

epi Information

Institut der beim Europäischen Patentamt
zugelassenen Vertreter

Institute of Professional Representatives
before the European Patent Office

Institut des mandataires agréés près
l'Office européen des brevets

Jahrgang / Year / Année 1997



Carl Heymanns Verlag KG

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Editorial

As you will see from the report of the Council meeting in Munich, published in the current edition of *epi Information*, a new Editorial Board has been appointed by the Council, the previous Editorial Board of Jean Brullé, Joachim Herzog and Terry Johnson having stood down during the Council Meeting. The current Edition is, therefore, something of a transitory beast, the majority of it having been overseen by the previous Editorial Board, the new Board only being involved in the closing stages.

This editorial seems an appropriate place to acknowledge the marvelous contribution made by the previous Editorial Board in steering *epi Information* to the august publication

that it is today. It has immediately become apparent to the new Board exactly how much work must have been put into each edition and we thank Jean Brullé, Joachim Herzog and Terry Johnson for not only their work but their imagination over the years in developing this most important journal.

Of course, the change in the Editorial Board was only one of many changes to be effected at the Munich Council Meeting. We have a new President, a new Board and many new Committee members. All members of the Council are to be applauded for giving their time to the Institute. However, an individual does not need to be a member of Council

to contribute to the *epi*. There are many other ways in which you may contribute to our professional body. One of those ways, of course, is by contributions to *epi Information* and all submissions will be gratefully considered by the Editorial Board for publication. It seems to us that, for the profession to remain vital, healthy debate amongst its members should be encouraged and the pages of *epi Information* would appear to be a prime forum for such a debate.

We look forward to the task of reading and publishing your contributions in the future and can only hope that we are able to do as good a job as our predecessors.

Jon Gowshall · Thierry Schuffenecker · Edith Vinazzer

epi Symposium 1997

You are reminded that places are still available for the 1997 epi Symposium in honour of the 20th Anniversary of the epi. The Symposium takes place in Strasbourg on Saturday 4th October, 1997. The Symposium will cover a number of extremely pertinent topics including education and training of European Patent Attorneys, aspects of substantive Patent Law with 20 years' perspective and the exercise of rights conferred by European Patent. Among those addressing the Symposium will be the Presidents of both the epi and the EPO.

Other attractions include a cocktail gathering on the evening of 3rd October, 1997, a gala dinner in the evening following the Symposium itself and, finally, an alcohol-based excursion on 5th October, 1997.

Full details of the programme and, more importantly, how to register for the Symposium may be found in epi Information 1/1997. Alternatively, if your copy of that edition has been filed in an inaccessible place, further information may be obtained from:

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Book early to avoid disappointment

The new President Arthur Huygens takes the chair

Meine Damen und Herren, Ladies and Gentlemen, Mesdames, Messieurs

First of all, I want to thank you, members of the Council, for electing me as your new President.

In einigen Augenblicken werde ich Ihnen mitteilen, welche Ziele ich mit meinen Kollegen des neu gewählten Vorstandes erreichen möchte.

Mais d'abord j'aimerais exprimer mon respect et mes remerciements très sincères à Madame la Présidente et aux membres du Bureau.

Chère Elisabeth, quand vous reprenez la présidence de l'epi en 1995, nous savions que c'était seulement pour une période de deux ans. Selon le règlement, vous n'étiez pas autorisée à continuer plus longtemps, puisque vous aviez déjà quatre ans de vice-présidence sous David Votier.

During your presidency, you had to deal with two major problems. First, there were the internal problems at the Secretariat, which you solved with the help of your Secretary General. Second, we had the attacks on our professional Code of Conduct which took a lot of time and required a great deal of diplomacy.

But there was more, much more, which you took up or which was realised under your presidency. Think of the reduction of the size of the Council and the extension of its term. Think of the second epi Symposium, the introduction of e-mail and the Internet, the leaflet on epi and the brochure for our clients, entitled "Patents in Europe".

Whatever happened, you were there, taking initiatives or following-up initiatives proposed by others, stimulating your colleagues in the Board and the Committees, reminding them that you were still expecting their contributions, and so on. In representing the Institute in the Administrative Council, I am told that your observations were always clear and were received with appreciation.

Finally, since you are not returning to the Council, this will probably be your last Council meeting. We found out that your first appearance in the Council was at the Stockholm meeting in April 1981. You became involved in the work of PQC, first as secretary, then from 1989-1995 as chairperson, and I still remember your very clear reports and presentations. Together with your vice-presidency and presidency of the Institute, you can look back upon a brilliant career in epi.

Enfin Elisabeth, au nom du présent Conseil, je vous remercie infiniment du travail excellent que vous avez fait pour l'epi pendant toutes ces années. Nous vous souhaitons beaucoup de succès pour le futur, aussi bien dans votre vie professionnelle que dans votre vie privée.

I would also like to thank the two Vice-Presidents, Felix Jenny and Luis-Alfonso Durán, for their active involvement and I am very glad that they will stay on the Board for the next period. Finally, I want to thank Helen Papaconstantinou, Guido Modiano and Georg Widtmann, who are leaving the Board now.

What are the challenges for this Board in the next two years and the years to come?

First, a follow-up of the decisions and actions of the previous Council and Board, such as:

- the revision of our professional Code of Conduct. We will try to conclude this matter as soon as possible, but please be aware that we are dependent on the progress of the EU Commission in Brussels.
- the epi Symposium in Strasbourg, and
- the release of the new epi publications.

Second, we have to improve the profile and impact of the epi within the current Contracting States and to attract more active members. The present "inner circle" of approx. 150 members is much too small for an

organisation of 5,500 people. We have to make known the epi to young practitioners (Symposium in Strasbourg) and to a broader public, which forms our potential clients. We also intend to initiate contacts with the national professional organisations and to develop regular activities on a national or regional level.

Third, we will pay attention to a "permanent education" for European Patent Attorneys, in view of the continuing pressure on monopolies and the continuing deregulation. Our profession has to sell itself by offering quality. We should also keep in mind that the EU Commission is coming up with a new initiative, a Green Paper for the Community patent. One of the aspects will be the direct intervention of European Patent Attorneys before courts in matters of validity and infringement, which may require an adjusted training.

Fourth, we will initiate a mid-term strategy for the expansion of the epi as a result of the future accession of new countries to the European Patent Organisation, which will be necessary to keep the Council and the committees manageable.

Of course, these points cannot and will not be realised between one day and the next. I am proud, however, that I can present my team, sitting in front of you, which is prepared to work hard as a team in order to realise these challenges. With this team, there is also a safeguard for the continuity in the future.

Finally, I want to remind you that when the epi was founded almost 20 years ago, its first President, Mr. Boedi Chavannes, was Dutch. He took the chair in a rather hostile environment between the people working in industry and the free profession. Some of you may remember the bitter fights about the titles.

Time has changed and much has been improved. Actually, I do not like the distinction between industry and free profession, but I am realistic enough to recognise that the interests of the two groups are not always the same. I am glad that I come from

a country with a unitary constituency, where we of course have the same conflicts of interest every now and then. However, we should keep in mind that we are in the same profession and that we should continue to

work together as much as possible and respect the other party's view, should the interests be different. This always has been my philosophy and this will also be my philosophy as your President. I confirm that also this

President will be neutral in matters which may divide the two groups in our profession.

Thank you.

The European Patent System at the Gateway to the 21st Century

Ingo Kober, President of the European Patent Office

Address to the epi Council meeting in Munich on 12 May 1997

Ladies and Gentlemen,

It gives me great pleasure to be your guest on this occasion and to have the opportunity to speak to such a select audience on the European patent system and its future. Originally I was asked to talk about initiatives I have already taken during my term of office and about my impressions so far. The former aspect is of course interesting. However, I think it will be even more meaningful to highlight a number of problems we still have to solve - problems which may be vitally important to the future of the European patent system and which will have to be solved satisfactorily if patenting is to be made attractive in Europe in the next decade.

I emphasise that we have to solve these problems, that is the EPO and the epi. You are our clients, our partners and our ambassadors. Your opinion and your support in the decision-making process in the Office and the Administrative Council is very important. There is no other profession in Europe that has working tools like the epi's. The outstanding success of the EPO - at 90 000, possibly three times as many filings this year as were estimated in the seventies for the steady-state period - is to a high degree your success as well.

It was indeed with prophetic vision that, at a hearing during the Luxembourg inter-governmental conference 25 years ago, COPRICE*, a non-governmental international organisation, "stressed that it would be valuable for the European Patent Office to have as spokesman a profes-

sional institution of patent representatives composed of both independent staff and of employees in industry". This statement addressed to the audience of 20 governmental delegations heralded the dawn of the epi.

I know that the epi's official views are sometimes the result of very controversial debates. However, I also know that a streamlined decision-making process supported by the EPI and the EPO has produced very good results in the past in a variety of areas. Bearing in mind the forthcoming expansion of the EPO into central and eastern Europe, we have to face together the challenges arising from the enlargement of our Organisation. In this connection, I would like to begin by elaborating on a crucial problem - that of the cost of European patents.

The core problem with *patent protection* is its cost, which has rightly received special attention in the public discussion on improving the conditions for innovation in Europe. An efficient patent system also needs appropriate cost and fee structures to improve access to the system and facilitate its use. The cost of the European patent is too high. It is therefore imperative, in the interests of European industry, that the *overall cost be reviewed and reduced*. I would therefore like to consider this topic more closely.

The *cost of a European patent* is basically made up of procedural fees, representation and translation costs, and annual renewal fees for maintaining the patent. The total cost of

protection in the eight most frequently designated states currently amounts to some DEM 60 000 if the patent is maintained for ten years. At 18%, the European Patent Office's fees account for less than one-fifth of these costs. Another fifth goes on preparation of the patent application and legal representation during the grant procedure.

All the contracting states except Monaco and Luxembourg require a translation of the European patent specification if the patent is not drawn up in their national language. This means substantial costs incurred post-grant for the preparation and submission of translations. For a European patent drawn up in English, French or German which is to have effect in the eight most frequently designated states, six translations have to be submitted at a cost of DEM 22 500 per patent. Thus, 40% of the total cost of an average European patent is attributable to translations.

Finally, with an average term of ten to twelve years for a European patent, a total of some DEM 16 000 in *renewal fees* has to be paid for maintaining patent protection in these eight states. The European Patent Office, however, receives only 50% of these fees, the rest being retained by the national patent offices.

In view of these figures we really do have to ask ourselves whether the European patent system still fulfils its task of providing an economic alternative to the national grant procedure. Its authors' original idea was

*¹ Comitato per la protezione della proprietà industriale nella comunità economica europea

that a European patent should always be cheaper than a national one when protection was sought in more than three states.

The latest comparisons show that despite high translation costs, which had not figured in the original assumptions made by the authors of the EPC, the Convention still fulfils these criteria today. For example, at around DEM 33 000, the total cost of obtaining a national patent in France, Germany and the United Kingdom slightly exceeds the figure required for a European patent with effect in those states. *If patent protection is sought in more than three European states, the European patent is therefore as attractive as ever, from the cost point of view alone.*

However, this does not make the high cost of the European patent acceptable. On the contrary: in an expanding Europe, access to the European system must be facilitated if its function and thus the innovative strength of European industry is to be improved.

I have therefore, as a first step, presented the Administrative Council of the European Patent Organisation with three concrete proposals for reducing the cost of a European patent. First proposal: a permanent reduction in the Office's procedural fees; second: deferring the date for paying European designation fees; and third: measures to reduce translation costs considerably.

Implementing all these proposals would cut costs in the entry phase of the European grant procedure by up to 80% and produce overall savings of over DEM 22 000. The cost of an average European patent would then drop from the current figure of DEM 60 000 to less than DEM 40 000, a cost reduction of about 35%.

My proposal to reduce procedural fees by around DEM 120 million per year was adopted by the Administrative Council in December 1996. Its purpose is to bring about considerably lower fees in the entry phase of the European procedure, ie *filing, search and designation fees*. On 1 July, in a little more than one month from now, these long overdue adjustments will enter into force.

Deferring the date for paying designation fees will have the practical

consequence that these fees will not as hitherto fall due shortly after filing, but only a year later; and then only if the applicant, having received and evaluated the search report, intends to pursue his application. This will facilitate access to the European patent system for small and medium-sized businesses in particular, which often find it difficult to assess their business prospects at the time of filing.

This decision will mean a loss of approximately DEM 100 million for the Office in the first year and - on the basis of the current, cautious, budget estimates - between DEM 10 and 15 million in each of the following years.

The "package solution" proposed by the European Patent Office for reducing translation costs provides for the publication of an enhanced abstract of the European patent application and of the patent claims in the languages of all the designated states. In return, a full translation of the patent specification is to be requested only where necessary on practical grounds, eg in connection with enforcement of the patent. This proposal will not only *improve patent information* in the contracting states, but will also *reduce the costs imposed by compulsory translations* by more than 80%, ie from the current figure of DEM 22 000 to DEM 4 000 per patent. UNICE as well as German industry and the German association of patent agents have welcomed the "package solution"; and the Federal Association of German Industry, the BDI, now concedes that the introduction in 1992 of compulsory translations into German for European patents was a mistake.

However, despite all this, it should not be forgotten that the European Patent Office's fees constitute a fraction of the total cost of a European patent and that even massive fee reductions are only a modest contribution to lowering costs. For example, even halving the European procedural fees - a step which, however, you cannot realistically expect - would reduce total costs by a bare 10%. This shows that appropriate cost structures cannot be achieved via the Office's fee policy measures alone.

That is why I consider the package solution's objective of reducing translation requirements to be of paramount importance. Accounting for 40% of the total, translation costs are the crucial factor in determining the overall cost of patent protection in Europe. They are already a barrier to Europe-wide patent protection, and cause many applicants to drop their protection options for one state or another purely on cost grounds.

A look into the future shows the true extent of the issue. If the EPO were to number some 30 member states in about ten years' time - which is quite possible - translation costs, on the basis of the current legal situation, would average approximately DEM 50 000. For validation in all member states the cost would go up to about DEM 90 000.

Geographical expansion of the EPO

Another, very important, question concerns the *future geographical expansion of the European Patent Organisation*. In a world economic order determined by regional alliances, the size and unity of an economic area are important factors. Therefore the geographical expansion of the European patent system is also of great significance to Europe's industrial and technological integration and economic strength.

The EPC is basically open to all European states. However, only Norway, Turkey, Iceland and Cyprus still have autonomous accession rights. The transition economies of central and eastern Europe have to clear the hurdle of an invitation from the EPO's Administrative Council. The development of market economy structures, already initiated in these countries, requires appropriate instruments for protecting innovative products if competitive positions are to be secured or extended. A sound process for integrating these states into the European patent system is therefore crucial to improving the framework conditions for the exchange of goods and transfer of technology within Europe.

The European Patent Organisation has therefore, as a transitional

solution, concluded co-operation and extension agreements with some of these states - Albania, Latvia, Lithuania, Romania and Slovenia. These agreements enable European patent applications and patents to be extended to these countries at the request of the applicant and against payment of a small fee. "Extended" European patents have the same effect in these territories as national patents. This instrument affords European industry easy and cheap access to patent protection in the extension states and at the same time lays the foundations for the highly desirable transfer of technology to eastern Europe. Initial experience with this new arrangement shows that applicants are making increasing use of the extension system. In the approximately three years since the first extension agreement, with Slovenia, came into force, a total of almost 7 000 requests for extension have been received.

Regarding the accession of central and eastern European states to the EPC, ten of these states, namely the Baltic republics, Bulgaria, the Czech Republic, Hungary, Poland, Romania, Slovakia and Slovenia, now have "association agreements" with the European Union, and nine have applied to join. The association agreements oblige the partner countries to bring their economic and legal systems gradually into line with those of the European Union, with high priority being given to industrial property.

In the agreements with Bulgaria, the Czech Republic, Hungary, Poland, Romania and Slovakia, this finds expression in particular in the fact that these states expressly commit themselves to applying for membership of the EPO by the end of 1996 or 1997. The Czech Republic, Hungary, Poland and Slovakia have already done so and the other two states will certainly comply by the end of this year.

It is against this background that the Organisation's future membership policy has to be developed. The EPO will have to establish, in consultation with these countries, whether they comply with the specific require-

ments concerning patents and their enforcement.

Discussions held so far suggest the idea of advance admission to our primarily technical Organisation for at least some of these states.

The possible expansion of the Organisation to 30 or even more contracting states raises many difficult questions, involving no less than the role of the Organisation, its ability to act and evolve, and thus also the Convention's institutional provisions. It is no easy task for the Administrative Council to develop a sound membership policy; it will undoubtedly require some time.

The Community patent

In this connection a word should also be said about the *Community patent*, the idea of which is to supplement the current European patent by means of a uniform and autonomous patent for the entire European Union. Whilst the classic European patent becomes after grant a "bundle" of national protection rights, the Community patent would even in the post-grant phase be administered at supranational level and enforced Community-wide.

Admittedly, it has not yet been possible to implement the Community patent system. *The 1989 Agreement relating to Community patents has so far been ratified by only seven of the twelve signatory states (DK, DE, FR, GB, GR, LU, NL).* Italy has passed the ratification laws but not yet deposited the corresponding instruments.

The question how the language arrangements provided for in the Community Patent Convention (CPC) can be reformed to give a solution that is both sensible and economically acceptable remains unsolved. Even if we manage to come up with convincing plans for the "classic" European patent, for example along the lines of the package solution, it is more than doubtful whether this could also be achieved within a reasonable period of time for the Community patent. I

therefore feel that, as far as the Community patent is concerned, a new approach has to be found if we are to prevent its translation requirements from being set in stone. The Industrial R & D Advisory Committee of the European Commission (IRDAC), set up by Madame Cresson, also makes a recommendation along these lines, finding that the Community patent in its current form is unattractive to industry and that a new EU initiative on the further extension of the European patent system would be preferable to a revision of the CPC. Perhaps the worthwhile elements of the Community patent could then be combined with the proven EPC procedure to create an efficient system. The EU Commission is going to issue a Green Paper on the Community Patent in the near future, to which we look forward with great interest.

Relations with the EU

The increasing activity of the European Union in the field of industrial property protection is reflected in particular in the Regulations on supplementary protection certificates, the planned directive on the protection of biotechnological inventions, the EU initiatives relating to utility models and designs, and the Action Plan on Innovation. These, and the question of membership policy, show very clearly that the EPO and EU need to give some thought to how co-operation between these two institutions could be further co-ordinated and enhanced.

I have discussed these matters with Mr Santer, President of the EU Commission. We agreed that it is becoming increasingly important for our Organisations to co-ordinate measures concerning the patent system in Europe. I have therefore submitted proposals to the Administrative Council on improving co-operation and the exchange of information between the EPO and the EU Commission. I am convinced that this will make a valuable contribution to the successful evolution of the European patent system.

Bericht über die Rats-sitzung in München 12., 13. Mai 1997

Die Münchner Ratssitzung war, wie alle bisherigen Ratssitzungen, lebhaft, sehr interessant und sehr gut organisiert. Eine Anzahl wichtiger Themen wurde diskutiert.

Die noch amtierende Präsidentin, Frau Elisabeth Thouret-Lemaître, eröffnete die Ratssitzung um 9.00 Uhr vormittags am Montag, den 12. Mai 1997. Nach der Ernennung der Stimmenzähler wurde das Ergebnis der Wahlen zum Rat (welches in epi Information 1/1997 veröffentlicht ist) kurz diskutiert und die Gültigkeit der Wahlen bestätigt. Der amtierende Vorstand präsentierte anschließend einen Vorschlag für einen neuen Vorstand, welcher einstimmig vom Rat angenommen wurde. Neben der Wahl des neuen Präsidenten, Herrn Arthur Huygens, wurden auch die neuen Vizepräsidenten, der Generalsekretär, der Schatzmeister sowie deren Vertreter ernannt bzw. gewählt. Die Zusammensetzung der Mitglieder des neuen Vorstandes ist an anderer Stelle dieser Ausgabe der epi Information abgedruckt.

Der neu gewählte Präsident übernahm, begleitet von herzlichem Applaus, den Vorsitz. Er dankte Frau Elisabeth Thouret-Lemaître für ihre Arbeit und begrüßte alle Ratsmitglieder zu dieser Ratssitzung. Er erläuterte in seiner Antrittsrede kurz die Hauptaufgaben und Hauptziele seiner Amtsperiode. Herr Huygens erwähnte dabei die Revision der Standardsregeln, die Bedeutung der Gewinnung von mehr aktiven Mitgliedern für unser Institut und die Wichtigkeit einer ständigen Weiterbildung europäischer Patentvertreter.

Nach der Ernennung von Herrn Leo Ryckeboer als Stellvertreter des neuen Präsidenten für das erste Jahr und von Herrn Walter Holzer als Stellvertreter des neuen Präsidenten für das zweite Jahr folgte die Wahl der Mitglieder der verschiedenen Ausschüsse des Institutes. Eine Liste der derzeit-

Report of 42nd Coun-cil Meeting in Munich 12, 13 May 1997

The Munich Council Meeting was, as ever, lively and of great interest, as well as very efficiently organised. A number of important points were discussed.

The President in office, Elisabeth Thouret-Lemaître, formally opened proceedings at 9.00 a.m. on Monday 12th May, 1997. Following the appointment of the scrutineers, the results of the elections to the Council (published in epi Information 1/1997) were presented to the Council and the validity of the elections was duly confirmed. The Board in office then presented a proposal for the new Board which was unanimously accepted by Council. Inclusion in the new Board was the appointment of the new President, Arthur Huygens as well as the new Vice Presidents, Secretary General, Treasurer, Deputy Secretary General and Deputy Treasurer. A full list of the Board members is printed elsewhere in this edition of epi Information.

The new President took the chair to warm applause. He thanked Elisabeth for all her work and welcomed all Council members to the meeting. He then briefly outlined his major objectives during his term in office. These were the revision of the Code of Conduct, the encouragement of increased activity in the Institute by more members, and the importance of a permanent education and training of European Patent Attorneys.

Following the designation of Leo Ryckeboer as the President's Deputy for the first year of office and of Walter Holzer for the second year, the elections of members to the various Committees of the Institute were held. A full list of the new members of these

Rapport de la 42ème réunion du Conseil à Munich 12 et 13 mai 1997

Comme toujours la réunion du Conseil est de grand intérêt, très animée, et s'inscrit dans une organisation des plus efficaces. Des points importants y sont discutés.

Le Président en fonction, Mme Elisabeth Thouret-Lemaître, ouvre la séance lundi 12 mai 1997 à 9 heures. Après la désignation des scrutateurs sont présentés les résultats des élections au Conseil (publiés dans epi Information 1/1997) et leur validité est confirmée. Le Bureau sortant propose alors la composition d'un nouveau Bureau qui est unanimement acceptée par le Conseil. Suit alors, au sein de ce Bureau, la nomination du nouveau Président, Arthur Huygens, des Vice-Présidents, du Secrétaire Général, du Secrétaire Adjoint, du Trésorier et du Trésorier Adjoint. La liste complète des membres du Bureau se trouve dans les pages de cette édition d'epi Information.

Le nouveau Président prend ses fonctions sous les applaudissements du Conseil. Il remercie tout particulièrement Elisabeth pour sa contribution et souhaite la bienvenue aux nouveaux membres du Conseil. Il esquisse alors les grands axes de sa politique pour la durée de son mandat: la révision du Code de Conduite, les mesures visant à encourager davantage de membres à participer aux activités de l'Institut et la formation permanente des mandataires agréés.

A la suite de la nomination de Leo Ryckeboer en tant que Vice-Président pour la première année et de Walter Holzer en tant que Vice-Président pour la seconde année, intervient l'élection des membres des différentes commissions de l'Institut. On trouvera la composition complète des

tigen Mitglieder dieser Ausschüsse ist an gewohnter Stelle in dieser epi Information abgedruckt.

Nach der Annahme der Tagesordnung und des Protokolls der vorherigen Ratssitzung in Wien präsentierte die scheidende Präsidentin dem Rat ihren letzten Bericht. Auch dieser Bericht ist an anderer Stelle in dieser Ausgabe der epi Information enthalten. Die scheidende Präsidentin berichtete weiters über die Sitzung des Verwaltungsrates im Dezember letzten Jahres, dessen wohl wichtigstes Ergebnis die beschlossene Reduktion einiger Amtsgebühren des Europäischen Patentamtes und die Aufschiebung der Zahlung der Benennungsgebühren war. Im Anschluß an den Bericht der Präsidentin wurde der Bericht des Schatzmeisters einstimmig gebilligt.

Nach der Mittagspause stattete Herr Kober, Präsident des Europäischen Patentamtes, dem Rat einen Besuch ab. Der Präsident des EPA wurde mit Beifall willkommen geheißen und vom neuen Präsidenten des epi begrüßt.

Der EPA-Präsident befaßte sich in seiner Ansprache mit den Problemen, denen sich das EPA und das epi als Partner gegenüber sehen. Der Präsident des EPA sprach dabei die Kosten von europäischen Patenten an, die seines Erachtens zu hoch seien. Er faßte kurz die Maßnahmen zusammen, die bislang zur Verringerung der Kosten gesetzt wurden, insbesondere die Gebührenreduktion und die spätere Fälligkeit der Benennungsgebühren. Er betonte auch, wie wichtig es sei, die Übersetzungskosten zu reduzieren, welche derzeit etwa 2/5 der Gesamtkosten der Erlangung eines europäischen Patentes in acht Vertragsstaaten ausmachen. Er wies jedoch auch darauf hin, daß eine europäische Patentanmeldung in Summe immer noch kostengünstiger ist, wenn drei oder mehr Vertragsstaaten (beispielsweise GB, FR und DE) benannt werden.

Von den weiteren kommenden Herausforderungen scheint ein Hauptthema des Präsidenten des EPA die

Committees may be found later in the current edition of epi Information.

After adoption of the agenda and approval of the Minutes of the Vienna Council Meeting, the outgoing President presented her final report to Council. This report is published elsewhere in this edition of epi Information. The outgoing President then went onto report the Administrative Council Meeting of December last, by far and away the most important aspect of which was, of course, the adoption of the reduction in fees and deferment of the designation fees. Subsequent to the President's report, the Secretary General's report was unanimously approved.

Following the lunchbreak, the Council were addressed by the President of the European Patent Office, Herr Kober. The President of the EPO arrived to applause and was welcomed by the new President of the epi.

The EPO-President addressed the problems facing the EPO and epi as partners. The first problem addressed was the cost of European Patents which, in the opinion of the President of the EPO was too high. He briefly reviewed the steps being taken at present to reduce the costs, particularly with respect to the reduction in fees and the deferment of the payment of the designation fees. He then stressed the importance of attempting to reduce translation costs which, at present, account for two fifths of the cost of obtaining a European Patent in eight states. However, it was emphasised that the European Patent Application is still overall cheaper when three or more states (e.g. GB, FR and DE) designated.

Moving onto other challenges ahead, it appears that the other main topic occupying the President of the EPO is

commissions dans les pages de cette édition.

L'approbation du compte-rendu de la réunion du Conseil de Vienne fait suite à l'adoption de l'agenda et le Président sortant présente son rapport au Conseil. Ce rapport est publié plus loin dans les pages de cette édition d'epi Information. Mme Thouret-Lemaître évoque ensuite la réunion du Conseil d'Administration de l'Organisation européenne des brevets qui eut lieu en décembre dernier et dont les aspects les plus décisifs consistent évidemment en la réduction des taxes et le report du paiement des taxes de désignation. Le rapport du Secrétaire Général est ensuite unanimement approuvé.

Dans l'après-midi, le nouveau Président de l'Institut accueille chaleureusement le Président de l'Office européen des brevets, Monsieur Kober.

Dans son allocution, le Président de l'OEB évoque les grands problèmes qui se posent à l'Office ainsi qu'à ses "partenaires", dont l'epi. Parmi ces problèmes se place celui du coût du brevet européen que M. Kober estime trop élevé. Il rappelle brièvement les différentes mesures qui sont déjà intervenues pour réduire ce coût, et notamment la réduction des taxes et le report du paiement des taxes de désignation. Il mentionne tout particulièrement le problème du coût des traductions et l'importance d'en réduire le montant qui, aujourd'hui, atteint 40% du coût total du brevet européen lorsque celui-ci désigne huit Etats. M. Kober insiste toutefois sur le fait que la voie du brevet européen s'avère néanmoins meilleur marché que les voies nationales lorsque plus de trois désignations sont effectuées, par exemple la Grande Bretagne, la France et l'Allemagne.

Parmi les autres défis préoccupant le Président de l'OEB se situe l'expansion prochaine de l'Organisation eu-

geographische Ausdehnung der europäischen Patentorganisation zu sein. Von den westeuropäischen Staaten sind bislang nur Norwegen, die Türkei, Israel und Zypern nicht beigetreten. Von den östlichen Staaten hätten bereits zehn Assoziations-Vereinbarungen mit der Europäischen Union und neun dieser Staaten hätten beantragt, der Europäischen Patentorganisation beitreten zu wollen. Die Tschechische Republik, Ungarn, Polen und die Slowakei haben dabei bereits beantragt, der Organisation bis Ende 1997 beitreten zu wollen. Es scheint wahrscheinlich, daß die Europäische Patentorganisation in etwa zehn Jahren an die 30 Staaten umfassen wird.

Der EPA-Präsident erwähnte kurz den derzeitigen Stand des Gemeinschaftspatentes und daß ein das Gemeinschaftspatentübereinkommen betreffendes Grünbuch der Europäischen Union demnächst erwartet wird.

Schließlich berichtete der Präsident des Europäischen Patentamtes, daß er Gespräche mit Monsieur Santer zum Thema der Verbesserung des Informationsaustausches zwischen dem Europäischen Patentamt und der Europäischen Union geführt habe.

Der Präsident des epi bedankte sich beim Präsidenten des Europäischen Patentamtes für seinen interessanten Beitrag und der Präsident des Europäischen Patentamtes verließ die Sitzung.

Es wurde wieder zur Tagesordnung übergegangen, indem der Bericht des Schatzmeisters einstimmig angenommen und durch die Rechnungsprüfung unterstützt wurde. Sowohl der Schatzmeister als auch der Vorstand wurden entlastet.

Das Budget für 1997 wurde angenommen.

Im Anschluß daran wandte man sich den Berichten der verschiedenen Ausschüsse zu, welche mehrheitlich bereits vorab schriftliche Berichte den Ratsmitgliedern unterbreitet hatten und daher zusammenfassend berich-

geographical expansion of the Organisation. Of Western Europe, only Norway, Turkey, Israel and Cyprus have yet to join. Looking further East, ten Eastern states have association agreements with the European Union and nine of these have applied to join the European Patent Organisation. The Czech Republic, Hungary, Poland and Slovakia have already applied to join the Organisation by the end of 1997. It is likely that, in ten years' time, the European Patent Organisation will number some 30 states.

The President of the EPO then briefly touched on the current status of the Community Patent and indicated that a European Union green paper was expected soon relating to the Community Patent Convention.

Finally, the President of the EPO indicated that he had been in talks with Monsieur Santer with a view to improvement in the exchange of information between the European Patent Office and the European Union.

The President of the epi thanked the President of the EPO for his contribution and the President of the EPO left the meeting.

The meeting then returned to the agenda and the Treasurer's Report was unanimously approved and subsequently supported by the internal audit. The Treasurer was duly discharged. Subsequently, the Board in office was discharged.

The 1997 budget was approved.

The business then turned to the reports to the various Committees. The majority of them had already been presented on paper to the Council and were merely summarised and rapidly approved. These included

ropéenne des brevets. Si en Europe de l'Ouest seuls la Norvège, la Turquie, Israël et Chypre demeurent encore à l'écart de l'Organisation, dix Etats en Europe de l'Est sont déjà liés avec l'Union Européenne et, parmi eux, neuf ont requis leur adhésion à l'Organisation européenne des brevets. La République tchèque, la Hongrie, la Pologne et la Slovaquie ont déjà formulé la demande de joindre l'Organisation pour fin 1997. Il est probable que, dans les dix prochaines années, l'Organisation européenne des brevets comprendra trente Etats.

Le Président de l'OEB poursuit ensuite par le statut du brevet communautaire et rappelle qu'un livre vert relatif à la Convention sur le Brevet Communautaire est en préparation.

Le Président de l'OEB achève son allocution en évoquant les discussions avec M. Santer visant à accentuer l'échange d'informations entre l'OEB et l'Union Européenne.

Le Président de l'epi remercie alors M. Kober pour son allocution.

Suivant le déroulement de l'agenda qui était prévu, le rapport du Trésorier, soutenu par audit interne, est ensuite présenté et approuvé à l'unanimité. Le Trésorier et le Bureau sont alors déchargés pour l'exercice du budget en cours.

Le budget 1997 est alors approuvé.

Le Conseil se penche ensuite sur les compte-rendus des différentes Commissions qui, pour la plupart, avaient présenté un rapport écrit de leurs activités aux Membres du Conseil. Les présentations purent alors être suc-

teten. Dazu gehörten die Berichte des Ausschusses über Biotechnologische Erfindungen, des Disziplinarrates und des EASY (electronic application system) Ausschusses.

Der EPA Finanzausschuß lieferte den letzten Bericht des ersten Tages der Ratssitzung. Der Vorsitzende des Ausschusses führte aus, daß diese Sitzung der geeignete Zeitpunkt wäre, die Rolle dieses Ausschusses zu überdenken und empfahl eine momentane Suspendierung des Ausschusses, da derzeit die Arbeit des Ausschusses als getan anzusehen wäre. Im Gegensatz dazu betonte der Präsident des epi, daß nach seinem Dafürhalten der Ausschuß sehr wertvolle Arbeit als informeller „Wachhund“ der EPA Finanzen geleistet hätte und seines Erachtens andere interessante Bereiche, beispielsweise der Verteilungsschlüssel, einer weiteren Überprüfung wert wären. Nach einigen lebhaften Beiträgen einiger Mitglieder des Rates wurde klar, daß der Rat bezüglich der Wertschätzung der Arbeit dieses Komitees ungeteilter Meinung war und daß dieses Komitee als aktive Einrichtung bestehen bleiben sollte. Dieser Ausschuß wurde daher in seiner Funktion belassen. Der Präsident schloß anschließend die Sitzung für den ersten Tag.

Am Morgen des 13. Mai 1997 wurde die Ratssitzung um 9.00 Uhr fortgesetzt und begann damit, daß die Mitglieder der Schriftleitung der epi Information ihre Funktion niederlegten und die Mitglieder der neuen Schriftleitung gewählt wurden. Anschließend wurde der Bericht des EPPC, des Ausschusses für europäische Patentpraxis, präsentiert, im großen und ganzen Punkt für Punkt durchgegangen und war, wie üblich, von einer interessanten Diskussion begleitet. Bezüglich der Arbeit dieses Ausschusses wird auf den in der epi Information 1/1997 enthaltenen ausführlichen Bericht hingewiesen.

Daran anschließend wurden die Berichte des Finanzausschusses, des Ausschusses für Harmonisierung und für Berufliche Qualifikation präsentiert. Bezüglich des Berichtes des Ausschusses für Berufliche Qualifikation

those of the Biotechnology Committee, the Disciplinary Committee and the EASY Committee.

The EPO Finances Committee provided the final report of the day. The Chairman of the Committee indicated that the meeting appeared to be a suitable time for re-assessing the role of the Committee and recommended that the Committee be put into suspension for the time being, as their work appeared to be completed. The President, by contrast, indicated that he felt that the Committee did extremely valuable work in acting as an informal watchdog of the EPO finances and felt that other areas of interest, such as the distribution key, were still open for further investigation. After several lively contributions from other members of the Council, it became clear that the Council was unanimous in its appreciation of the work carried out by the Committee and its view that the Committee should be retained as an active body. The Committee was, therefore, duly retained. The President then closed the meeting for the day.

The Council meeting was re-opened at 9.00 on the morning 13th May, 1997 and commenced with the Editorial Board standing down and the new Editorial Board being elected. Subsequently, the report of the EPPC was presented and was analysed point-by-point, as usual eliciting a great deal of interested discussion. Regarding the work of this committee, reference is made to the comprehensive EPPC report published in epi Information 1/1997.

Reports were then presented by the Finance Committee, the Harmonisation Committee and the Professional Conduct Committee. With regard to the PQC's report, discussion revolved around the status of student mem-

cinctes et les rapports efficacement approuvés. Ce fut le cas pour la Commission relative aux Inventions en Biotechnologie, la Commission de Discipline et la Commission EASY.

Le rapport de la Commission des Finances de l'OEB achève cette première journée de réunion. Son Président fait valoir que la réunion du Conseil est tout à fait appropriée pour remettre en question le rôle de cette commission. Il recommande de suspendre celle-ci puisque son travail est achevé. De son côté, le Président de l'epi souligne la contribution des plus importantes de cette Commission qui agit comme organe de veille sur les Finances de l'OEB et il précise qu'il existe encore d'autres domaines d'investigations, notamment la clé de distribution. A la suite de nombreuses interventions très animées de la part d'autres Membres du Conseil, il apparaît clairement que l'activité de la Commission des Finances de l'OEB est appréciée à l'unanimité et qu'elle devrait être maintenue active au sein des autres Commissions. Le Conseil prend alors la décision de maintenir la Commission des Finances de l'OEB puis le Président clôt la séance pour cette première journée du Conseil.

La séance est ouverte de nouveau le 13 mai 1997 à 9 heures. Un remplacement des membres du Comité de Rédaction est effectué et le rapport de la Commission EPPC est présenté, suscitant un grand intérêt de la part des membres du Conseil. On pourra se reporter utilement à epi Information 1/1997 pour examiner le rapport de cette commission.

Les rapports de la Commission des Finances, de la Commission d'Harmonisation et de la Commission de Conduite Professionnelle se succèdent alors. Lors du rapport de la Commission PQC, des discussions intervien-

entwickelte sich eine Diskussion über die Studentenmitgliedschaft und es wurde einstimmig beschlossen, diese fortzusetzen. Es bestand auch einhellig die Meinung, daß die Studentenmitgliedschaft ein Erfolg sei.

Der UPPE Ausschuß präsentierte schließlich seinen Schlußbericht und wies darauf hin, daß seine Arbeit nun getan sei.

Die Berichte bzw. Zusammenfassungen der Berichte des Ausschusses für Geschäftsordnung, der EASY Arbeitsgruppe, des Finanzausschusses, des Ausschusses für Berufliche Qualifikation und des Ausschusses für EPA Finanzen sind an anderer Stelle in dieser epi Information veröffentlicht.

Die Ratssitzung wurde nach Bestätigung der Daten der nächsten Sitzungen und nach erfolgter Zustimmung zur vorgeschlagenen finnischen Übersetzung von „European Patent Attorney“ beendet. Dabei wurden die Ratsmitglieder nochmals an das am 4. Oktober 1997, im Anschluß an die nächste Ratssitzung anlässlich des 20. Jahrestages der Errichtung des epi stattfindende epi - Symposium in Straßburg erinnert. Den Ratsmitgliedern wurde wärmstens empfohlen, am Symposium teilzunehmen.

Anschließend erklärte der Präsident die Sitzung als geschlossen.

Eine Liste der Entscheidungen, die anlässlich dieser Ratssitzung getroffen wurden, wird in der nächsten Ausgabe der epi Information veröffentlicht werden.

bership and it was unanimously agreed that the student membership should be continued for the foreseeable future. It was agreed that this appeared to be a success.

The UPPE then presented their final report, indicating that their work had been done.

Reports of the By-Laws Committee, the EASY Working Group, the Finance Committee, the PQC and the Committee on EPO Finances are all published elsewhere in this edition of epi Information.

The Council meeting ended with confirmation of the dates of the forthcoming meetings and approval of the proposed Finnish language equivalent of "European Patent Attorney". Just prior to the end of the meeting, the Council was reminded, once again, of the epi 20th Anniversary Symposium being held on 4th October, 1997 coinciding with the Council Meeting of the previous day, in Strasbourg. The Council members were encouraged to attend.

The President subsequently declared the meeting closed.

A list of all decisions taken at this Council Meeting will be published in the next edition of epi Information.

nent en ce qui concerne le statut d'étudiant de l'epi, et il fut unanimement décidé que cette institution - un succès - devait être prolongée dans l'avenir.

La Commission UPPE présente son rapport final, informant que sa tâche est à présent achevée.

La présente édition publie par ailleurs les compte-rendus de la Commission du Règlement Intérieur, de la Commission EASY, de la Commission des Finances, de la Commission de Qualification Professionnelle et de la Commission des Finances de l'OEB.

La réunion du Conseil s'achève avec la présentation des dates retenues pour les prochaines séances du Conseil et, parmi les questions diverses habituellement abordées en fin de séance, l'approbation du terme que souhaite utiliser la délégation finlandaise pour désigner, dans sa langue nationale, le mandataire agréé. Avant la clôture de la séance, une déclaration est faite pour rappeler au Conseil la date du Symposium qui se tient à Strasbourg le 4 octobre 1997 et qui célèbre le 20ème anniversaire de l'epi. Les membres du Conseil sont vivement encouragés à participer à cette manifestation.

Le Président clôture la séance.

La liste des décisions prises au cours de cette réunion fera l'objet d'une publication dans la prochaine édition de epi Information.

President's Report

E. Thouret-Lemaître (FR)

1. Amendment of the Regulation on the Establishment of an Institute of Professional Representatives before the EPO

We decided in Vienna, during our Council meeting in November, to amend our Founding Regulations. The EPO prepared accordingly document CA/3/97 for the AC meeting of 3 March 1997. The AC accepted the document and the Decision CA/D/2/97 was signed by the Chairman of the AC, Mr. Fitzpatrick, on March 5, 1997. The decision has been published in the EPO OJ n° 4/1997 (April) pages 130 and 131.

It is mentioned, as it has always been quite clear for all of us, that these amendments will become effective as from the next elections of the epi Council, i.e in February 1999. For taking into account these amendments, I recommend that the By-Laws Committee revise our By-Laws and make proposals at the next Council meeting.

2. EPO Administrative Council meetings

2.1. 6 November 1996

This meeting was devoted to the fee reform. You are all aware of the decision of decreasing the search, filing and designation fees and postponing the payment of the designation fees; the decision was taken in December by the AC.

The information has been published in the EPO OJ and in many publications.

2.2. 2-5 December 1996

The report has been published in EPO OJ n° 1-2/1997.

To be noted:

- The increased number of patent applications filed in 1996 (85.500), the increased proportion of Euro PCT applications, the increased number of requests for preliminary examinations under PCT chapter II;
- No case was pending before the Enlarged Board of Appeal;

- The 1989 Agreement relating to Community patents has so far been ratified by six countries; we may wait for a new initiative from the EU Commission during 1997;
- 871 candidates (55% of these for the first time) have taken the European Qualifying Examination; the global pass rate was 32% in 1996.
- The trilateral conference hosted in The Hague in 1996 made some progress in the harmonisation process.
- Hungary, Czech Republic and Poland have presented a request for being invited to join the European Patent Organisation.
- Turkey has the intention to accede to the European Patent Convention as soon as possible, no later than early 1999.
- Mr. Messerli, VP DG3, has been appointed Chairman of the Disciplinary Board of Appeal.

2.3. 5 March 1997

The report has been published in EPO OJ 4/1997.

To be noted:

- Election of a new Chairman of the EPO AC: Mr. Fitzpatrick (IE) and of a new Vice-Chairman: Mr. Grossenbacher (CH).
- Mr. Kober, EPO President, is in charge of negotiating an extension agreement with the Former Yugoslav Republic of Macedonia (FYROM).
- The EPO will celebrate its 20th anniversary with a travelling exhibition. Upon my request, the EPO President has agreed that in each country epi members will be invited to join the exhibition in agreement with their Patent Office. The epi Board members have been informed accordingly and will be in charge of proposing names for each constituency.

3. Hearing 7 March 1997

The epi was invited on March 7, 1997 to the Hearing on the future Patent Information Policy of the European

Patent Organisation. Helga Kutzenberger, W. Hoogstraten and myself were present. This matter has been treated in the EPPC report (Question 105 - par. E).

4. CEIPI

The CEIPI (Strasbourg - France) is in the process of changing its statutes in order to facilitate the international teaching and tutorial. The epi has been proposed and invited to become an "associate member". The epi President will represent the epi in the CEIPI Administrative Council.

5. Hannover Messe

Mrs. Kaden and Mr. Barendregt attended the fair in April 1997.

6. Internet

epi has now an address on Internet: <http://www.epo.co.at/epo/epi>.

Our documentation is now available on Internet:

- The leaflet (as prepared by P. Kelly in the three official languages)
- The Founding Regulation (in the three official languages)
- The Regulation on discipline
- Rules governing the epi studentship
- Registration form for epi students
- epi Information 1/1997,

As soon as the brochure "Patents in Europe" prepared by Leo Ryckebosch and Ton Dries is ready, it will be available on Internet in the three official languages and as soon as it has been translated it will be available in the other languages.

The epi Secretariat is in charge of updating our information.

A list of representatives, which is maintained by the EPO, is published on the EPO site of Internet.

7. EPO DG5/epi relationship

Thanks to the action of Rüdiger Zellentin, we are now informed by DG5 of the list of courses and seminars organised by the International Technical Cooperation Department.

European Patent Attorneys ready to serve as speakers will be proposed to DG5 during 1997.

8. Miscellaneous

I attended the CIPA/AIPLA meeting in London relating to the translations and the package solution. The exchange of views was interesting. Be-

ing invited, the epi President was present but remained silent as we have no official position.

I attended the AIPPI Centennial in Vienna and Budapest as invited guest.

epi Expenses and Income 1996

	Budget 1995	Actual 1995	Budget 1996	Actual 1996	Shortfall in receipts Surplus of expenditure 1996	Surplus of receipts Shortfall in expenditure 1996
I. Income						
1. Subsciptions	1.632.000,—	1.579.595,05	1.632.000,—	1.676.098,61	-,—	44.098,61
2. Bank interests	100.000,—	87.800,02	110.000,—	77.148,33	32.851,67	-,—
3. Others	45.000,—	63.029,01	35.000,—	131.094,51	-,—	96.094,51
	<u>1.777.000,—</u>	<u>1.730.424,08</u>	<u>1.777.000,—</u>	<u>1.884.341,45</u>	<u>32.851,67</u>	<u>140.193,12</u>
II. Expenses						
1. Meetings						
Council	330.000,—	289.311,39	360.000,—	353.707,97	-,—	6.292,03
Board	60.000,—	44.277,61	60.000,—	71.597,92	11.597,92	-,—
Committees	230.000,—	233.273,69	260.000,—	211.794,18	-,—	48.205,82
Delegates & Others	100.000,—	83.235,40	100.000,—	70.916,42	-,—	29.083,58
2. Others						
epi-Information	100.000,—	73.714,65	100.000,—	74.137,07	-,—	25.862,93
By-Laws & non-foreseeable	10.000,—	-,—	10.000,—	3.842,—	-,—	6.158,—
ECC-Letter	-,—	-,—	125.00,—	124.397,66	-,—	602,34
3. President (+ Vice President)	8.000,—	7.111,68	8.000,—	9.066,83	1.066,83	-,—
4. Treasurer and Treasury						
Treasurer and Deputy	3.000,—	558,—	3.000,—	7.465,—	4.465,—	-,—
Bookkeeping	6.000,—	890,—	6.000,—	1.250,—	-,—	4.750,—
Audit	25.000,—	35.510,20	25.000,—	23.755,60	-,—	1.244,40
Bank charges	10.000,—	12.804,—	10.000,—	13.768,16	3.768,16	-,—
5. Secretariat						
Expenditure on personnel	555.000,—	549.971,66	575.000,—	459.204,24	-,—	115.795,76
Expenditure on materials						
EPO rent	87.000,—	86.664,96	100.000,—	85.464,96	-,—	14.535,04
Phone, Fax	18.000,—	13.629,01	18.000,—	11.055,32	-,—	6.944,68
Postage	47.000,—	34.627,75	55.000,—	43.245,07	-,—	11.754,93
Copy, print	15.000,—	21.581,33	20.000,—	36.750,74	16.750,74	-,—
Office supplies	18.000,—	5.127,40	10.000,—	12.825,10	2.825,10	-,—
Maintenance/Repair	2.000,—	5.479,14	2.000,—	2.925,08	925,08	-,—
Insurances	1.000,—	801,10	1.500,—	624,60	-,—	875,40
Secretary General+Deputy	2.000,—	2.127,50	2.000,—	1.142,20	-,—	857,80
Travel personnel	8.000,—	376,—	6.000,—	574,17	-,—	5.425,83
Acquisitions						
Soft-/Hardware	40.000,—	14.569,65	10.000,—	703,48	-,—	9.296,52
Office machines	5.000,—	3.353,50	3.000,—	-,—	-,—	3.000,—
Office equipment	2.000,—	-,—	2.000,—	18.689,09	16.689,09	-,—
Training	5.000,—	1.500,—	5.000,—	2.312,25	-,—	2.687,75
Representation	1.000,—	550,60	1.000,—	604,86	-,—	395,14
6. Extraordinary expenses	5.000,—	354,34	5.000,—	1.000,—	-,—	4.000,—
	<u>1.693.000,—</u>	<u>1.521.400,61</u>	<u>1.882.500,—</u>	<u>1.642.819,97</u>	<u>58.087,92</u>	<u>297.767,95</u>
III. Surplus of receipts/expenses	84.000,—	209.023,47	/. 105.500,—	241.521,48	Surplus DM: 347.021,48	

epi Balance Statement on 31st December 1996

Assets

			previous year (thousand)
	DM	DM	DM
A. Fixed assets			
I. Material assets		1,—	—
Office machines and equipment			
II. Financial assets	<u>1.005.400,—</u>	1.005.401,—	1.533
Securities portfolio			
B. Receivables			
I. Membership subscriptions and others			
1. Membership subscriptions	53.938,—		67
2. Others	<u>15.088,68</u>	69.026,68	22
II. Bank & Cash (incl. money deposits)	<u>1.320.211,04</u>	1.389.237,72	444
		<u>2.394.638,72</u>	2.066

Liabilities

			previous year (thousand)
	DM	DM	DM
A. Net assets			
as of 01.01.1996		1.884.444,86	1.675
results for the year		<u>241.521,48</u>	209
as of 31.12.1996		2.125.966,34	1.884
B. Debts			
I. Provisions		55.900,—	33
II. Liabilities			
1. Bank	66,58		—
2. Deliveries and services	<u>93.772,67</u>		56
3. Others	<u>118.933,13</u>	<u>212.772,38</u>	93
		<u>2.394.638,72</u>	<u>2.066</u>

Report of the By-Laws Committee

C.E. Eder

1. All Council members received the collection, decided by the Council, of the decisions of the Council and other prescriptions.

2. The Council still has to conclude:

The new terms of reference of the Professional Qualification Committee

The PQC has put forward specific wording to the By-Laws Committee to take into account decisions 8 and 9 of the 1995 Munich Council. These decisions related to:

- The production and use by the PQC of real-life case studies as a training medium, and to encourage EPAs to offer cases from their files as suitable case study material and,
- The PQC's being responsible for responding to requests for help in arranging for, or liaising with na-

tional bodies interested in, seminars on professional topics in Member States.

The By-Laws Committee will submit the revised terms of reference to the Council for decision.

The terms of reference of the Electoral Objections Committee

The By-Laws Committee will, in collaboration with a delegation of the Electoral Committee and the Secretary General, elaborate a proposition and submit it to the Council for decision.

The decisions relating to the tutorials and epi studentship

The different decisions of the Council concerning the tutorials and the epi-studentship must be coordinated, reformulated and submitted to the

Council for decision. The By-Laws Committee will take care of the matter.

3. Rules for the elections of Council

In his report to the elections 1997, the Electoral Committee suggested modifications of these rules in order to simplify the elections. The By-Laws Committee will, in collaboration with the Electoral Committee and the Secretary General, prepare a suggestion in the three languages for a decision of Council.

4. It will be necessary to remove some older decisions of the Council, the contents thereof being regulated in newer decisions. The By-Laws Committee will submit a corresponding list to the Council.

Report of the EASY Working Group covering the time period since autumn 1996

D. Speiser (DE)

The activities of the European Patent Office in connection with the EASY project were more or less internal and resulted in the distribution of version 1.0 of the EASY software. An exchange of views between the members of the Working Group and in particular a meeting was not felt to be necessary.

Following a discussion on the telephone with the EPO the Office kept its promise to disseminate version 1.1. of its EASY software in March 1997. It is suited for actual use in the filing of European patent applications but will still have to be accompanied by a paper printout. The software can be obtained from the EPO.

The EPO is planning for 1997 an amendment of the rules allowing pa-

perless filing of European patent applications. This will not only require legal considerations but also practical tests of different ways for the transfer data between applicants/representatives on the one hand and the Office on the other hand. These tests are presently being run internally. It was indicated however, that the epi might be involved in the coming field tests.

Other projects of the EPO include a PCT version of the EASY software which is expected to be ready in mid 1997 and is being developed together with WIPO; one of the intentions is to save the information entered under the EASY software for use with a subsequent EP application.

As reported earlier in the co-operation of the EPO with the US PTO in the context of paperless filing is dormant but is intended to be reactivated in the not too distant future. Co-operation with national patent offices presently appears to be more active. In this context we learned that the prototype EASY software for national filing of patent applications in France is ready and the software is expected to become available for applicants/representatives in summer 1997.

Should the EASY Working Group of the epi become involved in the data transmission tests of the EPO it is likely that the Working Group will have to have their first meeting for the discussion of details.

Report of the Finance Committee

B. Feldmann (DE)

1. At its Spring meeting in April 1997, the Committee reviewed the external auditor's report on the 1996 accounts and noted, in particular, that the Board's position, composition, and functions could usefully now be considered in the light of the adjustments to the Council brought about recently and of the continuing pressure to reduce the sizes of Committees. The Committee urges the Board to undertake such consideration.

2. Concern continues in the Committee with the problem that the eventual, *actual* recovery of unpaid subscriptions may not match the 50 % writing-off rules. A consequence is that income can be overstated in the accounts, as was pointed out in the

Committee's report presented to Council's first meeting last year. However, there are signs of a decrease in the number of payments which remain outstanding into the following year, probably due largely to the quickness with which the amended rule 102(1) EPC can bring about deletion from the List. This decrease - in other words, a lessening of the number of outstanding subscriptions - should have the effect of gradually diminishing the problem.

3. Regarding the Secretariat, comparisons with equivalent offices in the national groups suggest that it operates with commendable economy. The Committee has however noted that, possibly, as much as a third of

the rent payable to the EPO is attributable to the conference room for which furniture was bought last year. Its existence ought to be better justified by more use than apparently occurs at present.

4. In reviewing the investment situation, and taking account of the fact that net assets have now broken through the "two million" mark, the Committee has given encouragement to the Treasurer to make purchases which would bring the holding of longer term fixed interest securities up to around 1 1/2 millions, the view being that about 75 % of net assets held in this category of investment is appropriate.

Report of the Professional Qualification Committee (PQC)

K. Weatherald (GB)

1. The PQC has put forward specific wording to the By-Laws Committee to take into account decisions 8 and 9 of the 1995 Munich Council. These decisions related to:

- The production and use by the PQC of real-life case studies as a training medium, and to encourage EPAs to offer cases from their files as suitable case study material and,
- The PQC's being responsible for responding to requests for help in arranging for, or liaising with national bodies interested in, seminars on professional topics in Member States.

2. The PQC has published the revised arrangements for epi tutorials for candidates for the EQE. With effect

from this year, there will be a later start for the tutorials for those candidates sitting the EQE for the first time. There will also be tutorials offered in the autumn for those candidates who have not achieved "pass" grades in the current year's EQE.

In addition to allowing candidates to apply for tutorials in the Papers for two successive years of the EQE, there is a proposal to offer a locally-organised seminar for candidates, to help them to get the most out of the tutorial system.

3. The Examination Board has decided not to react as yet to Council's decision (Vienna 1996) that candidates achieving a grade 7 in any Paper of the current year's EQE may not be allowed to sit that Paper in the next

EQE, but will have to wait for two years.

4. The PQC has no knowledge of the reaction of the Examination Board to the decision of the last Council meeting that it would be agreeable to the Board's allowing more time for candidates to answer one or more Papers in the EQE.

5. The PQC is working on substantiating its proposal to the 1996 Vienna Council that examiners for the EQE recruited from the epi may be paid honoraria, as token acknowledgements of their invaluable contribution to the profession.

6. There are currently 155 Students of the epi, with six having been enrolled this year. The PQC is going to

arrange for "epi Information" and the OJEPO to publish reminders of the benefits to new entrants to the profession of becoming Students. Council is reminded that, as such, Students are not members of the *epi*, which distinction is reserved to those on the List.

It is believed that when the "Students of the *epi*" scheme was first approved by Council, it was agreed that it would be reappraised at the end of 1997. In view of the likely pressure on our agenda at this year's Council meeting in Strasbourg, it might be better to do this today, rather than in the autumn.

In view of their numbers, it is believed that the scheme is meeting many of the respective needs of those

candidates for the EQE who are registered as Students. While being fully agreeable to working out with other members of Council by what criteria the scheme should be measured to see if it is "successful", *the PQC recommends that the "Students scheme" be continued.*

The PQC has engaged on its annual task of finding volunteers to translate into one of the official languages the scripts of those candidates for the EQE who have exercised their right to write their answers in a non-official language. The names of those who have volunteered have been passed to the Examination Board secretariat.

8. The PQC has also cooperated with the EPO in its Pratika Intern programme, by contributing to the discussions during which the qualifications and suitability of applicants for training by the EPO are assessed.

9. Many members of the *epi* have responded to the discussion at our last Council meeting, and to national initiatives, by volunteering to become examiners. In accordance with the usual practice, these offers have been relayed to the Examination Board secretariat for it to take up with the volunteers to decide if they are suitable and, if they are, on to which Examination Committee they should be placed. *The PQC thanks, on behalf of the epi, all those who volunteered.*

Report of the Committee on EPO Finances (Summary)

J.U. Neukom (GB)

1. The fee reductions to become effective 1.7.97 are cause for celebration. As stated in an EPO news release issued last December "the grant of a European patent will cost applicants 20% less in EPO fees." This is at a cost to the EPO of DEM 140m per year. However the Committee has argued for some time that a cost on this scale is quite easily affordable.

2. What has been achieved by these fee reductions is a financial situation which is much better balanced and more sensible. Before the adoption of these fee reductions, the forward estimates continued to show huge surpluses, leading to soaring increases in

the reserves. The re-calculation, following adoption, puts the surpluses at much more reasonable levels so that the increase in the level of reserves also becomes more modest.

3. The EPO's financial situation now looks more stable. Readily foreseeable are only two factors of any major significance which might disturb this stability: Firstly, the possibility that the estimates of the surpluses in the next 5 years will be greatly exceeded by actual results (since 1991 the excess of actual results over the estimates has never been less than 50%!); and, secondly, the possibility that forces still at work to alter the distribution

key may succeed in bringing about some measure of alteration.

4. At Council's meeting in October 1991 there was a reluctance to involve *epi* in controversies concerning the distribution key. Consequently the Committee has assumed since then that the distribution key should be treated as forbidden territory. We have therefore questioned whether a worthwhile role still remains for the Committee, at least in the short term; hence whether the Committee ought not to be disbanded. A compromise would be to put the Committee into suspense, a kind of dormant state. The Committee's future is therefore a topic for discussion.

Vorschriften über die Errichtung eines Instituts der beim Europäischen Patentamt zugelassenen Vertreter	Regulation on the establishment of an Institute of professional representatives before the European Patent Office	Règlement relatif à la création d'un Institut des mandataires agréés près l'Office européen des brevets
Änderung des Artikels 7(1) und 7(3) und des Artikels 15, siehe Beschuß des Verwaltungsrats vom 5. März 1997, im EPA Abl. 4/1997, S. 130, veröffentlicht.	Amendment to Article 7(1) and 7(3), and to Article 15, see Decision of the Administrative Council of 5 March 1997, published in EPO OJ 4/1997, page 130.	Modification de l'article 7(1) et 7(3) et de l'article 15, voir Décision du Conseil d'Administration, en date du 5 mars 1997, parue au JO OEB 4/1997, page 130.
Der Verwaltungsrat der Europäischen Patentorganisation,	The Administrative Council of the European Patent Organisation,	Le Conseil d'Administration de l'Organisation Européenne des Brevets
gestützt auf Artikel 134, Absatz 8, Buchstabe b, des Übereinkommens vom 5. Oktober 1973 über die Erteilung europäischer Patente und	having regard to Article 134, paragraph 8(b), of the Convention on the Grant of European Patents of 5 October 1973,	vu l'article 134, paragraphe 8, lettre b) de la Convention sur la délivrance de brevets européens, du 5 octobre 1973,
in der Erwägung, daß es zweckmäßig ist, ein Institut zu errichten, in dem die Personen zusammengeschlossen sind, die befugt sind, als zugelassene Vertreter aufzutreten,	whereas it is desirable to establish an Institute constituted by persons entitled to act as professional representatives,	considérant qu'il est opportun de créer un institut constitué des personnes habilitées à agir en qualité de mandataires agréés,
nimmt folgende Vorschriften an:	has adopted this regulation:	arrête les dispositions suivantes:
Artikel 1	Article 1	Article premier
<i>Errichtung des Instituts</i>	<i>Establishment of the Institute</i>	<i>Création de l'Institut</i>
Es wird ein Institut der beim Europäischen Patentamt zugelassenen Vertreter errichtet, das in der Folge als Institut bezeichnet wird.	An Institute of Professional Representatives before the European Patent Office, hereinafter referred to as "the Institute", is hereby established.	Il est créé un Institut des mandataires agréés près l'Office européen des brevets, ci-après dénommé «l'Institut».
Artikel 2	Article 2	Article 2
<i>Rechtsstellung</i>	<i>Legal status</i>	<i>Statut juridique</i>
(1) Das Institut besitzt in jedem Vertragsstaat des Europäischen Patentübereinkommens die weitestgehende Rechts- und Geschäftsfähigkeit, die juristischen Personen nach dessen Rechtsvorschriften zuerkannt ist; es kann insbesondere bewegliches und unbewegliches Vermögen erwerben und veräußern sowie vor Gericht stehen.	(1) In each of the States party to the European Patent Convention, the Institute shall enjoy the most extensive legal capacity accorded to legal persons under the national law of that State; it may in particular acquire or dispose of movable and immovable property and may be party to legal proceedings.	(1) Dans chacun des Etats parties à la Convention sur le brevet européen, l'Institut possède la capacité juridique la plus large reconnue aux personnes morales par la législation de cet Etat; il peut notamment acquérir ou aliéner des biens mobiliers ou immobiliers et ester en justice.
(2) Das Institut verfolgt keinen Erwerbszweck.	(2) The Institute shall be non-profit making.	(2) L'institut est un organisme sans but lucratif.

Artikel 3*Deckung der Ausgaben*

Die Ausgaben des Instituts werden aus eigenen Mitteln gedeckt, die insbesondere aus den Beiträgen seiner Mitglieder herrühren.

Article 3*Cover for expenditure*

The expenditure of the Institute shall be covered by its own resources, derived in particular from the subscriptions of its members.

Article 3*Couverture des dépenses*

Les dépenses de l’Institut sont couvertes par ses ressources propres, provenant notamment des cotisations de ses membres.

Artikel 4*Aufgaben des Instituts*

Das Institut hat die Aufgabe,

a) mit der Europäischen Patentorganisation in Fragen des Berufs des zugelassenen Vertreters, insbesondere in Disziplinarangelegenheiten und bei der europäischen Eignungsprüfung, zusammenzuarbeiten;

b) zur Verbreitung von Kenntnissen beizutragen, die die Tätigkeit seiner Mitglieder betreffen;

c) dafür zu sorgen, daß seine Mitglieder die beruflichen Regeln einhalten, unter anderem durch Aussprache von Empfehlungen;

d) mit der Europäischen Patentorganisation und anderen Stellen in Fragen des gewerblichen Rechtsschutzes Verbindung zu halten, soweit dies zweckmäßig ist.

Article 4*Objects of the Institute*

The objects of the Institute shall be to:

(a) collaborate with the European Patent Organisation on matters relating to the profession of professional representatives and in particular on disciplinary matters and on the European Qualifying Examination;

(b) aid in the dissemination of knowledge appertaining to the work of its members;

(c) promote compliance by its members with the Rules of Professional Conduct, inter alia through the formulation of recommendations;

(d) liaise as appropriate with the European Patent Organisation and other bodies on all matters relating to industrial property.

Article 4*Objet de l’institut*

L’Institut a pour objet

a) de collaborer avec l’Organisation européenne des brevets pour les questions en rapport avec la profession de mandataire agréé, notamment en ce qui concerne les questions disciplinaires et l’examen européen de qualification;

b) de contribuer à la diffusion des connaissances se rapportant au travail de ses membres;

c) de veiller au respect par ses membres des règles de conduite professionnelle formulant notamment des recommandations;

d) d’établir toutes les liaisons utiles avec l’Organisation européenne des brevets et avec tous autres organismes pour les questions touchant à la propriété industrielle.

Artikel 5*Mitgliedschaft*

(1) Alle in der Liste der zugelassenen Vertreter eingetragenen Personen sind Mitglieder des Instituts. Andere Personen können nicht Mitglieder sein.

(2) Das Europäische Patentamt unterrichtet das Institut über alle Änderungen in der Liste.

Article 5*Membership*

(1) All persons on the list of professional representatives shall be members of the Institute. No other persons shall be members.

(2) The European Patent Office shall inform the Institute of all changes in the list.

Article 5*Membres*

(1) Toute personne inscrite sur la liste des mandataires agréés est membre de l’Institut. Nul ne peut être membre de l’Institut s’il n’est inscrit sur cette liste.

(2) L’Office européen des brevets avise l’Institut de toute modification apportée à la liste.

Artikel 6*Beiträge*

(1) Die Mitglieder entrichten einen Jahresbeitrag.

Article 6*Subscriptions*

(1) Each member shall pay an annual subscription.

Article 6*Cotisations*

(1) Les membres doivent acquitter une cotisation annuelle.

(2) Die Höhe des Beitrags und weitere Einzelheiten der Beitragszahlung werden vom Rat des Instituts festgelegt.

Artikel 7

Der Rat

(1) Die Institutsmitglieder wählen aus ihrer Mitte einen Rat. Es werden ordentliche Mitglieder des Rates und stellvertretende Mitglieder in gleicher Anzahl gewählt. Wahlen zum Rat finden alle drei Jahre statt.*

(2) Jeder Vertragsstaat des Europäischen Patentübereinkommens bildet einen Wahlbezirk, in dem die Mitglieder, die dort ihren Geschäftssitz oder Arbeitsplatz haben, ihre Stimme abgeben. Jedes Mitglied hat nur eine Stimme. Ein Mitglied, das einen Geschäftssitz oder einen Arbeitsplatz in mehr als einem Wahlbezirk hat, wählt den Wahlbezirk aus, in dem es seine Stimme abgibt.

(3) Die Zahl der in jedem Wahlbezirk zu wählenden ordentlichen Mitglieder des Rates wird im Verhältnis zur Zahl der Wahlberechtigten nach folgender Tabelle festgesetzt:**

Zahl der Wahlberechtigten im Wahlbezirk	Zahl der zu wählenden ordentlichen Ratsmitglieder
bis zu 25	2
26 bis 500	4
über 500	6

(4) Je nach dem Wahlbezirk werden die ordentlichen Mitglieder des Rates und die stellvertretenden Mitglieder von allen Wahlberechtigten gemeinsam oder je zur Hälfte von den Wahlberechtigten, die freiberuflich tätig sind, und von den Wahlberechtigten, die anderweitig tätig sind, gewählt.

(2) The amount of the subscription and other arrangements relating to payment shall be laid down by the Council of the Institute.

Article 7

The Council

(1) The members of the Institute shall elect a Council from among their number. Representatives and substitutes shall be elected in equal numbers. Elections shall take place every three years.*

(2) Each State party to the European Patent Convention shall be a constituency in which such members shall be entitled to vote as have their place of business or employment therein. Each member shall have one vote. A member who has places of business or employment in more than one constituency must choose the constituency in which he exercises his vote.

(3) The number of representatives to be elected in each constituency shall be determined by reference to the number of electors in accordance with the following table: **

Number of electors in constituency	Number of representatives to be elected
up to 25	2
26 to 500	4
over 500	6

(4) Depending on the constituency, representatives and substitutes shall either be elected by the votes of all the electors in the constituency taken together, or as to one half shall be elected by electors engaged in private practice and as to the other half by electors engaged in any other capacity.

(2) Le montant de la cotisation et les autres modalités de règlement sont arrêtés par le Conseil de l'Institut.

Article 7

Le Conseil

(1) Les membres de l'institut élisent en leur sein un Conseil. Ils élisent en nombre égal des représentants titulaires et des représentants suppléants. Les élections ont lieu tous les trois ans.*

(2) Chaque Etat partie à la Convention sur le brevet européen constitue une circonscription dans laquelle sont appelés à voter les membres qui y possèdent leur lieu d'établissement ou d'emploi. Chaque membre ne dispose que d'une voix. Tout membre dont le lieu d'établissement ou d'emploi est situé dans plus d'une circonscription doit choisir celle dans laquelle il exerce son droit de vote.

(3) Le nombre des représentants à élire dans chaque circonscription est fixé par référence au nombre des électeurs conformément au tableau ci-après: **

Nombre des électeurs dans la circonscription	Nombre des représentants titulaires à élire
jusqu'à 25	2
de 26 à 500	4
plus de 500	6

(4) Selon les circonscriptions, les représentants titulaires et les représentants suppléants sont élus par l'ensemble des électeurs, ou pour moitié par ceux qui exercent dans le cadre de la profession libérale et pour moitié par ceux qui exercent à tout autre titre.

* Geändert vom Verwaltungsrat am 5. März 1997 gemäß dem vom Rat des Instituts am 4. November 1996 in Wien beschlossenen Vorschlag; erstmalig anwendbar nach den Wahlen 1999.

** Geändert vom Verwaltungsrat am 5. März 1997 gemäß dem vom Rat des Instituts am 4. November 1996 in Wien beschlossenen Vorschlag; erstmalig anwendbar für die Wahlen im Jahre 1999.

Changed from the Administrative Council on 5 March 1997 according to the motion accepted from the Council of Institute on 4 November 1996 in Vienna; applicable for the first time after the elections of 1999.

Changed from the Administrative Council on 5 March 1997 according to the motion accepted from the Council of the Institute on 4 November 1996 à Vienne; applicable for the first time for the elections in 1999.

* Changé par le Conseil d'Administration le 5 mars 1997 selon la motion acceptée par le Conseil de l'Institut le 4 novembre 1996 à Vienne; applicable pour la première fois après les élections de 1999.

** Changé par le Conseil d'Administration le 5 mars 1997 selon la motion acceptée par le Conseil de l'Institut le 4 novembre 1996 à Vienne. Applicable pour la première fois lors des élections de 1999.

(5) Wahlbezirke mit einer einheitlichen Wählerschaft sind Liechtenstein, Monaco, die Niederlande, Irland und das Vereinigte Königreich.

(6) Ein Wahlbezirk mit nichteinheitlicher Wählerschaft kann das Wahlverfahren wechseln, wenn sich die Mehrheit der freiberuflich tätigen Wahlberechtigten und die Mehrheit der anderweitig tätigen Wahlberechtigten dafür aussprechen. Ein Wahlbezirk mit einheitlicher Wählerschaft kann das andere Wahlverfahren annehmen, wenn sich die Mehrheit der freiberuflich tätigen Wahlberechtigten oder die Mehrheit der anderweitig tätigen Wahlberechtigten dafür ausspricht. Der Rat führt zu diesem Zweck eine Abstimmung durch, wenn mindestens 10 Wahlberechtigte der einen oder anderen Gruppe oder die Hälfte der Wahlberechtigten einer Gruppe, deren Zahl weniger als 20 beträgt, einen entsprechenden Antrag stellen.

(7) Bei jeder Wahl in einem Wahlbezirk mit nichteinheitlicher Wählerschaft erklären die Wahlberechtigten, auf welche Art sie ihre Tätigkeit ausüben.

(8) Der Rat trifft die notwendigen Vorkehrungen für die Wahl; er ermöglicht insbesondere die Briefwahl.

(5) Constituencies with a unitary electorate shall be those of Liechtenstein, Monaco, the Netherlands, Ireland and the United Kingdom.

(6) A constituency with a non-unitary electorate may adopt the other method of voting if a majority of the electors engaged in private practice and a majority of the electors otherwise engaged so decide. A constituency with a unitary electorate may adopt the other method of voting if a majority of the electors engaged in private practice or a majority of the electors otherwise engaged so decide. The Council shall organise a vote for this purpose if called upon to do so by at least ten electors in either category, or one half of the electors of a category if there are less than twenty.

(5) Les circonscriptions à collège unique sont celles du Liechtenstein, de Monaco, des Pays-Bas, de l'Irlande et du Royaume-Uni.

(6) Une circonscription à double collège peut adopter le système du collège unique si la majorité des électeurs exerçant dans le cadre de la profession libérale et la majorité des électeurs exerçant à un autre titre se prononcent dans ce sens. Une circonscription à collège unique peut adopter le système du double collège si la majorité des électeurs exerçant dans le cadre de la profession libérale ou la majorité des électeurs exerçant à un autre titre se prononcent dans ce sens. Un vote est organisé à cet effet par le Conseil lorsque dix électeurs au moins de l'une ou de l'autre catégorie, ou la moitié des électeurs d'une catégorie s'ils sont moins de vingt, en font la demande.

(7) In each election in a constituency with a non-unitary electorate electors shall state the capacity in which they are engaged in their profession.

(8) The Council shall take the necessary measures to provide for elections and in particular for voting by post.

(7) Lors de chaque élection dans une circonscription à double collège, tout électeur précise à quel titre il exerce sa profession.

(8) Le Conseil prend toutes dispositions utiles à l'organisation des élections et notamment pour permettre le vote par correspondance.

Artikel 8

Tagungen des Rates

(1) Der Rat tritt so oft zusammen, wie er dies für erforderlich erachtet, mindestens jedoch einmal im Jahr. Er hat den Institutsmitgliedern jährlich einen Bericht vorzulegen und Rechnung zu legen.

(2) Bei jeder Wahl des Rates wählt dieser aus seinen ordentlichen Mitgliedern einen Präsidenten, zwei Vizepräsidenten, einen Generalsekretär und einen Schatzmeister. Die Ämter des Präsidenten und der Vizepräsidenten dürfen ununterbrochen jeweils höchstens für zwei aufeinanderfolgende Amtszeiten ausgeübt werden. Jedoch dürfen beide Ämter nicht länger als für insgesamt

Article 8

Meetings of the Council

(1) The Council shall meet as often as it considers necessary, and in any event at least once a year. It shall submit a report and accounts to the members of the Institute every year.

(2) On each election of the Council, it shall elect from among its members a President, two Vice-Presidents, a Secretary-General and a Treasurer. The offices of President and Vice-President may each be held for a maximum of two consecutive terms. However, the two offices may not be held for more than a total of three consecutive terms.

Article 8

Réunions du Conseil

(1) Le Conseil se réunit aussi souvent qu'il le juge nécessaire et, en tout cas, au moins une fois par an. Il soumet chaque année un rapport et des comptes aux membres de l'Institut.

(2) A chaque élection du Conseil, ce dernier élit parmi ses membres un président, deux vice-présidents, un secrétaire général et un trésorier. Les fonctions de président et de vice-président ne peuvent pas donner lieu chacune à plus de deux mandats consécutifs. Toutefois, les deux fonctions peuvent être exercées successivement pendant trois mandats consécutifs.

drei aufeinanderfolgende Amtszeiten ausgeübt werden.

Artikel 9

Befugnisse des Rates

(1) Dem Rat obliegt die Verwaltung und die Leitung der Geschäfte des Instituts.

(2) Der Rat erläßt die erforderlichen Regelungen für die Tätigkeiten des Instituts sowie seiner Einrichtungen und nachgeordneten Stellen.

(3) Der Rat kann im Rahmen der Vorschriften in Disziplinarangelegenheiten von zugelassenen Vertretern Empfehlungen für berufliches Verhalten aussprechen.

Article 9

Powers of the Council

(1) The Council shall have the management and control of the affairs of the Institute.

(2) The Council shall have power to make regulations governing the conduct of the business of the Institute and its constituent and any subsidiary bodies.

(3) The Council may, within the terms of the Regulation on Discipline for Professional Representatives, make recommendations on conduct.

Article 9

Pouvoirs du Conseil

(1) Le Conseil est chargé de l'administration et de la gestion des activités de l'Institut.

(2) Le Conseil arrête les règlements nécessaires au fonctionnement de l'Institut et de tous les organes qui le composent ou qui en dépendent.

(3) Le Conseil a la faculté, dans les limites prévues par le Règlement en matière de discipline des mandataires agréés, de formuler des recommandations relatives à la déontologie.

Artikel 10

Aufgaben des Präsidenten und des Vorstands

(1) Der Präsident des Rates vertritt das Institut.

(2) Der Rat setzt aus seiner Mitte einen Vorstand ein, dem zumindest der Präsident, die Vizepräsidenten, der Generalsekretär und der Schatzmeister angehören müssen.

(3) Der Vorstand nimmt die Aufgaben wahr, die ihm der Rat überträgt.

Article 10

Duties of the President and Board

(1) The President of the Council shall represent the Institute.

(2) The Council shall set up from among its members a Board which shall include at least the President, the Vice-Presidents, the Secretary-General and the Treasurer.

(3) The Board shall perform the duties given to it by the Council.

Article 10

Attributions du président et du Bureau

(1) Le président du Conseil représente l'Institut.

(2) Le Conseil constitue en son sein un Bureau qui comprend au moins le président, les vice-présidents, le secrétaire général et le trésorier.

(3) Le Bureau exerce les attributions qui lui sont confiées par le Conseil.

Artikel 11

Disziplinarrat

(1) Der Rat setzt einen Disziplinarrat ein.

(2) Bei jeder Wahl wählt der Rat die Mitglieder des Disziplinarrats unter den Institutsmitgliedern aus.

(3) Mitglieder des Vorstands dürfen dem Disziplinarrat nicht angehören.

Article 11

The Disciplinary Committee

(1) The Council shall set up a Disciplinary Committee.

(2) On each election the Council shall appoint the members of the Committee from among the members of the Institute.

(3) The Disciplinary Committee shall not include any members of the Board.

Article 11

La Commission de discipline

(1) Le Conseil constitue une Commission de discipline.

(2) Lors de chaque élection, le Conseil désigne les membres de la Commission parmi les membres de l'Institut.

(3) Aucun membre du Bureau ne peut faire partie de la Commission de discipline.

Artikel 12**Ausschüsse**

Der Rat kann Ausschüsse einsetzen und deren Zuständigkeit bestimmen.

Article 12**Other Committees**

The Council may set up other Committees and shall fix their terms of reference.

Article 12**Autres commissions**

Le Conseil peut constituer toute autre commission dont il fixe les attributions.

Artikel 13**Generalversammlung**

(1) Der Rat kann jederzeit Generalversammlungen der Mitglieder des Instituts unter Einhaltung einer Frist von 90 Tagen einberufen. Generalversammlungen sind vom Rat einzuberufen auf schriftlichen Antrag von nicht weniger als 5% der Mitglieder des Instituts, die mindestens zwei Wahlbezirken angehören müssen.

(2) Die vorläufige Tagesordnung für eine Generalversammlung wird vom Vorstand aufgestellt und den Mitgliedern spätestens 30 Tage vor Beginn der Versammlung übermittelt.

(3) In die vorläufige Tagesordnung werden alle Punkte aufgenommen, die nach Ansicht des Vorstands der Generalversammlung unterbreitet werden sollten. Sie enthält außerdem alle Punkte, deren Aufnahme von mindestens 20 Mitgliedern des Instituts spätestens 60 Tage vor Beginn der Versammlung vorgeschlagen worden ist.

(4) Die Generalversammlung beschließt die Tagesordnung in ihrer Eröffnungssitzung.

(5) Punkte, deren Aufnahme in die Tagesordnung später als 60 Tage vor Beginn der Versammlung oder während der Versammlung von Institutsmitgliedern vorgeschlagen werden, können auf die Tagesordnung gesetzt werden, wenn die Generalversammlung dies mit der Mehrheit der anwesenden Mitglieder beschließt. Solche Tagesordnungspunkte dürfen erst 24 Stunden nach ihrer Aufnahme in die Tagesordnung behandelt werden, sofern die Generalversammlung nicht mit einer Mehrheit von zwei Dritteln der anwesenden Mitglieder etwas anderes beschließt.

Article 13**General meetings**

(1) General meetings of the whole membership of the Institute may be called by the Council at any time on 90 days' notice. They shall be called by the Council following a written request of not less than 5% of the members of the Institute and representing at least two constituencies.

(2) The provisional agenda for a general meeting shall be drawn up by the Board and communicated to the members at least 30 days before the opening of the meeting.

(3) The provisional agenda shall include all items which the Board deems it desirable to put before the general meeting. It shall also include all items proposed by at least 20 members of the Institute which are made at least 60 days before the opening of the meeting.

(4) The general meeting shall adopt its agenda at its opening session.

(5) Items proposed by members of the Institute for inclusion in the agenda less than 60 days before the opening of the meeting or during the meeting may be placed on the agenda if the general meeting so decides by a majority of members present. No such item may, unless the general meeting decides otherwise by a two-thirds majority of the members present, be considered until twenty-four hours have elapsed since it was placed on the agenda.

Article 13**Assemblée générale**

(1) L'Assemblée générale des membres de l'Institut peut être convoquée, à tout moment, par le Conseil avec un préavis de quatre-vingt-dix jours. Elle est obligatoirement convoquée si la requête écrite est présentée par 5% au moins des membres de l'Institut appartenant à deux circonscriptions.

(2) L'ordre du jour provisoire de l'Assemblée générale est établi par le Bureau et communiqué aux membres au plus tard trente jours avant le début de la réunion.

(3) L'ordre du jour provisoire comprend tous les points que le Bureau juge opportun de soumettre à l'Assemblée générale. Il comprend également les points proposés par au moins vingt membres de l'Institut, à condition qu'ils aient été présentés au plus tard soixante jours avant le début de la réunion.

(4) L'Assemblée adopte son ordre du jour lors de la session d'ouverture.

(5) Les points que des membres de l'Institut proposent de faire figurer à l'ordre du jour moins de soixante jours avant le début de la réunion ou en cours de session peuvent être inscrits à l'ordre du jour si l'Assemblée générale en décide ainsi à la majorité des membres présents. Aucun de ces points ne peut être examiné avant expiration d'un délai de vingt-quatre heures à compter de son inscription à l'ordre du jour, à moins que l'Assemblée générale n'en décide autrement à la majorité des deux tiers des membres présents.

(6) Die Generalversammlung ist befugt, Entschließungen anzunehmen.

Artikel 14

Änderung dieser Vorschriften

Der Rat kann mit einer Zweidrittelmehrheit seiner Mitglieder Änderungen dieser Vorschriften vorschlagen. Über Änderungen dieser Vorschriften entscheidet der Verwaltungsrat der Europäischen Patentorganisation. Nimmt der Verwaltungsrat von sich aus Änderungen vor, so hat er vorher den Rat zu hören.

Artikel 15

Übergangsbestimmungen

In allen Wahlbezirken, die nach Beginn einer Amtszeit des Rates geschaffen werden, werden die Vertreter für den Rat vom Präsidenten des Europäischen Patentamts auf Vorschlag der Berufsvereinigungen bestellt, die vom Leiter der Zentralbehörde für den gewerblichen Rechtsschutz des betreffenden Vertragsstaats als repräsentativ beurteilt werden. Ihre Amtszeit läuft am Ende der Amtszeit des Rates aus, für den sie bestellt wurden.***

Artikel 16

Inkrafttreten

Diese Vorschriften treten am 21. Oktober 1977 in Kraft.

Geschehen zu München am 21. Oktober 1977

Für den Verwaltungsrat

Der Präsident
Georges Vianès

(6) The general meeting shall have power to adopt resolutions.

Article 14

Amendment of this Regulation

Proposals for amendments to this Regulation shall be made by the Council acting by a two-thirds majority of its members. Amendments to this Regulation shall be adopted by the Administrative Council of the European Patent Organisation. The Administrative Council may also consider amendments acting of its own motion and after consulting the Council.

Article 15

Transitional provisions

In each constituency created after the beginning of a term of office of the Council, representatives shall be appointed to the Council by the President of the European Patent Office acting on a proposal by the professional associations considered to be representative by the head of the central industrial property office of the Contracting State concerned. Their term of office shall expire at the same time as that of the Council to which they have been appointed.***

Article 16

Entry into force

This regulation shall enter into force on 21 October 1977.

Done at Munich, 21 October 1977

For the Administrative Council

The Chairman
Georges Vianès

(6) L'Assemblée peut adopter toutes résolutions.

Article 14

Modification du règlement

Le Conseil, statuant à la majorité des deux tiers de ses membres, soumet des demandes de modification du présent règlement. Les amendements relatifs au présent règlement sont adoptés par le Conseil d'administration de l'Organisation européenne des brevets. Le Conseil d'administration peut aussi, de sa propre initiative, procéder à des amendements après avoir consulté le Conseil.

Article 15

Dispositions transitoires

Dans chaque circonscription créée après le début d'un mandat du Conseil, les représentants au Conseil sont désignés par le Président de l'Office européen des brevets, sur proposition des groupements professionnels jugés représentatifs par le Chef du Service central de la propriété industrielle de l'Etat contractant concerné. Leur mandat expire au terme de celui du Conseil pour lequel ils ont été désignés.***

Article 16

Entrée en vigueur

Le présent règlement entre en vigueur le 21 octobre 1977.

Fait à Munich, le 21 octobre 1977

Pour le Conseil d'administration

Le Président
Georges Vianès

*** Geändert vom Verwaltungsrat am 5. März 1997 gemäß dem vom Rat des Instituts am 4. November 1996 in Wien beschlossenen Vorschlag.

*** Changed from the Administrative Council on 5 March 1997 according to the motion accepted from the Council of the Institute on 4 November 1996 in Vienna.

*** Changé par le Conseil d'Administration le 5 mars 1997 selon la motion acceptée par le Conseil de l'Institut le 4 novembre 1996 à Vienne.

Students of the epi

K. Weatherald (GB)

The Professional Qualification Committee (PQC) would like to remind readers of the benefits, to those wishing to get on the List by way of the European Qualifying Examination (EQE), of applying to become Students of the epi.

Applying to become a Student involves payment of an entry fee of DEM 300, which provides the benefits to the end of the fourth year from the application date. (Application forms are available from the epi Secretariat). Each registered Student will receive his/her own copy of "epi Information", a list of registered Stu-

dents, and a "Training Manual". This latter includes a list of recommended reading material; a list of training resources in EPC States; the relevant EQE rules and provisions; training guidelines, and edited case studies (not available yet). This fee is not intended to raise any profits for the epi, but only to cover foreseen costs.

Council has also approved a reduction in the costs of epi tutorials. With regard to the fees, reference should be made to the epi tutorials enrolment form published in epi Information 1/1997, page 29.

The basic motive behind setting up this type of association with the epi is to persuade and enable would-be EPAs to take responsibility (on a self-help basis) for getting the training and exposure to the work of a patent professional that each needs not only to pass the EQE but to function as a fully-competent patent attorney. If you have any concern for the future of our profession, and know of a would-be candidate for the EQE, then please play your part by bringing this notice to his/her attention.

Europäische Eignungsprüfung 1998

Mitteilung von der Prüfungskommision

Die Prüfungskommision hat entschieden, daß ab der europäischen Eignungsprüfung 1998 die Prüfungsaufgaben A und B auf von einander unabhängigen Sachverhalten beruhen können.

Dadurch würde sich der Umfang des Materials, das für die Bearbeitung der Aufgabe A gelesen werden muß, verringern, hinsichtlich der Aufgabe B würde es sich vergrößern. Die Bearbeitungszeit für die Aufgabe A würde in einem solchen Fall von 4 Stunden auf 3 ½ Stunden verkürzt und für die Aufgabe B von 3 ½ auf 4 Stunden verlängert werden.

European Qualifying Examination 1998

Notice from the Examination Board

The Examination Board has decided that from the 1998 European qualifying examination Papers A and B could be based on a different subject-matter.

In this case, the reading matter for Paper A would be reduced and increased for Paper B. The duration of Paper A would be reduced from 4 hours to 3 1/2 hours, and that of Paper B would be extended from 3 1/2 hours to 4 hours.

Examen européen de qualification 1998

Communiqué du jury d'examen

Le jury d'examen a décidé qu'à compter de l'examen européen de qualification 1998, les épreuves A et B pourront porter sur des sujets techniques différents.

Dans ce cas, le volume d'information contenu dans le texte de l'épreuve A se trouvera réduit et celui de l'épreuve B augmenté. La durée de l'épreuve A passera de 4 heures à 3 1/2 heures et celle de l'épreuve B de 3 1/2 heures à 4 heures.

Information regarding the epi Code of Conduct

As epi members know, the Rules of Professional Conduct are set out in the "Regulation on discipline for professional representatives", published in OJEPO 2/1978, 91. The "Regulation on the establishment of an institute of professional representatives before the European Patent Office" published in OJEPO 2/1978, 85, provides in Article 4 (c) an object of the epi shall be to promote compliance by its members with the Rules of Professional Conduct, *inter alia*

through the formulation of recommendations. The epi Code of Conduct forms these recommendations.

The Code of Conduct presently is in the form as published in OJEPO 9/1986, 331. A revised Code of Conduct has been notified to the EU Commission under Article 85 (3) of the Treaty of Rome. When the notification procedure has been completed, the epi Council will need to approve the revised Code of Conduct, whereafter the epi Board will

announce the date on which the revised Code of Conduct comes into force.

A draft of the revised Code of Conduct, as accepted by the epi Council at its meeting in May 1996, in Dublin, is available from the epi Secretariat, but the draft is currently before the EU Commission, whose reply we are awaiting, to know whether they accept this latter version.

Decision of the Disciplinary Committee of the Institute of Professional Representatives before the European Patent Office

XYZ
against
ABC
in the person of
D

Disciplinary case CD 2/96

Composition of the Chamber

Mr. G. Leherte :	Chairman
Mr. S. Larsson :	Member(Rapporteur)
Mr. N. Waddleton :	Member
Mr. F. Charpail :	Deputy Member

Language: English

Decision

The Chamber decides to issue a reprimand in the matter of the complaint CD 2/96 against D concerning excessive delays taken by the European Patent Attorney D, acting on behalf of the firm of Patent and Trade Mark Agents ABC, in paying invoices due by her firm.

Summary of facts

The patent firm XYZ, represented in this complaint by Y, had on 31 July 1995 a total amount of 29.228 DM due to them by the firm of Patent and Trade Mark Agents ABC, on behalf of whom is acting the European Patent Attorney D.

This total outstanding sum represented several debit notes, the first of which dated back to February 1993.

In reply to a written reminder from XYZ, dated September 11, 1995, D recognized the factual situation and proposed to start settlement of the debit notes of 1993. On 6 November 1995 XYZ urged to pay the total outstanding amount by November 20.

After further detaining letters from ABC, XYZ sent a warning letter dated 26 January 1996 to D stating that unless total payment were received by 12 February 1996 a complaint would be filed with the epi.

In the course of the investigation by this Chamber (in June 1996) con-

cerning the complaint as filed by XYZ on 15 May 1996, ABC organized a bank remittance dated 25 June in favour of XYZ.

Chamber considers that delays exceeding three months are to be regarded excessive, certainly in international exchanges between representatives in private practice.

Reasons for the decision

In accordance with Art. 1 (2) of the regulation on discipline "A professional representative shall conduct himself in such a manner as not to prejudice the necessary confidence in his profession"; according to the recommendations given in the "Code of Conduct" under item 1, c "good fellowship among Members is a necessity ..."

The Chamber considers that a representative who has ordered services from a colleague representative and who waits for years and multiple reminders to pay pending invoices from said colleague representative does prejudice the confidence in the profession and does not act in good fellowship towards his colleague; the Chamber considers this to be the case regardless of any actual payments, specified or unspecified, by the client of the representative who gave the orders.

In essence the Chamber considers that keeping an invoice unpaid for an unduly long period constitutes an improper behaviour.

Whether a delay is to be considered unduly long depends on local habits and circumstances but the

Decision

In view of the above facts and reasons the Chamber decides in conformity with Article 4, and 6 (2) a of the Regulation on Discipline, to issue a reprimand to D for having taken unduly long delays in paying invoices due by her firm for orders to a patent firm abroad.

Under Article 20 of the Additional Rules of Procedure of the Disciplinary Committee of the epi, the Chamber recommends to the President of the Council of the Institute to publish the Decision, in whole or in part, without revealing the identity of the professional representatives concerned and the complainant, unless they consent to be named.

Under Article 21 of the Regulation on Discipline and Article 19 (1) of the Additional Rules of Procedure, the complainant is to be informed of the result of the proceedings by being sent a copy of the decision.

date: 13 February 1997

The Chairman of the Chamber
Dr. G. Leherte

Do translation costs influence patenting?

P. Indahl (DK)

Summary

A major argument for adopting the so-called "package solution" is the assumption that costs of translations result in fewer validated patents. The present paper shows, based on figures for patents granted in 1995:

- that the lower validation rate for patents in a language requiring translation is a consequence of the patentee's choice of official language at the application stage and not of translation requirements after grant, - that the validation rates are in reality governed mainly by the gross domestic products of the contracting states, viz. states having a GDP of less than 300 mia. ECU have almost identical validation rates in relation to GDP. There is seen to be no correlation between these validation rates and the translation requirement, and
- that patentees and third parties consider it important to use their mother tongue both during examination and after grant.

Introduction

In recent years the political pressure from circles in especially the U.S.A. has gained increasingly more acceptance for an abolishment of the translation requirement when European patents are validated in countries having a national language different from the official language of the patent.

The package solution

The well-known proposal for a change of the translation requirement, the package solution, has now in its final form been passed from the advisory to the governing bodies of the European Patent Office (EPO), and important decisions with great consequences, in particular for smaller European countries, are to be made by the Administrative Council of the EPO.

In essence, the package solution proposes that only the claims of a granted European patent shall be translated into the national languages, and in return for the savings obtained by avoiding translation of the description of the patent, an enhanced abstract shall be published at the application stage.

Declining validation rate

A major argument for adopting the package solution is the so-called declining validation rate of European patents in smaller countries where the entire patent must be translated under the current provisions. The costs of these translations are said to be prohibitive to the patentee validating his European patent as national EP patents, and the consequence should be lower validation rates.

The question whether the translation requirement leads to lower validation rates in several of the smaller EPC countries is a matter to be seriously considered. It seems required to have a good understanding of the mechanisms influencing the validation rates in order to make the right decision.

To my knowledge, we have so far only been presented with information that validation rates are varying between countries, but not with any factually based analysis as to why this is so. It is simply stipulated that a major or decisive cause of different validation rates in EPC contracting states is the costs of translation.

I have made some statistical analysis of various aspects relating to the validation rates of EP patents. The picture emerging from the actual figures is clear and indicates that the validation rate is independent of translation costs and closely linked to the economical potential of the particular country.

First of all I shall comment on figures relating to EP patents issued in 1995, and then look at some key economic figures.

EP patents granted in 1995

In 1995 EPO granted 41638 patents in the three different official languages, 3749 patents issued with French, 10543 patents issued with German, and 27346 patents issued with English as official language. This amounts roughly to 9% in French, 25% in German and 66% in English. If we look in more detail on the fate of the granted patents which designate a typical EPC country of a smaller size, for example Austria (AT), it appears from well-known figures that only 62% of the patents in French and 55% of the patents in English are actually validated in AT, whereas fully 98% of the patents in German are validated. At first sight these figures give the impression that the translation requirement strongly influences the validation rate. However, to conclude this would be to jump at conclusions, and - as will be shown below - false conclusions.

The patent search tools available today allow us to perform rather complex searches. Out of the gray mass of patents underlying the above-mentioned general figure of a 55% validation rate for English language patents, we can extract the actual patents of the 45% that for one reason or another were not validated in Austria.

Austria was designated in 8754 of the patents granted in 1995 with English as official language, and 3944 of these were not validated in Austria. These particular 3944 patents designated other states than Austria. Germany was designated in 3936 of the patents and of these, 3388 were actually validated in Germany, which involved a mandatory translation into German. 2127 out of the 3944 patents were actually validated in Switzerland, but some of these can be taken to be validated in Italian or French.

The figures show that out of 3944 patents which may be said to have lapsed for Austria due to the translation requirement, at least 3388, corresponding to 86 per cent, and possibly approximately 3500 of them

were translated in full into German for validation in other contracting states.

When the decisions not to validate in Austria were taken by the patentees of English language patents granted in 1995, the question of costs arising from translation of the whole specification and claims into German can only have had possible influence on the decisions *in less than 14% of the cases not validated*. These 14% also include abandoned cases, patents granted for all but validated in less contracting states, etc.

The picture is the same for other contracting states, such as CH and BE. Based on this factual situation, a possible conclusion seems to be that the translation requirement has little or no influence on the validation rate of EP patents.

Choice of official language

Perhaps the grounds for the lower validation rate in certain languages could be a result of the choice of official language at the time of filing the application. It could be that applicants from particular countries were more likely to choose one official language rather than the other two, and were more likely to validate in certain countries.

The patents granted in 1995 were analysed to see if there existed bonds between the applicant's nationality (mother tongue) and the choice of official language. The results are presented below in Table 1.

Applicants are clearly seen to favour their mother tongue. French nationals filed in French in 91% of the patents, 96% of German nationals filed in German, and 97% of British nationals filed in English. These results show how important use of the mother tongue is considered to be during examination and after grant.

Another, and remarkable result is the choice of language when the applicant is deprived of using his mother tongue because the EPC only allows English, German or French. English is seen to be the preferred language by 90% of patentees from a contracting state having no official language as mother tongue.

The great preference for the mother tongue combined with the general use of English when the mother tongue is unavailable can explain why, at a first glance, it looks like the translation requirement has influence on the validation rate, as mentioned above in relation to Austria. Many patentees have a primary desire to protect their home market and a consequently high validation rate in their home country. This and the above documented facts that patentees nearly only choose either German or French if it is their mother tongue result in higher validation rates for patents granted in a national language of the state concerned.

The lower validation rate for patents in a language requiring translation is thus not due to the translation requirement, but is a result of the patentees having chosen their important and cherished mother tongue as official language for the patent.

Economical influences on validation rate

There are also large differences in validation rates between the individual EPC contracting states. For countries like Denmark, Sweden, The Netherlands, Spain, Portugal etc. having no official EPO language as their national language, it is less relevant to look at validation rates in dependency of the language of the patent, because all patents have to be translated for validation.

By studying the influences of various parameters on validation rates, one parameter has shown to be very important, namely the economical power of the states, expressed by their gross domestic products (GDP). Based on figures from OECD and UN, the GDP in 1994 of the contracting states were calculated in ECU, and designation and validation rates for the states were compared with the GDP. Table 2, below, presents the results.

States fall in two categories, those with more and those with less GDP than 300 mia. ECU. The really powerful European economies are primarily Germany, followed by France, Italy, England and Spain. The remain-

ing states go into the second category having a GDP of less than 300 mia. ECU.

The states in the second category are seen to have almost identical validation rates in relation to GDP, varying between 12 for Belgium, Portugal and Sweden and 9 for Austria (item 6). The validation rates presented under items 5 and 6 are based on all granted patents requiring translation. These validation rates are the ones mentioned in the final proposal for the package solution. They represent accumulated figures covering both old and new patents.

Furthermore, it may be noted that in some countries patents can also be validated without translation. In relation to Austria I demonstrated above that the validation rate was higher for patents issued in the mother tongue, German. These aspects can be taken into account by looking at the patents granted in 1995.

The actual designation and validation rates for all EP patents granted in 1995 are for some of the contracting states shown in Table 2 under items 7 and 8. These validation rates include both translated patents and patents validated without translation. The validation rates in relation to GDP are shown under item 9. The figure for Austria has now risen to 10, and the figure for the Netherlands has surprisingly risen to 12. This shows that a very high proportion of the patents are validated in the Netherlands, where translation is always required. There is seen to be no negative correlation between the relative validation rates and the translation requirement.

The only possible conclusions to be drawn from these figures can be expressed very simply, in that irrespective of translation costs, patents are taken precisely in those countries where the patentee can expect to obtain a market gain. If the market for the invention is present in a country, the patent will be validated.

It appears that a GDP of 300 mia. ECU is a lower limit for the requirement that almost all acceptable patents are validated. For countries having a substantially more vital economy the validation rate in relation to

GDP is lower, because the patent can only be validated once.

The differences in validation rates between contracting states, mentioned in the final proposal for the package solution, seem to reflect adjustments of the patent activity to the market possibilities in the respective countries. The designation rates vary quite significantly, but these variations seem to be balanced very exactly to the GDP of the countries when patents are validated.

Possible consequences of the package solution

If the package solution is accepted for at least some of the contracting states, it could be questioned whether this will result in any changes in the validation rates. The above analysis suggests that this is not the case, as the validation rate is governed by the gross domestic products of the contracting states.

However, the patent system as such may suffer detrimental effects.

The figures in Table 1 leave no doubt that the mother tongue is chosen whenever possible. In the smaller countries without an official EPO language as national language, applicants are obliged to use a foreign language during examination proceedings. This is a disadvantage in comparison with applicants in other contracting states, such as Germany and England.

With the package solution companies in countries already detrimentally affected will have to face a fur-

TABLE 1

EP patents granted in 1995.

Basic key is patentee's nationality.

The chosen official language is shown in numbers and in per cent.

Official language Numbers granted	FR	%	DE	%	EN	%	Total
Patentee's nationality		3749		10543		27346	
AT	0	0	441	97	13	3	454
BE	82	26	24	8	209	66	315
CH	199	12	1093	70	276	18	1568
DE	21	0	8613	96	353	4	8987
DK	1	0	8	4	201	96	210
ES	17	14	7	6	100	80	124
FR	3341	91	50	1	264	7	3655
GB	6	0	45	2	2030	98	2083
IE	1	2	4	9	39	89	44
IT	32	3	31	2	1212	95	1275
LU	17	39	12	27	15	34	44
NL	99	6	179	11	1286	82	1564
PT	2	100	0	0	0	0	2
SE	0	0	38	6	604	94	642
US	21	0	111	1	10279	99	10411
JP	1	0	27	0	9893	100	9921
CA	8	2	3	1	320	97	331
AU	0	0	2	1	156	99	158
KR	0	0	1	2	43	98	44
Official language <i>EPC applicants of:</i>	FR	%	DE	%	EN	%	
French tongue	3639	91	62	2	279	7	
German tongue	21	0	10147	96	366	3	
English tongue	7	0	49	2	2069	97	
other tongues	151	3	287	7	3888	90	
Foreign applicants:	30	0	144	1	20691	99	

Remarks: Countries with a very low number of patentees have been excluded. Some of the patents have multiple patentees and are counted once for each patentee. To give an example, many of the 21 patents in French language for US nationals also had a French applicant and also count in the 3341 French patents for French nationals.

ther distortion of their market position, in that in their home country competitor's patents will for a large portion be validated in a foreign language.

This could in the long term influence on the attitude from society towards the patent system. The basic contract between society and the patentee is a grant of time-limited monopoly against full disclosure of the invention. The package solution deprives society in the smaller countries of the benefits in this basic contract and could result in questions whether the contract continues to be of mutual advantage.

Finally, Annex 1 of the proposal for the package solution includes figures for the number of inspections made in 1994 of translations of granted patents. During a single year the German Patent Office delivered 5064 copies of EP patents translated into German at validation. Thus, in a single year 9.9% of **all** EP patent translations filed for Germany were consulted. The British Patent Office delivered in a single year copies of 8.6% of all EP patent translations filed for England.

One implication of these figures seems to be that translations of the patents in full are required to quite a large extent. All EP patents are

granted with claims in German and English, but nevertheless third parties in England and Germany did extensively consult translations in full of the patents into their mother tongue.

We may all agree that patenting is valuable to industry and to our common progress as civilized countries. In line with this, it is my hope that a decision on the package solution will be taken on a well-informed basis.

**TABLE 2: NATIONAL DESIGNATION AND VALIDATION RATES IN EPC
IN RELATION TO THE GROSS DOMESTIC PRODUCT**

EPC-country	AT	BE	CH	DE	DK	ES	FR	GB	GR	IE	IT	LU	NL	PT	SE
1) GDP 1994 in mia. ECU	170	196	228	1753	128	406	1143	822	77	45	862	12	287	75	180
2) Per cent of total GDP	2,7	3,1	3,6	27,5	2,0	6,4	17,9	12,9	1,2	0,7	13,5	0,2	4,5	1,2	2,8
3) Design. rate 1995 in %	40	44	45	97	33	51	91	92	26	26	73	25	55	27	45
4) Rel. design. rate 3/2	15	14	13	4	17	8	5	7	21	37	5	132	12	23	18
5) Val. rate in %	62	81	80	76	58	81	90	89	52	28	89	-	79	50	75
6) Rel. valid. (4x5)/100	9	12	10	3	10	6	5	6	11	10	5	-	10	12	12
6a) GDP 300 mia. ECU	9	12	10			10			11	10			10	12	12
6b) GDP 300 mia. ECU				3		6	5	6			5				
Patents granted in 1995															
7) Designation rate in %	37	44	46	98			91	92					55		46
8) Validation rate in %	70	72	89	96			92	96					96		63
9) Rel. valid 7x8/(2x100)	10	10	11	3			5	7					12		10

Remarks:

- re 1) GDP is based on OECD and UN, National Accounts and exchange rates in September 1996.
- re 2) The total GDP is the sum of all national GDPs. Item 2 is the national % of the total GDP.
- re 3) The designation rates in per cent for 1995 appear from the EPO annual report 1995, page 38. These designation rates are based on all EP applications filed in 1995.
- re 4), 6) and 9) Designation and validation rates divided by the national percentage of total GDP.
- re 5) The validation per cent for patents requiring translation appear in Annex 1 of CA/46/96. These validation rates are based on those EP patents requiring translation for validation.
- re 7-8) These designation and validation rates are based on the total number of patents granted in 1995 irrespective of whether translated or not.

Solution Globale ou Solution Compacte (II)

J.J. Martin (FR)

La solution dite "globale" n'a pas à ce jour, réuni une majorité de suffrages, ni parmi les Etats, ni parmi les milieux professionnels de l'Union Européenne.

Elle rencontre en effet des objections de principe très fortes, qu'il s'agisse des principes linguistiques de l'Union Européenne, des principes juridiques qui exigent qu'un brevet soit nécessairement constitué de revendications soutenues par la description, du principe d'équité qui doit faire porter l'entier coût du brevet par son bénéficiaire, et enfin du principe d'égalité de concurrence entre entreprises.

I - Le contexte économique

Mais, les promoteurs de la solution globale insistent cependant sur ses avantages d'ordre pratique et économique :

- le brevet européen reviendrait trop cher au breveté, puisque les traductions en représenteraient 30 à 40 % du coût global ;
- il serait par conséquent de l'intérêt de l'industrie européenne de réduire ce coût ;
- le caractère insupportable du coût des traductions ne pourrait qu'être bientôt aggravé du fait de l'entrée prochaine dans le système européen d'autres Etats, notamment de l'Europe de l'Est, qui augmenterait considérablement le nombre de traductions théoriquement requises pour une protection généralisée ;
- la pleine réussite du système européen impliquerait en somme la renonciation des Etats participants à leurs systèmes nationaux qui imposent une version nationale de la loi du brevet.

Ces arguments sont impressionnantes pour le profane, mais le professionnel, praticien du brevet européen, est amené à se demander s'ils sont fondés dans la réalité.

1. La première constatation qu'il doit faire est celle du grand succès rem-

porté par le brevet européen, dont la qualité technique est devenue incontestable. Le nombre de demandes européennes ne cesse de croître sans que le coût d'obtention n'apparaisse comme un frein quelconque puisqu'aujourd'hui près de 80.000 demandes de brevets sont formées chaque année.

2. Les statistiques montrent aussi que cette croissance résulte en grande partie de demandes formées de plus en plus nombreuses par des non-européens, notamment à la suite de demandes PCT en provenance du monde entier. Lorsqu'on dit qu'il est de l'intérêt de l'industrie européenne de limiter le coût, il faut entendre en réalité l'intérêt de l'ensemble des clients de l'Office Européen et non pas ceux des demandeurs européens dont le nombre de demandes est devenu ou va devenir minoritaire.

3. Dans ces conditions, on peut assurément penser que la suppression des traductions des descriptions viendrait encore favoriser la domination des demandes d'origine non-européenne. Vis à vis d'autres systèmes exigeant, comme au Japon ou aux Etats-Unis, une pleine traduction dans leur langue officielle l'Europe risquerait de devenir, par rapport au reste du monde, une zone de basse pression attirant sur elle l'ensemble des brevets en provenance du monde entier, dans une relation essentiellement déséquilibrée, puisque sans reciprocité pour la traduction des titres accordés.

4. Il conviendrait aussi d'examiner de plus près les statistiques qui font apparaître si lourd le poids des traductions.

Elles supposent en général une traduction dans un assez grand nombre de langues, en général cinq ou six.

Mais en vérité les praticiens savent bien que l'avantage essentiel du système européen tel qu'il fonctionne réside dans une stratégie de choix des pays dans lesquels une protection est

nécessaire pour contrôler le marché ("désignation shopping").

Ce contrôle peut être effectué dans bien des cas par une limitation du nombre de pays désignés. L'industrie automobile par exemple se satisfait le plus souvent d'une protection en Allemagne, en Grande-Bretagne, en France, parfois en Italie et accessoirement en Suède. Autrement dit, une protection au niveau de la fabrication suffit. Même des produits, comme les médicaments, qui appellent une protection au niveau de la distribution, s'accommodent d'un choix dans les pays de désignation.

5. Enfin, il importe de souligner que le système européen, et encore plus le système euro-PCT, ne demande de traduction que très longtemps -c'est-à-dire plusieurs années- après le dépôt. Cette caractéristique de traduction différée compense la nécessité de traductions multiples : un déposant européen n'en arrive à traduire que lorsque l'invention a été confirmée à la fois dans sa valeur juridique et dans son intérêt industriel ou commercial. Cela n'est assurément pas le cas pour les demandeurs de brevet dans le reste du monde, qui en règle générale, doivent produire précoce-ment une traduction dans la langue officielle nationale.

6. En définitive, le poids des traductions dans le système européen ne doit pas être mécaniquement globalisé, comme le fait la solution globale, mais bien ramené à de justes proportions, dans une évaluation qualité/prix. Dans une telle évaluation, il n'est pas sûr que le coût du système européen soit rédhibitoire, ce qui est parfaitement en concordance avec son succès actuel.

Il resterait aussi à examiner le coût très élevé qui provient de la nature même de la Convention de Munich, selon laquelle, dès son accord, un brevet européen se transforme en un faisceau de brevets nationaux.

7. C'est assurément la conception même "faisceau de brevets natio-

naux" qui est génératrice d'une multiplicité de taxes diverses, notamment taxes d'annuités, perçues par les différents Etats; le brevet communautaire apporterait sur ce point une réforme radicale et souhaitable.

Mais, dans le système du brevet communautaire, tel qu'il est proposé aujourd'hui, le poids des traductions deviendrait maximal, alors que le système judiciaire qu'il propose, tant pour la validité que pour la contrefaçon appelle les plus grande réserves.

C'est pourquoi, il faut envisager ou bien une refonte complète de la Convention de Munich et/ou de la Convention de Luxembourg, ou bien un aménagement du fonctionnement du système de la Convention de Munich par une série de mesures cumulatives parmi lesquelles on peut penser que la solution "compacte" trouverait sa place.

Dans cet esprit, il n'est sans doute pas inutile de revenir sur les différents aspects de la solution compacte, pour le présent et pour l'avenir.

II - La solution compacte immédiatement applicable

1. Définition:

La solution compacte réside dans la faculté offerte à un demandeur de brevet de réduire volontairement la longueur de sa description et/ou le nombre de ses revendications à l'issue de l'examen de fond.

Elle intervient par conséquent dans le cours de la procédure au stade de la notification selon la Règle 51(4), ou de préférence immédiatement auparavant (prénotification).

2. A ce stade - qui, nous l'avons vu, se situe des années après le dépôt - la situation de brevetabilité est clarifiée, en ce que le demandeur sait alors quelles sont les antériorités pertinentes par rapport auxquelles les revendications ont été accordées. Il sait de même, en général, du fait du temps écoulé depuis le début de la demande, quels sont les modes de réalisation qui sont réalisables et utilisables et quels sont les aspects purement spéculatifs qu'il peut abandonner.

3. Dans une telle situation, et pour une invention d'importance normale, la "compaction" prise essentiellement comme suppression de l'inutile et du non-pertinent, devrait permettre une réduction du texte initial. Cette réduction est difficile à chiffrer objectivement; elle dépendra bien sûr de la qualité et de la pertinence du texte initial de la demande. On peut statistiquement envisager une réduction de coût de même ordre que celle qui est fort heureusement assurée par la baisse de taxes de l'OEB intervenant au 1er juillet 1997.

4. Certains nous ont fait observer que dans certains domaines de pointe, pour des inventions de moyen nouveau, par exemple dans le domaine des biotechnologies, il n'est pas prudent de supprimer quoique ce soit, dans l'attente des procédures inévitables au cours desquelles trois mots apparemment insignifiants peuvent être déterminants en matière de brevetabilité ou de contrefaçon.

Cette observation est exacte. Mais, elle demeure sans portée générale, car, pour une forte majorité des demandes, le demandeur saura exactement ce qu'il a inventé, ce qu'il a protégé et pourquoi.

La demande de compaction du demandeur sera alors tout à fait raisonnable compte tenu des économies qu'il peut faire.

5. Sur le plan du contrôle par la division d'examen, elle n'aurait assurément rien d'inaccessible puisque:

- au stade où la compaction intervient, le déposant et l'examinateur ont l'un et l'autre le dossier présent à l'esprit;
- la difficulté intellectuelle du contrôle serait du même ordre que celle du contrôle des demandes divisionnaires.

III- La solution compacte étendue

L'application convenable de la solution compacte exige de la part de tous les intervenants (demandeurs, mandataires, examinateurs) un souci d'anticipation, et change en quelque sorte l'esprit de l'examen de brevetabilité.

1. Si l'on peut aujourd'hui évaluer à environ 20% les économies statistiquement réalisables, elles devraient augmenter au fur et à mesure que pourraient être prises les mesures suivantes:

- incitation des examinateurs et des mandataires, notamment au stade de la formation initiale des jeunes professionnels;
- incitation des demandeurs de brevets.

Il s'agirait de rédiger des demandes convenablement préparées en vue d'une future compaction (anticipation).

2. Structuration des demandes. Normes possibles.

La Règle 27 CBE prévoit déjà une structuration des demandes en diverses parties référencées a) b) c) d) e) f).

Il est sans doute possible de limiter la description compactée -et à fortiori la traduction- à l'essentiel, par exemple a1, b1, c1, d1, e1, f1, selon des normes qui seraient à fixer. La fixation de ces normes consisterait à préciser et détailler le contenu de la description énumérée à la Règle 27CBE.

Il faudrait aussi examiner la possibilité de construire la description comme un corps principal complété par des annexes, dans une présentation normalisée internationale; ces annexes ne seraient pas à traduire (exemples: logiciels, formules et exemples en chimie, en génie génétique, etc...).

IV- La solution compacte généralisée

Elle reposera sur deux normes qui seraient à établir à l'échelon international:

- une structuration de la demande de brevet du type indiqué ci-dessus.
- une norme internationale ou au moins européenne définissant la suffisance de description d'une invention, si possible en relation avec la structure ci-dessus.

De tels critères pourraient être définis dans le cadre des traités internationaux d'harmonisation en cours de discussion.

Dans un tel contexte, il serait envisageable que chaque Etat ayant une langue nationale particulière n'exige de traduction que pour certaines parties normalisées de la description, en référence à un cadre de suffisance de description accepté.

Une telle solution serait la seule équitable car elle ne pénaliserait aucun intervenant ni aucun Etat au détriment d'un autre.

Conclusion

La solution compacte immédiate présente des avantages essentiels:

- elle ne suppose aucune réforme en profondeur de la Convention de Munich;
- elle sauvegarde le principe de synergie entre revendications et description, et le rôle de la description en tant qu'enseignement reproductible.
- elle maintient le principe du multilinguisme européen et est sus-

ceptible d'une application uniforme;

- elle permet au breveté, à égalité avec ses concurrents, des économies substantielles de traduction, sans pour autant l'exonérer de la charge, qui lui incombe en tant que bénéficiaire du monopole, de faire connaître ses droits aux tiers;
- elle sauvegarde l'égalité de concurrence entre entreprises;
- *enfin et surtout, elle pourrait sans doute ouvrir empiriquement la voie au Brevet Communautaire.*

Translation of European patent specifications

A.G.A. van der Arend (NL)

In "epi journal" 1/1997, page 32, K. Büchel (LI) made a compromise proposal for preparing European patent specifications in order to reduce costs for the patent proprietor. The proposal comprises of not demanding any translation of the specification from the patent proprietor but enabling a first interested party to file a translation on his own expense at the EPO and to receive compensation for the expense from second interested parties asking for a copy of the translation ("interested party" is a definition by Mr Büchel). The translation can be filed within a term from a date of announcing such filing.

The proposal seems to contain serious gaps and drawbacks:

1. Could a person determine whether a patent is of interest to him without acquiring sufficient knowledge about and understanding of the patent specification? I would say he is just curious about whether the patent could possibly(!) be beneficial or a threat to him. Therefore, it seems to be more appropriate to call such a person a "curious party" rather than an "interested party". Yet, according to Mr Büchel's proposal, to satisfy his mere curiosity such party must take a considerable financial risk first to be able to decide upon whether he is interested or not after all. How often will first and second, possibly inter-

ested parties take such financial risk? Patent proprietors may be happy with such obstacle, in particular strong patent proprietors having technically very specialised employees and/or in house technical translators, and even more if such proprietors file their patent applications in a language which is selected as the least understood one by their competitors to heighten said obstacle.

The procedure involved will take a lot of administration, account keeping and time. As a consequence:

- a) It will be very annoying and counterproductive for a curious party.
- b) A curious party may get in serious problems if time limits (for example for opposition purposes) before any other party (such as contracting party, Patent Office, Court) must be met.
- c) A second curious party also will have to pay considerably more than presently to satisfy his curiosity.
- d) Since it is not known in advance how many second curious parties there will be, a first curious party must take into account that at the end (of what?) his financial risk appears to be all his own expense and EPO fees. Is this a kind of risk one will take easily, in particular private persons and smaller companies?
- e) The patent proprietor only will not have to deal with any of said terms and costs. *Therefore, the proposal is*

in the interest of the patent proprietor only.

3. From the proposal it is clear that said first curious party obtains a copyright for its translation. As a consequence:

- a) No one (e.g. researcher, opponent/defender (or its representative) before any Court or Patent Office) but said first party is allowed to make and/or to distribute (additional) copies of a translation without permission by and payment to the first party (through the EPO). Again, this will be very annoying and counterproductive for everyone but the patent proprietor.
- b) This situation continues until 50 years from the death of
- c) Who will watch whether the copyright is respected, *wherever on earth*, what should be the penalty for not respecting it, who will initiate and carry out court proceedings in this regard and who will pay for this?

4. According to the proposal a translation must be certified. This implies other parties, such as, but not exclusively, the patent proprietor and second curious parties, must be enabled to check the validity of the certification. This is clearly a breakdown of the present right on *anonymity*. Some parties may not be happy with this.

5. The additional burden on said first and second parties may discourage private persons and smaller companies in particular to do or to deviate research, to innovate and to invest. This is bad for the economy of their country and it will favour the patent proprietor only.

Concluding: the proposal seems to be contradictory to basic ideas about what a community (!) is about, equal opportunities for the citizens of the community and the object to encourage anyone (private persons, companies yet founded or not, and of any capacity) to innovate, the latter being beneficiary for the community (!) and therefor being the primary object what a modern patent system is all about from a standpoint of view of the community (!) in my opinion.

Why does Mr Büchel call this proposal a compromise?

Mr Büchel mentions as a fact that the requirement to file one or more translations of a European patent specification is a serious disadvantage of the European Patent system. Firstly, such disadvantage is not a fact but a private opinion, just like the present one. Secondly, a disadvantage is a measure of result of comparing two (or more) objects. In the context of the proposal the first object could be the European patent system. But what is the other object? Should said system be compared with the United States patent system mentioned further by Mr Büchel? If so, why? Why

not comparing the EPC with the patent system of, for example, Iceland or Japan? In addition, as to my knowledge, in the U.S.A only one official language is used. Therefore, as regards to patents, contrary to the situation in the EPC community, in the U.S.A. one does not have to bother about equal opportunities for its citizens. Besides, as to my knowledge also, none of the EPC states does have a commitment to the U.S.A. with regard to the use of languages. And why should there be such commitment? *It would just favour the U.S.A. or other countries outside the EPC community and EPC states having the same official language before the EPO above other EPC states.*

Besides, in spite of the fact the EPC was not agreed upon to do a favour to countries outside the EPC community, U.S.A. citizens are yet favoured above most European citizens with regard to the use of mother languages and costs for providing English translations.

It seems to be fair that any community permitting a monopoly to a citizen of itself or from abroad for exploiting an invention may do so by asking a favour in return instead of imposing extra burden on many other citizens of its own. One such favour may be that any (!) other citizen of said (!) community will be enabled to take fair notice of the granting of such right and its extent. Anyone is free to disagree with that and to refrain from a monopoly. When obtaining identical (!) rights, it seems to be

unfair to favour certain citizens (by not requiring translations from them) above other citizens of the same (EPC) community, and to require from certain citizens to favour (by providing translations) other citizens of the (EPC) community. In the context of the present subject such unbalance in rights and obligations impose unequal opportunities for citizens of different EPC states, in particular to invest for and to obtain revenues from research, industry and trade with identical financial risks. The same applies for an advantage some EPC states may have as to specifications of European patents of proprietors outside the community in their national languages. The financial advantage thus obtained gives them the opportunity to apply for a patent in more states (EPC or not) and to subsequently obtain additional revenues from that, and so increasingly strengthening themselves above citizens of other EPC states.

It is not meant offensively at all, but imagine Mr Büchel did not write his proposal in German but in a language, for example, Chinese, you are not quite familiar with. Would you have spent your spare time to read it (in detail)? Does the same apply for patent specifications? I suppose your answer to this will be your answer to said proposal too.

Maybe it is high time we learn and use an impartial language, such as Esperanto, for all European patent matters without ever requiring translations. It would be fine with me.

The EPC and its Implementing Regulations

C. Jones (GB)

I was very interested to read Mr. L.J. Steenbeek's remarks in epi Information 1/1997 at pages 35 to 39, concerning the changes in the amounts of the EPO fees and the changes in the time limits for the payment of the European designation fees.

At part 3, Mr. Steenbeek describes some difficulties that arise in connection with the prior right or prior art effect, insofar as it concerns practice under the EPC. I fear similar difficulties will arise in practice before the national patent offices of EPC

Contracting States. For example, a European patent application, published after the priority date of a UK patent application but having an earlier priority date, forms part of the state of the art for the purpose of assessing novelty of the invention claimed in that UK application, provided that the UK was designated in the European application at its date of filing (sections 2(3), 78(1) and (2) and 130(1) of the UK Patents Act 1977). Nothing is said about the payment of the designation fee for the

UK. Provisions equivalent to new rule 23a EPC can only be introduced by amendment to the Patents Act. In the absence of such an amendment, it may be impossible to interpret the UK provisions in such a way as to agree with corresponding provisions of the EPC.

I have always felt that making the designation fee part of the national fee payable on a Euro-PCT application does not fall easily into the provisions of the EPC taken in conjunction with the PCT. The comments in

§ 3.6.2 show that my misgivings are justified.

As for the statement in point 7 of the notice in the first Supplement to Official Journal 12/1997, that article 79(2) as amended is not applicable to Euro-PCT applications, this cannot be true and will surely be disputed by way of an appeal soon after the amendment comes into force.

I believe that designation fees should be determined so as to compensate the EPO for the work done in

keeping designated States informed as to progress of European patent applications. Most of the work is generated by the publication of European applications and by the grant of European patents. Therefore, a logical way to overcome some of the problems described by Mr. Steenbeek would be to provide for a modest designation fee payable on filing and to make the amount of the fee for grant dependent on the number of designations which the applicant

wishes to maintain. If the EPO wants to obtain general income in an amount dependent on the number of designations, it would be fairer to collect this by making the amount of the European renewal fee dependent on the number of designations. If it is felt that these ideas would increase administrative costs unduly, the EPO should seek to obtain its income in ways not dependent on the number of designations.

Problems with International Search Reports from the EPO

P. Thomas (GB)

Pursuant of Article 18(1) PCT and Rule 42, the International Searching Authority (ISA) must establish the search report within three months from the date of receipt of the search copy by the ISA, or nine months from the priority date, whichever period expires later (see PCT Applicant's Guide, paragraph 224).

However, in a recent case I received the search report by fax late in the afternoon on the day before expiry of the period for requesting international examination to defer national phase entry costs. The explanation offered to me when I complained was that the European Patent Office have a shortage of search examiners in the technical field (biotechnology)

to which the application relates. However, the problem appears more widespread because similar delays have been experienced on pharmaceutical and mechanical cases within our firm.

In the above instances our clients have just cause for complaint; they have paid over a thousand pounds for a search, but have insufficient time to assess the search results before they must decide whether or not to pay more than a thousand pounds in examination fees, or pay thousands of pounds to enter national phases. Unfortunately, there appears to be no means of redress when the search report is late.

Perhaps delays would be less common if the search fee was refunded automatically should the search report not be issued within a set period. In addition, or alternatively, the examination fee should be refunded automatically if the applicant chooses to abandon the application following an overdue search report.

In many instances applicants suffer financial penalties for lateness, for example, in payment of international filing fees, and the European Patent Office should be no different when it is late.

If the problem of late search reports is widespread, it seems appropriate for a formal complaint to be made on behalf of the epi.

Payment of epi subscription

U. Monti

In spite of the fact that on 18.01.1994 I issued a permanent direct debiting mandate for paying the epi subscription, each year I receive from the Treasurer a new form to issue a debiting mandate, together with the invoice for tax use. Of course both papers are to be checked for changes that might have occurred since the preceding year.

The mandate form has to be permanently returned by February 15 (or incur 50 DM surcharge), but the envelope lacks the postmark so that it is impossible to know the shipping date. I received the last form on February 12, 1997, so I assume that it was sent about February 8 ...

On the other hand, I cannot recall receiving any reminder from the epi concerning a deadline for revoking the permanent debiting mandate, just in case I had changed my mind in respect of the payment modality.

My question is therefore the following: Why all the members are troubled with a procedure that simply appears superfluous and time wasting, just to fit the needs of the epi accounting office?

Response from the Secretariat

For your information, we would like to indicate that the epi's invoice is a

standard invoice which is sent to all 6.000 epi members together with the direct debiting mandate, for use or for tax purposes, as the case may be. For practical reasons it is not possible when dispatching the invoices to sort out all 6.000 epi members from whom epi has got a direct debiting mandate and those who do not wish to use this payment modality. As long as you have not revoked your direct debiting mandate in writing, you may disregard the form attached to the invoice.

Directory of professional representatives

The directory of professional representatives is now available in electronic form on the ESPACE-LEGAL CD-ROM, which is updated twice a year, and also on the EPO's Internet home page (www.epo.co.at/epo/). On these two media, the directory can be searched using the name of the representative, the city and the country of residence or a combination of these search criteria. The information displayed is the same as the information contained in the hard-copy version of the directory

published once a year by the European Patent Office. The CD-ROM and the Internet home page will however be updated more frequently. Please note that on the Internet version, messages can be sent by the public from the Internet home page to the e-mail address of a representative, if such an address is indicated.

Should you have any questions concerning the use of the directory in electronic form or require more information, please do not hesitate to con-

tact the information desk at the European Patent Office in Vienna:

Tel.: +43 1 52126 4051

Fax: +43 1 52126 4192

If a professional representative does not want his details published in electronic form by the European Patent Office he should notify, in writing, the

European Patent Office
Directorate 5.1.1
D-80298 Munich

Spring Exhibition of epi Artists 1998

The Spring Exhibition of *epi* Artists in the EPO main building in Munich is about to become a tradition in EPO's cultural life. Held for the first time in 1991, it was followed by two further ones in 1994 and in 1996. The interesting works on display ranged from paintings to graphical and fine art works such as ceramic works, sophisticated watches and artistic textile creations. The exhibitions which were opened by the *epi* President and by the EPO President aroused great interest. We hope that the forthcoming exhibition will be just as successful. It is planned to take place from

9 to 27 March 1998

A prerequisite for having the exhibition held again this year is a large participation of artists coming from various countries. Therefore, all creative spirits among the *epi* membership - *epi* members' wives are also welcomed to participate - are invited to register. It is hard to believe that from almost 6.000 *epi* members we should not get enough interested persons. Please pass the information round!

If you are interested, please inform the *epi* Secretariat as soon as possible, no later than by the end of September.

epi Secretariat
P.O Box 260112
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Germany

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epi leaflet

An epi leaflet is now available in German, English and French. It provides all necessary basic information about

the epi and is very useful for those members who need to present our organisation on special official occasions.

The leaflet is available on demand at the Secretariat.

E mail and Internet

We are pleased to announce that we are now connected to the Internet.

Our e mail address is:
epi@iname.com

Our Internet address is:

<http://www.epo.co.at/epo/epi>

The following information is already available on our site:

epi brochure

Regulation on the establishment of an Institute of professional representatives before the European Patent Office.

Regulation on discipline for professional representatives and Additional Rules of procedure

Rules for Student membership and Enrolment form
epi Tutorials and Enrolment form
Latest issue of epi Information
Brochures : "How to become a European Patent Attorney" and "The European Qualifying Examination".

Stellengesuch · Vacancy sought · Demande d'emploi

Postgraduate engineer (Ph.D, CEIPI) in the field of chemistry and biophysics, bilingual German/French, after several year's practice in Swiss and French law firms and a background in

public R & D and Technology Transfer Organisations

seeks new opportunities

to collaborate with an intellectual property law firm.

Please write in confidence c/o epi Secretariat

**Redaktionsschluß für
epi Information
4/1997**

Redaktionsschluß für die nächste epi Information ist der **17. November 1997**. Die Dokumente, die veröffentlicht werden sollen, müssen bis zu diesem Datum im Sekretariat eingegangen sein.

Die Ausgabe 3/1997 erscheint als Sonderheft für das Symposium, das in Straßburg am 4. Oktober 1997 stattfinden wird.

**Deadline for
epi Information
4/1997**

Our deadline for the next issue of epi Information is **17 November 1997**. Documents for publication should have reached the Secretariat by this date.

The issue 3/1997 will be a spezial issue on the occasion of the Symposium held in Strasbourg on 4 October 1997.

**Date limite pour
epi Information
4/1997**

La date limite de remise des documents pour le prochain numéro de epi Information est le **17 novembre 1997**. Les textes destinés à la publication devront être reçus par le Secrétariat avant cette date.

Le numéro 3/1997 fera l'occasion d'un numéro spécial pour le Symposium qui se tiendra à Strasbourg le 4 octobre 1997.

Disziplinarrat und Ausschüsse
Disciplinary and other Committees · Commission de Discipline et autres Commissions

Disziplinarrat (epi)			Disciplinary (epi)			Discipline (epi)		
AT – W. Katschinka	ES – V. Gil Vega		IT – G. Mannucci					
AT – P. Révy von Belvard	FI – J. Salomäki		LI – P. Rosenich					
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DK – H. Lindgaard	GR – T. Kilimíris		SE – P.O. Rosenquist					
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	GB – J. U. Neukom							
Geschäftsordnung			By-Laws			Règlement Intérieur		
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DE – W.O. Fröhling	GB – J. Gowshall		NL – T. Smulders					
DE – H.-H. Wilhelm	GR – A. Patrinos-Kilimíris		PT – N. Cruz					
DK – L. Roerboel	IE – P. Hanna		SE – L. Stolt					
ES – C. Polo Flores	IT – A. Pasqualetti		SE – M. Linderöth					
Europäische Patentpraxis			European Patent Practice			Pratique du Brevet Européen		
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AT – G. Widtmann	ES – M. Curell Suñol (Subst.)		IT – E. de Carli					
BE – P. Claeys	FI – E. Grew		IT – A. Josif					
BE – E. Dufrasne	FI – A. Weckman		LI – R. Wildi					
CH – F. Fischer	FR – A. Casalonga		LU – E. T. Freylinger					
CH – P. G. Maué	FR – D. David		NL – W. Hoogstraten					
DE – H. Kutzenberger	GB – J.C. Boff		NL – L.J. Steenbeek					
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DK – P. J. Indahl	GR – D. Oekonomidis		SE – S. A. Hansson					
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DE – L.B. Magin	GB – P. Denerley	SE – M. Linderoth						
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