall throughout be executed in dark, if possible black and indelible, lines or strokes, without washes or colours, and shall admit of clear photographic or direct electrostatic reproduction ;
- (c) cross-sections shall be indicated by oblique hatching which shall not impede the clear reading of reference signs and leading lines ;
- (d) the scale of drawings shall be determined by the degree of complexity of the figures ; it shall be such that a photographic reproduction with a linear reduction in size to two thirds would enable all details to be distinguished without difficulty ; where the scale is given on a drawing, it shall be represented graphically and not in writing.

Re Article 68

(continued)

N° 5

- (e) the different figures shall be clearly separated from one another, arranged on as limited a number of sheets as possible and numbered consecutively, independently of the numbering of the sheets ;
- (f) all numbers, letters and reference signs contained in drawings shall be simple and clear, the height of numbers and letters being not less than 0.32 cm. To the extent necessary for the comprehension of the description, the different parts of figures shall be designated throughout by the same reference signs, which shall tally with those in the description ;
- (g) drawings may not contain any explanatory matter, other than such captions as "water", "steam", "section on AB", "open", "closed" and, in the case of electrical circuits and block schematic or flow sheet diagrams, the necessary explanatory references ;
- (h) each sheet shall bear in the margin indications of the name or trade name of the applicant and the total number of sheets as well as the number of the sheet itself.

(4) Drawings must be so laid out as to present no crease or crack liable to impede photographic reproduction.

ANNEX II

to doc. BR/GT I/52/70

Tables showing concordance
between the provisions of the 1964 Draft and the new proposals

(re. Article 66)

1964 Draft	Proposals	Proposals	1964 Draft
Re. Article 68 No. 1 (1) (2) a b c d e f g h	Re. Article 66 No. 1 (1) (2) c d b e f i k l	Re. Article 66 No. 1 (1) (2) a b c d e f g h i j no content k l	Re. Article 68 No. 1 (1) (2) - c a b d e Re. Article 74, No. 1 - f - g h -
Re. Article 68 No. 2 (1) (2) (4) (4) a b c d e f	Re. Article 66 No. 6 (1) (2) (3) (4) and (6) (9) (5) Re. Article 66 No. 2(2) (9) (10) (11) (13)	(3) Re. Article 66 No. 2 (1) (2) a b c d e f	Re. Article 68 No. 3 (1) (2)
Re. Article 68 No. 3 (1) (2) a to e	Re. Article 66 No. 2 (1) (2)	(3)	-
Re. Article 68 No. 4 (1) (2) (3) (4) 1-7 (5)	Re. Article 66 No. 4 (2) and (3) (5) (6) and (7) Re. Article 66, No. 6 common to both the description and the claims (8)	Re. Article 66 No. 3 (1) (2) a b (3) (4) (5) (6) (7) (8)	Re. Article 68 No. 4 (1) - - - (1) - (2) (3) (4) (5)
Re. Article 68 No. 5 (1) (2) (3) a b c d e f g h (4)	Re. Article 66 Nos. 4 and 6 No. 6 (1) No. 4 (1) and 6 (3) No. 4 (2) No. 6 (3) No. 4 (2) a No. 4 (2) b No. 4 (2) c No. 4 (2) h No. 4 (2) d, g and i No. 4 (2) k No. 6 (7) No. 6 (2)	Re. Article 66 No. 4 (1) (2) a b c d e f g h i j no content k (3)	Re. Article 68 No. 5 (2) (3) a b c d e f g h i j k l m n o p q r s t u v w x y z

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<u>Re. Article 66 No. 5</u>	-
<u>Re. Article 66 No. 6</u>	<u>Re. Article 68</u>
(1)	No. 2 (1) No. 5 (1)
(2)	No. 5 (4)
(3)	No. 2 (2), 5 (2)
(4)	and 5 (3) a
(5)	No. 2 (2)
(6)	No. 2 (4) a and
(7)	No. 5 (2)
(8)	-
(9)	No. 2 (2) and
(10)	No. 5 (2) h
(11)	-
(12)	No. 2 (3)
(13)	No. 2 (4) d and 4 (4)
	No. 2 (4) e and 4 (4)

Re. Article 64

(Former Article 66)

No. 2

Time of filing of European patent applications

P r o p o s a l

Notes

- (3) Consistently with Rule 20.1 of the PCT Regulations, the provisions proposed in paragraphs 1 and 2 refer to the "date" of filing, without specifying, as did the 1964 Draft, the hour and minute of filing. For this reason, the question of filing outside working hours no longer arises.

