

BR/GT IV/42 e/71

Travaux Préparatoires CBE 1973

- Secretariat -

WORKING PARTY IV

NOTE BY THE CHAIRMAN

1. The Intergovernmental Conference at its meeting of 20 - 28 April, 1971 confided various tasks to Working Party IV and stated that it would be desirable for these to be carried out before the 6th meeting of the Conference in June, 1972.
2. The tasks are:
 - (a) To recalculate the scale of States' contributions under Article 44(42c)(1) on the basis of 19 participating States instead of 17, Yugoslavia and Monaco having joined the negotiations.
 - (b) To consider whether the second variant of Article 44(42c), paragraph 3 should be amended by replacing the fractions of one-quarter and three-quarters in (a) and (b) by the fractions one-half and one-half; if so to calculate the scale of contributions on this basis also.

(1) The Articles are numbered as they will appear in the published text of the Second Draft Convention. The numbers given in brackets are those used in previous documents.

- (c) To form a view on the appropriate rate or rates of interest to be paid under Article 44(42c), paragraph 5, and to estimate its effect on the financial planning.
- (d) To redraft Article 52b(50) in more general terms so that it refers broadly to independent auditors.
- (e) To consider the effects on the finances if a State accedes to the Convention after it has come into force or ceases to be a party to it under Article 162, paragraph 4 or Article 170(171); and whether any amendment of the Financial Articles is necessary to protect the finances in these circumstances.
- (f) To revise the report of the Working Party IV and annexes (BR/57/70) to bring them into line with the text of the draft Convention as it stands after the 5th meeting of the Conference in January, 1972.

3. The next meeting of the Working Party is fixed provisionally for 22 to 25 February 1972. This may need changing if Working Party I has to meet after the 5th meeting of the Conference. It is hoped that this will be the only full-length meeting but for this to be possible a considerable amount of preparatory work will be necessary particularly in connection with the tasks set out under point 2(c) and (f). A short further meeting may be necessary just before the 6th meeting of the Conference to endorse the final form of the Report and Annexes.

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4. The Chairman will himself circulate in advance a paper dealing with the tasks under point 2(a), (b) and (d).
 5. On the task under point 2(c), he would be grateful for the views of the States; as to whether the rate should be standard for all States in any particular year and whether it should be a token rate, the rate at which Governments can borrow on the open market or some intermediate rate. The Chairman points out that this rate of interest is a critical factor in fixing the levels of the fees in the introductory period if the loans are ultimately to be repaid. With the fees assumed up to now the rate of interest cannot be above 4%.
 6. Concerning the task under point 2(e), the point about a State which accedes late to the Convention is whether, in addition to paying its special contributions from the date of accession, it should also pay an entrance fee. On the one hand its national office is not relieved of work until it accedes and this would indicate no entry fee. On the other hand it gains from the investment and effort put into the starting-up of the Office by the original States and benefits from a fully-operative system; this would indicate an entry fee. Where a State ceases to be party, the question is whether it can still be obliged to pay over to the European Patent Office a proportion of the national renewal fees received by it in respect of European Patents previously granted with effect in that State; under Article 171(171a) it may even be that such patents are granted after it has ceased to be a party; it should be noted that the proportion of the national renewal fees to be paid over is to be fixed under Article 43(42b) by the Administrative Council and the denouncing State would no longer be represented thereon.

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In the task under point 2(f) deletions from the report and annexes will be necessary to restrict them to the mode of operation of the European system as defined in the draft Convention as it will stand after the January 1972 meeting of the Conference and they may need to be recast; the Chairman would hope to be able to do some at least of this work before the meeting of the Working Party. However there are other factors which will or may have changed before 1972. For example the EEC salary scales will have changed, inflation will have increased the probable costs, the WIPO statistics for 1969, and possibly for 1970, will be available, the fees for national applications and renewals will have altered, and the values of the various national currencies relative to the unit of account may have altered. If all these possible changes are to be taken into account in revising the report and annexes, it is not possible to do this in the time available between the January meeting of the Conference and the proposed date for the next meeting of the Working Party. It may be that the best thing is at that meeting to consider the report and annexes amended to take into account only the form of the draft Convention and to decide on how it is to be up-dated to conform with the financial factors prevailing just before the 6th meeting of the Conference; it may be that the results of this up-dating could be endorsed at a short meeting which would also decide on the new schedule of fees elevated to agree with the situation in 1972; the up-dated report, annexes and fees schedule could then be presented to the 6th meeting of the Conference.

It would be helpful to the Chairman if the delegations participating in Working Party IV would let the Secretariat have their preliminary views on points 5 to 7 of this note by 31st August, 1971.

