Article 176 E

Travaux Préparatoires (EPC 1973)

Comment:

The collection represents purely an internal research tool for the purpose of Directorate Patent Law of the European Patent Office. No guarantee can be given for its completeness or correctness. 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.
Art. 176
MPÜ
Finanzielle Rechte und Pflichten eines ausgeschiedenen Vertragsstaats

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MUNICH DIPLOMATIC CONFERENCE
FOR THE SETTING UP OF A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

- 1973 -

Munich, 4 October 1973
M/160/K
Original: English/French/German

CONFERENCE DOCUMENT

Drawn up by: General Drafting Committee

Subject: Amendments to the texts of document M/146/R 1 to 15
Article 176

Financial rights and obligations of a former Contracting State

(1) Any State which has ceased to be a party to this Convention in accordance with Article 131, paragraph 4, or Article 174, shall have the special financial contributions which it has paid pursuant to Article 42, paragraph 2, refunded to it by the Organisation only at the time and under the conditions whereby the Organisation refunds special financial contributions paid by other States during the same accounting period.

(2) The State referred to in paragraph 1 shall, even after ceasing to be a party to this Convention, continue to pay the proportion pursuant to Article 39 of renewal fees in respect of European patents remaining in force in that State, at the rate current on the date on which it ceased to be a party.
MUNICH DIPLOMATIC CONFERENCE
FOR THE SETTING UP OF A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

- 1973 -

Munich, 30 September 1973
M/ 146/R 7
Original: English/French/German

CONFERENCE DOCUMENT

Drawn up by: General Drafting Committee

Subject: Convention: Articles 167 to 178
(3) Absatz 2 ist auf europäische Patente anzuwenden, für die zu dem in Absatz 2 genannten Zeitpunkt ein Einspruchsverfahren anhängig oder die Einspruchsfrist noch nicht abgelaufen ist.

(4) Das Recht eines Staats, dessen Mitgliedschaft an diesem Übereinkommen beendet ist, ein europäisches Patent nach der Fassung des Übereinkommens zu behandeln, die auf ihn anwendbar war, wird durch diesen Artikel nicht berührt.

**Artikel 175**
Finanzielle Rechte und Pflichten eines ausgeschiedenen Vertragsstaats

(1) Jeder Staat, dessen Mitgliedschaft nach Artikel 171 Absatz 4 oder Artikel 173 erloschen ist, erhält die von ihm nach Artikel 38 Absatz 2 geleisteten besonderen Finanzbeiträge von der Organisation erst zu dem Zeitpunkt und den Bedingungen zurück, zu denen die Organisation besondere Finanzbeiträge, die im gleichen Haushaltsjahr von anderen Staaten gezahlt worden sind, zurückzahlt.

(2) Der in Absatz 1 bezeichnete Staat hat den in Artikel 37 genannten Anteil an den Jahresgebühren für die in diesem Staat aufrechterhaltenen europäischen Patente auch nach Erlöschen seiner Mitgliedschaft in der Höhe weiterzuzahlen, die zu dem Zeitpunkt maßgebend war, zu dem die Mitgliedschaft erloschen ist.

**Artikel 176**
Sprachen des Übereinkommens

(1) Dieses Übereinkommen ist in einer Umschrift in deutscher, englischer und französischer Sprache abgefasst, wobei jeder Wortlaut gleichermaßen verbindlich ist, und wird im Archiv der Regierung der Bundesrepublik Deutschland hinterlegt.

(2) Mit vorheriger Zustimmung des Verwaltungsrats können amtliche Fassungen dieses Übereinkommens in den Amtssprachen anderer Vertragsstaaten herausgegeben werden. Bei Streitigkeiten über die Auslegung der verschiedenen Fassungen sind die in Absatz 1 genannten Fassungen maßgebend.

**Artikel 177**
Übermittlungen und Notifikationen

(1) Die Regierung der Bundesrepublik Deutschland stellt beglaubigte Abschriften des Übereinkommens her und übermittelt sie den Regierungen aller anderen Staaten, die das Übereinkommen unterzeichnet haben oder ihm beigetreten sind.

(3) The provisions of paragraph 2 shall apply to European patents in respect of which, on the date mentioned in that paragraph, an opposition is pending or the opposition period has not expired.

(4) Nothing in this Article shall affect the right of any State that has ceased to be a party to this Convention to treat any European patent in accordance with the text to which it was a party.

**Article 175**
Financial rights and obligations of a former Contracting State

(1) Any State which has ceased to be a party to this Convention in accordance with Article 171, paragraph 4, or Article 173, shall have the special financial contributions which it has paid pursuant to Article 38, paragraph 2, refunded to it by the Organisation only at the time and under the conditions whereby the Organisation refunds special financial contributions paid by other States during the same accounting period.

(2) The State referred to in paragraph 1 shall, even after ceasing to be a party to this Convention, continue to pay the proportion pursuant to Article 37 of renewal fees in respect of European patents remaining in force in that State, at the rate current on the date on which it ceased to be a party.

**Article 176**
Languages of the Convention

(1) This Convention shall be drawn up in a single original, in the English, French and German languages, to be deposited in the archives of the Government of the Federal Republic of Germany, the three texts being equally authentic.

(2) Subject to authorisation by the Administrative Council, official texts of this Convention may be published in the official languages of other Contracting States. In the event of conflict on the interpretation of the various texts, the texts referred to in paragraph 1 shall be authentic.

**Article 177**
Transmission and notifications

(1) The Government of the Federal Republic of Germany shall draw up certified true copies of this Convention and shall transmit them to the Governments of all signatory or acceding States.
MÜNCHNER DIPLOMATISCHE KONFERENZ
ÜBER DIE EINFÜHRUNG EINES EUROPÄISCHEN
PATENTERTEILUNGSVERFAHRENS 1973
(München, 10. September bis 6. Oktober 1973)

MUNICH DIPLOMATIC CONFERENCE
FOR THE SETTING UP OF A EUROPEAN SYSTEM
FOR THE GRANT OF PATENTS, 1973
(Munich, 10 September to 6 October 1973)

CONFERENCE DIPLOMATIQUE DE MUNICH
POUR L'INSTITUTION D'UN SYSTÈME EUROPÉEN
DE DÉLIVRANCE DE BREVETS
(1973)
(Munich, 10 septembre - 6 octobre 1973)

VORBEREITENDE DOKUMENTE
ausgearbeitet von der
Regierungskonferenz über die Einführung eines europäischen Patenterteilungsverfahrens
herausgegeben von der
Regierung der Bundesrepublik Deutschland

PREPARATORY DOCUMENTS
drawn up by the
Inter-Governmental Conference for the setting up of a European System for the Grant of Patents
and published by the
Government of the Federal Republic of Germany

DOCUMENTS PRÉPARATOIRES
délorés par la
Conférence intergouvernementale pour l'institution d'un système européen de délivrance de brevets
et publiés par le
Gouvernement de la République fédérale d'Allemagne

1972
15. The Working Party examined whether it should be laid down that States which ceased to be parties to the Convention should be obliged to continue to pay the amount provided for in Article 43, paragraph 1, in respect of national renewal fees for the maintenance of European patents granted previously.

The majority of the delegations were in favour of this, since it seemed fair that the European Patent Office should continue to receive a contribution corresponding to the services it had rendered.

Other delegations were opposed to such a solution in view of the practical difficulties which could arise.

16. The Working Party, having thus adopted the principle, then dealt with the question of the rate of payments to be made by States which ceased to be parties to the Convention. Three possibilities were formulated:

- the rate applicable on the date when the State ceased to be party to the Convention;

- the rate in force for the other Contracting States;

- the lower of the two rates referred to above.

It was acknowledged that it did not appear fair to apply a rate which could be higher than than applicable on the date when the State ceased to be party to the Convention, in view of the fact that the percentage would be laid down by the Administrative Council and States which had ceased to be parties to the Convention would no longer be represented in the Council.
the percentage, and in favour of a fixed percentage already laid down by the Convention. Several suggestions, ranging from 1% to 8%, having been submitted, the Working Party agreed to insert between square brackets the figure of 5%, arrived at by compromise, and the Conference would be required to reach a final decision.

- The United Kingdom delegation noted that certain difficulties could arise with regard to the calculation of the total amount of contributions paid by the other States. Firstly, it would be preferable to refer, not to contributions paid, but contributions due. Secondly, if accession took place within a financial year, there could be uncertainty as to the dates on which the contributions of the various States were due. To lessen such difficulties, the United Kingdom proposed that the calculation should be based on the amounts due in the financial years prior to the date of accession.

Finally, the Working Party recorded its agreement on a system based on the German delegation's formula and which took into account the remarks made by the other delegations, it being understood that the percentage required for determining the initial contribution would have to be laid down in the Convention.

Article 171a (Financial rights and obligations of a Contracting State which ceases to be a party to the Convention)

14. No delegation raised objections regarding the principle laid down in paragraph 1 concerning the reimbursement of the special financial contributions to a State which ceased to be party to the Convention.

BR/178 e/72 eld/PA/prk .../...
INTER-GOVERNMENTAL CONFERENCE
FOR THE SETTING UP OF A EUROPEAN
SYSTEM FOR THE GRANT OF PATENTS
- Secretariat -

Brussels, 11th April 1972
BR/178/72

MINUTES

of the 4th meeting of Working Party IV
(Luxembourg, 22 to 24 February 1972)


A representative of the International Patent Institute at The Hague attended the meeting as an observer. Representatives of WIPO, the Commission of the European Communities and the General Secretariat of the Council of Europe sent their apologies for being unable to be present. (1)


(1) The list of participants is annexed.

BR/178 e/72 eld/PA/gc
Article 171a

Financial rights and obligations of a Contracting State which ceases to be a party to the Convention

(1) Any State which has been a Contracting State to this Convention and whose membership has ceased in accordance with Article 152, paragraph 4, or Article 170, shall have the special financial contributions which it has paid pursuant to Article 44, paragraph 2, refunded to it by the European Patent Office only at the time and under the conditions whereby the European Patent Office refunds special financial contributions paid by other States during the same accounting period.

(2) The State referred to in paragraph 1 shall, even after termination of its membership, continue to pay the proportion pursuant to Article 43 of renewal fees in respect of European patents remaining in force in that State, at the rate current on the date on which its membership was terminated.
SECOND PRELIMINARY DRAFT OF A CONVENTION
ESTABLISHING A EUROPEAN SYSTEM
FOR THE GRANT OF PATENTS

Articles 35b
35n
41
44
45
52
52b
52d
165a
171a

drawn up by Working Party IV
(22 to 24 February 1972)

BR/173 e/72 prk
Article 145

Only concerns German text

Article 153

(2) ..., the Examining Divisions shall be competent to take decisions ...

Article 164

(1) The Implementing Regulations, the Protocol on Recognition, the Protocol on Privileges and Immunities, the Protocol on Centralisation and the Protocol on the Interpretation of Article 69 shall be integral parts of this Convention.

Article 166

Only concerns German text

Article 167

(2) ...

(a) ...; this reservation shall not affect protection conferred by the patent in so far as it involves a process of manufacture or use of a chemical product or a process of manufacture of a pharmaceutical or food product;

Article 175

Only concerns German text

Article 176

Only concerns German text