Article 34 E

Travaux Préparatoires
(EPC 1973)

Comment:

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Entwurf, der dem nebenstehenden Dokument zugrunde liegt | Art. Nr. im Entwurf/Dokument | Dokument, in dem der Art. behandelt wird | Fundstelle im Dokument |
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BR/33/70 | m | BR/34/70 | Rdn. 29-32 |
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VE 1971 (Ue) | 35 n | BR/168/72 | Rdn. 65 |
BR/88/71 | 35m | BR/125/71 | Rdn. 117-120 |
BR/184/72 | 32 | BR/209/72 | Rdn. 7 |

Dokumente der MDK

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

- 1973 -

Munich, 30 September 1973
M/146/R 2

Original: English/French/German

CONFERENCE DOCUMENT

Drawn up by: General Drafting Committee

Subject: Convention: Articles 27 to 54
a) Artikel 17 Absatz 2 dahingehend, daß die Prüfungsabteilungen aus einem einzigen technisch vorgebildeten Prüfer bestehen, wenn die Erfahrungen dies rechtferti-
gen;
b) die Dauer der in diesem Übereinkommen festge-setzten Fristen; dies gilt für die in Artikel 93 genannte Frist nur unter den in Artikel 94 festgelegten Voraussetzun-
gen;
c) die Ausführungsordnung.

(2) Der Verwaltungsrat ist befugt, in Übereinstimmung mit diesem Übereinkommen folgende Vorschriften zu
lassen und zu ändern:
a) die Finanzordnung;
b) das Statut der Beamten sowie die Beschäftigungs-
bedingungen für die sonstigen Bediensteten des Euro-
päischen Patentamts, ihre Besoldung sowie die Art der
zusätzlichen Vergütung und die Verfahrensrichtlinien für
deren Gewährung;
c) die Versorgungsordnung und Erhöhungen der Ver-
sorgungsbezüge entsprechend einer Erhöhung der Dienst-
bezüge;
d) die Geührenordnung;
e) seine Geschäftsordnung.

(3) Der Verwaltungsrat ist befugt, den Präsidenten des
Europäischen Patentamts zu ermächtigen, Verhandlun-
gen über den Abschluß von Abkommen mit Staaten oder
internationalen Organisationen zu führen und diese
Abkommen mit Genehmigung des Verwaltungsrats für
die Europäische Patentorganisation zu schließen.

Artikel 32
Stimmrecht

(1) Stimmberechtigt im Verwaltungsrat sind nur die
Vertragsstaaten.

(2) Jeder Vertragsstaat verfügt über eine Stimme, so-
weit nicht Artikel 34 anzuwenden ist.

Artikel 33
Abstimmungen

(1) Der Verwaltungsrat faßt seine Beschlüsse vorbehalt-
lich Absatz 2 mit der einfachen Mehrheit der vertretenen
Vertragsstaaten, die eine Stimme abgeben.

(2) Dreiviertelmehrheit der vertretenen Vertragsstaaten,
de eine Stimme abgeben, ist für die Beschlüsse erforder-
lich, zu denen der Verwaltungsrat nach den Artikeln
7, 11 Absatz 1, 31, 37 Absatz 1, 38 Absätze 2 und 5, 44,
85, 94, 134, 151 Absatz 3, 154 Absatz 2, 155, 156
Absätze 2 bis 4, 161, 162, 165 und 171 befugt ist.

(3) Stimmenthaltung gilt nicht als Stimmabgabe.

(a) Article 17, paragraph 2, so as to provide, in the light
of experience, that an Examining Division shall consist
of a single technical examiner;

(b) the time limits laid down in this Convention; this
shall apply to the time limit laid down in Article 93 only
in the conditions laid down in Article 94;

(c) the Implementing Regulations.

(2) The Administrative Council shall be competent, in
conformity with this Convention, to adopt or amend the
following provisions:

(a) the Financial Regulations;

(b) the Service Regulations for permanent employees
and the conditions of employment of other employees
of the European Patent Office, the salary scales of the
said permanent and other employees, and also the
nature, and rules for the grant, of any supplementary
benefits;

(c) the Pension Scheme Regulations and any appropriate
increases in existing pensions to correspond to increases
in salaries;

(d) the Rules relating to Fees;

(e) its Rules of Procedure.

(3) The Administrative Council shall be competent to
authorise the President of the European Patent Office to
negociate and, with its approval, to conclude agreements
on behalf of the European Patent Organisation with
States and with international organisations.

Artikel 32
Voting rights

(1) The right to vote in the Administrative Council
shall be restricted to the Contracting States.

(2) Each Contracting State shall have one vote, subject
to the application of the provisions of Article 34.

Article 33
Voting rules

(1) The Administrative Council shall take its decisions
other than those referred to in paragraph 2 by a simple
majority of the Contracting States represented and
voting.

(2) A majority of three-quarters of the votes of the
Contracting States represented and voting shall be
required for the decisions which the Administrative
Council is empowered to take under Article 7, Arti-
cle 11, paragraph 1, Article 31, Article 37, paragraph 1,
Article 38, paragraphs 2 and 5, Article 44, Article 85,
Article 94, Article 134, Article 151, paragraph 3, Arti-
cle 154, paragraph 2, Article 155, Article 156, para-
graphs 2 to 4, Article 161, Article 162, Article 165 and
Article 171.

(3) Abstentions shall not be considered as votes.
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
élaborés 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
(i) that only the most important provisions should remain in the Convention,

(ii) that in principle the provisions providing for sanctions should remain in the Convention, and lastly

(iii) that all the provisions which the Administrative Council would be empowered to amend should be incorporated in the Implementing Regulations.

I. EXAMINATION OF THE DRAFT CONVENTION (BR/184/72)

(a) Articles which had been re-drafted

5. Mr VAN BENTHEM drew the attention of the Committee to a number of provisions which had been entirely redrafted in comparison with the Second Preliminary Draft Convention as it had stood after the 5th meeting of the Conference.

6. It was noted that it would be preferable at a later date to indicate at each Article of the Convention any rules in the Implementing Regulations relating to the provision in question. This would enable an overall view to be obtained of all the rules envisaged in connection with any one provision of the Convention.

In addition, observations were made about the following provisions:

Articles 32 and 33

7. Paragraph 3 of Article 32 has become paragraph 3 of Article 33, since it is a voting rule.

BR/209 e/72 ico/KM/prk .../...
MINUTES

of the

second meeting of the Co-ordinating Committee

held in Brussels from 15 to 19 May 1972

1. The second meeting of the Co-ordinating Committee was held in Brussels from 15 to 19 May 1972 with Dr HAERTEL, President of the German Patent Office, in the Chair.

Representatives of the Commission of the European Communities, of the IIB and of WIPO took part as observers. The representatives of the Council of Europe sent their apologies for being unable to attend. The list of those taking part in the meeting is given in Annex I to this report.

2. The Co-ordinating Committee - hereinafter referred to as the Committee - adopted the provisional agenda as contained in BR/174/72, supplemented as follows:
Article 32 (351 + 35n, paragraph 3)

Voting rights

(1) The right to vote in the Administrative Council shall be restricted to the Contracting States.

(2) Each Contracting State shall have one vote, subject to the application of the provisions of Article 34.

(3) Abstentions shall not be considered as votes.
DRAFT CONVENTION
ESTABLISHING A EUROPEAN SYSTEM
FOR THE GRANT OF PATENTS

(Text drawn up by the
Conference Drafting Committee
8 to 24 March and 10 to 20 April 1972)
As a further consequence of the elimination of the unanimity requirement, the Conference deleted paragraph 2. Those delegations that had advocated the retention of this provision on constitutional grounds were assured that in no event would decisions of this nature which would be likely to infringe national laws be contemplated by the Administrative Council.

The Conference noted that in practice the 3/4 majority provided for in paragraph 3 and the 2/3 majority provided for in paragraph 4 would give much the same number. For reasons of simplicity it therefore decided to provide for a 3/4 majority for all the decisions referred to in these two paragraphs. The Conference also added to this list the decisions provided for in Article 42 b, paragraph 1, and Article 42 c, paragraph 2. All decisions not mentioned, including the decision to set up the Board, merely require a simple majority, as provided for in paragraph 5.

The Conference finally discussed whether the 3/4 majority and the simple majority should be calculated from the total number of Contracting States or from the number of Contracting States represented and voting in the Administrative Council. It decided in favour of the second solution and specified that abstentions should not be counted as votes.

Article 35 n (Weighting of votes)

Several delegations opposed the principle of weighting of votes. They pointed out that other international conventions for the protection of industrial property
In connection with this Article it was examined whether the right of the Administrative Council to set up committees should be expressly laid down in the Convention. As the Conference was of the opinion that such committees should have just as little power of decision as that vested in the Board, it considered it sufficient to deal with the matter in the Rules of Procedure of the Administrative Council.

The Conference deferred examination of the question of whether different rules should be applicable to the setting up of a finance committee.

**Article 35 m (Voting Rules)**

The German, Netherlands and United Kingdom delegations proposed providing for a majority of only three-quarters in all the cases which, under paragraph 1, required unanimity. The difficulty of arriving at a unanimous decision would in many cases necessarily lead to undesirable delays in the entry into force of decisions. It was also hardly advisable to allow, in Article 162, that the Convention itself could be revised without the agreement of all the Contracting States when decisions of far less importance taken by the Administrative Council required unanimity. The Conference adopted this proposal.

As a result of the unanimity requirement being eliminated, the voting rules laid down in paragraph 1 E, C and D were also deleted.

BR/125 e/71 ley/KM/sap
M I N U T E S

of the

4th Meeting of the Inter-Governmental Conference
for the setting up of a European System
for the Grant of Patents
(Luxembourg, 20 to 28 April 1971)

BR/125 e/71 lev/KM/bp
Article 35m continued:

(4) The following shall require a two-third majority of the votes of the Contracting States:

(a) the adoption and amendment of the other rules and regulations referred to in Article 35a, paragraph 1 B;

(b) the decisions under Article 35a, 1 C;

(c) the adoption of the budget of the European Patent Office and of any amending or supplementary budgets;

(d) the adoption and amendment of the Rules of Procedure of the Administrative Council;

(e) the appointment of the President of the European Patent Office.

(5) All other decisions of the Council shall require a simple majority of the votes of the Contracting States.
Article 35m
Voting rules

(1) A. The following shall require the unanimous vote of the Contracting States:

(a) amendment of the Implementing Regulations to this Convention referred to in Article 35a, paragraph 1 A;

(b) the decisions referred to in Article 35a, paragraph 1 E;

(c) the decisions referred to in Article 35a, paragraph 3.

B. Any Contracting State which is not represented at a meeting of the Administrative Council may vote in writing.

C. If, within two months following the date of a communication addressed to it to this end by the President of the Administrative Council, any Contracting State not represented at a Council meeting has not stated its position, it shall be deemed not to be opposed to the adoption of the decision in question. In such an event, and subject to the provisions of paragraph 2, the decision in question shall take effect four months after the date of the above-mentioned communication from the President of the Council.

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

(2) If one or more Contracting States declare that the entry into force of a decision under paragraph 1 requires, by virtue of their national constitution, the execution of certain formalities, such decision shall only take effect after the last of the Contracting States having made a statement to this effect has notified the Administrative Council that the required formalities have been completed.

(3) The following shall require a majority of three-quarters of the votes of the States represented in the Administrative Council:

(a) a decision to convene a Conference for the purpose of reviewing the Convention, as referred to in Article 162, paragraph 2, and

(b) a decision on the accession of a State, as referred to in Article 165, paragraph 2.
FIRST PRELIMINARY DRAFT OF A CONVENTION

ESTABLISHING

A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

- Stage reached on 29 January 1971 -
oral proceedings using an official language of one of the Contracting States other than one of the three working languages of the European Patent Office. The Conference noted that Req. Article 34, No. 2 already made provision for a reduction in fees on behalf of parties in the situation in question.

**Article 35a (Adoption and amendment of general rules)**

65. The Conference endorsed the principle proposed by Working Party I, making provision for the Administrative Council to be enabled to amend Article 55, paragraph 2, in such a way that an Examining Division might be composed of a single technical examiner (**paragraph 1(a)**). The Conference also noted that this option seemed to have obtained acceptance among most of the interested circles.

The Conference nevertheless thought it necessary to lay down that such a decision could only be taken by a qualified majority of three-quarters of the Administrative Council. **Article 35n** was duly amended to that effect (**BR/150/72**).

As regards the request made by certain organisations (**cf. BR/169/72, point 43**) that, when applying paragraph 1(a), the option should not be ruled out of retaining – for certain areas of technology – an Examining Division made up of three examiners, it was noted that this provision gave the Administrative Council the power to act according to the conditions obtaining.

**BR/168 e/72 ett/KM/gc**
MINUTES

of the

5th Meeting of the Inter-Governmental Conference
for the Setting up of a European System
for the Grant of Patents

Parts 1 and 3

(Luxembourg, 24-25 January and 2-4 February 1972)

BR/168 e/72 eld/KM/gc
Artikel 35u
Abstimmungen

(1) Dreiviertelmehrheit der vertretenen Vertragsstaaten, die eine Stimme abgeben, ist erforderlich für:
   a) die Beschlüsse nach Artikel 35a Absatz 1 Buchstaben b und c, Absatz 2 und Absatz 3;
   b) die Annahme des Haushaltsplans des Europäischen Patentamts und gegebenenfalls der Berichtigungs- 
      haushaltspläne oder der Nachtragshaushaltspläne sowie die 
      Beschlüsse nach Artikel 43 Absatz 1 und Artikel 44 
      Absatz 2;
   c) die Ernennung des Präsidenten des Europäischen 
      Patentamts;
   d) die Beschlüsse nach Artikel 35c;
   e) die Annahme und Änderung der Geschäftsordnung 
      des Verwaltungsrats.

(2) Für die übrigen Beschlüsse des Verwaltungsrats 
      ist die einfache Mehrheit der vertretenen Vertrags 
      staaten erforderlich, die eine Stimme abgeben.

(3) Stimmenthaltung gilt nicht als Stimmabgabe.

Article 35u
Voting rules

(1) The following shall require a majority of three 
      quarters of the votes of the Contracting States repre 
      sented and voting:
   a) the decisions referred to in Article 35a, paragraph 1 
      sub-paragraphs (b) and (c) and paragraphs 2 and 3;
   b) adoption of the budget of the European Patent 
      Office and, where necessary, of amending or supplemen 
      tary budgets, and the decisions referred to in Article 43, 
      paragraph 1 and Article 44, paragraph 2;
   c) the appointment of the President of the European 
      Patent Office;
   d) the decisions referred to in Article 35c;
   e) the adoption and amendment of the Rules of Pro 
      cedure of the Administrative Council.

(2) All other decisions of the Administrative Council 
      shall require a simple majority of the votes of the Con 
      tracting States represented and voting.

(3) Abstentions shall not be considered as votes.

Artikel 35o
Stimmenwigung

(1) Jeder Vertragsstaat kann für die Annahme und die 
      Änderung der Gebührenordnung sowie, falls dadurch 
      die finanzielle Belastung der Vertragsstaaten vergrößert 
      wird, die Annahme des Haushaltsplans des Europäischen 
      Patentamts und gegebenenfalls eines Berichtigungs 
      haushaltsplans oder Nachtragshaushaltsplans nach einer 
      ersten Abstimmung, in der jeder Vertragsstaat über eine 
      Stimme verfügt, unabhängig vom Ausgang der Abstim 
      mung verlangen, daß unverzüglich eine zweite Abstim 
      mung vorgenommen wird, in der die Stimmen nach 
      Absatz 2 gewogen werden. Diese zweite Abstimmung 
      ist für den Beschlüß maßgebend.

(2) Die Zahl der Stimmen, über die jeder Vertragsstaat 
      in der neuen Abstimmung verfügt, errechnet sich wie 
      folgt:
   a) Die sich für jeden Vertragsstaat ergebende Prozent 
      zahl des in Artikel 44 Absatz 3 vorgesehenen Aufbring 
      ungsschlüssels für die besonderen Finanzbeiträge wird 
      mit der Zahl der Vertragsstaaten multipliziert und durch 
      fünf dividiert.
   b) Die so errechnete Stimmenzahl wird auf eine ganze 
      Zahl aufgerundet.
   c) Dieser Stimmenzahl werden fünf weitere Stimmen 
      hinzugezählt.
   [d] Die Zahl der Stimmen eines Vertragsstaats beträgt 
      jedoch höchstens 30.]
SECOND PRELIMINARY DRAFT OF A CONVENTION
ESTABLISHING A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS
with
FIRST PRELIMINARY DRAFT OF THE IMPLEMENTING REGULATIONS TO THE
CONVENTION ESTABLISHING A EUROPEAN SYSTEM FOR THE GRANT
OF PATENTS
and
FIRST PRELIMINARY DRAFT OF THE RULES RELATING TO FEES

SECOND AVANT-PROJET DE CONVENTION INSTITUANT UN
SYSTÈME EUROPÉEN DE DÉLivrANCE DE BREVETS
ainsi que
PREMIER AVANT-PROJET DE RÈGLEMENT D'EXÉCUTION DE LA CONVENTION
INSTITUANT UN SYSTÈME EUROPÉEN DE DÉLivrANCE DE BREVETS
et
PREMIER AVANT-PROJET DE RÈGLEMENT RELATIF AUX TAXES

— 1971 —
26. With regard to acquired rights, the Working Party adopted a provision similar to that safeguarding acquired rights in the event of a revised text of the Convention not being ratified, as it felt that the problems were very similar (see Article b).

**Article k - Languages**

27. The text of paragraph 2 is derived from the text of Article 67 of the PCT.

**Article l - Transmission of certified true copies**

28. The Working Party felt that it would be premature to provide for the transmission of certified true copies of the Implementing Regulation at the same time as true copies of the Convention. It was acknowledged that it was not yet known whether these Implementing Regulations would have the status of a diplomatic document. Where appropriate, the provisions of Article l would have to be completed on the basis of decisions subsequently taken on this matter at the Conference.

III

**MAIN OBSERVATIONS ON THE PROTOCOL ON PRIVILEGES AND IMMUNITIES**

**A. General Remarks**

29. It was pointed out that the retention or deletion of certain provisions would depend on the status of the Protocol in relation to the Convention. The Working Party wondered whether provision should be
MINUTES
of the Meeting of Working Party II
(Luxembourg, 1-4 September 1970 - 2nd meeting)

I

1. The second meeting of Working Party II was held at Luxembourg, from Tuesday 1 to Friday 4 September 1970 under the Chairmanship of Mr. R. LABRY, Counsellor at the Ministry of Foreign Affairs (France).

The Commission of the European Communities and the International Patent Institute attended the meeting as observers. (1).

2. The Working Party would draw attention to the provisional nature of the wording of the texts it adopted.

Bearing in mind the timetable laid down for the meetings of the other Working Parties, the outcome of which might lead the Working Party to revise some of the provisions which it had previously adopted, in particular those relating to the Administrative Council,

(1) The list of those attending the meeting is given in the Annex.

BR/53 e/70 scn/PB/prk
Article k
Voting rights

(1) The right to vote in the Administrative Council shall be restricted to the Contracting States.

(2) Each Contracting State shall have one vote, subject to the application of the provisions of Article n.
FIRST PRELIMINARY DRAFT CONVENTION
ESTABLISHING A EUROPEAN SYSTEM
FOR THE GRANT OF PATENTS

Provisions relating to the Administrative Council
Text drawn up by Working Party II
(4 to 6 March 1970)
32. It was noted that unanimity, two-thirds majority and simple majority, as provided for respectively in paragraphs 1, 3 and 4, was to be calculated on the basis of the votes allocated to all the Contracting States, and not on the basis of the votes of only those Contracting States whose representatives took part in any given deliberations.

Article 2 - Weighting of votes

33. The Working Party noted its agreement to the principle whereby certain decisions may be subject to a voting procedure where the votes of the Contracting States would be weighted. However, the Working Party noted that experience in the various international organisations active in the field of industrial property showed that in a large number of cases decisions were taken by a general consensus. It therefore appeared expedient to the Working Party to provide for weighting of votes only as a type of "safeguard clause" for the Contracting States bearing the heaviest responsibilities in decisions having financial consequences or having a special importance. In so doing, the Working Party drew on the principle adopted in Article 8 of the Agreement of The Hague, of 6 June 1947, establishing the International Patent Institute, as revised at The Hague on 16 February 1961.

34. The Working Party was of the opinion that this principle should apply only to some of the decisions which require a two-thirds majority under Article 2 (3).

35. The Working Party had a thorough exchange of views on those of the decisions requiring a two-thirds majority which could be the subject of a second ballot where the votes of the Contracting States would be weighted. It was
might have the effect that the financing of the European Patent Office would depend too heavily and for too long upon the contributions of the Contracting States.

For reasons of efficiency, the Working Party finally agreed that it would be expedient to subject both the adoption and the amendment of the Rules relating to fees and the adoption of the budget (and consequently the fixing of the rates at which the Contracting States would contribute to revenue) to one and the same voting rule: two-thirds majority (subject, however, to the provisions laid down in Article 9 regarding the weighting of votes).

31. As regards decisions requiring unanimity (Paragraph 1), the Working Party provided for several mechanisms which should, in its opinion, facilitate the taking of such decisions by the Council:

(i) any Contracting State may abstain, without such abstention prejudicing the adoption of the decision in question;

(ii) any State may vote in writing if it is not represented at a meeting of the Council at which a decision is to be adopted;

(iii) where a State is not represented and fails to state its position within a fixed period, it shall be deemed not to be opposed to the adoption of the decision in question.

With a view to solving any difficulties such as those referred to a propos of Article a (1 A) (cf. point 11; paragraph 3, page 7 above) the Working Party adopted the provision contained in Article 9 (2).
However, the Working Party did not rule out that the Administrative Council could — by way of a gentleman's agreement, for example, — allow, in exceptional cases and in so far as necessary, another language to be used in any particular discussion, provided that the State whose representative used such another language bore the financial consequences of interpretation from that language into the three languages mentioned in paragraph 1.

Article k — Voting rights

27. No comment.

Article l — Select Committees of the Administrative Council

28. The Working Party believed that certain links should be organised between the Administrative Council and a Select Committee, in particular in order to determine the proportion of the expenses of the European Patent Office which will fall exclusively upon the group of States linked by a special agreement.

In so far as these matters touch upon fields falling under the work of Working Party IV, they should, where appropriate, be studied together with the latter.

Article m — Voting Rules

29. The Working Party did not believe it necessary to fix a standard quorum for the deliberations of the Council.

30. The Working Party discussed a proposal whereby the Rules relating to fees could only be adopted or amended by unanimous vote. It agreed that such a requirement would make any increase in these fees too difficult, which
I

1. The first working meeting of Working Party II, set up by the Conference at the latter's meeting of 13-16 January 1970, was held at Luxembourg from Wednesday 4 to Friday 6 March 1970.

In accordance with the decision taken by the Working Party at its inaugural meeting held at Luxembourg on 16 January 1970, the Chair was taken by Mr. LABRY, Counsellor at the Ministry of Foreign Affairs (France).

The Commission of the European Communities, BIRPI and the International Patent Institute (IIB) took part in the meeting as observers. The representative of the General Secretariat of the Council of Europe, who had also been invited to take part in the meeting, apologized for being unable to attend (1).

(1) See list of participants in the meeting of the Working Party given in Annex II. As regards Annex I, see point 38 on page 16.
Article 3 contd.

(2) If one or more Contracting States declare that the entry into force of a decision under paragraph 1 requires, by virtue of their national constitution, the execution of certain formalities, such decision shall only take effect after the last of the Contracting States having made a statement to this effect has notified the Administrative Council that the required formalities have been completed.

(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 3, paragraph 1 B;

(b) the decisions under Article 3, 1 C;

(c) the adoption of the budget of the European Patent Office and of any amending or supplementary budgets;

(d) the adoption and amendment of the Rules of Procedure of the Administrative Council;

(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.
Article m

Voting rules

(1) A. The following shall require the unanimous vote of the Contracting States:

(a) amendment of the Implementing Regulations to this Convention referred to in Article a, paragraph 1 A;
(b) the decisions referred to in Article a, paragraph 3.

B. Any Contracting State which is not represented at a meeting of the Administrative Council may vote in writing.

C. If, within two months following the date of a communication addressed to it to this end by the President of the Administrative Council, any Contracting State not represented at a Council meeting has not stated its position, it shall be deemed not to be opposed to the adoption of the decision in question. In such an event, and subject to the provisions of paragraph 2, the decision in question shall take effect four months after the date of the above-mentioned communication from the President of the Council.

D. Abstentions shall not prejudice the adoption of the decisions referred to in the present paragraph.
FIRST PRELIMINARY DRAFT CONVENTION
ESTABLISHING A EUROPEAN SYSTEM
FOR THE GRANT OF PATENTS

Provisions relating to the Administrative Council
Text drawn up by Working Party II
(4 to 6 March 1970)
Article 32

Voting rights

(1) The right to vote in the Administrative Council shall be restricted to the Contracting States.

(2) Each Contracting State shall have one vote, subject to the application of the provisions of Article 36.