

BR/GT IV/40 e/70

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

Luxembourg, 15 October 1970
BR/GT IV/40/70

- Secretariat -

WORKING PARTY IV

(Luxembourg, 13 to 15 October 1970)

PRELIMINARY DRAFT

CONVENTION

FOR A EUROPEAN SYSTEM FOR
THE GRANT OF PATENTS

Articles 42c, 44, 46, 48, 49, 50, 51, 53 and 187

(Texts drawn up by the Drafting Committee)

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Article 42c

Level of fees and payments -
special financial contributions

(1) The amounts of the fees referred to under Article 42a and the proportion referred to under Article 42b shall be fixed at such a level as to ensure that the revenue in respect thereof is sufficient for the budget of the European Patent Office to be balanced.

(2) However, if the European Patent Office is unable to balance its budget under the conditions laid down in paragraph 1, the Contracting States shall remit to the European Patent Office special contributions, the amount of which shall be determined by the Administrative Council for the budgetary period in question. This shall in particular apply for as long as the amount of the payments under Article 42b is still insufficient.

(3)

Ist variant

∟ The amounts of these contributions shall be determined in accordance with a scale directly proportional to the number of patent applications filed in, or in respect of, the respective Contracting States during the last year but one prior to the date of entry into force of the Convention.7

2nd variant

/ These contributions shall be determined in respect of each Contracting State on the basis of the number of patent applications filed in the last year but one prior to the date of entry into force of this Convention, and calculated in the following manner:

- (a) one quarter in proportion to the number of patent applications filed in each Contracting State;
- (b) three quarters in proportion to the second highest number of patent applications filed by the nationals of each Contracting State in the other Contracting States.

However, the amounts to be contributed by States in which the number of patent applications exceeds 30,000 shall then be taken as a whole and a new scale drawn up determined in proportion to the total number of patent applications filed in these States. 7

(4) Article 42b, paragraphs 5 and 6, shall apply mutatis mutandis to the contributions referred to in paragraphs 2 and 3 above.

(5) The contributions under paragraphs 2 and 3 above shall be repaid together with interest at a rate to be prescribed in the Financial Regulations. Repayments shall be made in so far as it is possible to provide for this purpose in the budget, and the amount thus provided shall be distributed among the Contracting States in accordance with the scale mentioned in paragraph 3 above.

(6) The contributions remitted in any budgetary period shall be wholly repaid before any contributions or parts thereof remitted in any subsequent budgetary period are repaid.

Article 44

Authorisation for expenditure

(1) The expenditure entered in the budget shall be authorised for the duration of one financial year, unless any provisions to the contrary are contained in the Financial Regulations.

(2) Subject to the conditions to be laid down in the Financial Regulations, any appropriations, other than those relating to staff costs, which are unexpended at the end of the financial year may be carried forward, but not beyond the end of the following financial year.

(3) Appropriations shall be set out under different headings according to type and purpose of the expenditure and subdivided, as far as necessary, in accordance with the Financial Regulations.

Article 46
Draft Budget

The President of the European Patent Office shall lay the draft budget before the Administrative Council not later than 30 September of the year preceding that to which it relates.

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Article 48

Provisional budget

(1) If, at the beginning of the financial year, the budget has not been adopted by the Administrative Council, expenditures may be effected on a monthly basis per heading or other division of the budget, according to the provisions of the Financial Regulations, up to one-twelfth of the budget appropriations for the preceding financial year, provided that the appropriations thus made available to the President of the European Patent Office shall not exceed one-twelfth of those provided for in the draft budget.

(2) The Administrative Council may, subject to the observance of the other provisions laid down in the first paragraph, authorise expenditure in excess of one-twelfth of the appropriations.

(3) The payments referred to in Article 42 (ii) shall continue to be made under the conditions determined under Article 42b for the year preceding that to which the draft budget relates.

(4) The Contracting States shall pay each month, on a provisional basis and in accordance with the scale referred to in Article 42c, paragraph 3, any special financial contributions necessary to ensure implementation of paragraphs 1 and 2 of this Article. Article 42b, paragraph 6, shall apply mutatis mutandis to these contributions.

Article 49

Budget implementation

(1) The President of the European Patent Office shall implement the budget on his own responsibility and within the limits of the allocated appropriations.

(2) Within the budget, the President of the European Patent Office may, subject to the limits and conditions laid down in the Financial Regulations, transfer funds as between the various headings or sub-headings.

Article 50

Auditing of accounts

(1) The income and expenditure account and a balance sheet of the European Patent Office shall be examined by an Audit Board composed of independent auditors of whom one shall be the chairman. The Administrative Council shall fix the number of auditors. The members and the chairman of the Audit Board shall be appointed by the Administrative Council for a period of five years. Their remuneration shall be determined by the Administrative Council.

(2) The audit, which shall be based on vouchers and shall take place, if necessary, in situ, shall ascertain that all income has been received and all expenditure effected in a lawful and proper manner and that the financial management is sound. The Audit Board shall draw up a report after the end of each financial year, the adoption of this report requiring a majority vote of its members.

(3) The President of the European Patent Office shall annually submit to the Administrative Council the accounts of the preceding financial year in respect of the budget and the balance sheet showing the assets and liabilities of the European Patent Office, together with the report of the Audit Board.

(4) The Administrative Council shall give the President of the European Patent Office a discharge in respect of the implementation of the budget.

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Article 51

Accounting and contributing currencies

(1) The budget shall be drawn up in the unit of account fixed in accordance with the provisions of the Financial Regulations.

(2) The payments and contributions provided for in Article 42, and the advances provided for in Article 42d shall be made available to the European Patent Office by the Contracting States in accordance with the provisions of the Financial Regulations.

Article 53

Financial Regulations

The Financial Regulations shall in particular establish

- (a) the procedure relating to the establishment and implementation of the budget and for the rendering and auditing of accounts;
- (b) the method and procedure whereby the payments, contributions and advances provided for in Articles 42 and 42d are to be made available to the European Patent Office by the Contracting States;
- (c) the rules concerning the responsibilities of cashiers and accountants and the arrangements for their supervision;
- (d) the rates of interest provided for in Articles 42b, 42c and 43.

PART XI
TRANSITIONAL PROVISIONS

CHAPTER I
TRANSITIONAL AND GENERAL PROVISIONS

Article 187

First accounting period of the European Patent Office

(1) The first accounting period of the European Patent Office shall extend from the date of entry into force of this Convention to 31 December of the same year. If that date falls within the second half of the year, the accounting period shall extend until 31 December of the following year.

(2) The budget for the first accounting period shall be drawn up as soon as possible after the entry into force of this Convention. Until contributions provided for in Article 42c due in accordance with the first budget are received by the European Patent Office, the Contracting States shall, when requested by the Administrative Council, make interest-free advances which shall be deducted from their contributions in respect of that budget. The advances shall be determined in accordance with the scale referred to in Article 42c, paragraph 3.

(3) Until such time as the conditions of service for officials and other employees of the European Patent Office provided for under Article 38 have been drawn up, the Administrative Council and the President of the Office, each within their respective powers, shall recruit the necessary staff and shall conclude short-term contracts to that effect. The Administrative Council may lay down general principles in respect of recruitment.

