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Comment:

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

Luxembourg, 3 September 1970
BR/GT II/15/70

- Secretariat -

WORKING PARTY II

WORKING DOCUMENT

for the
draft of a Convention establishing a European System
for the Grant of Patents

Final and general provisions

Articles b, f and j

drawn up by the Drafting Committee

Reservation of acquired rights in
cases of non-ratification of the revised text

Article b

(1) In no case shall non-ratification of the revised Convention impair rights acquired pursuant to this Convention before the entry into force of the revised text.

(2) European patent applications which are before the European Patent Office on the date of entry into force of the revised text, as laid down in Article a (4), and in which a State has been designated which has not ratified the said text, shall be dealt with by the European Patent Office, in so far as that State is concerned, on the basis of the provisions which were applicable prior to the entry into force of the revised text.

Note

In proposing the text of this Article, the Working Party is fully aware of the practical difficulties which its application may involve as regards the working of the European Patent Office, which may be obliged to submit one and the same application, for various States, to two separate bodies of law. It believes that it is for Working Party I to make a thorough examination of this aspect of the matter. Other texts have been proposed by various delegations, with a view to avoiding this drawback, but these have come up against other objections, in particular that of not adequately respecting the **"acquired rights" of applicants or that of not taking** the position of States which have not ratified the revised text suitably into account.

Territorial field of application

Article f

(1) Any Contracting State may declare in its instrument or ratification or accession, or may inform the Government of by written notification any time thereafter, that this Convention shall be applicable to one or more of the territories for the external relations of which it is responsible.

(2) Any declaration made under the preceding paragraph shall take effect on the same date as the ratification or accession in which it was included; any notification shall take effect six months after the latter has been received by the Government of

(3) Any Contracting State may at any time declare that the Convention shall cease to apply to some or to all of the territories in respect of which it has made a declaration or given a notification pursuant to paragraph (1). Such declaration shall take effect one year after the date on which notification thereof has been given to the Government of, unless the State concerned has earlier ceased to be a party to the Convention, pursuant to Article a, paragraph 4(b).

(4) The Government of shall inform all the Governments of the Contracting States of the declarations and notifications referred to in paragraph 1 of this Article.

Denunciation

Article j

(1) Any Contracting State may at any time denounce this Convention. Notification of denunciation shall be given to the Government of Denunciation shall take effect one year after the date on which notification is given, unless the State concerned has earlier ceased to be a party to the Convention, pursuant to Article a, paragraph 4 (b).

(2) The Government of shall inform all the Governments of the Contracting States of the denunciations referred to in paragraph 1.

(3) (a) Denunciation shall not prejudice rights acquired pursuant to this Convention prior to the expiry of the period provided for in paragraph 1.

(b) European patent applications which are before the European Patent Office on the date on which the denunciation takes effect pursuant to paragraph 1, and in which a State which has denounced the Convention has been designated, shall be dealt with by the European Patent Office, in so far as that State is concerned, on the basis of the provisions of the Convention applicable on the date on which the denunciation takes effect.

Note

The wording of this provision is derived from that of Article b. If Article b were to be amended, amending Article j, paragraph 3, would also have to be considered.