Article 175 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. 175

MPU

Aufrechterhaltung wohlerworbener Rechte

| Entwurf, der dem | Art. Nr. im | Dokument, in dem der Art. behandelt wird | Fundstelle im Dokument |
| nebstehenden Dokument zugrunde liegt | Entwurf/Dokument | | |
| VE 1971 (Ue) | '171(a) | BR/125/71 | Rdn. 146 |
| VE 1971 (Ue) | 171 | BR/144/71 | Rdn. 74 |
| BR/88/71 | 163 | BR/125/71 | Rdn. 133-138 |
| BR/88/71 | 171 | BR/125/71 | Rdn. 145 |

Dokumente der MDK

| E 1972 | 174 | M/146/R 7 | Art. 175 |
| " | 174 | M/160/K. | S. 3 |
MUNICH DIPLOMATIC CONFERENCE

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

- 1973 -

Munich, 4 October 1973

M/160/K

Original: English/French/German

CONFERENCE DOCUMENT

Drawn up by: General Drafting Committee

Subject: Amendments to the texts of document M/145/R 1 to 15
Article 175
Preservation of acquired rights

(1) In the event of a State ceasing to be party to this Convention in accordance with Article 72, paragraph 4, or Article 73, rights already acquired pursuant to this Convention shall not be impaired.

(2) A European patent application which is pending when a designated State ceases to be party to the Convention shall be processed by the European Patent Office, in so far as that State is concerned, as if the Convention in force thereafter were applicable to that State.

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

(4) Nothing in this Article shall affect the right of any State that has ceased to be a party to this Convention to treat any European patent in accordance with the text to which it was a party.
MUNICH DIPLOMATIC CONFERENCE
FOR THE SETTING UP OF A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

- 1973 -

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

CONFERENCE DOCUMENT

Drawn up by: General Drafting Committee

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

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

**Artikel 175**

Finanzielle Rechte und Pflichten eines ausgeschiedenen Vertragsstaats

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

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

**Artikel 176**

Sprachen des Übereinkommens

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

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

**Artikel 177**

Übermittlungen und Notifikationen

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

---

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

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

**Article 175**

Financial rights and obligations of a former Contracting State

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

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

**Article 176**

Languages of the Convention

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

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

**Article 177**

Transmission and notifications

(1) The Government of the Federal Republic of Germany shall draw up certified true copies of this Convention and shall transmit them to the Governments of all signatory or acceding States.

(4) Für die Staaten, die die revidierte Fassung des Übereinkommens im Zeitpunkt ihres Inkrafttretens weder ratifiziert haben noch ihr beigetreten sind, endet mit diesem Zeitpunkt die Mitgliedschaft an diesem Übereinkommen.

Artikel 172
Streitigkeiten zwischen Vertragsstaaten

(1) Jede Streitigkeit zwischen Vertragsstaaten über die Auslegung oder Anwendung dieses Übereinkommens, die nicht im Verhandlungsweg beigelegt worden ist, wird auf Eruchen eines beteiligten Staats dem Verwaltungsrat unterbreitet, der sich bemüht, eine Einigung zwischen diesen Staaten herbeizuführen.

(2) Wird eine solche Einigung nicht innerhalb von sechs Monaten nach dem Tag erzielt, an dem der Verwaltungs- rat mit der Streitigkeit befaßt worden ist, so kann jeder beteiligte Staat die Streitigkeit dem Internationalen Gerichtshof zum Erlaß einer bindenden Entscheidung unterbreiten.

Artikel 173
Kündigung


Artikel 174
Aufrechterhaltung wohlerworbener Rechte

(1) Durch die Beendigung der Mitgliedschaft eines Staats an diesem Übereinkommen nach Artikel 171 Absatz 4 und Artikel 173 werden die nach diesem Übereinkommen bereits erworbennen Rechte nicht be- rührt.

(2) Die europäischen Patentanmeldungen, die zu dem Zeitpunkt anhängig sind, zu dem die Mitgliedschaft eines benannten Staats am Übereinkommen endet, werden in bezug auf diesen Staat vom Europäischen Patentamt so weiterbehandelt, als ob das Übereinkommen in der nach diesem Zeitpunkt geltenden Fas- sung auf diesen Staat anwendbar wäre.

(3) The revised text shall enter into force when it has been ratified or acceded to by the number of Contracting States specified by the Conference, and at the time specified by that Conference.

(4) Such States as have not ratified or acceded to the revised text of the Convention at the time of its entry into force shall cease to be parties to this Convention as from that time.

Article 172
Disputes between Contracting States

(1) Any dispute between Contracting States concerning the interpretation or application of the present Convention which is not settled by negotiation shall be submitted, at the request of one of the States concerned, to the Administrative Council, which shall endeavour to bring about agreement between the States concerned.

(2) If such agreement is not reached within six months from the date when the Administrative Council was seized of the dispute, any one of the States concerned may submit the dispute to the International Court of Justice for a binding decision.

Article 173
Denunciation

Any Contracting State may at any time denounce this Convention. Notification of denunciation shall be given to the Government of the Federal Republic of Germany. Denunciation shall take effect one year after the date of receipt of such notification, unless the State concerned has earlier ceased to be a party to the Convention, pursuant to Article 171, paragraph 4.

Article 174
Preservation of acquired rights

(1) In the event of a State ceasing to be party to this Convention in accordance with Article 171, paragraph 4, or Article 173, rights already acquired pursuant to this Convention shall not be impaired.

(2) A European patent application which is pending when a designated State ceases to be party to the Convention shall be processed by the European Patent Office, in so far as that State is concerned, as if the Convention in force thereafter were applicable to that State.
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 SYSTÉME 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
States had advocated that the competency of the International Court of Justice should be recognised in the largest possible number of disputes. They should not therefore make exceptions in the case of this Convention. The Conference endorsed this proposal and amended paragraph 2 accordingly. This removed the point of Articles 3 to 6 and the proposed amendments submitted by the German and Austrian delegations.

Article 169 (Limitation of reservations)

144. The Conference wished to specify, by means of an express reference to Article 158, that reservations apart from those provided for in that Article were not admissible.

Article 171 (Denunciation)

145. Paragraph 2 was transferred to Article 173, paragraph 2, along with a number of other provisions which provide that the Contracting States are to be informed by the State with whose Government the instruments of ratification are to be deposited (BR/117/71, Page 10).

Paragraph 3, which governed the preservation of acquired rights in the event of denunciation in a similar manner to Article 163, was combined with the latter provision to form a new Article 171a (BR/118/71, Page 20).
MINUTES

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)
Article 171
Denunciation

(1) Any Contracting State may at any time denounce this Convention. Notification of denunciation shall be given to the Government of ........... . Denunciation shall take effect one year after the date on which notification is given, unless the State concerned has earlier ceased to be a party to the Convention, pursuant to Article 162, paragraph 4 (b).

(2) The Government of ........... shall inform the Governments of the Contracting States of the denunciations referred to in paragraph 1.

(3) (a) Denunciation shall not prejudice rights acquired pursuant to this Convention prior to the expiry of the period provided for in paragraph 1.

(b) European patent applications which are before the European Patent Office on the date on which the denunciation takes effect pursuant to paragraph 1, and in which a State which has denounced the Convention has been designated, shall be dealt with by the European Patent Office, in so far as that State is concerned, on the basis of the provisions of the Convention applicable on the date on which the denunciation takes effect.

Note to Article 171(3):

The wording of this provision is derived from that of Article 163. If Article 163 were to be amended, amending Article 171, paragraph 5, would also have to be considered.
FIRST PRELIMINARY DRAFT OF A CONVENTION

ESTABLISHING

A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

- Stage reached on 29 January 1971 -
Article 171, paragraph 3, i.e. that in which a Contracting State ceases to be a party to the Convention by denunciation. The Conference therefore decided to combine the provisions of Article 163 and Article 171, paragraph 3, to form a new Article 171a (BR/118/71, Page 20).

138. The solution approved by the Conference was provisionally adopted; it is to be re-examined with the Government legal experts.

Article 164 (Signature – Ratification)

139. This Article was amended to enable States which did not take part in the work of the Conference from the beginning, but were admitted to the Conference at a later stage, to sign the Convention.

Article 165 (Accession)

140. On a proposal from the Netherlands delegation, the Conference slightly amended the procedure provided for in paragraph 2 for the accession of European States to whom signature was open under Article 164. In order to avoid a negative decision in respect of a State wishing to accede, it is now laid down that an invitation from the Administrative Council is to be a prerequisite for accession.
the State which was no longer a party just as if the version valid after that State had ceased to be a party were still applicable to it. Under this solution, if a patent application designated both States which had ratified the revised text and States which had ceased to be parties as a result of failure to ratify it in time, the same rules would be applied to both groups of States: the Revision Conference could therefore decide that all pending applications were to be processed according to the old rules or that the new rules were to be applied to all the applications. The Conference found that this solution would be the best from the points of view of the applicant, the European Patent Office and the States involved. Only in the event of the Revision Conference deciding that the new regulations would apply would the States which had not ratified the revised text have to accept to a certain extent the application of the revised text to applications already pending. It was to be expected that they would accept this solution. It was agreed however that these States must be in a position to apply the previous rules to a European patent granted in this way with effect for their territory, and thus to revoke where appropriate. The Conference therefore decided to add a new paragraph to Article 163 to state this possibility clearly.

137. The solution decided on by the Conference for Article 163 should also apply to the case covered until then by

ER/125 e/71 ley/KM/bp
if it had to apply different rules to one and the same application, according to whether the designated States had ratified the revised text or not. In many cases it would even be impossible to apply different rules, for instance when the procedural provisions governing the appeal period or the composition of the Examining Division had been amended. The Conference therefore sought another solution.

(b) One delegation suggested a differentiation according to whether the revision had amended substantive law or procedural law; in the former case the earlier text would have to be applied in respect of States which had not ratified the revised version; in the second case however the revised text could be applied to these States because no acquired rights would be affected. The Conference considered this solution impracticable, as it saw no possibility for drawing a clear line between amendments to substantive law and amendments to procedural law. It was also quite probable that an agreement to revise the Convention would involve amendments to both substantive law and procedural law, and that these would be inter-dependent. In this case the proposed solution would be of no help. The Conference therefore rejected this proposed solution too.

(c) The Conference finally gave preference, by a large majority, to a solution whereby the pending applications would be further processed in respect of
advantage of this solution would lie in a lightening of the work-load at the European Patent Office. However, the disadvantages of such a solution for the applicant, who would have to recommence proceedings for grant, and for the States, which would suddenly be faced with a large number of converted applications for which their patent offices might no longer have sufficient facilities, seemed so great that the Conference rejected this solution. It was also pointed out that under Article 124 any State already had the opportunity to allow conversion into a national patent application; however, no State could force conversion upon the applicant, and in the interests of the applicant this should not be changed. The Conference was therefore of the opinion that the designation of States in a European patent application should be respected even when a designated State has ceased to be a party to the Convention.

136. Various views were given by the Conference on the question of how the European Patent Office should continue to process applications in which States which were no longer parties to the Convention were designated.

(a) Some of the delegations advocated the retention of the text submitted by Working Party II, in accordance with which the unrevised text should be applicable to applications in respect of these States. It was pointed out in opposition to this solution that it would mean a large amount of work for the European Patent Office...
filed, and that patents already granted could not be revoked on the basis of more stringent conditions than those laid down in Article 133.

134. On the question of the processing of patent applications pending at the European Patent Office at the time of the entry into force of the revised text, the Conference assumed that it would be for the Revision Conference to determine which provisions were to be applied to such applications, in which States which had ratified the revised text were designated. The Revision Conference itself would also have to decide whether, in view of the acquired rights, the old regulations would have to be applied to these applications or not. The Conference thus agreed that Article 163, paragraph 2, would only cover pending applications if States which had not ratified the revised version were designated in them. The Conference rejected the suggestion that these cases too should be decided by future Revision Conferences, as it did not seem possible to bind States by the decisions of a Revision Conference when these States had not ratified the results of the Revision Conference. Instead the Conference was of the opinion that the Convention itself should make provision for such cases.

135. One proposal was that the applications in question, in which States which had not ratified the revised text were designated, should not be further processed by the European Patent Office, but that provision should be made for their conversion into national applications. The
and decided to retain the text proposed by Working Party II for paragraph 4(b).

It was stressed in the discussion that, bearing in mind that in accordance with Article 165, paragraph 4, any State which ceases to be a party to the Convention as a result of failure to ratify the revised text in time may accede again to the Convention on less stringent conditions, this solution was not too harsh. A provision was also proposed to the effect that a State acceding again may apply the revised Convention as from the time of its ceasing to be a party, i.e. with retroactive effect. This would close the time-gap. This suggestion was however not pursued.

The special case mentioned in this context of a State which had abandoned its own patent system in favour of the European system for the grant of patents and which would consequently be very hard hit if it ceased to be a party to the Convention, required, in the Conference's opinion, special provisions to be laid down at a later date.

**Article 163 (Reservation of acquired rights)**

133. The Conference agreed that the concept of acquired rights, as referred to in paragraph 1, could not be more fully defined in this provision. It noted the definition proposed by the rapporteur for Working Party II (BR/96/71, Annex III, p.9 et seq.) It was said that the main effect of this provision was that the conditions for patentability could not be restricted with effect for patent applications already
MINUTES

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)
Article 163
Reservation of acquired rights in cases of non-ratification of the revised text

(1) In no case shall non-ratification of the revised Convention impair rights acquired pursuant to this Convention before the entry into force of the revised text.

(2) European patent applications which are before the European Patent Office on the date of entry into force of the revised text, as laid down in Article 162, paragraph 4, and in which a State has been designated which has not ratified the said text, shall be dealt with by the European Patent Office, in so far as that State is concerned, on the basis of the provisions of the Convention which were applicable prior to the entry into force of the revised text.

Note to Article 163:

In proposing the text of this Article, Working Party II is fully aware of the practical difficulties which its application may involve as regards the working of the European Patent Office, which may be obliged to submit one and the same application, for various States, to two separate bodies of law. It is for the Conference to make a thorough examination of this aspect of the matter. Other texts have been proposed by various delegations, with a view to avoiding this drawback, but these have come up against other objections, in particular that of not adequately respecting the "acquired rights" of applicants or that of not taking the position of States which have not ratified the revised text suitably into account.
INTER-GOVERNMENTAL CONFERENCE
FOR THE SETTING UP OF A EUROPEAN
SYSTEM FOR THE GRANT OF PATENTS

- Secretariat -

FIRST PRELIMINARY DRAFT OF A CONVENTION
ESTABLISHING
A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

- Stage reached on 29 January 1971 -
After discussion the Working Party agreed that the Rules of Procedure for the Boards of Appeal should be made by the authority established under Implementing Regulation Re. Article 53, No. 2, paragraph 2 (new Re. Article 55, No. 1). The Working Party also agreed that the Enlarged Board of Appeal should make its own Rules of Procedure (new Re. Article 57, No. 1). The Working Party decided by a majority that the approval of the Administrative Council should be obtained for all rules. The majority of the Working Party agreed that the decision of approval by the Administrative Council should be taken by the simple majority.

Article 171 (Preservation of acquired rights)

The Conference recommended that this Article should be re-examined by the Working Party (BR/125/71, points 133 – 138). The Working Party considered this Article again and agreed that it should not be changed. The Note to Article 171 in the Second Draft of the Convention was accordingly deleted.
INTER-GOVERNMENTAL CONFERENCE FOR THE SETTING-UP OF A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

- Secretariat -

Brussels, 16 December 1971

MINUTES

of the 10th meeting of Working Party I,
held in Luxembourg from 22 to 26 November 1971

1. Working Party I held its 10th meeting in Luxembourg from 22 to 26 November 1971, with Dr. HAERTEL, President of the Deutsches Patentamt, in the Chair.

Representatives from the Commission of the European Communities, the IIB and WIPO attended the meeting as observers. The Council of Europe representatives sent their apologies for being unable to attend. For the list of those present at the 10th meeting see Annex I to these minutes.

2. Working Party I adopted the provisional agenda as contained in BR/GT I/133/71 on the understanding that item 3 would also cover the examination of a number of problems including those referred to in BR/GT I/138/71. The provisional agenda is given in Annex II to these minutes.

3. The Working Party I Drafting Committee met first under the chairmanship of Mr. van BENTHEM, President of the Octrooiraad, and, following his departure, under that of Mr. LABRY, Embassy Counsellor at the Ministry of Foreign Affairs (France).

BR/144 e/71 ley/prk
Unrevised translation
Article 171a (1) (Preservation of acquired rights)

146. See remarks made under Article 163 (points 133 to 138) and Article 171 (point 145).

Article 172 (Languages)

147. The sole purpose of the publication of official texts of the Convention in languages other than English, French and German, as provided for under paragraph 2, would, in the opinion of the Conference, be to make it easier for nationals of Contracting States in which none of these languages is the official language to apply the Convention. It was therefore made clear in a second sentence that in the event of conflict on the interpretation of the various texts, the texts in the English, French and German languages were to be authentic. In addition, the Conference made the publication of such texts conditional on the approval of the Administrative Council, in order to prevent conflict as far as possible.

Article 173 (Transmission of certified true copies)

148. The Conference listed all the duties of the State with whose Government the instruments of ratification are to be deposited in this Article.

(1) (BH/118/71, Page 20)
MINUTES

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)
(2) Wird eine solche Einigung nicht innerhalb einer Frist von sechs Monaten nach dem Tag erzielt, an dem der Verwaltungsrat mit der Streitigkeit befaßt worden ist, so kann jeder beteiligte Staat sie durch eine Klage, die gemäß dem Statut des Internationalen Gerichtshofs zu erheben ist, vor den Internationalen Gerichtshof bringen.

Artikel 168  
Beschränkung der Vorbehalte  
Beider Unterzeichnung des Übereinkommens, bei seiner Ratifizierung oder bei dem Beitritt zu dem Übereinkommen sind nur die in Artikel 159 des Übereinkommens vorgesehenen Vorbehalte zulässig.

Artikel 169  
Geltungsdauer des Übereinkommens  
Dieses Übereinkommen wird auf unbegrenzte Zeit geschlossen.

Artikel 170  
Kündigung  

Artikel 171  
Aufrechterhaltung wohlerworbener Rechte  
(1) Durch die Beendigung der Mitgliedschaft eines Staats an diesem Übereinkommen nach Artikel 162 Absatz 4 und Artikel 170 werden die nach diesem Übereinkommen bereits erworbenen Rechte nicht berührt.

(2) Die europäischen Patentanmeldungen, die zu dem Zeitpunkt anhängig sind, zu dem die Mitgliedschaft eines benannten Staats am Übereinkommen endet, werden in bezug auf diesen Staat vom Europäischen Patentamt so weiterbehandelt, als ob das Übereinkommen in der nach diesem Zeitpunkt geltenden Fassung auf diesen Staat anwendbar wäre.

(3) Absatz 2 ist auf europäische Patente anzuwenden, für die zu dem in Absatz 2 genannten Zeitpunkt ein Einspruchsverfahren anhängig oder die Einspruchsfrist noch nicht abgelaufen ist.

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

Artikel 172  
Sprachen  
(1) Dieses Übereinkommen wird in einer Urschrift in deutscher, englischer und französischer Sprache abgefaßt, wobei jeder Wortlaut gleichermaßen verbindlich ist, und im Archiv der Regierung... hinterlegt.

(2) If such agreement is not reached within six months from the date when the Administrative Council was seized of the dispute, the dispute may, by any one of the States concerned, be brought before the International Court of Justice by application in conformity with the Statute of the Court.

Article 168  
Limitation of reservations  
Signature or ratification of or accession to the Convention may not be subject to any reservations other than those provided for in Article 159 of this Convention.

Article 169  
Duration of the Convention  
The present Convention shall be of unlimited duration.

Article 170  
Denunciation  
Any Contracting State may at any time denounce this Convention. Notification of denunciation shall be given to the Government of... Denunciation shall take effect one year after the date of receipt of such notification, unless the State concerned has earlier ceased to be a party to the Convention, pursuant to Article 162, paragraph 4.

Article 171  
Preservation of acquired rights  
(1) In the event of a State ceasing to be party to this Convention in accordance with Article 162, paragraph 4, or Article 170, rights already acquired pursuant to this Convention shall not be impaired.

(2) A European patent application which is pending when a designated State ceases to be party to the Convention shall be processed by the European Patent Office, in so far as that State is concerned, as if the Convention in force thereafter were applicable to that State.

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

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

Article 172  
Languages  
(1) This Convention shall be drawn up in a single original, in the English, French and German languages, to be deposited in the archives of the Government of... the three texts being equally authentic.
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 —
Article 145
Only concerns German text

Article 153
(2) ..., the Examining Divisions shall be competent to take decisions ...

Article 164
(1) The Implementing Regulations, the Protocol on Recognition, the Protocol on Privileges and Immunities, the Protocol on Centralisation and the Protocol on the Interpretation of Article 69 shall be integral parts of this Convention.

Article 166
Only concerns German text

Article 167
(2) ...

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

Article 175
Only concerns German text

Article 176
Only concerns German text