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Comment:

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PART III bis

THE ADMINISTRATIVE COUNCIL
OF THE EUROPEAN PATENT OFFICE

CHAPTER I
POWERS AND FUNCTIONS

Article a

Powers of decision of the Council

- (1) The Council shall be competent to :
- A. amend the Implementing Regulations to this Convention;
 - B. adopt and amend :
 - (a) the Administrative and Financial Regulations of the European Patent Office;
 - (b) the Service Regulations for officials and the conditions of employment of other employees of the European Patent Office, the establishment plan, the numbers of officials and employees, their salary scales and also the nature of and rules for the grant of the additional benefits which they are to enjoy;
 - (c) the Rules relating to fees;
 - (d) any other rules which it may deem necessary for the implementation of this Convention;

C. amend the procedure for requests for examination in accordance with the provisions of Article 89, paragraphs 1 to 3.

Note :

The Working Party proposes to introduce a new paragraph D as follows :

"amend Articles 54 and 55 so as to re-allocate in the light of experience the responsibilities entrusted to the Examining Sections and Examining Divisions."

(2) The Council, in making any decision under paragraph (1), shall determine the date of its entry into force.

If one or more members of the Council declare that a decision requires by virtue of their national constitution the execution of certain formalities, such decision will only take effect after the last of such members has notified the Council that the required formalities have been fulfilled.

(3) In addition, the Council shall :

(a) take any necessary measures for the purpose of ensuring the smooth functioning of the European Patent Office;

(b) adopt each year the budget of the European Patent Office and such amending or additional budgets as may be submitted to it by the President of the European Patent Office, and supervise the implementation thereof;

- (c) audit and approve each year the accounts and inventories and the balance sheet;
- (d) approve the annual management reports of the President of the European Patent Office;
- (e) appoint the senior officials referred to in Article 37 subject to the conditions laid down in that Article and may, on the proposal of the President of the European Patent Office, take disciplinary action in regard to those officials referred to in paragraph 3 of the said Article;
- (f) give, in each particular case, to the President of the European Patent Office, to whom the President of the Council shall to this end address a written communication, an authorization to exercise the legal capacity of the European Patent Office for the purposes of :
 - actions at law with the exception of those of an urgent or protective nature, or those in which the European Patent Office has been made a defendant,
 - acts relating to the disposal of immovable property, or relating to the disposal of movable property when the sum involved exceeds the exchange value of 20 kilograms of fine gold, as well as acts affecting in the two cases referred to above the ownership of such property.

Note :

Adoption of the provision contained in (f) would necessitate an amendment of Article 32 (3) in accordance with the provisions laid down in Article a, paragraph 3 (f).