Article 144 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. 144

MPU

Vertretung vor den besonderen Organen

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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
Article 144

Representation before special departments

The group of Contracting States may lay down special provisions to govern representation of parties before the departments referred to in Article 143, paragraph 2.
MUNICH DIPLOMATIC CONFERENCE
FOR THE SETTING UP OF A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

- 1973 -

Munich, 30 September 1973
M/ 146/R 6
Original: English/French/German

CONFERENCE DOCUMENT

Drawn up by: General Drafting Committee

Subject: Convention: Articles 140 to 166
Article 144

Representation before special departments

The group of Contracting States may lay down special provisions to govern representation of parties before the departments referred to in Article 143, paragraph 2.
MUNICH DIPLOMATIC CONFERENCE
FOR THE SETTING UP OF A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

- 1973 -

Munich, 18 September 1973
M/98/I/R 4
Original: English/French/German

TEXTS DRAWN UP BY
THE DRAFTING COMMITTEE OF MAIN COMMITTEE I
AT THE MEETING ON 17 SEPTEMBER 1973

Articles of the Convention:

Articles 50
130
137
138
139
141
144
149
153
157
Article 144  Professional representation before special departments

The group ... States. They may also provide that the Contracting States referred to in Article 133 shall be limited to the Contracting States of the group.

Rule 43  Late-filed or missing drawings

(1) If ... withdrawn the drawings; any references to them in the application shall be deemed to be deleted.

(2) and (3) Unchanged

Rule 55  Content of the appeal

(1) The notice of appeal shall contain:

(a) Unchanged

(b) Unchanged

(2) The statement of grounds shall contain the grounds on which the amendment or cancellation of the decision is requested.

Rule 107  Withdrawal of the certificate enabling a representative to be entered on the list

The ... does not fulfil or, for reasons other than change of place of business or employment to the Federal Republic of Germany or Netherlands, has ceased to fulfil ...

... Article 134, paragraph 1.

M/64/I/mb
MUNICH DIPLOMATIC CONFERENCE
FOR THE SETTING UP OF A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

- 1973 -

Munich, 11 September 1973

M/64/I

Original: English

CONFERENCE DOCUMENT

Drawn up by: United Kingdom delegation

Subject: Further proposals for Articles 107, 108, 120, 130, 133, 144 of the Convention and for Rules 43, 55 and 107 of the Implementing Regulations
35. The FICPI supports the British proposal, but suggests that an express reference should be made in Art. 144 not only to Art. 133 but also to Art. 134.

H. Editorial questions.

36. Art. 134. It is pointed out by the German government in M/11, point 31, pages 68-69, that the term "zugelassene Vertreter" of the German version is not in accordance with the term "professional representatives" of the English version. The German government therefore proposes to change "zugelassene" to "geschäftsmäßige".

The same observation is made by the UNICE in M/19, point 25, pages 176-7, the CIFE in M/22, point 43, pages 266-7, and the FEMIPI in M/23, point 4, pages 282-3, but the correction proposed by these organizations is the opposite, viz. to insert a marginal note to the effect that the term "professional representatives" comprises both persons exercising the profession on a self-employed basis and persons working on a salaried basis.

37. In the opinion of the FICPI it is not usual to refer to the profession as "Geschäft", but the FICPI has no objections to the amendment proposed by the German government, if this is considered useful for clarification.

38. As regards the marginal note proposed by the UNICE, the CIFE and the FEMIPI, such an explanation is hardly called for, but at any rate care should be taken not to introduce an interpretation incompatible with the German word "zugelassene" which means persons entitled to represent parties other than their employer.

39. There might of course alternatively be a possibility of finding an English expression corresponding to "zugelassene", e.g. "licensed", "recognized" or "acknowledged".

40. Art. 134 (3). The German government proposes in M/11, point 32, pages 68-69, to cancel Art. 134 (3). The CNIPA in M/20, point 3a, pages 208-9, makes a similar observation but points to the possible significance of Art. 134 (3) as applicable to persons mentioned in Art. 162 (6). In this connection the attention is drawn to the proposal of the FICPI in M/15, points 31-32, pages 118-9, where it is proposed to add at the end of Art. 162 (6)

"The provision shall not affect the applicability of Art. 134 (3)."

41. This proposal thus depends on the maintenance of Art. 134 (3), and if the latter is cancelled, its substance should therefore preferably be taken up in Art. 162 (6). But why not leave things as they are? It is also observed that if Art. 134 (3) is amended as proposed by the FICPI in M/15, point 27, pages 116-7, it will no longer be superfluous in respect of Art. 134 as such.
would positively prescribe the adoption of provisions regarding group representation by the Administrative Council if no such provisions are adopted by the Diplomatic Conference itself, and the possibility that there may be found no need for such provisions is left out of consideration. In the opinion of the FICPI it is preferable to leave the matter entirely to the Administrative Council, as in the official text, because the adoption of provisions for which there is no need, or extending beyond the needs which may be found to exist, just because of a prescription in the Convention, would be regrettable. If the question of group representation is left to the Administrative Council, this will be just one of the many points on which we shall all have to trust the Administrative Council for competence and fairness if the European Patent Convention is to work at all.

The CEEP in M/3o, point 21, page 6 (not included in the printed volume) does not make any precise proposals, but urges that Art. 133 (3), second sentence should be extended so as also to deal with the representation of legal persons not having their registered place of business within the territory of one of the Contracting States, but having economic links with such legal persons. In this respect, the CEEP goes further than the UNICE, the CIFE and the FEMIP. Such an extension must be opposed by the FICPI, because it would come very close to a complete undermining of the fundamental provisions of Art. 133 (2) and 134 (1).

F. Art. 162 (8) – new paragraph.

The German government proposes in M/11, point 6, pages 56-57, to adopt a new paragraph (8) to Art. 134 prescribing that if a person whose name appears on the list of professional representatives repeatedly and seriously infringes the laws of the Federal Republic of Germany or of the Netherlands, the competent authorities of these States shall be authorized, after consulting the President of the European Patent Office, to deprive such person of the right to establish a place of business pursuant to paragraph 4.

The FICPI agrees that there should be such a sanction, but would prefer to have it adopted as an express item of the disciplinary measures laid down in Rule 108 as proposed by the FICPI, if it is found that the situation is not already covered by the proposed Rule 108.

G. Proposals of the British government and the CNIPA in respect of Art. 144.

It has been suggested by the British government in M/1o, point 9, pages 44-45, to extend Art. 144 so as also to apply to representatives referred to in Art. 133 (3). A similar observation is made by the CNIPA in M/2o, point 28, pages 208-9.
re: Munich Diplomatic Conference

Attached are:

Memorandum A on representation before the European Patent Office,
Art. 133, 134, 144, 162, Rules 103, 107.

Memorandum B on evidence of transfer of the inventor's right,
Art. 58, 79, 90, Rules 14, 42.

Memorandum C on multiple priorities and partial priorities,
Art. 86.

Memorandum D on withdrawal of the European patent application,
Art. 58, Rules 14, 49.

Memorandum E on extension of periods, Rule 85, as related to
language problems, Art. 14 (4) and Rule 6 (2).
MUNICH DIPLOMATIC CONFERENCE

FOR THE SETTING UP OF A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

- 1973 -

Munich, 10 September 1973
M/ 48/I
Original: English/French/German

CONFERENCE DOCUMENT

Drawn up by: FICPI

Subject: Memoranda on:
- representation
- evidence of transfer of the inventor's right
- multiple priorities and partial priorities
- withdrawal of the European patent application
- extension of periods as related to language problems
available before the termination of the technical preparations for publication. If the European search report and the abstract have not been published at the same time as the application, they shall be published separately."

see also point 28 (Rule 50)

17. Article 105

see point 6

18. Article 124

"(3) _____ additional search fee within two months.
If _____"

19. Article 144

"The group of Contracting States may lay down special provisions to govern representation before the departments referred to in Article 143, paragraph 2."

The word "special" (before "departments") may also be deleted in Art. 143, para. 2, second sentence, Art. 145, para. 1, first part of the first sentence, and Art. 146, para. 1, end of second sentence.
MUNICH DIPLOMATIC CONFERENCE
FOR THE SETTING UP OF A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

- 1973 -

Munich, 10 September 1973
M/47/I/II/III
Original: German

CONFERENCE DOCUMENT

Drawn up by: The delegation of the Federal Republic of Germany
Subject: Proposals for amendments to the draft texts
Wir zweifeln, ob eine Erfindung eines Stoffes oder Stoffgemisches zur medizinischen Anwendung als — wie in Artikel 55 definiert — gewerblich anwendbar betrachtet werden kann, wenn der Stoff als solcher bekannt ist. Unseres Erachtens sollte daher Artikel 50 Absatz 3 geändert werden und folgenden Wortlaut erhalten:

„Das Erfordernis, daß eine Erfindung gewerblich anwendbar sein muß, sowie Absatz 2 Buchstabe d stehen der Patentierbarkeit ... nicht entgegen."

Artikel 53

Artikel 53 Absatz 1 Buchstabe a entspricht dem Wortlaut des Artikels 4 Absatz 4 des Straßburger Übereinkommens. Er schließt vom Stand der Technik nach Artikel 52 Absätze 2 und 3 alles aus, was infolge eines offensichtlichen Mißbrauchs innerhalb von sechs Monaten vor Einreichung der europäischen Patentanmeldung veröffentlicht worden ist. Er schließt daher von Artikel 52 Absatz 3 europäische Patentanmeldungen mit einem früheren Prioritätstermin aus, falls sie innerhalb der betreffenden Frist veröffentlicht worden sind; dagegen werden europäische Patentanmeldungen mit einem früheren Prioritätstermin, die nach Ablauf der betreffenden Frist veröffentlicht worden sind, nicht ausgeschlossen. Unseres Erachtens sollten diese beiden Fälle der früheren Anmeldung gleich behandelt und beide ausgeschlossen werden. Wir schlagen daher vor, daß die Worte „innerhalb von“ in der dritten Zeile des Artikels 53 (Absatz 1) durch die Worte „nicht früher als“ ersetzt werden.

Unseres Erachtens ist dies mit dem Straßburger Übereinkommen vereinbar und entspricht auch dessen Geist.

Artikel 144

Wir schlagen vor, diesen Artikel durch folgenden Satz zu ergänzen: „Diese Bestimmung gilt auch für die gemäß Artikel 133 Absatz 3 handelnden Angestellten."

AUSFÜHRUNGSORDNUNG

Regel 102

Absatz 8 scheint auf den ersten Blick einen Verstoß gegen die Bestimmung einer Vollmacht gutzuheißen, die der Anmelder seinen Bevollmächtigten erteilt hat. Unseres Erachtens ist dies nicht beabsichtigt; wir meinen vielmehr, daß man dem Europäischen Patentamt anheimstellen will, nur mit einem Bevollmächtigten zu verhandeln.

Wir schlagen deshalb vor, Absatz 8 wie folgt neu zu fassen:

We doubt whether an invention of a substance or composition for use in medical treatment can be regarded as susceptible of industrial application as defined in Article 55 where the substance is known per se. We consider therefore that Article 50, paragraph 3, should be amended to read:

“The requirement that an invention shall be susceptible of industrial application and the provision of paragraph 2(d) do not exclude the patentability ... in that provision.”

Article 53

Article 53, paragraph 1(a), follows the wording of Article 4, paragraph 4, of the Strasbourg Convention. It excludes from the prior art of Article 52, paragraphs 2 and 3, anything published in consequence of an evident abuse within the six months preceding the filing of the European patent application. It therefore excludes from Article 52, paragraph 3, European patent applications of earlier priority date provided they were published within that period; it does not exclude European patent applications of earlier priority date which are published after the expiry of that period. In our opinion these two types of earlier application should be treated identically and both should be excluded. We therefore propose that the word “within” in Article 53, line 3, be replaced by the words “not more than”.

In our view this is consistent with, and in accord with the spirit of, the Strasbourg Convention.

Artikel 144

9 Wir schlagen vor, diesen Artikel durch folgenden Satz zu ergänzen: „Diese Bestimmung gilt auch für die gemäß Artikel 133 Absatz 3 handelnden Angestellten.”

IMPLEMENTING REGULATIONS

Rule 102

10 Paragraph 8 appears on the face of it to sanction a breach of an authorisation given by the applicant to his representatives. We do not believe this is intended: on the contrary we think the intention is to give freedom to the European Patent Office to deal e.g. with only one of the representatives.

We suggest therefore that paragraph 8 be redrafted as follows:
STELLUNGNAHME

DER REGIERUNG DES VEREINIGTEN KÖNIGREICHS

COMMENTS

BY THE UNITED KINGDOM GOVERNMENT

PRISE DE POSITION

DU GOUVERNEMENT DU ROYAUME-UNI
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)

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

STELLUNGNAHMEN
zu den vorbereitenden Dokumenten
herausgegeben von der
Regierung der Bundesrepublik Deutschland

COMMENTS
on the preparatory documents
published by the
Government of the Federal Republic of Germany

PRISES DE POSITION
sur les documents préparatoires
publiées par le
Gouvernement de la République fédérale d'Allemagne

1973
NEUNTER TEIL
BESONDERE ÜBEREINKOMMEN

Artikel 142
Einheitliche Patente

(1) Eine Gruppe von Vertragsstaaten, die in einem besonderen Übereinkommen bestimmt hat, daß die für diese Staaten erteilten europäischen Patente für die Gesamtheit ihrer Hoheitsgebiete einheitlich sind, kann vorsehen, daß europäische Patente nur für alle diese Staaten gemeinsam erteilt werden können.

(2) Hat eine Gruppe von Vertragsstaaten von der Ermächtigung in Absatz 1 Gebrauch gemacht, so sind die Vorschriften dieses Teils anzuwenden.

Artikel 143
Besondere Organe des Europäischen Patentamts

(1) Die Gruppe von Vertragsstaaten kann dem Europäischen Patentamt zusätzliche Aufgaben übertragen.


Artikel 144
Vertretung vor den besonderen Organen

Die Gruppe von Vertragsstaaten kann bestimmen, daß die Befugnis, vor den in Artikel 143 Absatz 2 genannten besonderen Organen als zugelassener Vertreter aufzutreten, auf die Personen beschränkt wird, die Staatsangehörige eines Vertragsstaats der Gruppe sind und ihren Geschäftssitz oder Arbeitsplatz in einem dieser Vertragsstaaten haben.

Artikel 145
Engerer Ausschuß des Verwaltungsrats

(1) Zur Überwachung der Tätigkeit der nach Artikel 143 Absatz 2 gebildeten besonderen Organe wird ein engerer Ausschuß des Verwaltungsrats eingesetzt, dem das Europäische Patentamt das Personal, die Arbeitsräume und die materielle Mittel zur Verfügung stellt, die es zur Durchführung seiner Aufgaben benötigt. Der Präsident des Europäischen Patentamts ist dem engeren Ausschuß des Verwaltungsrats gegenüber für die Tätigkeit der besonderen Organe verantwortlich.

(2) Die Zusammensetzung, die Zuständigkeit und die Tätigkeit des engeren Ausschusses bestimmt die Gruppe von Vertragsstaaten.

PART IX
SPECIAL AGREEMENTS

Article 142
Unitary patents

(1) Any group of Contracting States, which has provided by a special agreement that a European patent granted for those States has a unitary character throughout their territories, may provide that a European patent may only be granted jointly in respect of all those States.

(2) Where any group of Contracting States has availed itself of the authorisation given in paragraph 1, the provisions of this Part shall apply.

Article 143
Special departments of the European Patent Office

(1) The group of Contracting States may give additional tasks to the European Patent Office.

(2) Special departments common to the Contracting States in the group may be set up within the European Patent Office in order to carry out the additional tasks. The President of the European Patent Office shall direct such special departments.

Article 144
Professional representation before special departments

The group of Contracting States may provide that the entitlement to act as professional representatives before the special departments referred to in Article 143, paragraph 2, may be limited to persons who are nationals of one of the Contracting States of the group and who have their place of business or employment in one of these Contracting States.

Article 145
Select committee of the Administrative Council

(1) A select committee of the Administrative Council shall be set up for the purpose of supervising the activities of the special departments set up under Article 143, paragraph 2; the European Patent Office shall place at its disposal such staff, premises and equipment as may be necessary for the performance of its duties. The President of the European Patent Office shall be responsible for the activities of the special departments to the select committee of the Administrative Council.

(2) The composition, powers and functions of the select committee shall be determined by the group of Contracting States.
ENTWURF EINES ÜBEREINKOMMENS
ÜBER EIN EUROPÄISCHES PATENTERTEILUNGSVERFAHREN

DRAFT CONVENTION
ESTABLISHING A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

PROJET DE CONVENTION
INSTITUANT UN SYSTÈME EUROPÉEN DE DÉLIVRANCE DE BREVETS
MÜNCHNER DIPLOMATISCHE KONFERENZ
ÜBER DIE EINFÜHRUNG EINES EUROPÄISCHEN PATENTTEILUNGSVERFAHRENS 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 MÜNICH
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
Article 133

51. Certain amendments were made to the wording of the German and French texts of this Article. The terms "berufsmässiger Vertreter" and "mandataire professionnel" were replaced by the terms "zugelassener Vertreter" and "mandataire agréé".

These new terms refer only to the qualifications required for the exercise of the functions in question, without suggesting that these functions must be exercised on a continuous and permanent basis.

Article 142a

52. In reply to one delegation's observation that difficulties could arise in the context of the Second Convention owing to the fact that Article 159 provides for exemption from the requirement of nationality of one of the Contracting States, it was observed that Article 142a merely presented an option for the group of States referred to in Article 141 and that they were free to adopt a more liberal position.

Article 146, paragraph 3

53. The Conference amended paragraph 3 of this provision in order to take greater account of the provisions of Article 11, paragraph 3 of the Co-operation Treaty which stipulates that an international application has, from the date on which it is filed, the effects of an ordinary national application.
MINUTES

of the

6th meeting of the Inter-Governmental Conference
for the setting up of a European System
for the Grant of Patents
(Luxembourg, 19 to 30 June 1972)
Article 142a
Professional representation before special departments

The group of Contracting States may provide that the entitlement to act as professional representatives before the special departments referred to in Article 142, paragraph 2, may be limited to persons who are nationals of one of the Contracting States of the group and who have their place of business or employment in one of these Contracting States.
INTER-GOVERNMENTAL CONFERENCE
FOR THE SETTING UP OF A EUROPEAN
SYSTEM FOR THE GRANT OF PATENTS

- Secretariat -

Brussels, 25 May 1972
BR/199/72

DRAFT CONVENTION
ESTABLISHING A EUROPEAN SYSTEM
FOR THE GRANT OF PATENTS

(Stage reached on 20 May 1972)

BR/199 e/72
Situations might arise where the renewal fees for the European patent were payable by the proprietor very soon after the date of the mention of the grant of the patent. This would give rise to difficulties for the proprietor. The Member States of the European Communities therefore proposed a solution which would in any event allow a minimum of two months for payment as from the date of the mention of the grant of the patent.

869. The Committee agreed to this proposal.

**Article 142 — Unitary patents**

870. The Committee referred the comment by the Swiss delegation concerning the title of this Article to the Drafting Committee for examination (see M/54, page 22).

871. The Netherlands delegation wondered whether Article 35 of the Community Patent Convention pursuant to which the applicant was required to file at the European Patent Office a translation of the claims in one of the official languages of each of the Contracting States to that Convention which did not have English, French or German as an official language was covered by Article 63 of the European Patent Convention, which provided that any Contracting State may prescribe that the applicant for or proprietor of the patent must supply a translation of the text in which the European Patent Office intends to grant a European patent. If Article 63 were considered as not authorising the Member States of the European Communities to lay down a requirement such as that contained in Article 35 of the Community Patent Convention, an appropriate provision would have to be inserted, if necessary, in Article 142 of the European Patent Convention. This delegation also wondered if the words "supply to its central industrial property office" could be interpreted under the Community Patent Convention as covering the "central department" set up by the Contracting States by a special agreement.

872. The Committee considered that Article 63 of the Convention did in fact authorise the Contracting States of the Community Patent Convention to stipulate the requirement laid down in Article 35 thereof and also gave an affirmative reply to the question of interpretation raised.

873. The Netherlands delegation finally wondered whether Article 63 covered Article 35, paragraph 4, of the Community Patent Convention, which provided that translations of the claims were to be published by the European Patent Office.

874. The United Kingdom delegation considered that this provision was covered by Article 143, paragraph 1, which stated that the group of Contracting States could give additional tasks to the European Patent Office.

875. The Committee agreed with the United Kingdom delegation's opinion.

**Article 143 — Special departments of the European Patent Office**

876. The delegation of the Federal Republic of Germany explained to the Committee the proposal submitted by the Member States of the European Communities for an addition to be made to paragraph 2 of this Article (see M/14, point 11). This proposal was intended to ensure that, for the running of the special Departments set up under a special agreement, the President of the European Patent Office had all the powers provided under Article 10 for the general conduct of the Office's operations.

877. The Committee agreed to this proposal.

**Article 144 — Professional representation before special departments**

878. The Chairman noted that a proposal had been put forward as regards this Article by the delegation of the Federal Republic of Germany (see M/47, point 19), and another by the United Kingdom delegation (M/64, page 3). If the German proposal were adopted it would not be necessary to examine the United Kingdom proposal, the substance of which was contained in the German proposal.

879. The delegation of the Federal Republic of Germany suggested that this Article be simplified in order to make it as flexible and comprehensive as possible. It therefore proposed that the provision in question be confined to stating that the group of Contracting States could lay down special arrangements to govern representation of parties before the special departments without any limitations being applied.

880. The Netherlands delegation supported this proposal.

881. The United Kingdom delegation was prepared to support the German proposal and withdraw its own. It wondered whether the title of the Article should not be amended by deleting the word "professional" in order to broaden its scope and render it applicable also to representation by employees.

882. The Committee agreed to the German proposal and the amendment suggested by the United Kingdom delegation.

**Article 149 — Joint designation**

883. The Committee referred the proposals of the Netherlands delegation (see M/52, page 14) and of the delegation of the Federal Republic of Germany (see M/47, point 44) to the Drafting Committee, for examination.

**Article 150 - Application of the Patent Co-operation Treaty**

884. The Committee referred the proposal by the Luxembourg delegation (see M/9, point 28) to the Drafting Committee for examination.

**Article 153 — The European Patent Office as a designated Office**

885. The Committee examined the Norwegian delegation's proposal (see M/71, page 3) concerning paragraph 2 of the Article, to the effect that the reference to Article 39, paragraph 1, of the Co-operation Treaty, should be deleted.

886. The Chairman said that if the Committee subscribed to the Norwegian delegation's opinion that Article 153 should refer only to Chapter I of the PCT, whereas the fee referred to in Article 39 related to Chapter II, it would have to be considered whether another provision, the content corresponding to that of Article 153, paragraph 2, with a reference to Article 39 of the PCT, should not be included, possibly in Article 155. Failing such a provision the Convention would contain no stipulation regarding the national fee for the procedure under Chapter II of the PCT.

887. The WIPO delegation considered that this problem could be resolved in one of two ways: either by adopting the Norwegian delegation's proposal and adding a provision to Article 155, as mentioned by the Chairman, or else keeping Article 153, paragraph 2, as it stood — which would have the advantage of making superfluous one part of the Norwegian delegation's proposal on Article 153, paragraph 2, first sentence, i.e. the addition of a sentence regarding the periods of time laid down in Article 39 of the PCT.