Rule 35 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.
Regel 35

MPÜ

Allgemeine Bestimmungen über die Form der Anmeldungsunterlagen

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ANNEX I

REPORT

by Mr. Paul Braendli, Lic. iur.
Vice-Director of the Federal Intellectual Property Office (Switzerland)

on the results of Main Committee I's proceedings

ANNEX II

REPORT

by Mr. R. Bowen
Assistant Comptroller, British Patent Office

on the results of Main Committee II's proceedings

ANNEX III

REPORT

by Mr. Fressonnet
Deputy Director of the Institut National de la Propriété Industrielle (France)

on the results of Main Committee III's proceedings

ANNEX IV

REPORT

by Mr. A. Fernandez Mazarambroz
Head of the Spanish Patent Office

on the results of the Credentials Committee's proceedings

with regard to full powers for signing the Convention
morality should not be patentable, then if applications containing statements contrary to "ordre public" or morality should not be published either. It thus requested the wording of paragraph 2 to read as an obligation and omission of the possibility of furnishing upon request a copy of the passages objected to (M/54/II/II/III, page 7 — see also points 44 — 46 above).

2227. The Netherlands delegation supported this request. With reference to Article 51 (53) (a), it considered it logical that the Receiving Section should examine whether the publication would be contrary to "ordre public" or morality.

2228. The Austrian delegation also supported the request. However, it wondered what should happen if, in the procedure up to grant, the European Patent Office did not object to the invention as being contrary to "ordre public" or morality and thus authorised its publication, but objected to its publication later in the procedure up to grant. In this case, to revoke the patent would be too severe a penalty.

2229. The United Kingdom delegation was, at that stage, in favour of retaining the present wording unchanged, since it would be difficult to oblige the European Patent Office to carry out such an examination. Rather, the Receiving Section should be relied upon to discover any objectionable passages in the course of a rapid examination of the application and to exclude them from the publication.

2230. The delegation of the International Chamber of Commerce raised the point that the Swiss delegation's request that the European Patent Office should not have to furnish a copy of the passage objected to could apply only to statements contrary to "ordre public" or morality within the meaning of paragraph 4(a), and not to disparaging statements within the meaning of (d).

2231. The delegation of the Federal Republic of Germany felt that only such statements as were contrary to "ordre public" or morality should be excluded compulsorily from the publication, but not disparaging statements.

2232. The Swiss delegation thereupon limited its request to the effect that only such statements or other matter contrary to "ordre public" or morality would have to be excluded from the publication; and only insofar as these were the case could the European Patent Office furnish no copies of the words omitted. As for disparaging statements, they should continue to be covered by the present optional provision.

2233. The United Kingdom waived its original reservation on this request. However, it pointed out that Rule 34 was based on Article 21, paragraph 6, of the PCT. Furthermore, it felt that the statements excluded from the publication in this way should also form part of the state of the art, pursuant to Article 52 (54), paragraph 3.

2234. The Chairman opposed this delegation over the last point, on the grounds that only statements actually published could be prejudicial to novelty within the meaning of the said provision.

2235. The Swiss delegation's request, thus limited, was accepted by the Main Committee.

2236. In this connection, the Chairman pointed out that in the Main Committee's view, the Receiving Section had to examine whether the application was in keeping with Rule 34, paragraph 1(a), although if this were not so, it should not refuse the application, but merely omit from the application the statements to which it objected.

**Rule 38 — Declaration of priority and priority documents**

2238. The Main Committee referred a proposal by the Netherlands delegation for the wording of paragraph 1 (M/32, point 30 and M/52/I/II/III, point 20) to the Drafting Committee.

2239. The Main Committee adopted a proposal by the Netherlands delegation with regard to paragraph 4 (M/52/I/II/III, point 20) which was related to the amendment to Article 86 (88), paragraph 1 (see point 305), which had already been decided.

**Rule 40 — Examination for certain physical requirements**

2240. The delegation of the Federal Republic of Germany, supported by the Swiss delegation, proposed deleting the reference to Rule 36, paragraph 1, on the grounds that it was incorrect (M/47/I/II/III, point 26).

2241. The Main Committee agreed to this proposal.

**Rule 41 — Rectification of deficiencies in the application documents**

2242. With reference to paragraph 2, the FICPI delegation asked whether an incorrect indication of the date or State of the first filing could be rectified.

2243. The Chairman replied that an incorrect indication (e.g. the 32nd day of a month or indication of a State in an unrecognisable form) could be rectified pursuant to Rule 89 (88). He pointed out that the Main Committee shared this view.

2244. The Main Committee referred a proposal by the Norwegian delegation for the wording of paragraph 3 (M/60/I, page 6) to the Drafting Committee.

**Rule 42 — Subsequent identification of the inventor**

2245. Following its decision on the matter of identifying the inventor, the Main Committee amended Rule 42, paragraph 1 (see point 2038) in accordance with the proposal by the Federal Republic of Germany (M/118/I).

**Rule 43 — Late-filed or missing drawings**

2246. The delegation of the Federal Republic of Germany, supported by the United Kingdom delegation, proposed amending paragraph 1 to the effect that where drawings were filed late the Receiving Section would not re-date the application to the date on which the drawings were filed if the applicant did not delete the references to the drawings, but that late-filed drawings and the references to them would be deemed to be deleted, unless the applicant himself requested that the application be re-dated (M/47/I/II/III, point 27, and M/64/I, page 3).

2247. The Main Committee adopted this proposal.

2248. The Swiss delegation suggested that if drawings and references to them were deemed to be deleted, the European Patent Office could also publish them in full, but indicate on them that the relevant parts were deemed to be deleted.

2249. This suggestion was supported by the delegation of the Federal Republic of Germany.

2250. The United Kingdom delegation made the point that in such cases the references to a drawing which were deemed to be deleted should be published, but not the drawing itself.

2251. The Chairman confirmed that he also felt that the drawing itself should not be published, but rather the reference to it, with the indication that it was deemed to be deleted.
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MINUTES
OF THE
MUNICH DIPLOMATIC CONFERENCE
FOR THE SETTING
UP OF A EUROPEAN SYSTEM
FOR THE GRANT OF PATENTS

(Munich, 10 September to 5 October, 1973)

published by the
Government of the Federal Republic of Germany
(11) The request for the grant of a European patent, the description, the claims and the abstract shall not contain drawings. The description, the claims and the abstract may contain chemical or mathematical formulae. The description and the abstract may contain tables. The claims may contain tables only if their subject-matter makes the use of tables desirable.

(12) Units of weights and measures shall be expressed in terms of the metric system. If a different system is used they shall also be expressed in terms of the metric system. Temperatures shall be expressed in degrees Celsius. If a different system is used they shall also be expressed in degrees Celsius. Densities shall be expressed in metric units. For the other physical values, the units recognised in international practice shall be used, for mathematical formulae the symbols in general use, and for chemical formulae the symbols, atomic weights and molecular formulae in general use shall be employed. In general, use should be made of technical terms, signs and symbols generally accepted in the field in question.

(13) The terminology and the signs shall be consistent throughout the European patent application.

(14) Each sheet shall be reasonably free from erasures and shall be free from alterations, overwritings, and interlineations. Non-compliance with this rule may be authorised if the authenticity of the content is not in question and the requirements for good reproduction are not in jeopardy.
Rule 35

General provisions governing the presentation of the application documents

(1) Translations mentioned in Article 14, paragraph 2, shall be considered to be included in the term "documents making up the European patent application".

(2) The documents making up the European patent application shall be filed in three copies. This shall not apply to the request for the grant of a European patent nor to those documents filed under Article 14, paragraph 2, first sentence.

(3) The documents making up the European patent application shall be so presented as to admit of direct reproduction by photography, electrostatic processes, photo offset and micro-filming, in an unlimited number of copies. All sheets shall be free from cracks, creases and folds. Only one side of the sheet shall be used.

(4) The documents making up the European patent application shall be on A4 paper (29.7 cm x 21 cm), which shall be pliable, strong, white, smooth, matt and durable. Subject to the provisions of Rule 32, paragraph 2(h), each sheet shall be used with its short sides at the top and bottom (upright position).

(5) Each of the documents making up the European patent application (request, description, claims, drawings and abstract) shall commence on a new sheet. The sheets shall be connected in such a way that they can easily be turned over, separated and joined together again.

(6) Subject to Rule 32, paragraph 1, the minimum margins shall be as follows:

- top of first sheet, except that of the request: 8 cm
- top of other sheets: 2 cm
- left side: 2.5 cm
- right side: 2 cm
- bottom: 2 cm

The recommended maximum for the margins quoted above is as follows:

- top of first sheet, except that of the request: 9 cm
- top of other sheets: 4 cm
- left side: 4 cm
- right side: 3 cm
- bottom: 3 cm

(7) The margins of the documents making up the European patent application, when submitted, must be completely blank.

(8) All the sheets contained in the European patent application shall be numbered in consecutive arabic numerals. These shall be placed at the top of the sheet, in the middle, but not in the top margin.

(9) The lines of each sheet of the description and of the claims shall preferably be numbered in sets of five, the numbers appearing on the left side, to the right of the margin.

(10) The request for the grant of a European patent, the description, the claims and the abstract shall be typed or printed. Only graphic symbols and characters and chemical or mathematical formulae may, if necessary, be written by hand or drawn. The typing shall be 1 1/2 spaced. All text matter shall be in characters the capital letters of which are not less than 0.21 cm high, and shall be in a dark, indelible colour.
MUNICH DIPLOMATIC CONFERENCE
FOR THE SETTING UP OF A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

- 1973 -

Munich, 30 September 1973
M/146/R 9
Original: English/French/German

CONFERENCE DOCUMENT

Drawn up by: General Drafting Committee

Subject: Implementing Regulations: Rules 27 to 53
Rule 35

General provisions governing the presentation of the application documents

(1) 
(2) 
(3) 
(4) 
(5) Unchanged from 1972 published text.
(6) 
(7) 
(8) 
(9) 
(10) 
(11) 

(12) Units of weights and measures shall be expressed in terms of the metric system. If a different system is used they shall also be expressed in terms of the metric system. Temperatures shall be expressed in degrees Celsius. If a different system is used they shall also be expressed in degrees Celsius. Densities shall be expressed in metric units. For the other physical values, the units recognised in international practice shall be used, for mathematical formulae the symbols in general use, and for chemical formulae the symbols, atomic weights and molecular formulae in general use shall be employed. In general, use should be made of technical terms, signs and symbols generally accepted in the field in question.

(13) ) Unchanged from 1972 published text.
(14) )
MUNICH DIPLOMATIC CONFERENCE
FOR THE SETTING UP OF A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

- 1973 -

Munich, 22 September 1973
M/124/I/R 8
Original: English/French/German

TEXTS DRAWN UP BY
THE DRAFTING COMMITTEE OF MAIN COMMITTEE I
AT THE MEETING ON 21 SEPTEMBER 1973

 Articles of the Convention:
   Article 96
   Article 101
   Article 157
   Article 161

 Rules of the Implementing Regulations:
   Rule 20
   Rule 32
   Rule 35
   Rule 38
   Rule 40
   Rule 41
   Rule 43
   Rule 46
   Rule 50
   Rule 52
   Rule 59
25. **Article 165** Paras 1 and 2 should be amended to read:

"(1) This Convention shall be open to accession by
(a) the States referred to in Article 164(1); and
(b) any other European State at the invitation of the
Administrative Council".

26. **Article 167** In paragraph 3 the words "unless the State con-
cerned has earlier ceased to be a party to the
Convention, pursuant to Article 171, paragraph 4"
should be deleted as superfluous since such effect
is automatic.

**IMPLEMENTING REGULATIONS (M2)**

27. **Rule 2** In line 7, paragraph 1, "interpreting" should be amended to
"interpretation".

28. **Rule 35** In the second sentence, paragraph 8, "These" should be amended
to read "The number".

29. In paragraph 12, "centigrade" should be amended to read
"Celsius".

30. **Rule 61** The title should be amended to read "Continuation of the
opposition proceedings" and in paragraph 1, "ex officio"
should be amended to read "on the motion of the European
Patent Office".
Brussels, 13 August 1973
M/ 40
Original: English

PREPARATORY DOCUMENT

Drawn up by: The United Kingdom Government

Subject: Proposed amendments concerning the Draft Convention, the Draft Implementing Regulations, the Draft Protocol on Recognition and the Draft Protocol on Privileges and Immunities

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Vgl. Artikel 14 (Sprachen des Europäischen Patentamts) und 76 (Erfordernisse der europäischen Patentanmeldung)

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Regel 36
Unterlagen nach Einreichung der europäischen Patentanmeldung

(1) Die Regeln 27, 29 und 32 bis 35 sind auf Schriftstücke, die die Unterlagen der europäischen Patentanmeldung ersetzen, anzuwenden.

(2) Alle anderen als die in Absatz 1 genannten Schriftstücke sollen mit Maschine geschrieben oder gedruckt sein. Auf jedem Blatt ist links ein etwa 2,5 cm breiter Rand freizulassen.

(3) Die nach Einreichung der europäischen Patentanmeldung einzureichenden Schriftstücke sind zu unterzeichnen, soweit es sich nicht um Anlagen handelt. Ist ein Schriftstück nicht unterzeichnet worden, so fordert das Europäische Patentamt den Beteiligten auf, das Schriftstück innerhalb einer vom Europäischen Patentamt zu bestimmenden Frist zu unterzeichnen. Wird das Schriftstück rechtzeitig unterzeichnet, so behält es den ursprünglichen Tag des Eingangs; anderenfalls gilt das Schriftstück als nicht eingegangen.

(4) Schriftstücke, die anderen Personen mitzuteilen sind oder die mehrere europäische Patentanmeldungen oder europäische Patente betreffen, sind in der entsprechenden Stückzahl einzureichen. Kommt ein Beteiligter dieser Verpflichtung trotz Aufforderung des Europäischen Patentamts nicht nach, so werden die fehlenden Stücke auf Kosten des Beteiligten angefertigt.


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Vgl. Artikel 76 (Erfordernisse der europäischen Patentanmeldung)

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Rule 36
Documents filed subsequently

(1) The provisions of Rules 27, 29 and 32 to 35 shall apply to documents replacing documents making up the European patent application.

(2) All documents other than those referred to in paragraph 1 shall normally be typewritten or printed. There must be a margin of about 2.5 cm on the left-hand side of each page.

(3) All documents, with the exception of annexed documents, filed after filing of the European patent application must be signed. If a document has not been signed, the European Patent Office shall invite the party concerned to do so within a time limit to be laid down by that Office. If signed in due time, the document shall retain its original date of receipt; otherwise it shall be deemed not to have been received.

(4) Such documents as must be communicated to other persons or as relate to two or more European patent applications or European patents, must be filed in a sufficient number of copies. If the party concerned does not comply with this obligation in spite of a request by the European Patent Office, the missing copies shall be provided at the expense of the party concerned.

(5) Documents filed after filing of the European patent application may, by way of exception to the provisions of paragraphs 2 to 4, be sent to the European Patent Office by telegram or telex. However, a document reproducing the contents of such telegram or telex and complying with the requirements of these Implementing Regulations must be filed within two weeks as from the receipt of such telegram or telex. If this document is not filed in due time, the telegram or telex shall be deemed not to have been received.

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Cf. Article 76 (Requirements of the European patent application)
Die empfohlenen Höchstmaße für die vorstehenden Ränder sind folgende:

Oberer Rand des ersten Blatts
mit Ausnahme des Antragsblatts: 9 cm
Oberer Rand der anderen Blätter: 4 cm
Linke Seitenrand: 4 cm
Rechter Seitenrand: 3 cm
Unterer Rand: 3 cm

(7) Die Ränder der Blätter müssen bei der Einreichung der europäischen Patentanmeldung vollständig um benutzt sein.

(8) Alle Blätter der europäischen Patentanmeldung sind fortlaufend mit arabischen Zahlen zu nummerieren. Die Blattzahlen sind oben in der Mitte, aber nicht auf dem oberen Rand anzubringen.

(9) Auf jedem Blatt der Beschreibung und der Patentansprüche soll jede fünfte Zeile numeriert sein. Die Zahlen sind an der linken Seite, rechts vom Rand anzubringen.

(10) Der Antrag auf Erteilung eines europäischen Patents, die Beschreibung, die Patentansprüche und die Zusammenfassung müssen mit Maschine geschrieben oder gedruckt sein. Nur graphische Symbole und Schriftzeichen, chemische oder mathematische Formeln können, falls notwendig, handgeschrieben oder gezeichnet sein. Der Zeilenabstand hat 1 1/2 Zeilen zu sein. Alle Texte müssen in Buchstaben, deren Großbuchstaben eine Mindesthöhe von 0,21 cm besitzen, und mit dunkler unveränderlicher Farbe geschrieben sein.


(13) Terminologie und Zeichen sind in der gesamten europäischen Patentanmeldung einheitlich zu verwenden.

The recommended maximum for the margins quoted above is as follows:

- top of first sheet, except that of the request: 9 cm
- top of other sheets: 4 cm
- left side: 4 cm
- right side: 3 cm
- bottom: 3 cm

(7) The margins of the documents making up the European patent application, when submitted, must be completely blank.

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(10) The request for the grant of a European patent, the description, the claims and the abstract shall be typed or printed. Only graphic symbols and characters and chemical or mathematical formulae may, if necessary, be written by hand or drawn. The typing shall be 1 1/2 spaced. All text matter shall be in characters the capital letters of which are not less than 0.21 cm high, and shall be in a dark, indelible colour.

(11) The request for the grant of a European patent, the description, the claims and the abstract shall not contain drawings. The description, the claims and the abstract may contain chemical or mathematical formulae. The description and the abstract may contain tables. The claims may contain tables only if their subject-matter makes the use of tables desirable.

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(13) The terminology and the signs shall be consistent throughout the European patent application.
(2) Enthält eine europäische Patentanmeldung Angaben im Sinn des Absatzes 1 Buchstaben a oder b, so kann das Europäische Patentamt diese Angaben bei der Veröffentlichung der Anmeldung ausschließen. Es gibt dabei die Stelle der Auslassung und die Zahl der ausgelassenen Wörter und Zeichnungen an und stellt auf Antrag eine Abschrift der ausgelassenen Stellen zur Verfügung.

Vgl. Artikel 76 (Erfordernisse der europäischen Patentanmeldung) und 92 (Veröffentlichung der europäischen Patentanmeldung)

Regel 35
Allgemeine Bestimmungen über die Form der Anmeldungsunterlagen

(1) Die in Artikel 14 Absatz 2 genannten Übersetzungen gelten als Unterlagen der europäischen Patentanmeldung.

(2) Die Unterlagen der europäischen Patentanmeldung sind in drei Stücken einzureichen. Dies gilt nicht für den Antrag auf Erteilung eines europäischen Patents und für die nach Artikel 14 Absatz 2 Satz 1 eingereichten Unterlagen.


(4) Die Unterlagen der europäischen Patentanmeldung sind auf biegsamem, festem, weißem, glattem, mattem und widerstandsfähigem Papier im Format A 4 (29,7 cm x 21 cm) einzureichen. Vorbehaltlich Regel 32 Absatz 2 Buchstabe h ist jedes Blatt in der Weise zu verwenden, daß die kurzen Seiten oben und unten erscheinen (Hochformat).

(5) Jeder Bestandteil der europäischen Patentanmeldung (Antrag, Beschreibung, Patentansprüche, Zeichnungen und Zusammenfassung) muß auf einem neuen Blatt beginnen. Alle Blätter müssen so miteinander verbunden sein, daß sie leicht gewendet sowie leicht entfernt und wieder miteinander verbunden werden können.

(6) Vorbehaltlich Regel 32 Absatz 1 sind auf den Blättern als Mindestabstand folgende Flächen unbeschrieben zu lassen:

Oberer Rand des ersten Blatts: 8 cm
mit Ausnahme des Antragsblatts: 8 cm
Oberer Rand der anderen Blätter: 2 cm
Linker Seitenrand: 2,5 cm
Rechter Seitenrand: 2 cm
Unterer Rand: 2 cm

Rule 35
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(2) The documents making up the European patent application shall be filed in three copies. This shall not apply to the request for the grant of a European patent nor to those documents filed under Article 14, paragraph 2, first sentence.

(3) The documents making up the European patent application shall be so presented as to admit of direct reproduction by photography, electrostatic processes, photo offset and micro-filming, in an unlimited number of copies. All sheets shall be free from cracks, creases and folds. Only one side of the sheet shall be used.

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right side: 2 cm
bottom: 2 cm
ENTWURF EINER AUSFÜHRUNGSORDNUNG
ZUM ÜBEREINKOMMEN
ÜBER EIN EUROPÄISCHES PATENTERTeilungsverfahren

DRAFT IMPLEMENTING REGULATIONS
TO THE CONVENTION
ESTABLISHING A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

PROJET DE RÈGLEMENT D'EXÉCUTION
DE LA CONVENTION
INSTITUANT UN SYSTÈME EUROPÉEN DE DÉLIVRANCE DE BREVETS
MÜNCHNER DIPLOMATISCHE KONFERENZ
ÜBER DIE EINFÜHRUNG EINES EUROPÄISCHEN
PATENTERTeilUNGSGVERFAHRENS 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
apply to translations. As an example, it may be noted, that a request for the grant of a European patent drawn up in an official language, but not a working language, need only be transmitted in a single copy and not in triplicate. On the other hand, translations making up that application must be sent in triplicate in order to comply with the provisions in question. Finally, the question of whether the abstract might or might not contain drawings (paragraph 11) is to be reviewed when examining the provision on the form and content of the abstract (see Point 23).

Re. Article 66, No. 8 - Documents filed subsequently

26. No comments.

Re. Article 66, No. 9 - Form and number of copies of documents furnished during proceedings

27. No comments, except that the sub-Committee thought it advisable to tone down the sanction provided for in the event of documents not being furnished in a sufficient number of copies. Copies missing must be provided at the expense of the party concerned.

Re. Article 66, No. 10 - signing of documents

28. The purport of the provision adopted by the sub-Committee was that documents furnished during the course of proceedings before the EPO must be signed. The EPO could grant an extended time limit within which such documents must be signed, failing which they would be deemed not to have been received. This sanction would not, however, be applicable to the request, so that even under such circumstances the application would be acceptable under the terms of Article 68 of the First Preliminary Draft and there would be no risk of loss of priority rights. However, the absence at a later stage of a signature to the request would affect its validity.

BR/51 e/70 ett/RT/prk
Re. Article 66, No. 5 - Form and content of the abstract

23. The Chairman stated that he would draw up a proposal for an implementing measure on this matter for the next meeting.

Re. Article 66, No. 6 - Prohibited matter

24. The text of the PCT regulations was again followed here. The sub-Committee also discussed the prohibition of any references to a trade mark, unless references concerning its registration were supplied at the same time. It did not consider it desirable to include such a prohibition in the Implementing Regulations. In the view of the sub-Committee, it already appeared to be implicit in the provisions regarding the precision and clarity of the terms of the application.

Re. Article 66, No. 7 - General provisions governing the presentation of the application documents

25. The text of the PCT regulations was also adopted on this point. An amendment was made, however, with a view to obtaining greater flexibility in regard to units of measurement (paragraph 12). Following a proposal by the Swiss delegation, it was decided that in the case of physical values other than those already mentioned, it would be appropriate to use the units recognised in international practice. The sub-Committee also added a provision whereby translations would considered to be included in the application documents (paragraph 1). The translations in question would be translations into an EPO working language, of application documents drawn up in one of the official languages of the EPO which was not one of the three working languages. This provision implies that all the conditions laid down in the remaining paragraphs.
MINUTES
of the 2nd meeting of Working Party I sub-Committee on
"Implementing Regulations"
(Luxembourg, 15-18 September 1970)

1. The second working meeting of the sub-Committee
instructed by Working Party I to draw up draft Implementing
Regulations to the Convention was held at Luxembourg from
Tuesday 15 to Friday 18 September 1970, with
Mr. PRESSONNET, Deputy Director, French Industrial Property
Institute, in the Chair.

In addition to the national delegations represented in
the sub-Committee, the meeting was attended by BIRPI and
the International Patents Institute (IIB) (1).

(1) See the list of participants in Annex I.
be made of technical terms, styles and symbols generally accepted in the field in question. Generally, use should

mathematical formulae, the symbols in general use, and for chemical formulae the symbols, the other physical values, the units recognized in international practice shall be used, for

temperature shall be expressed in degree centigrade. Percentages shall be expressed in terms of the metric system. If a different system is used, they shall also be expressed in terms of the metric system. If

units of weight and measures shall be expressed in terms of the metric system. If

Note:

Statements may contain words only if the subject matter makes the use of technical descriptor.

The decoration and the abstract may contain table. The abstract shall not contain drawings. The decoration, the chart and the abstract may contain

11) The request for the grant of a European patent, the decision, the chart and the

Text drawn up by the Su-foo
be in a dark, indelible colour.

In the text, characters shall be in capital letters of which are not less than 0.1 cm high, and shall be written by hand or drawn. The text shall be justified, A4 format, with a margin of 1.5 cm on the left. Only capital letters, numbers and mathematical symbols shall be typed or printed.

(10) The request for the grant of a European patent, the description, the claims and the abstract shall be typed or printed. Only capital letters, numbers and mathematical symbols shall be typed or printed.

(6) The times of each sheet of the description and of the claims shall preferably be numbered in the margin. In sets of five, the numbers appearing on the left side, to the right of the margin.

(9) All the sheets contained in the European patent application shall be numbered in the margin at the top of the sheet, in the middle, but not secutive arabic numerals. They shall be placed at the top of the sheet, in the middle, but not secutive arabic numerals. They shall be placed at the top of the sheet, in the middle, but not secutive arabic numerals. They shall be placed at the top of the sheet, in the middle, but not secutive arabic numerals. They shall be placed at the top of the sheet, in the middle, but not secutive arabic numerals. They shall be placed at the top of the sheet, in the middle, but not secutive arabic numerals.

(7) The margins of the European patent application, when submitted, must be completely blank.

Text drawn up by the Sub-Committee.
(5) Each of the documents making up the European patent application (request, description, claims, drawings and abstract) shall commence on a new sheet. The sheets shall be connected in such a way that they can easily be turned over, separated and joined together again.

(6) Subject to Article ...(re. Article 26 No. 4) paragraph 2, the minimum margins shall be as follows:

<table>
<thead>
<tr>
<th>Section</th>
<th>Minimum Margin</th>
</tr>
</thead>
<tbody>
<tr>
<td>top of first sheet, except that of the request</td>
<td>5 cm</td>
</tr>
<tr>
<td>top of other sheets:</td>
<td>4 cm</td>
</tr>
<tr>
<td>left side:</td>
<td>4 cm</td>
</tr>
<tr>
<td>right side:</td>
<td>3 cm</td>
</tr>
<tr>
<td>bottom</td>
<td>3 cm</td>
</tr>
</tbody>
</table>

The recommended maximum for the margins quoted above is as follows:

<table>
<thead>
<tr>
<th>Section</th>
<th>Maximum Margin</th>
</tr>
</thead>
<tbody>
<tr>
<td>top of first sheet, except that of the request</td>
<td>9 cm</td>
</tr>
<tr>
<td>top of other sheets:</td>
<td>6 cm</td>
</tr>
<tr>
<td>left side:</td>
<td>6 cm</td>
</tr>
<tr>
<td>right side:</td>
<td>5 cm</td>
</tr>
<tr>
<td>bottom</td>
<td>5 cm</td>
</tr>
</tbody>
</table>
(4) The document marking up the European Patent application shall be on a paper (29.7 cm x 21 cm), which shall be flat, stiff, smooth, strong and durable. Subjected to the provisions of Article 76(1), a sheet shall be used, each sheet shall be in portrait position, with the short sides at the top and bottom (upright position).

(3) The documents marking up the Europan Patent application shall be so processed as to be free from crackle, crease or fold. Only one side of the sheet shall be used.

(2) The documents marking up the European Patent application shall be so processed as to be free from crackle, crease or fold. Only one side of the sheet shall be used.

(1) The documents marking up the European Patent application shall be so processed as to be free from crackle, crease or fold. Only one side of the sheet shall be used.

Number 7

General provisions governing the preservation of the documents mentioning in Article 74, paragraph 2, second sentence of the Convention,

next drawn up by the sub-committee
of the first preliminary draft convention
Re Articles 62, 63, 64, 65, 66, 67, 70, 71, 72, 73 and 74
PRELIMINARY DRAFT IMPLEMENTING REGULATIONS

(15 to 16 September 1970)
Number of Working Party I
Outcome of the work of the "Implementation Regulation" Sub-Committee

- Secretary -

BR/50/70

Brussels, 5 October 1970

FOR THE GRANT OF PATENTS
FOR THE SETTLING UP OF A EUROPEAN SYSTEM
INTER-GOVERNMENTAL CONFERENCE
5. Filing and requirements of the European patent application (Articles 73-84 and Rules 24-37)

During its discussion of Article 73, the Main Committee was faced with the question of which office of the European Patent Office the European patent application should be filed at. In the interests of the applicant, it gave him the choice of Munich or The Hague and amended Article 73, paragraph 1(a) and Article 74, paragraph 1, accordingly.

In connection with the requirements of the application under Article 76, the Main Committee examined the need to file the abstract. It considered that if this were not done, there would be a loss of information and therefore maintained this requirement. It also decided to prescribe the compulsory publication of the abstract with the search report under Article 92.

Closely connected with the substantive requirement of disclosing the invention under Article 81 was the problem of making special provisions for European patent applications covering micro-organisms. It was not contested that the relevant provision, Rule 28, should lay down that micro-organisms which are not available to the public should be deposited with a recognised culture collection no later than at the time of filing the application, that the micro-organism should be adequately described in the application, and that the culture collection should be identified either in the application itself or within a short time thereafter. It was also agreed that the disclosure of the micro-organism should be subject to certain measures to protect the applicant. Views differed, however, on the latest time at which the micro-organism should be made available to the public. Contrary to the draft of Rule 28, which provided for this to be not later than the date of publication of the application, it was proposed that the applicant should not be obliged to make the micro-organism available to the public until the time of the grant of the patent, at which point the provisional protection would be lost. The main arguments put forward in defence of this standpoint were that the approach contained in the draft laid an unfair burden on such applicants in comparison with inventors in other fields of technology by requiring the subject-matter of the invention to be deposited, and that the applicant was forced to reveal know-how, thus making it easier for his invention to be copied at a time when it was not yet definite whether or not the application would lead to the grant of a patent.

Those who advocated the approach set out in the draft argued that the public could be considered to be sufficiently informed of the subject-matter of the invention only if the micro-organism were made available to the public at the time of the publication of the application; furthermore, it was only by such a disclosure that the micro-organism could be comprised in the state of the art under Article 52, paragraph 3, with the result that this was the only means whereby duplication of patents could be avoided and legal uncertainty in relation to national patent applications could be removed.

After detailed consideration of the various arguments for and against the two approaches, the Main Committee decided by a majority to retain the solution proposed in the draft and to lay down that the micro-organism should be made available to the public at the latest at the date of publication of the European patent application. At the same time, it added provisions to Rule 28 which gave the applicant far-reaching guarantees against misuse of the disclosed micro-organism during the existence of the provisional protection conferred by the application and the definitive protection of the European patent. These guarantees consisted in requiring that any third party who had access to a sample of the culture would have to make certain undertakings vis-à-vis the culture collection or the applicant for or proprietor of the patent in respect of the ways in which he used the culture. On the other hand, the Main Committee decided, in the same way as in respect of Article 67, not to adopt a procedural rule which would have obliged a third party who used a micro-organism disclosed by the applicant to prove that the culture concerned was not that described in the application, even though the reversal of the burden of proof would have reinforced the legal position of the applicant even further. It was also made clear in Rule 28 that the built-in safety clauses in favour of the applicant did not prejudice any national provisions concerning compulsory licences or uses in the interest of the State. The details governing the deposit, storage and availability of cultures were left to agreements to be concluded between the President of the European Patent Office and the recognised culture collections.

6. Questions of priority (Articles 85-87/Rule 38)

Apart from the amendment to Article 85, paragraph 5, already dealt with above in the chapter on "language questions", the provisions of Articles 85-87 concerning priority led to few amendments. It may be mentioned that the extension of the priority right to States which are not members of the Paris Convention, in accordance with an amendment decided upon by the Committee in the interests of the Contracting States, will apply only if international reciprocity is granted not only in relation to European but also in relation to national applications by Contracting States.

7. Procedure up to grant (Articles 88-97/Rules 39-55)

In so far as individual provisions of Articles 88-97 and the corresponding Rules 39-55 concerning the procedure up to grant have already been discussed in connection with language questions, identification of the inventor and the abstract, reference should be made to the appropriate Chapters 1, 3 and 5.

During the discussion of Articles 93/94 the Committee confirmed the specified period within which requests for examination may be filed and also the possibilities for extending the time limits, both of which are the result of well thought out compromises. The Committee refused in particular to lay down in Article 94 an absolute right for third parties to request examination in the event of the Administrative Council extending a time limit. The need for such a right for third parties depends largely on the length of time by which the period is extended.

8. Opposition procedure (Articles 98-104/Rules 56-64)

The provisions concerning opposition procedure gave rise to very little discussion. A proposal to delete the opposition fee in Article 98, paragraph 1, on the ground that the opponent was to be considered as a person helping to establish the legal facts of the matter, was rejected by the majority. If the fee were to be dispensed with, dilatory opposition would be encouraged. Furthermore, the interests of the opponent are his main incentive and lastly, pursuant to Article 114, any person who wishes to help to establish the legal facts of the matter may present, free of charge, observations concerning the patentability of an invention in respect of which an application has been filed. By a vast majority the Committee also refused to shorten to six months the nine-month opposition period laid down in Article 98, paragraph 1, which had been adopted as a compromise solution at an earlier stage in the negotiations.

In Article 98 and in Rule 61 the Committee added new provisions which also make possible the filing of notice of opposition and consequently the continuation of opposition proceedings when the proprietor has completely surrendered the European patent or when it has lapsed for all the