

BR/GT II/5 e 70

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Comment:

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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.

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

Luxembourg, 6 March 1970
BR/GT II/5/70

- Secretariat -

WORKING PARTY II

WORKING DOCUMENT

PRELIMINARY DRAFT
FOR A CONVENTION RELATING TO THE ESTABLISHMENT OF A
EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

Articles a, paragraph 4, b, c, d, e, f,
f bis, g, h, i, j, k, l, n and o

(Text drawn up by the Drafting Committee)

Article a

Powers of decision of the Council

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(4) Furthermore, the Council shall:

- A. give its decision on requests for accession to this Convention formulated by third countries;
- B. conclude and amend on behalf of the European Patent Office:
 - (a) the agreement with the International Patent Institute laying down the procedures for its collaboration with the European Patent Office;
 - (b) any agreement with the International Bureau provided for in the Patent Co-operation Treaty for the purposes of applying Articles 117 to 123 of this Convention;
 - (c) the agreements with the Contracting States to the Co-operation Treaty which are not Contracting States to this Convention, which are referred to in Article 119, paragraph 2;
 - (d) any agreement with any other inter-governmental organisation exercising an activity in which the European Patent Office has an interest;
- C. decide as to the possibility of the European Patent Office acting as a receiving Office within the meaning of Chapter I of the Co-operation Treaty in the case provided for in Article 119, paragraph 3;
- D. decide upon the setting up of branches for information and liaison purposes in the Contracting States or with the International Patent Institute or other inter-governmental organisations in the field of industrial property, subject to the approval of the Contracting State or organisation concerned.

Article b

Preparatory duties of the Council

The Council shall be empowered:

- (a) to prepare Conferences for the revision of this Convention;
- (b) to prepare such adaptations to this Convention as may be rendered necessary by the accession of third countries.

CHAPTER II

THE CONSTITUTION OF THE COUNCIL

Article c

Representation of States

- (1) Each Contracting State shall be entitled to appoint one Representative and one alternate Representative to the Council.
- (2) The Representatives of the Contracting States may be assisted by advisers or experts.

Article d

Representation of inter-governmental organisations

- (1) The International Patent Institute shall be represented at the meetings of the Council in accordance with the provisions of the agreement laying down the procedures for its collaboration with the European Patent Office.
- (2) Likewise, any other inter-governmental organisation charged with the implementation of international procedures in the field of patents, with which the Council has concluded an agreement, shall be represented at the meetings of the Council in accordance with the provisions to that effect contained in the said agreement.
- (3) Any other inter-governmental organisations exercising an activity of interest to the European Patent Office may be invited by the Council, at its discretion, to arrange to be represented by observers during the discussion of matters of mutual interest.

Article e

Attendance of the President of the European Patent Office

The President of the European Patent Office shall be present at the deliberations of the Administrative Council.

Note :

The adoption of this provision will necessitate an amendment of Article 36, paragraph 2 (i).

CHAPTER III

THE PROCEEDINGS OF THE COUNCIL

Article f

The President and Vice-President

- (1) The Council shall elect from among its members a President and a Vice-President.

The Vice-President shall automatically replace the President in the event of his being prevented from attending.

- (2) The duration of the term of office of the President and the Vice-President shall be three years; it shall be renewable.

Article f bis

Board of the Council

- (1) The Council shall have a Board composed of five of its members.
- (2) The President and the Vice-President of the Council shall be members of the Board as of right; the other three members shall be elected by the Council.
- (3) The term of office of the members of the Board shall be three years; this term shall not be renewable for members other than those who are members as of right.
- (4) The Board shall assist the President in carrying out the duties devolving upon him during the interval between the meetings of the Council, in accordance with the provisions of the Rules of Procedure.

Article 8

Meetings of the Council

- (1) Meetings of the Council shall be convened by its President.
- (2) The Council shall hold an ordinary meeting once each year. In addition, it shall meet on the initiative of its President or at the request of one third of the Contracting States.
- (3) The discussions of the Council shall be held in accordance with the terms laid down in its Rules of Procedure and shall be based on an agenda.
- (4) The provisional agenda shall contain any question whose inclusion is requested by any Member State in accordance with the Rules of Procedure.

Article h

Rules of Procedure

The Council shall lay down its own Rules of Procedure.

Article i

Languages

- (1) The languages in use in the deliberations of the Council shall be English, French and German.
- (2) Documents submitted to the Council, and the minutes of its deliberations, shall be drawn up in the three languages provided for in paragraph 1.

Article j

Voting rights

- (1) The right to vote in the Council shall be restricted to the Contracting States.
- (2) Each Contracting State represented on the Council shall have one vote, subject to the application of the provisions of Article m.

Article k

Select Committees of the Council

- (1) Select Committees of the Council may be set up for the purpose of supervising the activities of the special organs set up within the European Patent office in order to carry out such additional tasks as may be given them by special agreements within the meaning of Article 8.
- (2) The composition, powers and functions of such Select Committees shall be the subject of separate Protocols signed by the States parties to the special agreements referred to in Article 8.

Note :

It will be advisable, in liaison with Working Party IV, where appropriate, to study the question of the relations to be established between the Administrative Council and the Select Committees, especially as regards the fixing of the contribution by the Contracting States to the Convention and that of the States bound by a special agreement, to the common expenditure of the European Patent Office.

Article 1

Voting rules

- (1) The following shall require the unanimous vote of the Contracting States:
- (a) the decisions referred to in Article a, paragraph 4, of this Convention;
 - (b) amendment of the Implementing Regulations to this Convention referred to in Article a, paragraph 1A.

Any Contracting State which is not represented at the Council may vote in writing.

Abstentions shall not prejudice the adoption of the decisions referred to in the present paragraph.

Note :

The text formerly appearing under Article a (2) has been inserted here by the Drafting Committee. Paragraph 3 of Article a accordingly becomes Article a (2).

- (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.

ad Article 1

- (3) The following shall require a two-thirds majority of the votes of the Contracting States:
- (a) the adoption and amendment of the other rules and regulations referred to in Article a, paragraph 1 B;
 - (b) the adoption and amendment of the Rules of Procedure of the Council;
 - (c) the adoption of the budget of the European Patent Office and of any supplementary budgets;
 - (d) the decisions under Article a, 1 C;
 - (e) the appointment of the President of the European Patent Office.
- (4) All other decisions of the Council shall require a simple majority of the votes of the Contracting States.

- 15 -

Article m

Weighting of votes

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BR/GT II/5 e/70 aem

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Article n

The Secretariat of the Council

- (1) The Council shall have such staff of its own as may be necessary for the performance of its duties, placed under the authority of the official whom it shall appoint to direct the Secretariat.
- (2) Premises, equipment and furnishings shall be supplied to it by the European Patent Office.

Article o

Privileges and immunities

The members of the Council shall enjoy in the territory of the Contracting States the privileges and immunities necessary for the performance of their duties, under the conditions defined in a separate Protocol.

