

CA/49/00

Orig.: English

Dublin, 24.02.2000

SUBJECT: Revision of the EPC - Chapter V (Financial provisions)

DRAWN UP BY: President of the European Patent Office

ADDRESSEES: Administrative Council (for decision)

SUMMARY

As a result of comments by the Board of Auditors in their report for the 1998 accounting period, the Office will propose amendments to the EPC under the heading of financial provisions, with the aim of making EPO financial practice compatible with generally accepted accounting principles.

A full draft of the proposals will be submitted to the April meeting of the Committee on Patent Law and to the Budget & Finance Committee for its meeting in May 2000.

REVISION OF CHAPTER V EPC

I. INTRODUCTION

In their report for the 1998 accounting period (CA/20/99 §D), the Board of Auditors drew attention to the fact that the EPO's budgetary and accounting practices failed to reflect the literal wording of the European Patent Convention and the Financial Regulations. The President of the Office, in his reply, explained that the financial policy for the Office had always been a hybrid one, largely because of inconsistencies between the three official languages in Chapter V of the EPC. The reply mentioned also that the accounting policies of the Pension Reserve Fund observed generally accepted accounting principles, based on market practice.

The Board of Auditors, in their report on special areas, recommended (§VI.2(b)) that the EPO's pension liabilities be recorded in the annual accounts of the Organisation. In his reply, the President of the Office stated that this recommendation would need to be examined from the point of view of compatibility with the financial provisions of the EPC. The PRF, which did not exist and was not envisaged when the EPC was drafted, is governed by its own set of regulations.

The Office takes the view that Chapter V EPC should now be revised, so as to take these points into account, allowing also for generally accepted accounting principles to form the basis of future budgetary and financial policies.

II. OUTLINE OF PROPOSED CHANGES

The proposed changes to Chapter V EPC will relate to the adoption of "generally accepted accounting principles"; the Chapter will not therefore refer to or imply any specific accounting policies, practices or principles. Those would be defined in FinRegs by the Administrative Council at a later stage. In parallel, audit, it will be proposed, should be based on "generally accepted auditing standards".

The concept of budgetary funding is to be introduced. "Own resources" will therefore be redefined; the resources of the PRF, in particular, will be treated a special asset of the Organisation. Since the EPC includes the provision that the President of the Office be discharged for execution of the budget, it follows that the Administrator of the PRF should also be discharged in respect of the preceding accounting period.

Implementing rules for the budget could be a matter of the President's own authority.

III. CONCLUSION

The Administrative Council is requested to agree that detailed proposals for changes to Chapter V EPC (Financial Provisions) be put forward to the Committee on Patent Law and the Budget & Finance Committee for their deliberations, to be included in the ongoing revision process for the EPC.
