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SUBJECT: Amendments of the Rules relating to Fees

SUBMITTED BY: President of the European Patent Office

ADDRESSEES: 1. Budget and Finance Committee (for opinion)
2. Administrative Council (for decision)

SUMMARY

In June 2017 the Administrative Council gave its unanimous favourable opinion to freeze the inflation-based biennial fee adjustment in 2018 due to the low variation of the reference index for inflation (CA/72/17 point 64, CA/25/17). Applicants will benefit from this waiver of the fee adjustment by an amount of EUR 15m in 2018 (Annex 5).

This offers the possibility to review the EPO's fees in support of PCT applicants, to implement fee incentives to increase the attractiveness of filing in character-coded format (XML) and to achieve a better cost coverage for appeals.

The present document is divided into three parts, each describing the arguments for the proposals individually. Part I addresses the proposal for a review of the fees in support of PCT applicants, Part II deals with the implementation of fee incentives for the introduction of XML filing and Part III concerns the proposal to achieve a better cost coverage for appeals.

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I. STRATEGIC/OPERATIONAL

1. Operational.

II. RECOMMENDATION

2. The Administrative Council is requested to adopt the two draft decisions in Part IV of the document.

III. MAJORITY NEEDED

3. Three quarters.

IV. PART I – PCT RELATED FEES

A. CONTEXT

4. Since 2012, the Office has been developing a new PCT strategy aimed at strengthening the PCT system, improving the level of its services under the PCT and ensuring equal treatment among applicants irrespective of the route chosen (PCT or EP). To mention only two of the most recent initiatives, in 2015 the Office implemented the PCT Direct service, addressed to applicants selecting the EPO as International Searching Authority (ISA) whose earlier searches had already been prepared by the EPO, and in 2016 it introduced the PCT Paperless service, addressed to receiving Offices willing to stop printing and mailing paper copies to the EPO acting as ISA.
5. With respect to the level of fees, the Office has focused on freezing the international search fee that it charges as ISA (EUR 1 875 since 2012) and the international preliminary examination fee that it charges as International Preliminary Examining Authority (IPEA) (EUR 1 930 since 2014). There are two main reasons for such an approach: (1) the Office is one of the most expensive of all PCT Authorities, and (2) there is a noticeable difference in the amounts charged by the EPO for its PCT work products in comparison with EPC work products, while the scope and quality of the searches that it carries out is similar for both procedures (see CA/76/15, adjustment of fees and prices for 2016).

6. Historically, the EPO has been the main ISA in view of its universal competence, because any receiving Office may choose to have the EPO as ISA. At present, the EPO may be selected as ISA by applicants from almost all PCT Contracting States (143 out of 152), with the notable exceptions of the People's Republic of China, the Republic of Korea, Canada and Australia. The EPO continues to be used predominantly by European industry, with 69% of all international search reports established in 2016 being based on international applications filed by European applicants. The vast majority of the other users of the EPO as ISA come from the USA (27%).
7. The present document (in part a of section B) shows that more could be done to bring further cost-efficiency measures into the system with a view to making the Office more affordable for applicants. The EPO has prepared a set of three key proposals addressing this matter, as set out in part b of section B.

B. ARGUMENTS

8. The PCT fees applied by the Office have evolved considerably over time on the basis of historical, procedural, financial and strategic considerations. Today, PCT fee levels are driven by the following two principles:
 - **cost-efficiency**, both for the Office in terms of the processing of international applications in a comprehensive manner over the whole procedure (international phase up to grant) and for applicants using the EPO's services as ISA and IPEA who eventually enter the European phase, including, wherever possible, measures for simplification.
 - **consistency**, by ensuring that the level of fees, reductions and refunds fully supports the main objectives of the PCT strategy listed in point 4 above.

a) Current PCT fee system

9. The PCT-related fees are not strictly limited to the fees set by the EPO during the international phase, but also cover the fees set by the EPO during the European phase for Euro-PCT applications, irrespective of whether such applications have been searched or examined by the EPO during the international phase.

(i) Fees charged by the EPO in the international phase

10. Under the PCT, a number of fees are set by WIPO and others by the EPO. The international filing fee (CHF 1 330) and the handling fee (CHF 200) are set by WIPO. Some reductions of these fees may be granted under certain conditions. There is no discretion for International Authorities to charge any amount other than the respective equivalent amount established by WIPO. The three most important PCT fees set by the EPO are the transmittal fee (EUR 130), the international search fee (EUR 1 875) and the international preliminary examination fee (EUR 1 930). Some reductions of these fees may also be granted, namely:
- 10.1. *For "doublures"*. International applications which have already been searched by the EPO benefit from the so-called "*doublure*" system, which consists of reductions of the international search fee of up to 100% in the case of full re-use or 25% in the case of partial re-use (Decision of the President of the EPO dated 21 February 2014, OJ EPO 2014, A30). This reduction applies to all files, whether EP or PCT, and in all cases where the EPO carried out the earlier search (national, EP or PCT first filings). It serves as an incentive for applicants in general to use the services of the EPO as ISA, and it supports further integration in the patent granting process.
- 10.2. *For applicants from certain countries*. The international search and preliminary examination fees are reduced by 75% for applicants who are natural persons and nationals of, and residents in, a state classified as a low-income or lower-middle-income economy by the World Bank (see CA/D 7/08 of 21 October 2008, OJ EPO 2008, 521). An updated list is provided by the Office every year on 1 July on the EPO website.¹ The list is based on an objective methodology and evolves according to the economic development of the countries concerned. This system has allowed the EPO to remain affordable for applicants from certain developing countries. However, only physical persons can benefit from these fee reductions, and if there are several applicants, all of them have to meet the criteria. Since 2009, the number of countries that benefit from this measure has gone down from 64 to 59. In 2016, the reduction of these fees concerned 162 cases and led to a EUR 0.2m reduction in income for the EPO.

¹ <http://www.epo.org/applying/forms-fees/international-fees/changes.html>

11. In spite of the reduction schemes presented above, the level of the EPO's international search and preliminary examination fees is one of the highest of all PCT Authorities (see Annex 1). This situation is detrimental to the EPO's users.

(ii) Fees charged by the EPO in the European phase

12. The Office already provides for some incentives aimed at bringing more cost-efficiency to the system for applicants. In particular, if an applicant enters the European phase on the basis of an international application already searched by the EPO as ISA, the supplementary European search (EUR 1 300) is dispensed with (see CA/D 11/09, OJ EPO 2009, 594). Additionally, the European examination fee (EUR 1 635, or EUR 1 825 if no supplementary search report is established) is also reduced by 50% (Article 14(2) RFees) if the EPO has established an international preliminary report on patentability under Chapter II of the PCT (IPRP Ch. II, the so-called IPER). Finally, the EPO has also established two different systems of European supplementary search fee reductions applicable to files not searched by the EPO as ISA, namely:

12.1. *For European ISAs.* The supplementary European search fee is reduced by EUR 1 110 if any of the other European ISAs that form the so-called "*European partnership*" (currently seven, namely the national patent offices of Spain, Sweden, Finland, Austria and Turkey, plus the Nordic and Visegrad Patent Institutes) has performed the international search (CA/D 8/15 of 16 December 2015, OJ EPO 2016, A2, and CA/D 9/17 of 28 June 2017, OJ EPO 2017, A57). This obligation is balanced by a common schedule of international search fees whereby the international search fee is aligned with the EPO's. The aim is to avoid any competition on fees among these ISAs during the international phase. The reduction of the European supplementary search fee concerned around 2 200 cases in 2016 and led to a EUR 2.4m reduction in income for the EPO.

12.2. *For non-European ISAs.* At present, the fee for the European supplementary search is reduced by EUR 190 when the international search was performed by one of six ISAs (USPTO, Rospatent, JPO, IP Australia, SIPO, KIPO). The decision to apply a reduction of the European supplementary search fee based on PCT work products produced by other Authorities was enacted by the Administrative Council in 1979 under the principle of equal treatment among all ISAs. There has been no review of that measure since then, except for the addition of new ISAs to the list of beneficiaries and a transition from a relative value (20%) to an absolute value (EUR 190), which has remained constant since 2005 (CA/D 10/05 of 27 October 2005, OJ EPO 2005, 548). Also, none of the eight most recently appointed ISAs has been added to the list of beneficiaries. The Office has assessed the fee reduction applied by the six ISAs referred to above and has concluded that there is no reciprocity principle commonly used among them. Besides, fee reductions (where applicable) are based on different assumptions at each ISA. The reduction of this fee applied to around 41 400 cases in 2016 and led to a EUR 7.9m reduction in income for the EPO.

b) Proposals to change the EPO's fees

13. The set of three key proposals below aims at making the EPO's fees more affordable for PCT applicants in line with the PCT strategy (point 4) and the principles of cost-efficiency and consistency (point 8).

(i) Discontinuation of the fee reduction scheme for non-European ISAs

14. As indicated in point 12.2, the current EUR 190 reduction of the European supplementary search fee is not implemented in accordance with either the principle of equal treatment laid down by the Administrative Council (six ISAs out of a total of 14 non-European ISAs) or the principle of reciprocity, and these principles are not applied in a consistent manner by each ISA.

15. The Office therefore proposes that the current EUR 190 fee reduction scheme should be completely discontinued, thus ensuring equal treatment for all applicants who select non-European ISAs. The amount of the supplementary European search fee would remain at a considerably lower level (EUR 1 300) than the EPO's international search fee. The financial gains generated by this change would offset most of the expected costs of other measures proposed in this document.

16. The first draft decision in Part IV of this document abrogates decision CA/D 10/05 of 27 October 2005, which provides that the European supplementary search fee is reduced by EUR 190 when the international search was performed by one of a group of six ISAs. It proposes that the abrogation should enter into force on 1 April 2018. As a result, the discontinuation of the reduction would apply to payments of the search fee for a supplementary European search made on or after that date.
17. However, in line with EPO practice, if within six months of 1 April 2018 a fee for the supplementary European search report is paid in due time but only in the amount due before 1 April 2018 where the above reduction was still applicable, that fee would be deemed to have been validly paid if the deficit is made good within two months of an invitation to that effect from the European Patent Office.
18. As the Office expects an increase in Euro-PCT applications in the coming years, discontinuation of the EUR 190 reduction for six ISAs is expected to lead to additional fee income amounting to EUR 8.5m in 2018, which corresponds to around 45 100 cases (see Annex 2).

(ii) Reduction of the international search and preliminary examination fees

19. Currently, there is a gap of EUR 575 between the search fees charged by the EPO during the international and European phases, despite the fact that an international search generally corresponds to a Euro-direct search in terms of scope and quality. The only caveat is that, on average, one fee for additional claims is payable for each EP application. It therefore follows that the international search fee, which does not entail any claims fee, should be more expensive than the EP search fee by a difference equivalent to one claims fee (EUR 235). The international preliminary examination fee charged by the EPO is the highest compared to all other ISAs (EUR 1 930), and the difference from the European examination fee (where an ESOP is available), set at EUR 1 635, amounts to EUR 295.
20. The Office thus proposes to reduce both the international search and preliminary examination fees by EUR 100 (respectively from EUR 1 875 to EUR 1 775 and from EUR 1 930 to EUR 1 830). This represents a reduction of around 5% in the current fees. It estimates that this measure will cause a loss in fee income of EUR 7.4m for 2018 (international search fee: EUR 6.4m; international preliminary examination fee: EUR 1.0m), which should be offset by the additional fee income expected from the proposal in point 18 above (see Annex 2).

21. The second draft decision in Part IV of this document provides for an amendment to Article 2(1) RFees whereby the amounts of the international search and preliminary examination fees as presented in item 2, indents 3 and 4, and item 19 are reduced by EUR 100. The reduced fee level for an international search would apply to applications filed on or after 1 April 2018 in line with Rule 16.1(f) PCT in conjunction with Rule 15.3 PCT, and the reduced fee level for a supplementary international search and an international preliminary examination would apply to payments made on or after 1 April 2018, in line with Rule 58.1(b) PCT in conjunction with Rule 57.3(d) PCT.
22. The EPO, and the other European ISAs bound by the common schedule of fees mentioned in point 12.1 above, would become more affordable for their respective users. This measure would mostly benefit European industry, since in 2016 69% of all international applications searched by the EPO as ISA originated in Europe (see point 6 above). The reduction of the gap between the international and European search fees from EUR 575 down to EUR 475, whilst retaining a reasonable difference due to factoring in the claims fee (see point 19 above), would be an important step towards implementation of the principle of equal treatment irrespective of the route chosen that is laid down in the PCT strategy, as described in point 4.
- (iii) Increasing the reduction of the European examination fee after a PCT Chapter II examination**
23. The EPO's services as IPEA are generally appreciated by the user community, as they result in a very sound work product. In particular, around three-quarters of all files examined by the EPO under PCT Chapter II eventually enter the European phase. Of those, more than one-third (40%) result in a direct grant. This rate increases to 80% when the international preliminary examination concludes with a positive opinion.
24. In order to give more incentives to users based on cost-efficiency savings, the Office proposes to increase the reduction of the European examination fee after a Chapter II examination at the EPO. This would give more credit to the substantive examination work already done by EPO examiners in the PCT Chapter II phase before the application enters the European phase.

25. Other offices apply similar incentives by granting reductions of national examination fees based on cost-efficiency. For instance, several offices grant reductions in the examination fee due to the possibility of re-using their own results from the international phase (e.g. Australia and Japan: 40%; Russian Federation: 50%; Korea: 70%; China: 100%). The USPTO also applies a 100% reduction of the national examination fee, however, where the application was examined by the USPTO in PCT Chapter II and where a positive opinion was established.
26. The Office proposes to support users of the EPO's PCT Chapter II preliminary examination procedure by increasing the current 50% reduction to 75% where the IPER was prepared by the EPO. Applicants may select the EPO as IPEA where the EPO or any other European ISA (see point 12.1) acted as ISA. Depending on whether the EPO actually acted as ISA or not, the current fee is set at EUR 912.50 (EPO=ISA=IPEA) or EUR 817.50 (EPO=IPEA), respectively, and the proposed new fee would be set at EUR 456.25 or EUR 408.75, respectively. It estimates that this measure will cause a EUR 3.0m loss in fee income for 2018 (see Annex 2).
27. The current difference in search and examination fees (international phase + entry into the European phase) for applicants using PCT Chapter II (EPO=ISA=IPEA) in comparison with those using only Chapter I (EPO=ISA) is EUR 1 017. With the proposed changes in the amounts of the international search fee, the preliminary examination fee and the reduction of the European examination fee, the difference is reduced to EUR 461, thereby giving a financial incentive for applicants to use PCT Chapter II when it is necessary or desirable to obtain a positive IPER before entering the European phase and, where necessary, to benefit from PPH.
28. The second draft decision in Part IV of this document provides for an amendment to Article 14(2) RFees whereby the examination fee would be reduced by 75% where the international preliminary examination report was drawn up by the EPO. It proposes that the revised Article 14(2) RFees should enter into force on 1 April 2018, and the new percentage for the reduction of the European examination fee would apply to payments made on or after that date.

(iv) Impact for applicants

29. The proposals contained in this document would make the EPO more affordable as an International Authority. For applicants using the EPO as ISA, all three proposals together (international phase + entry into the European phase) would result in a fee reduction for search and examination of EUR 100 (-3%) without international preliminary examination and of EUR 656 (-14%) with international preliminary examination.

C. FINANCIAL IMPLICATIONS

30. In total, the package of three proposals (i, ii, iii) considered in the present document will result in a cumulative reduction of fee income as follows:

Proposal	Concept	Impact 2018	Impact 2019	Impact 2020	Impact 2021	Impact 2022
		In mEUR (change in Fee Income)				
(i) Reduction of EP search fee for PCT <i>bis</i> files	Discontinue the current fee reduction scheme (EUR 190) for six non-European ISAs	8.5	9.0	9.3	9.8	10.0
(ii) PCT search and examination fees	Reduce the current fee amount by EUR 100 for both fees	-7.4	-7.5	-7.6	-7.7	-7.7
(iii) Reduction of EP examination fee after Ch. II	Increase the current fee reduction 50% to 75% after PCT Chapter II	-3.0	-3.1	-3.1	-3.2	-3.3
Cumulative effect	Three proposals	-1.9	-1.6	-1.4	-1.1	-1.0

31. The financial impact assessment has been prepared without anticipating (possible) changes in applicant behaviour, e.g. regarding potential higher volumes of incoming applications.
32. Furthermore, this financial impact focuses only on changes to fee income and does not consider any other consequences for the overall financial position of the Office, such as the impact on associated costs of the patent grant process (Unit Cost perspective) or cost coverage through renewal fees.

V. PART II – FEE INCENTIVES FOR THE IMPLEMENTATION OF XML

A. CONTEXT

33. The Office aims to establish filing online in character-coded format ("XML") as the standard filing format. This is paramount to realise end-to-end processing of applications in character-coded format as a further step to a fully digital patent process. It requires that all documents which are the basis for the proceedings before the EPO be filed online in this format. To make filing in character-coded format attractive, the EPO will enable filing in DOCX. This is the character-coded format most users use in their daily work. Further, it is proposed to offer reduced fee levels as of 1 April 2018.

B. ARGUMENTS

a) Background

34. A focus area in the IT Roadmap is the re-engineering, streamlining and further automating of the patent grant process. In progressively moving towards a fully digital patent process, also known as EPO 4.0, a number of steps are taken:
35. The EPO aims to establish filing online in character-coded format as the standard filing format for filing application documents. In alignment therewith, the internal processes at the EPO are being re-engineered to realise end-to-end processing of applications in character-coded format. Thirdly, as an essential complement to foster the implementation of end-to-end processing in character-coded format, the EPO will expand the tools for electronic communication. Electronic communication is to become the standard means of notification by the Office and the standard means of communication by the users. The Office envisages enhancing and expanding electronic notification as presently provided for under the so-called "mailbox" pilot project.
36. Currently, applicants file by using a mixture of document formats: on paper, by fax and online (PDF(text), PDF(image) and XML). As a result of this diversity, the EPO's choice has been to harmonise on the lowest common denominator and to store and process all documents internally as images. Ever since, all incoming application documents and subsequently filed amendments are converted into electronic text format by means of OCR (optical character recognition). This causes high costs. In exceptional cases this may lead to problems with data integrity or a loss of quality.

37. Character-coded formats are machine-readable and thus suitable for automated processing.² Receiving application documents from users in such format provides the basis for end-to-end processing of applications and patents in that format. It eliminates the need to convert the text by means of OCR. To make filing in character-coded format the preferred filing format of the applicants, the EPO will provide an electronic tool which will, as of 01.04.2018, enable online filing of application documents and subsequently filed documents in DOCX, the character-coded format used by most users in their daily work.
38. For the sake of clarity, it is noted that it will remain possible to file applications with the EPO in paper form and in other electronic formats. Thus the filing date of a document will not be affected if application documents are validly filed but not in a character-coded format accepted by the EPO.
39. The EPO has submitted a proposal with WIPO for the amendment of the standard for the filing and processing in electronic form of international applications (Annex F of the Administrative Instructions under the PCT). This is required to enable the EPO to accept filings in DOCX in all procedures.

b) Safely filing in DOCX

40. Building on the measures already in place for online filing (e.g. encryption and digital signatures), the EPO will take measures to ensure the quality and security of document processing, as well as to safeguard the disclosure of any document being filed online in DOCX.
41. The EPO will provide a validation tool which will allow the users to verify whether a document to be filed in DOCX complies with the requirements concerning structure, style, absence of revision marks, etc.

² Character-coded formats include Office Open XML (DOCX) ISO/IEC 29500 (represented by the file extension .docx) and any other XML format compliant with Annex F of the Administrative Instructions to the PCT ("WIPO Standard for the Electronic Filing and Processing of International Applications"), e.g. ST.36 XML. Documents with the file extension .docx can be generated with Microsoft Word, Apple Pages, Google Docs, LibreOffice Writer, Softmaker Textmaker and many other word processing products.

42. Further, as a safety measure, the EPO will provide the possibility to attach a PDF file as a "backup copy". While the application will be processed in ST.36 XML, the EPO will keep the application documents filed in DOCX as part of the electronic file. The EPO is testing the electronic tools in a pilot project. The feedback received from the participants in the pilot project will allow further improvements.

c) Proposed fee incentives

43. As a further incentive for applicants to prefer filing online in DOCX (or another character-coded format accepted by the EPO), it is proposed to offer reduced fee levels.

44. As regards the European procedure, incentives are proposed in respect of the filing fee and the fee for grant (Article 2(1) items 1 and 7, (2) item 7 RFees). The additional fee which is a part of the filing fee will remain unaffected by these changes (Article 2(1) item 1a RFees, Rule 38(2) EPC).

45. Regarding international applications where the EPO acts as the receiving Office, it is proposed to offer a reduced fee level of the transmittal fee (Article 2(1) item 18 RFees, Rule 14 PCT).

46. For the reduced fee levels to apply, the required documents must be filed directly online in character-coded format using the existing electronic filing tools. Once a document is scanned upon filing in another format, a reduction in the applicable fee cannot be justified. Thus, subsequently refile documents online in character-coded format will not qualify for the reduced fee level. Exceptions are explained in points 47 and 64.

(i) Filing fee

47. A direct European patent application contains a request for grant, a description, claims, abstract and drawings (Article 78(1) EPC). The reduced level of the filing fee applies if the applicant files the description, claims, drawings and abstract online in character-coded format.

48. If a direct European patent application is filed in one of the official languages of the EPO, that language is the language of the proceedings. If a European patent application is filed in a language other than an official language of the EPO, a translation in one of the official languages must be filed within two months of filing. Therefore, for the reduced filing fee level to apply in such case the translation of the application documents needs to be filed online in character-coded format.
49. If a Euro-PCT application was published by the International Bureau (IB) in an official language of the EPO, the reduced filing fee will apply if the description, claims, drawings and abstract of the international application (as published by the International Bureau) and any amendments for the European phase processing (Rule 159(1)(b) EPC) are filed online in character-coded format within the 31-month period under Rule 159(1) EPC.
50. If a Euro-PCT application was not published by the IB in an official language of the EPO, its translation (Rule 159(1)(a) EPC) must be filed within the 31-month period online in character-coded format to qualify for the reduced fee level.
51. Euro-PCT applicants will be allowed to submit the application documents in character-coded format upon entry into the European phase so as to be eligible for the reduced filing fee. This is because the application documents communicated by the IB to the EPO as a designated or elected Office are transmitted as image, irrespective of the original filing format.
52. The draft decision in Part IV of this document foresees three filing fee levels. A reduced fee level for online filings in character-coded format (proposed Article 2(1) **item 1(i)** RFees), a fee level stagnation for online filings in any other format (proposed Article 2(1) **item 1(ii)** RFees), and an increased fee level for all other cases (proposed Article 2(1) **item 1(iii)** RFees).
53. The proposed fee levels are foreseen to apply to European patent applications filed on or after 01.04.2018, and to international applications for which the processing in the European phase starts on or after that date. For divisional applications and new European patent applications under Article 61(1)(b) EPC, the relevant date is that of receipt at the EPO rather than the filing date of the earlier application.

54. As regards sequence listings, as long as ST.26 (XML)³ is not in force, any sequence listing in ST.25 (TXT) which is part of the description is not taken into account for determining eligibility for the reduced filing fee.

³ At present, both under the PCT and the EPC a sequence listing has to be filed in accordance with the so-called "ST.25 for the Presentation of Nucleotide and Amino Acid Sequence Listings in Patent Applications". ST.25 is not XML based. In March 2016 the Committee on WIPO Standards (CWS) adopted a new, XML-based WIPO Standard ST.26, which is not yet in force. Thus, ST.25 continues to apply.

Present wording
Article 2(1), item 1, RFees

1. Filing fee (Article 78,
paragraph 2) where

– the European patent
application or, in the case of an
international application, the form
for entry into the European phase
(EPO Form 1200) is filed online

120

– the European patent
application or, in the case of an
international application, the form
for entry into the European phase
(EPO Form 1200) is not filed
online

210

Proposed wording
Article 2(1), item 1, RFees

1. Filing fee (Article 78,
paragraph 2) [...]

**(i) where the European patent
application or, if required, its
translation (Article 14,
paragraph 2) is filed online in
character-coded format, or,**

**in the case of an international
application, if within the
31-month period (Rule 159,
paragraph 1) the form for entry
into the European phase (EPO
Form 1200) and the
international application or, if
required, its translation
(Rule 159, paragraph 1(a)), and
any amendments for
processing in the European
phase (Rule 159,
paragraph 1(b)), are all filed
online in character-coded
format**

90

**(ii) where all documents
referred to in item 1(i) are filed
online, but any one of them is
filed in a format other than
character-coded format,**

120

(iii) in all other cases

250

(ii) Fee for grant

55. In order to provide an incentive to file online in character-coded format throughout the grant procedure, the draft decision in Part IV of this document foresees a reduced level of the fee for grant. The aim of this measure is to encourage users not only to file applications, but also subsequent documents in character-coded format.
56. The proposed reduced level of this fee would apply on condition that all amendments and corrections of the description, claims, drawings or abstract, if any, and the translation of the claims under Rule 71(3) EPC are filed in such format (proposed Article 2(1) **item 7(i)** RFees). In the case a patent is granted directly (without any amendments and/or corrections), the reduced fee for grant applies on condition that the translation of the claims is filed online in character-coded format. In all other cases the higher fee for grant applies (proposed Article 2(1) **item 7(ii)** RFees).
57. The proposed reduced fee level of the fee for grant applies to payments made on or after 01.04.2018 on condition that all amendments and corrections, if any, and the translation of the claims, filed on or after 01.04.2018 are filed online in character-coded format. In case all these documents have been filed before 01.04.2018, but not online in character-coded format, and payment is made on or after 01.04.2018, the fee for grant under amended Article 2(1) item 7(ii) RFees applies. This means that the non-acceptance by the EPO of filings in DOCX before 01.04.2018 will have no negative (financial) consequences for applicants that filed e.g. non-voluntarily amendments (in case of a "negative ISR") not in character-coded format before 01.04.2018.
58. It is proposed that during a transitional period of one year (i.e. until 31.03.2019), the fee for grant under Article 2(1) item 7(ii) RFees remains at the same level as the present fee for grant (925 EUR). As of 01.04.2019 (only) an applicant filing any relevant document other than online in character-coded format after 01.04.2019, will have to pay an increased fee under amended Article 2(1) item 7(ii) RFees.

Present wording
Article 2(1), item 7, RFees

7. Fee for grant including fee for publication of the European patent specification (Rule 71, paragraph 3), in respect of an application filed on or after 1 April 2009

925

Proposed wording
Article 2(1), item 7, RFees

7. Fee for grant including fee for publication of the European patent specification (Rule 71, paragraph 3), in respect of an application filed on or after 1 April 2009

(i) where on or after 1 April 2018 all amendments and corrections of the application, if any, and the translation of the claims are filed online in character-coded format

825

(ii) in all other cases

– where the fee for grant is paid between 1 April 2018 and 31 March 2019

925

– where the fee for grant is paid on or after 1 April 2019

1025

59. For European patent applications filed before 01.04.2009 and international applications which entered the regional phase before that date, it is proposed to amend Article 2(2), item 7, RFees accordingly.

Present wording
Article 2(2), item 7, RFees

Proposed wording
Article 2(2), item 7, RFees

7. Fee for grant including fee for printing the European patent specification (Rule 71, paragraph 3), where the application documents to be printed comprise:

7. Fee for grant including fee for printing the European patent specification (Rule 71, paragraph 3), where the application documents to be printed comprise

7.1 not more than 35 pages

925

7.1 not more than 35 pages
and

7.2 more than 35 pages

925 plus
EUR 15 for
the 36th and
each
subsequent
page

**(i) on or after 1 April 2018
all amendments and
corrections of the
application, if any, and the
translation of the claims
are filed online in
character-coded format**

825

(ii) in all other cases

**– where the fee for grant is
paid between 1 April 2018
and 31 March 2019**

925

**– where the fee for grant is
paid on or after 1 April 2019**

1025

7.2 more than 35 pages

The relevant amount of item 7.1
plus EUR 15
for the 36th and each subsequent page

(iii) Transmittal fee (international phase)

60. Users will be able to submit their international applications and any subsequent documents (including corrections, rectifications and amendments) online in character-coded format with the EPO as receiving Office, International Searching Authority and International Preliminary Examination Authority.
61. Already now, the international filing fee, which is set by WIPO, is reduced by CHF 300 if the request, description, claims and abstract are filed in XML as defined in Annex F of the Administrative Instructions to the PCT.
62. As a further incentive, it is proposed to reduce the amount of the transmittal fee, which is set by the EPO if it acts as receiving Office (Rule 14.1(b) PCT). The reduced amount of zero applies on condition that the international application is filed online in character-coded format. Such a reduced fee level is in line with the PCT strategy of the EPO. Further, filing in character-coded format eliminates the need for the users to refile the application upon entry into the European phase (see point 51).
63. The proposed levels of the transmittal fee are foreseen to apply to international applications filed on or after 01.04.2018.

Present wording		Proposed wording	
Article 2(1), item 18, RFees		Article 2(1), item 18, RFees	
18. Transmittal fee for an international application (Rule 157, paragraph 4)	130	18. Transmittal fee for an international application (Rule 157, paragraph 4)	
		– where the PCT request (PCT/RO/101) and the international application are filed with the Office as receiving Office online in character-coded format	0
		– in all other cases	130

(iv) Enabling provision

64. The draft decision in Part IV of this document foresees an enabling provision in a proposed new Article 2(3) RFees. It addresses two issues.
65. First, it enables the President of the EPO to determine the acceptable character-coded formats referred to in proposed Article 2(1) and (2) RFees.
66. Second, it enables the President of the EPO to determine the conditions under which a document shall be deemed to have been filed online in character-coded format for the purpose of fee calculation. This allows exempting international applications filed online in character-coded format with the EPO acting as receiving Office from having to be refiled upon entry into the European phase in order to qualify for the reduced filing fee. In that case only Form 1200 and any amendments for the European phase processing need to be submitted online in character-coded format. At a later stage, when the IB is able to provide international applications in character-coded format to the EPO for European phase processing, this may be extended to international applications filed in character-coded format with other receiving Offices. It will also allow addressing a limited number of specific situations where the reduced fee levels should apply irrespective of the format used, for instance the filing of Forms 1001 and 1200 as a pdf-file when using the EPO web-form filing service (WFF), the filing of amendments during oral proceedings or the filing of sequence listings in accordance with ST.25 (see point 54).

**Proposed new
Article 2(3) RFees**

The President of the Office shall determine the formats referred to in Article 2, paragraphs 1 and 2, and may specify the conditions under which a document referred to in Article 2, paragraphs 1 and 2, is deemed to have been filed online in character-coded format.

C. FINANCIAL IMPLICATIONS

67. Future costs and benefits expected are dependent on the take-up rate of the users for filing and interacting with the EPO in the required electronic format. The net loss in fee income from the accompanying fee incentives and fee increases is estimated to some EUR 6m in 2018, EUR 21m in 2022 and EUR 24m p.a. in steady-state (see Annex 3).
68. The one-off IT implementation costs for DOCX filing are estimated in total to be some EUR 6.6m (EUR 3m for a validator/converter and EUR 3.6m for the processing of the pending, not character-coded files).
69. In a steady state, the annual benefits from reduced electronic processing costs (OCR) are estimated at ca. EUR 3m.

VI. PART III – COST COVERAGE OF APPEALS

A. CONTEXT

70. In June 2016 the Administrative Council approved a comprehensive reform proposal of the Office to strengthen the perception of the Boards of Appeal's (BoA) independence and to improve their efficiency in order to secure trust and confidence in the EPO's appeal system and maintain its long-term sustainability.
71. As one element of the reform of the EPO's appeal system it was agreed to improve its cost coverage, in order to limit potential influence through external funding and to foster the most efficient management of a public institution whose budget is basically financed by the fees paid by all the applicants.
72. In 2016 the total income of the Boards of Appeal Unit, based on IFRS calculations, amounted to EUR 2 673 718. The total cost of the Boards of Appeal Unit amounted to EUR 63 432 278, which leads to a cost coverage of 4.2%. In the same year the non-inflation adjusted unit cost of an appeal amounted to EUR 27 700. With an appeal fee of EUR 1 880 the cost coverage for an appeal in 2016 was 6.8%. This means that 93.2% of the unit costs were financed by other activities of the Office.
73. The aim defined in the framework of the reform was to increase the cost coverage of the BoA within the next five years to 20-25%. The two means envisaged to reach this objective are firstly to increase the efficiency of the BoA in order to reduce the unit costs and secondly to gradually increase the fee for appeal starting in 2018 (CA/43/16 Rev. 1, marginal numbers 53-62).

74. Since the reformed structure of the BoA became operational with the appointment of the new President of the BoA in March 2017, a number of measures have been initiated to enhance the efficiency of the BoA. These measures benefit any users who might need access to efficient judicial review and will therefore be of value to the entire European patent system. They will contribute to improved cost coverage of the BoA.
75. As a further measure for a better cost coverage policy for appeals an increase of the appeal fee is proposed hereunder. The Boards of Appeal Committee (BOAC) has been consulted on the proposal. In the context of the revision of the Rules of Procedure of the BoA foreseen for 2018, it is intended to submit further proposals related to the appeal fee and in particular possibilities for reimbursement of parts of it with the aim of creating further financial incentives to support efficiency in the appeal procedure.

B. ARGUMENTS

76. Although proceedings are not fully equivalent and comparable, the EPO appeal fee of currently EUR 1 880 compares as follows to procedural fees before the Unified Patent Court and the USPTO:
- The proposed fee at the Unified Patent Court for a revocation action against a patent granted by the EPO is EUR 20 000.
 - The fee for *inter partes* review proceedings at the USPTO amounts to USD 9 000 (request fee, plus USD 200 for each claim in excess of 20) and USD 14 000 (post-institution fee, plus USD 400 for each claim in excess of 15).
77. The level of the appeal fee also needs to be seen in relation to refund possibilities. In addition to the full refund possibility if the appeal is withdrawn before the (period for) filing of the statement of grounds of appeal (Rule 103(1)(b) EPC), a 50% reimbursement of the appeal fee was already introduced in 2014 in case of withdrawal at least four weeks before scheduled oral proceedings or before expiry of a period set by the Board in a communication or before the decision is issued (Rule 103(2) EPC). The number of early withdrawals of appeals and thus of appeal fee refunds has increased in recent years.

78. Against this background it is proposed to increase the fee for appeal as from 1 April 2018 by EUR 375 to EUR 2 255 which constitutes an increase of 20%. This fee level appears reasonable for procedures whose effects apply to a very large territory and market in Europe. The fee amount still compares very favourably to the above-mentioned fees before the future UPC or the USPTO. Additionally, measures aimed at reducing the unit costs will remain the main driver for improving the cost coverage of the appeal system.
79. In the framework of the reform of the structure of the BoA a fee reduction for SMEs, universities and individual inventors was considered (CA/43/16 Rev. 1, marginal number 60.). At the USPTO a small entity reduction of 50% applies to *ex parte* re-examination and appeal fees but not to fees for *inter partes* review proceedings. The Rules of Procedure of the future Unitary Patent Court foresee that small enterprises and micro-enterprises are required to pay only 60% of the procedural fees provided the applicable conditions are fulfilled.⁴ In line with these considerations the appeal fee will remain at EUR 1 880 for appeals filed by entities and persons mentioned in Rule 6(4) and (5) EPC⁵. Taking into account the EPO's Early Certainty initiative, this would make a number of appeals filed by these entities in relation to currently pending proceedings still fall under the current appeal fee.
80. In the framework of the inflation-based biennial fee adjustment due in 2020 the matter should be reviewed based on detailed analysis and information concerning in particular the use of the EPO's appeal system by SMEs, universities and individuals. On the basis of the currently available information, ca. 5% of the appellants would be entitled to the reduced fee.

⁴ Rule 370.8 of the Rules of Procedure of the UPC.

⁵ Small and medium-sized enterprises (as defined in Commission recommendation 2003/361/EC of 6 May 2003), natural persons as well as non-profit organisations, universities and public research organisations.

ANNEX 1 PCT FEES FIXED BY ISA/IPEA

(Fee amounts as of 1 September 2017)

International Phase RO=ISA=IPEA					
	transmittal fee	Int search fee*	Int exam fee	Total	
EPO	130 EUR	1875 EUR	1930 EUR	3935 EUR	
list of ISAs for which the EPO grants a reduction (alphabetic order)					
1	Australia	133 EUR	1465 EUR	393 EUR	1991 EUR
2	China	64 EUR	269 EUR	192 EUR	524 EUR
3	Japan	76 EUR	1188 EUR	442 EUR	1706 EUR
4	Korea	34 EUR	974 EUR	337 EUR	1344 EUR
5	Russian Fed	12 EUR	407 EUR	153 EUR	572 EUR
6	USA	201 EUR	1745 EUR	503 EUR	2450 EUR
list of ISAs for which the EPO does not grant a reduction (alphabetic order)					
7	Brasil	69 EUR	675 EUR	253 EUR	997 EUR
8	Canada	202 EUR	1079 EUR	539 EUR	1821 EUR
9	Chile	109 EUR	1678 EUR	1258 EUR	3045 EUR
10	Egypt	119 EUR	191 EUR	143 EUR	453 EUR
11	Israel	129 EUR	826 EUR	354 EUR	1309 EUR
12	India	231 EUR	131 EUR	157 EUR	519 EUR
13	Singapore	93 EUR	1387 EUR	514 EUR	1994 EUR
14	Ukraine	42 EUR	300 EUR	160 EUR	502 EUR

* application in English (no claims fees)

(currency rate 01.09.2017)

ANNEX 2 FINANCIAL IMPACT OF THE PROPOSAL UNDER PART I

Proposal (i) Change of reduction EP search fee for EURO-PCT applications

	2018			2019			2020			2021			2022		
	nb cases	m€	Diff Baseline m€	nb cases	m€	Diff Baseline m€	nb cases	m€	Diff Baseline m€	nb cases	m€	Diff Baseline m€	nb cases	m€	Diff Baseline m€
Baseline 190 EUR reduction for 6 ISAs	45.100	-8,6	0,0	47.100	-8,9	0,0	49.300	-9,4	0,0	51.300	-9,7	0,0	52.700	-10,0	0,0
Proposal termination reduction for 6 ISA (190 EUR)	45.100	0,0	8,6	47.100	0,0	8,9	49.300	0,0	9,4	51.300	0,0	9,7	52.700	0,0	10,0

Proposal (ii) Reduction PCT Search fee and PCT Examination Fee

	2018			2019			2020			2021			2022		
	nb cases	m€	Diff Baseline m€	nb cases	m€	Diff Baseline m€	nb cases	m€	Diff Baseline m€	nb cases	m€	Diff Baseline m€	nb cases	m€	Diff Baseline m€
Baseline = PCT Search Fee 1875 EUR	64.300	125,7	0,0	65.300	127,6	0,0	65.900	128,8	0,0	67.000	130,8	0,0	67.300	131,2	0,0
Proposal 1775 EUR (reduction -100 EUR)	64.300	119,3	-6,4	65.300	121,1	-6,5	65.900	122,2	-6,6	67.000	124,1	-6,7	67.300	124,5	-6,7
Baseline = PCT Examination Fee (Ch. II) 1930 EUR	9.500	18,2	0,0	9.700	18,6	0,0	9.800	18,8	0,0	9.800	18,8	0,0	9.900	19,0	0,0
Proposal 1830 EUR (reduction -100 EUR)	9.500	17,3	-1,0	9.700	17,7	-1,0	9.800	17,8	-1,0	9.800	17,8	-1,0	9.900	18,0	-1,0

Proposal (iii) Reduction EP Exam fee after Chap II PCT exam

	2018			2019			2020			2021			2022		
	nb cases	m€	Diff Baseline m€	nb cases	m€	Diff Baseline m€	nb cases	m€	Diff Baseline m€	nb cases	m€	Diff Baseline m€	nb cases	m€	Diff Baseline m€
Baseline 50% of 1825 EUR (reduction -912,50 EUR) = old fee 912,50 EUR	6.650	-6,1	0,0	6.750	-6,2	0,0	6.900	-6,3	0,0	7.050	-6,4	0,0	7.250	-6,6	0,0
Proposal 75% of 1825 EUR (reduction -1368,75 EUR) = new fee 456,25 EUR	6.650	-9,1	-3,0	6.750	-9,2	-3,1	6.900	-9,4	-3,1	7.050	-9,6	-3,2	7.250	-9,9	-3,3

TOTAL (Proposals i, ii, iii)

	2018		2019		2020		2021		2022	
	nb cases	Diff Baseline m€								
i : Euro-PCT Search: Discontinuation Reduction 190 EUR	45.100	8,6	47.100	8,9	49.300	9,4	51.300	9,7	52.700	10,0
ii: PCT Search: Reduction 100 EUR	64.300	-6,4	65.300	-6,5	65.900	-6,6	67.000	-6,7	67.300	-6,7
ii: PCT Examination: Reduction 100 EUR	9.500	-1,0	9.700	-1,0	9.800	-1,0	9.800	-1,0	9.900	-1,0
iii: EP Exam Chapter II: Reduction 75% instead of 50%	6.650	-3,0	6.750	-3,1	6.900	-3,1	7.050	-3,2	7.250	-3,3
Total	N/A	-1,9	N/A	-1,6	N/A	-1,4	N/A	-1,1	N/A	-1,0

ANNEX 3 FINANCIAL IMPACT OF THE PROPOSAL UNDER PART II

Proposal		Impact 2018	Impact 2019	Impact 2020	Impact 2021	Impact 2022
		In mEUR (change in fee income)				
(i) Filing fee: - DOCX: reduction from EUR 120 to EUR 90 - online, non-DOCX: unchanged (EUR 120) - non-online: increase from EUR 210 to EUR 250	Filing fee EP Direct	-0.5	-1.2	-1.7	-1.8	-1.9
	Filing fee entry Regional Phase	-1.0	-2.1	-2.7	-2.9	-3.1
(ii) Transmittal fee: - DOCX: reduction from EUR 130 to EUR 0 - others: unchanged (EUR 130)		-0.5	-2.1	-4.0	-5.4	-5.7
(iii) Fee for grant and printing and fee for grant including fee for publication: - DOCX: reduction from EUR 925 to EUR 825 - others: transitional phase April 1, 2018 until March 31, 2019: unchanged (EUR 925), as of April 1, 2019: increase from EUR 925 to EUR 1 025		-4.2	-6.9	-8.2	-10.7	-10.7
Annual fee impact DOCX filing		-6.2	-12.3	-16.5	-20.8	-21.3

ANNEX 4 FINANCIAL IMPACT OF THE PROPOSAL UNDER PART III

Proposal	Impact 2018	Impact 2019	Impact 2020	Impact 2021	Impact 2022
	In mEUR (change in fee income)				
Strategic fee policy for appeals (increase financial autonomy and improve efficiency/cost coverage)	+0.8	+1.4	+1.4	+14	+1.4

ANNEX 5

FINANCIAL IMPACT OF THE FREEZE OF THE BIENNIAL INFLATION BASED FEE ADJUSTMENT 2018

Proposal	Impact 2018	Impact 2019	Impact 2020	Impact 2021	Impact 2022
	In mEUR (change in fee income)				
Suspension of biennial inflation-based fee adjustment in 2018	-15.0	-19.5			

X. PART IV – DRAFT DECISIONS

Draft decision 1

DECISION OF THE ADMINISTRATIVE COUNCIL
of [date of decision]
abrogating its decision CA/D 10/05 concerning
cases where the search fee for the supplementary
European search is to be reduced

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,
Having regard to the European Patent Convention and in particular Article 153(7) thereof,
On a proposal from the President of the European Patent Office,
Having regard to the opinion of the Budget and Finance Committee,
HAS DECIDED AS FOLLOWS:

Article 1

Administrative Council decision CA/D 10/05 of 27 October 2005 reducing the search fee for the supplementary European search where the international search report was drawn up by the United States Patent and Trademark Office, the Japanese Patent Office, the Korean Intellectual Property Office, the Chinese Intellectual Property Office, the Federal Service for Intellectual Property (Russian Federation) or the Australian Patent Office is hereby abrogated.

Article 2

(1) This decision shall enter into force on 1 April 2018.

(2) If within six months of 1 April 2018 a fee for the supplementary European search report is paid in due time but only in the amount due before 1 April 2018 where the reduction under CA/D 10/05 was applicable, that fee shall be deemed to have been validly paid if the deficit is made good within two months of an invitation to that effect from the European Patent Office.

Done at Munich, [date of decision]

For the Administrative Council
The Chairman

Christoph ERNST

Draft decision 2

DECISION OF THE ADMINISTRATIVE COUNCIL
of [date of decision]
amending Articles 2 and 14 of the Rules relating to
Fees

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,
Having regard to the European Patent Convention and in particular Article 33(2)(d) thereof,
On a proposal from the President of the European Patent Office,
Having regard to the opinion of the Budget and Finance Committee,
HAS DECIDED AS FOLLOWS:

Article 1

(1) Article 2, paragraph 1, item 1, of the Rules relating to Fees shall read as follows:

EUR

"1. Filing fee (Article 78, paragraph 2)

(i) where the European patent application or, if required, its translation
(Article 14, paragraph 2) is filed online in character-coded format, or,

in the case of an international application, if within the 31-month period
(Rule 159, paragraph 1) the form for entry into the European phase
(EPO Form 1200) and the international application or, if required, its
translation (Rule 159, paragraph 1(a)), and any amendments for
processing in the European phase (Rule 159, paragraph 1(b)), are all filed
online in character-coded format

90

- | | |
|---|-------------|
| (ii) where all documents referred to in item 1(i) are filed online, but any one of them is filed in a format other than character-coded format, | 120 |
| (iii) in all other cases | 250" |

(2) Article 2, paragraph 1, item 2, indents 3 and 4, of the Rules relating to Fees shall read as follows:

EUR

- | | |
|---|---------------|
| "- an international search (Rule 16.1 PCT and Rule 158, paragraph 1) | 1 775 |
| - a supplementary international search (Rule 45 <i>bis</i> .3(a) PCT) | 1 775" |

(3) Article 2, paragraph 1, item 7, of the Rules relating to Fees shall read as follows:

EUR

"7. Fee for grant including fee for publication of the European patent specification (Rule 71, paragraph 3), in respect of an application filed on or after 1 April 2009

- | | |
|--|---------------|
| (i) where on or after 1 April 2018 all amendments and corrections of the application, if any, and the translation of the claims are filed online in character-coded format | 825 |
| (ii) in all other cases | |
| - where the fee for grant is paid between 1 April 2018 and 31 March 2019 | 925 |
| - where the fee for grant is paid on or after 1 April 2019 | 1 025" |

(4) Article 2, paragraph 1, item 11, of the Rules relating to Fees shall read as follows:

EUR

"11. Fee for appeal (Article 108) for an appeal filed

- by a natural person or an entity referred to in Rule 6, paragraphs 4 and 5 **1 880**
- by any other entity **2 255"**

(5) Article 2, paragraph 1, item 18, of the Rules relating to Fees shall read as follows:

EUR

"18. Transmittal fee for an international application (Rule 157, paragraph 4)

- where the PCT request (PCT/RO/101) and the international application are filed with the Office as receiving Office online in character-coded format **0**
- in all other cases **130"**

(6) Article 2, paragraph 1, item 19, of the Rules relating to Fees shall read as follows:

EUR

"19. Fee for the preliminary examination of an international application (Rule 58 PCT and Rule 158, paragraph 2)

1 830"

(7) Article 2, paragraph 2, item 7, of the Rules relating to Fees shall read as follows:

EUR

"7. Fee for grant including fee for printing the European patent specification (Rule 71, paragraph 3), where the application documents to be printed comprise

7.1 not more than 35 pages and

(i) on or after 1 April 2018 all amendments and corrections of the application, if any, and the translation of the claims are filed online in character-coded format

825

(ii) in all other cases

- where the fee for grant is paid between 1 April 2018 and 31 March 2019

925

- where the fee for grant is paid on or after 1 April 2019

1 025

7.2 more than 35 pages

The relevant amount of item 7.1
plus **EUR 15**
for the 36th and each subsequent page"

(8) The following new paragraph 3 shall be inserted into Article 2 of the Rules relating to Fees:

"(3) The President of the Office shall determine the formats referred to in Article 2, paragraphs 1 and 2, and may specify the conditions under which a document referred to in Article 2, paragraphs 1 and 2, is deemed to have been filed online in character-coded format."

(9) Article 14, paragraph 2, of the Rules relating to Fees shall read as follows

"(2) Where the European Patent Office has drawn up an international preliminary examination report, the examination fee shall be reduced by 75%. If the report was established on certain parts of the international application in accordance with Article 34, paragraph 3(c), PCT, the fee shall not be reduced if subject-matter not covered by the report is to be examined."

Article 2

This decision shall enter into force on 1 April 2018.

Article 3

(1) Article 2, paragraph 1, item 1, of the Rules relating to Fees as amended by this decision shall apply to European patent applications filed on or after 1 April 2018 and to international applications which enter the European phase on or after that date.

(2) Article 2, paragraph 1, item 2, indent 3, and item 18, of the Rules relating to Fees as amended by this decision shall apply to international applications filed on or after 1 April 2018.

(3) Article 2, paragraph 1, item 2, indent 4, and items 7 and 19, and paragraph 2, item 7, and Article 14, paragraph 2, of the Rules relating to Fees as amended by this decision shall apply to payments made on or after 1 April 2018.

(4) Article 2, paragraph 1, item 11, of the Rules relating to Fees as amended by this decision shall apply to appeals filed on or after 1 April 2018.

(5) If within six months of 1 April 2018 a fee is paid in due time but only in the amount due before 1 April 2018, that fee shall be deemed to have been validly paid if the deficit is made good within two months of an invitation to that effect from the European Patent Office.

(6) If within six months of 1 April 2019 a fee for grant under Article 2, paragraph 1, item 7, or paragraph 2, item 7, of the Rules relating to Fees is paid in due time but only in the amount due before 1 April 2019, that fee shall be deemed to have been validly paid if the deficit is made good within two months of an invitation to that effect from the European Patent Office.

Done at Munich, [date of decision]

For the Administrative Council
The Chairman

Christoph ERNST