

BR/GT I/120 e/71

Travaux Préparatoires EPC 1973

Comment:

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

Brussels, 27 September 1971
BR/GT I/120/71

- Secretariat -

PROVISIONAL AGENDA

for the 9th meeting of Working Party I
to be held from 12 to 22 October 1971,
commencing at 10.00 a.m. on Tuesday 12 October 1971
at the Kirchberg European Centre, Luxembourg

1. Opening of the meeting and adoption of the provisional agenda.
2. Discussion of the questions involved in the "package" (see I. in the enclosed list from the Secretariat)

Working documents: BR/100/71 of 24 March 1971
BR/125/71 of 7 July 1971
BR/128/71 of 21 September 1971
BR/129/71 of 13 September 1971
BR/GT I/104/71 of 15 September 1971
BR/GT I/116/71 of 20 September 1971
BR/GT I/121/71 of 30 September 1971

3. Discussion of all questions remaining open with regard to the Drafts of the Convention and the Implementing Regulations (see II. in the enclosed list from the Secretariat)

Working documents: BR/100/71 and BR/125/71 as above, also
BR/GT I/113/71 of 21 September 1971

4. Conclusion of the discussion on the questions not fully dealt with at the 8th meeting of Working Party I (see III. in the enclosed list from the Secretariat)
5. Discussion of the question which arose during the work of the EEC States on the Preliminary Draft of the Convention for the European Patent for the Common Market (known as 2nd Convention) and which concern the 1st Convention (see IV. in the enclosed list from the Secretariat)
6. Other business.

Note: The delegations are requested to inform the Secretariat as soon as possible of any further Articles they wish to discuss and the questions relating to them.

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ANNEX

I. List of Articles forming the "package"

Article 66	Combination of the filing fee and search fee (BR/100/71, p. 12, point B; BR/125/71, point 47) BR/GT I/104/71
Articles 77 and 78	Preliminary examination procedure (BR/100/71, pp. 16 to 19; BR/125/71, point 45)
Article 80	Transmission of the report on the state of the art (BR/100/71, pp. 19 and 20; BR/125/71, points 57 to 59)
Articles 122 and 137	International search report and supplementary report on the state of the art (BR/100/71, pp. 25 and 26; BR/100/71, p. 28, which refers to Article 79)
Rules relating to Fees Article 10	Partial refund of the fee for obtaining the report on the state of the art (Preliminary Draft of Rules relating to Fees, note; BR/125/71, point 184)

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II. Other questions remaining open

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| Article 9, paragraph 2
and Article 10 | Patentability
(BR/100/71, p. 2;
BR/125/71, point 16) |
| Articles 11 and 13 | (i) Clarification of the expression "contents of earlier applications"
(BR/100/71, p. 4, point C;
BR/125/71, point 17)

(ii) Problem of self-collision
(BR/100/71, p. 4, point D;
BR/125/71, point 18) |
| (Article 19 | alignment on the PCT (1) |
| Article 20 | Concordance of the three versions
(BR/100/71, p. 6;
BR/125/71, point 23) |
| Article 21 | Retention of the patent of addition
(cf. Article 13)
(BR/125/71, point 25;
also BR/100/71, p. 7, point B) |
| Article 22 | Unitary character of the European patent application in proceedings
(BR/100/71, p. 7;
BR/125/71, point 26)

-at its meeting held from 14 to 17 September 1971, Working Party I deferred examination of this Article in conjunction with Article 15 until the meeting to be held from 12 to 22 September 1971 |
| Article 23 and Imp. Reg.
Re. Article 59, No. 1 | Notification of the European Patent Office of a change of ownership during the opposition period

(Preliminary Draft Convention, note;

Preliminary Draft Implementing Regulations, note No. 1) |

(1) The Articles in brackets under point II are listed for the record. They would appear to have been dealt with at the 8th meeting of Working Party I.

- (Article 28) Possible consent of licensee in respect of certain acts of the patentee)
- Article 75 Correction of inaccurate information
(Preliminary Draft Convention, notes;
BR/100/71, p. 15;
BR/125/71, point 44)
- Articles 82, 83 and 95a Regrouping of these provisions
(Preliminary Draft Convention, notes)
- Article 88 (i) Possible extension of period for filing the request for examination
(BR/125/71, points 55 and 56)
(ii) Possibility for third parties to make the request
(BR/100/71, pp. 22 and 23;
BR/125/71, points 60 and 61)
(cf. also Article 160)
- Implementing Regulations Re. Article 88, No. 3 Non-validity of a request made by a third party
(Preliminary Draft Implementing Regulations, note;
BR/125/71, point 176)
- Article 96 Communication or notification to the third party who made the request for examination
(BR/125/71, point 62)
- Article 105a Effect of the decision revoking a European patent with regard to the holder of a licence
(BR/125/71, point 67)
- Article 111 Fixing by the Board of Appeal of the period within which an additional written statement may be submitted
(BR/100/71, p. 25)

Article 127
(former Article 126)

(i) Clarification of relation
between Article 127 and
Article 124

(BR/125/71, point 73)

(ii) Possible fixing of time-
limits

(BR/125/71, points 72 and
73)

(Article 135

Article 138

Membership of the Boards of Appeal

Different claims for different
States

(Preliminary Draft Convention,
note)

Implementing Regulations
Re. Article 140, No. 2
(former Art. 139)

Laying down and amendment of
procedures for the conduct of pro-
ceedings before the Boards of
Appeal

(BR/125/71, point 178)

Article 142

Possible extension of restitution
in integrum to cover the propri-
etor of the patent and the oppo-
sing party

(Preliminary Draft Convention,
note)

Implementing Regulations
Re. Article 145, No. 10.

"Extinction of certain rights" for
mer "Lapse"

Implementing Regulations
Re. Article 145, No. 11

Extension of the provision

(Preliminary Draft Implementing
Regulations, note)

(Article 152, paragraph 1

Enforcement of a fine: problem
settled by new wording of Art-
icle 136)

Article 153

Provision laying down that the
State in which the European Patent
Office is situated is obliged to
allow the representative to elect
his registered place of business

(Preliminary Draft Convention,
note;

BR/125/71, point 82)

Article 160
(former Art. 159)

Period within which the request
for examination may be made
during a transitional period

(Preliminary Draft Convention,
note;

BR/100/71, pp. 31 and 32;
BR/125/71, points 86 to 89)

Article 171

Acquired rights

(Preliminary Draft Convention,
note;

BR/125/71, points 133 to 138)

II. Matters not settled at the 8th meeting of Working Party I

Articles 15 and 16, and Implementing Regulations Re. Article 16

Implementing Regulations Re. Article 63, No. 1

Article 136 and Implementing Regulations Re. Article 136

Implementing Regulations Re. Article 145, No. 7

IV. Questions arising from Second Preliminary Draft Convention
on the European Patent for the Common Market

While drawing up the Second Preliminary Draft Convention
for the European Patent for the Common Market, the "Community
Patent" Working Party examined two problems which it would
prefer to be settled in the First Convention. Consequently,
these questions will have to be submitted to Working Party I.

- (a) Article 59a of the Second Convention provides that no
request for the revocation of a European patent may be made
while opposition proceedings against the grant of a patent
are being conducted at the European Patent Office or while
notice of opposition may still be given.

Working Party I is asked to examine whether an infringer or a person against whom an infringement action has been instituted should, within conditions to be laid down, be allowed to be a party to opposition proceedings.

- (b) In connection with Article 130 of the Second Preliminary Draft of the First Convention, which corresponds to Article 53 of the Second Preliminary Draft of the Second Convention, Working Party I is asked to examine whether renewal fees may be paid in advance and subject to what conditions.

Additional list (1)

(a) Questions to be re-examined by the Conference

- (i) Institutional structure of the "Union"

(BR/125/71, point 94;

Preliminary Draft Convention, note to Article 30)

- (ii) Weighting of votes, Article 35o

(BR/125/71, points 121 and 123)

(1) These matters are listed for the record

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(b) Matters that the Conference has agreed to discuss with the interested circles

(i) Article 149

(BR/125/71, point 79, p. 43)

(i) Articles 152 and 153

(BR/100/71, p. 29)
