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II. Entry into Force of the Complementary Act of Stockholm

In accordance with the provisions of the Complementary Act of Stockholm of July 14, 1967, to the Hague Agreement Concerning the International Deposit of Industrial Designs of November 6, 1925, and pursuant to Article 9(1), the said Complementary Act will enter into force on September 27, 1975.

In this connection, it is recalled that instruments of ratification relating to the said Complementary Act were deposited

- on January 26, 1970, by the Swiss Confederation
- on June 19, 1970, by the Federal Republic of Germany
- on February 21, 1972, by the Principality of Liechtenstein
- on May 2, 1975, by the French Republic
- on June 27, 1975, by the Principality of Monaco (see above).

Consequently, the Complementary Act of Stockholm to the Hague Agreement will enter into force with respect to the five States referred to above on September 27, 1975.

The Hague Notification No. 7, of July 4, 1975.

Nice Agreement

Ratification of the Stockholm Act

MONACO

The Government of Monaco deposited on June 27, 1975, its instrument of ratification of the Stockholm Act of July 14,

1967, of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of June 15, 1957.

Pursuant to the provisions of Article 9(4)(b), the Stockholm Act of the Nice Agreement will enter into force with respect to Monaco on October 4, 1975.

Nice Notification No. 32, of July 4, 1975.

Strasbourg Agreement

Ratification

BELGIUM

The Government of Belgium deposited on June 30, 1975, in accordance with the provisions of Article 16(5), its instrument of ratification of the Strasbourg Agreement Concerning the International Patent Classification of March 24, 1971.

The said instrument of ratification was accompanied by the following declaration:

“In accordance with Article 4(4)(ii), the Kingdom of Belgium does not undertake to include the symbols relating to groups or subgroups of the Classification in the documents and notices referred to in paragraph (3).” (*Translation*)

Pursuant to the provisions of Article 13(1)(b), the Strasbourg Agreement will enter into force with respect to Belgium on July 4, 1976.

Strasbourg Notification No. 23, of July 4, 1975.

LEGISLATION

POLAND

Decree of the Council of Ministers Concerning Invention Proposals

(No. 351, of December 11, 1972)

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Part I — General Provisions

1. — (1) For the purposes of this Decree:

- (i) “the Law” means the Law on Inventive Activity¹ of October 19, 1972; the “articles” referred to in this Decree without further specification are the articles of that Law;
- (ii) “the Office” means the Patent Office of the Polish People’s Republic;
- (iii) “superior organs” means the ministries, commissions and committees which act as supreme organs of the State administration, the central offices and departments of the presidia of provincial people’s councils (or of people’s councils of cities not included in provinces), and the responsible executive bodies of trade unions, cooperatives, associations and other social organizations;
- (iv) “authorized units” means units of the socialized economy authorized by the Minister of Foreign Trade to undertake activities relating to the protection of inventions and utility models and to their divulgation abroad or to represent foreign nationals or foreign legal entities in Poland in matters relating to the protection of inventions and utility models;
- (v) “the results obtained by the enforcement of a right” means the effects resulting from the granting of a licence, from the assignment of a right or from the institution of proceedings by the proprietor of a right for infringement of a patent or of a certificate of protection for a utility model;
- (vi) “the assignment of a right” means the assignment of the right to a patent or of the right of protection for a utility model or the assignment of a patent or of a certificate of protection for a utility model.

(2) If the provisions in force mention the repealed provisions of the Law of May 31, 1962, on Invention Rights², or refer in general to those provisions, the provisions of the Law and of this Decree shall apply *mutatis mutandis*.

Part II — Invention Proposals in the Socialized Sector

Chapter 1

Duties of Units of the Socialized Sector. Invention Services. Rationalization Brigades

2. — (1) In matters relating to inventive activity, it is part of the duty of units of the socialized sector:

- (i) to study, on the basis of patent documents and other scientific and technical reports, the state and trend of

- technical development and the extent to which it enjoys legal protection in the sphere of activity of those units;
- (ii) to compare their own objectives in the fields of technical development, production and (export) trade with the research findings referred to in sub-paragraph (i) and their application in research and development work, production and (export) trade, with a view to taking advantage of the most advanced technological developments and avoiding the infringement of the rights of third parties;
- (iii) to encourage the inventive initiative of employees, to guide inventive creativity into the desired channels and to provide help to persons working on invention proposals and to the authors and executants of invention proposals, and also to assist technical and rationalization clubs;
- (iv) to ensure legal protection in Poland and abroad for their own inventions and utility models and to note any cases of the infringement of acquired rights;
- (v) to execute and apply invention proposals accepted for application;
- (vi) to protect the interests and rights of the authors of employees’ invention proposals.

(2) The duties set forth in paragraph (1) should be performed with the mutual assistance of all the organizational cells of the units of the socialized sector and in collaboration with the trade unions, scientific and technical associations, technical and rationalization clubs and other social organizations.

3. — Organizational cells or individual work-groups (bureaux for inventive activity) should be created to deal with invention matters in units of the socialized sector where this is justified by the extent of their invention problems.

4. — (1) Rationalization brigades may be set up in units of the socialized sector to complete invention proposals or to put them into effect.

(2) A rationalization brigade consists of at least three employees of a unit of the socialized sector.

(3) Where necessary, a rationalization brigade may be joined by employees from another unit of the socialized sector; such a unit must allow the said employees to participate in the work of the brigade.

(4) The head and deputy-heads of a unit of the socialized sector may join a rationalization brigade with the consent of the superior unit.

(5) Units of the socialized sector may conclude agreements with the members of rationalization brigades concerning the completion or execution of an invention proposal or concerning the completion and execution of such a proposal.

Chapter 2

Work on Invention Proposals. Notification of Invention Proposals

5. — (1) Persons working on invention proposals in units of the socialized sector must inform their superiors about them or the organizational cell (work-group) con-

¹ *Industrial Property*, 1973, p. 296.

² *Industrial Property*, 1962, p. 278.

cerned with invention questions. On the basis of such information, assistance in work on an invention proposal may be provided.

(2) The assistance provided to persons working on invention proposals includes, in particular:

- (i) the provision of patent documents and scientific and technical information;
- (ii) expert advice and workshop assistance;
- (iii) the necessary raw materials, equipment and tools;
- (iv) the possibility of carrying out research and tests.

(3) If the unit of the socialized sector is not in a position to provide assistance from its own resources or within a reasonable time, it shall request assistance from another unit of the socialized sector (research institute, design office, engineering office, advanced educational body, etc.) which shall provide it. A superior unit may, in appropriate cases, release a unit subordinate to it from this obligation and indicate another unit which is bound to provide assistance.

6. — (1) Anyone who has completed an employee's invention proposal must notify the proposal without delay to the unit of the socialized sector in which he carried out the proposal or, if he is not employed in that unit, to the unit in which he is employed.

(2) The notification of an invention proposal should contain a description of the proposal and, if necessary, the drawings, diagrams, calculations and instructions necessary for understanding it. The notification should refer to the existing state of the art, indicate the anticipated effects, the means and methods required for implementing the proposal and should name the author of the proposal and his collaborators.

(3) If, in view of his qualifications, the author of an invention proposal is unable to fulfil the requirements of paragraph (2), the unit of the socialized sector to which the proposal must be notified shall help him in preparing the documents for the notification of the proposal and in justifying the technical and economic usefulness of the proposal. Article 5(3) shall apply *mutatis mutandis*.

(4) When notifying his invention proposal, the author may indicate that, in his opinion, it has the character of an invention or of a utility model.

7. — The unit of the socialized sector shall accept the notification of the invention proposal, register the proposal and give the notifier a receipt bearing the date and an indication of the subject-matter of the notification.

8. — (1) The provisions governing employees' invention proposals apply equally to inventions and utility models which are not employees' invention proposals or utility models, notified by their authors to a unit of the socialized sector in the manner laid down for employees' invention proposals.

(2) In the cases referred to in paragraph (1), the author should state in the notification whether he has filed an application for a patent or an application for protection of a utility

model with the Office, whether a patent or a certificate for protection of a utility model was granted, whether the invention or utility model is being applied, and the extent of such application.

(3) In the cases referred to in paragraph (1), the author has the rights and obligations provided for the authors of employees' invention proposals.

Chapter 3

Evaluation of Invention Proposals

9. — (1) A unit of the socialized sector which has been notified of an invention proposal shall evaluate the usefulness to it of the proposal within two months of the date of notification of the proposal.

(2) Where it is necessary to carry out research work and tests, the unit of the socialized sector, with the consent of the works' council, may extend the period stipulated in paragraph (1). The decision on this point shall be communicated to the author of the proposal.

(3) The unit of the socialized sector shall ensure that the author of an invention proposal is able to take part in the work of evaluating the usefulness of his proposal.

(4) The social labor inspector and a representative of the service for safety and health at work of the unit evaluating the proposal or a representative of the presidium of the people's council concerned shall take part in the evaluation of the usefulness of invention proposals affecting safety and health at work or the protection of the natural human environment.

10. — (1) If there are doubts as to the usefulness of an invention proposal or doubts as to whether the notified proposal is an invention proposal, the unit conducting the evaluation must ask the opinion of a commission on inventive activity.

(2) A commission on inventive activity shall have the following membership: a chairman, a secretary, representatives of the competent technical and economic (finance) cells of the works' council, of the scientific and technical association and of the technical and rationalization club and other persons, as necessary; it shall be appointed in a unit of the socialized sector by the head of the unit, after consulting the competent organ of workers' self-management or, where workers' self-management is inoperative, after consulting the competent trade union body.

(3) The representative of the trade union on the commission on inventive activity of superior units is delegated by the district office or the central office of the union. This provision applies *mutatis mutandis* to the representatives of scientific and technical associations.

(4) The chairman of a commission on inventive activity shall enable the author of an invention proposal to take part in the work of the commission.

(5) The members of a commission on inventive activity and persons taking part in its work shall not reveal any facts

of which they become cognizant in the course of the commission's work.

11. — (1) The unit of the socialized sector shall take a decision concerning the acceptance of an invention proposal for application on the basis of its evaluation of the usefulness of the proposal.

(2) The decision shall be communicated without delay to the author of the invention proposal, informing him of his right of appeal to the superior unit.

(3) The superior unit shall consider any appeal and give its decision after asking the opinion of a commission on inventive activity set up by that unit.

12. — (1) The usefulness of invention proposals referred upwards by the head or deputy-head of a unit of the socialized sector shall be evaluated by the superior unit, which shall take a decision.

(2) The usefulness of invention proposals referred upwards by the head or deputy-head of a superior unit or by an official of a superior organ (ministry) shall be evaluated by the superior organ, which shall take a decision concerning their acceptance for application.

Chapter 4

Filing of Applications for Patents and for the Protection of Utility Models with the Office

13. — (1) A unit of the socialized sector which files an application for a patent with the Office shall include in its application a request for the grant of a provisional patent.

(2) A request for the grant of a provisional patent shall be filed when an invention is applied or where this is justified for other reasons.

(3) Where an invention for which a provisional patent has been granted is applied after the expiry of the period referred to in article 26, paragraph (3), the unit of the socialized sector shall file a request for the carrying-out of a full investigation.

14. — (1) Where the unit of the socialized sector considers that the filing with the Office of an application for a patent or for the protection of a utility model is not justified on economic grounds (article 21, paragraph (1)), such decision, together with the grounds for it, shall be communicated to the author of the invention or of the utility model.

(2) If the unit of the socialized sector has not filed an application for a patent or for the protection of a utility model and has not taken the decision referred to in paragraph (1) within a period of two months from the date of the notification of the invention or utility model to the unit in question, the author of the invention may himself file an application for a patent or for the protection of a utility model with the Office, informing the unit of the socialized sector thereof.

(3) The provisions of paragraphs (1) and (2) shall apply *mutatis mutandis* when the unit of the socialized sector, after

filing an application for a patent or for the protection of a utility model, withdraws its application.

15. — Where a patent or a certificate for the protection of a utility model is granted to a unit of the socialized sector for an employee's invention or an employee's utility model for which the application was filed by the author, the unit in question shall reimburse the author for the expenses of the application and of the protection incurred by him.

Chapter 5

Execution of Invention Proposals

16. — (1) A unit of the socialized sector shall prepare plans for the implementation, within a given period, of invention proposals accepted for application, or approved for application by a higher-level unit or organ.

(2) Units undertaking work connected with the implementation of invention proposals shall incorporate such work in their plans and notify other units which are to collaborate in the implementation of such proposals so that the latter shall make allowance in their plans for the resources necessary for the performance of such work.

(3) Work connected with the implementation of invention proposals may also be incorporated in the plans of the units concerned upon the orders of their superior units, which are obliged, as part of their activities, to supervise the implementation of such proposals.

(4) Where justified, the production plans of units of the socialized sector undertaking work connected with the implementation of invention proposals may be modified in accordance with the provisions at present in force if the scope or the degree of urgency of such work requires such modifications.

17. — A unit implementing an invention proposal shall permit the author of the invention to take part in the work of implementing his proposal; if the author is not an employee of the unit in question, the latter shall conclude a contract with him for participation in such work.

Chapter 6

Divulgence of Information Concerning Invention Proposals

18. — (1) Units of the socialized sector and their superior units shall disseminate information concerning invention proposals which are suitable for application in other units of the socialized sector either directly or through the intermediary of the competent technical information centres.

(2) Information concerning invention proposals should contain a description of the proposal and details concerning its acceptance for application and its implementation or application in the unit providing the information.

(3) A unit providing information concerning an invention proposal may include therein an authorization for other units of the socialized sector to apply an invention or utility model free of charge (open licence).

19. — (1) A unit of the socialized sector which has been provided with information concerning invention proposals shall evaluate the usefulness of such proposals to it. If it decides that an invention proposal is useful to it, it shall accept the proposal for application.

(2) A unit of the socialized sector which, further to provision of information concerning an invention proposal, accepts that proposal for application shall inform the author of the invention and the appropriate unit of the socialized sector thereof.

Chapter 7

Remuneration for Invention Proposals

20. — (1) The amount of remuneration for an employee's invention proposal shall be determined on the basis of the results obtained by the units of the socialized sector applying it.

(2) Every reference in this Decree to the results obtained by the application of an invention proposal refers equally to the results obtained from the exercise of the right.

(3) Except in cases where the proposal has been prepared under a contract for the preparation of an invention proposal, the following authors of rationalization proposals employed in units of the socialized sector are not entitled to remuneration:

- (i) the heads and deputy-heads of units of the socialized sector, if the subject of the proposal prepared falls within the sphere of activity of the unit in question;
- (ii) employees doing research and development work, if the subject of the rationalization proposal prepared falls within the plan assigned to the organizational cell in which the employees in question are employed;
- (iii) engineers and technicians and other employees of similar rank, if the rationalization proposal was prepared as the result of a management instruction.

21. — (1) In the case of invention proposals, the application of which produces economic results, the remuneration of the author shall be determined in relation to the amount of such results, which may be determined approximately or may be estimated.

(2) The table of the amounts of remuneration for employees' invention proposals producing economic results is given in Annex 1 to this Decree³.

(3) The author's remuneration for invention proposals, the application of which produces effects other than economic effects, is assessed by estimation.

(4) Estimates of the author's remuneration for invention proposals, the application of which produces effects concerning health and safety at work or the protection of the natural human environment, are established on the basis of the anticipated extent of the improvement in the conditions of health and safety at work in circumstances in which accidents and

occupational diseases occur, or of the improvement in the protection of the natural human environment. Such remuneration is fixed in consultation with the social labor inspector and with a representative of the service for health and safety at work of the unit which is determining the remuneration, or with a representative of the presidium of the competent people's council.

(5) Estimates of the author's remuneration for invention proposals, the application of which produces effects in the field of defense or State security, are established by estimation and paid by the competent organizational unit of the departments of national defense or internal affairs. The provisions of article 24, paragraphs (2) to (4) of this Decree shall apply *mutatis mutandis*.

(6) In cases where the application of an invention proposal produces effects simultaneously concerning health and safety at work, the protection of the natural human environment, defense or State security, the total of the author's remuneration is the sum of the remunerations established on the basis of paragraphs (1), (4) and (5).

22. — (1) The total amount of author's remuneration for an employee's invention proposal payable for the application of the proposal in one or more units of the socialized sector for one or more years of application of the project is:

- (i) for an invention from 2,000 zł. to 500,000 zł.
- (ii) for a utility model from 2,000 zł. to 250,000 zł.
- (iii) for a rationalization proposal from 500 zł. to 150,000 zł.

(2) The lump-sum remuneration for an invention proposal established on the basis of a contract concluded between the author and a unit of the socialized sector (article 93, paragraph (4)) cannot exceed the higher of the amounts specified in paragraph (1).

(3) The author's remuneration is increased by 20% when the proposal has been prepared under a contract for the preparation of an invention proposal; such remuneration shall not exceed the higher of the amounts specified in paragraph (1).

23. — (1) In the case of invention proposals of particular importance for the national economy, the competent superior unit may increase the author's remuneration established in accordance with article 21 of this Decree by up to 300%. In such cases, the remuneration shall not be more than double the higher of the amounts specified in article 22, paragraph (1), of this Decree.

(2) In the case of invention proposals which reduce or eliminate imports or which stimulate or expand production for export, the competent superior organ may, after consulting the Minister of Foreign Trade, increase the remuneration established in accordance with article 21 of this Decree by an amount corresponding to the benefits obtained by the national economy, but at most up to an amount of 1,000,000 zł. In this case, article 22, paragraph (1), of this Decree does not apply.

³ This Annex is not published here.

(3) If an employee's invention proposal is of particular importance for a unit of the socialized sector, or if it is impossible to apply it fully during the first five years of its application, the period during which the remuneration is paid may be extended, with the consent of the superior unit, for a further five years; however, the remuneration fixed in accordance with article 21 shall be subject, during the period of extension, to a cumulative reduction of 10% for each successive year of application of the invention.

(4) If, as the result of the application of an invention proposal, a new method of working is introduced, the author of the proposal is entitled to an additional lump-sum remuneration (compensation) of ten times the amount of the difference between his monthly earnings resulting from the application of the previous method of working and his earnings as a result of the introduction of the new method of working. This remuneration (compensation) shall be paid within one month from the date of the introduction of the new method of working.

24. — (1) The author of an invention proposal shall receive a remuneration amounting to 30% of the remuneration fixed under article 21, paragraph (1), of this Decree and 100% of the remuneration fixed under article 21, paragraph (4), of this Decree, for each further unit of the socialized sector in which his invention is applied, provided that the invention or utility model is applied in the subsequent units within five years of the date on which it was applied in the first unit or, in the case of a rationalization proposal, within three years of the date of its application in the first unit. Such remuneration, however, shall not amount to less than 500 zl.

(2) The units referred to in paragraph (1) shall fix the remuneration due to the author of an invention proposal and transfer it to the unit of the socialized sector in which the project was notified; in the case of the application of a patented invention or of a protected utility model, they transfer the remuneration to the unit which owns the patent rights or the right to protection.

(3) The unit to which the remuneration is transferred shall keep a record of payments made to the author, and if these reach the upper limit of remuneration laid down in article 22, paragraph (1), of this Decree, they shall withhold further payments and the amount exceeding the upper limit shall be added to the financial result of the unit.

(4) The unit referred to in paragraph (3) is obliged to verify the remuneration referred to in paragraph (1).

(5) If the production to which an invention proposal is applied is stopped or transferred to another unit of the socialized sector, the production taken over by the second unit is treated in the same way as the application of the project by the first unit. If an invention proposal is applied in one or more units of the socialized sector and the unit which paid the remuneration to the author at the rates prescribed for the first unit stops production, the superior unit shall — at the request of the author — nominate one of the remaining units to take over the obligations and rights of the first unit, subject to the observance of the provisions of paragraphs (1) to (4).

(6) If an invention proposal accepted for application relates to a product subsequently manufactured in another unit of the socialized sector, which sells the product and is the first to have applied the invention proposal in that way, that unit is regarded as being the first unit to apply the proposal in question.

25. — (1) The superior unit shall be informed of the remunerations allotted to the authors of invention proposals when these are fixed on a lump-sum basis (article 93, paragraph (4)), when they are based on the approximately calculated effects of the invention or on its estimated effects and when the estimated remuneration exceeds 150,000 zl.

(2) The remuneration for an invention proposal notified by the head or deputy-head of a unit of the socialized sector shall be confirmed by the superior unit, and the remuneration for a proposal notified by the head or deputy-heads of a superior unit or by an employee of a superior organ (ministry) shall be confirmed by the competent superior organ.

26. — (1) The remuneration of the author of an invention proposal fixed in accordance with article 21 of this Decree shall be paid within the following periods:

- (i) remuneration payable to a single individual of up to 8,000 zl. or, if there has been a contract for the preparation of an invention proposal, up to 12,000 zl., shall be paid within one month of the date of application of the proposal or of the confirmation of the plan for its implementation within a given period;
- (ii) if remuneration payable to a single individual exceeds 8,000 zl. or, if there has been a contract for the preparation of an invention proposal, 12,000 zl., one half of the remuneration shall be paid to the author within one month of the date of application of the proposal or of the confirmation of the plan for its implementation within a given period, provided that this amount shall not be less than 8,000 zl., or 12,000 zl., if there has been a contract for the preparation of a proposal; the remaining part of the remuneration shall be paid at the latest within two months from the date of termination of the first year of application of the proposal;
- (iii) if a proposal is applied for a period of less than one year, the remuneration is paid within two months from the day when the application of the proposal ceased for the actual period for which the proposal was applied.

(2) If, after a utility model or a rationalization proposal has been applied for two years, a calculation of the maximum results actually obtained shows that the remuneration paid in accordance with paragraph (1), subparagraph (i), is inadequate, an appropriate further amount shall be paid.

(3) The remuneration for the first year of application of an invention shall be paid in accordance with the principles outlined in paragraphs (1) and (2); for each subsequent year of application, it shall be paid within two months of the termination of the year.

(4) If the remuneration for an invention proposal is not paid within the prescribed period, the author of the proposal

shall be entitled to interest at 8 % per year, unless the unit of the socialized sector can prove that it was not at fault.

27. — (1) The provisional remuneration referred to in article 99 shall be paid to the author of an invention proposal by the competent superior unit or by the unit of the socialized sector nominated by that unit.

(2) The additional remuneration referred to in article 100, amounting to 10 % of the total amount payable by reason of the enforcement of a right obtained abroad, shall be paid to the author in the foreign currency in which payment was received by the unit which performs the activities relating to the enforcement of the right abroad.

(3) If, in the interests of Polish exports, a right obtained abroad is not enforced at the request of a unit of the socialized sector interested in applying an invention or utility model, of its superior unit or of a superior organ, an additional remuneration fixed by the competent superior organ in consultation with the Minister of Foreign Trade, based on the anticipated economic effects and in accordance with the provisions governing the remuneration of employees' invention proposals, shall be paid to the author by the unit of the socialized sector interested in applying the invention or the utility model. Ten per cent of this remuneration shall be paid in the foreign currency in which payment was received, but the amount paid in foreign currency shall not exceed 10 % of the receipts of foreign exchange resulting from the export of goods.

(4) If, in the interests of commercial policy, a right obtained abroad is not enforced, at the request of a unit of the socialized sector interested in applying an invention or utility model, of its superior unit or of a superior organ, an additional remuneration assessed by the competent superior organ in consultation with the Minister of Foreign Trade shall be paid to the author by the unit of the socialized sector interested in applying the invention or utility model.

(5) The provisions of paragraphs (2) to (4) shall apply *mutatis mutandis* in the case of the divulgation abroad against remuneration of invention proposals not protected abroad.

(6) The special remuneration referred to in article 101 shall be paid by the unit of the socialized sector which has accepted a proposal with a view to its application within two months of the date of receipt of the documents necessary for the application of the proposal. The unit shall also, within the said period, reimburse any expenditure, for which documentary proof is produced, incurred by the author in working out and executing his invention proposal, including the costs of research, tests, models and prototypes necessary for evaluating the usefulness of the proposal. If, however, simultaneous payment would cause delay, the reimbursement of costs may be made separately.

28. — (1) Those who, under a contract signed with a unit of the socialized sector, have assisted persons working on an invention proposal or the authors of such a proposal shall receive remuneration in accordance with the principles governing commissioned work or overtime work.

(2) Those who have collaborated in the execution of an employee's invention proposal or who have contributed to accelerating its application shall receive from the unit of the socialized sector remuneration amounting, in all, to up to 50 % of the remuneration prescribed for such an invention proposal during the first year of its application.

(3) Those who have contributed to the dissemination of an employee's invention proposal by collaborating in its execution or in accelerating its application in another unit of the socialized sector, shall receive from the said unit remuneration amounting in all to up to 200 % of the remuneration prescribed for such an invention proposal during the first year of its application in the said unit.

(4) A unit of the socialized sector which applies a rationalization proposal, the author of which, under article 20, paragraph (3), of this Decree, is not entitled to remuneration, may allocate and pay to the said author remuneration amounting to up to 30 % of the remuneration prescribed for such a rationalization proposal in the said unit.

(5) The unit of the socialized sector shall fix the amount and distribution of the remunerations referred to in paragraphs (2) to (4) in consultation with the works' council. The remuneration due to the head and deputy-heads of a unit of the socialized sector shall be allocated by the superior unit and the remuneration of the head and deputy-heads of a superior unit or of an employee of a superior organ (ministry) is allocated by the competent superior organ (ministry).

(6) The provisions of article 23, paragraph (4), of this Decree are applicable *mutatis mutandis* to the persons referred to in paragraphs (2) and (3).

Part III — Contracts relating to Invention Proposals

Chapter 1

Contracts relating to the Application of an Invention Proposal

29. — (1) A unit of the socialized sector to which a patent has been granted or which holds a certificate for the protection of a utility model cannot refuse to conclude a contract for the application of an invention proposal with another unit of the socialized sector, unless there are economic grounds for so doing. Such a refusal shall not be permissible where the invention or utility model has been published in "Polish Standards" (*Polskie Normy*).

(2) The contract concerning the application of an invention proposal should define in particular:

- (i) the invention proposals and the technical or organizational experience gained relating to the proposals which are the subject of the contract;
- (ii) particulars concerning the patents or the certificates for the protection of utility models held by the grantor of the licence or particulars concerning the filing of applications for patents or for the protection of utility models filed by him which relate to the subject-matter of the contract;
- (iii) the type of licence (exclusive, non-exclusive, complete, partial);

- (iv) the term of the contract;
- (v) the amount of and time limits for payment of the licence fees;
- (vi) the extent of the assistance to be provided by the grantor of the licence to the licensee in the execution of the invention proposal (supply of technical documents, consultancy, training of employees, supervision of the putting-into-service of equipment constructed in accordance with the invention proposal, supply and installation of equipment, etc.);
- (vii) the extent of the guarantee of the technical efficiency of the invention proposal;
- (viii) the principles governing cooperation in the improvement of the invention proposal and the exchange of technical and organizational experience;
- (ix) the principles governing liability in the event of non-fulfilment or inadequate fulfilment by one of the parties of the whole or part of the contract.

30. — (1) The amount of the licence fees is determined on the basis of:

- (i) the technical and economic value of the invention proposal;
- (ii) the technical and economic value of the technical and organizational experience gained in respect of the proposal;
- (iii) the type of licence;
- (iv) the extent of the guarantee of the technical efficiency of the invention proposal;
- (v) the assistance provided in the execution of the invention proposal;
- (vi) other material circumstances defined in the contract.

(2) Where a non-exclusive licence is granted, the maximum amount of the licence fee shall not exceed 20% of the economic results obtained by the licensee during the first year of application of the invention or utility model. For each subsequent year of application during the term of the contract, the licence fee shall be reduced by 3% annually. From the sixth year of application, the fee shall not exceed 3% of the economic results obtained by the licensee.

(3) Where an exclusive licence is granted, the maximum amount of the licence fee shall not exceed 50% of the economic results obtained by the licensee during the first year of application of the invention or utility model. For each subsequent year of application during the term of the contract, the licence fee shall be reduced by 10% annually. From the sixth year of application, the fee shall not exceed 5% of the economic results obtained by the licensee.

(4) The maximum amount of the licence fee fixed in paragraphs (2) and (3) is applicable only in cases where the grantor of the licence provides the licensee with a guarantee of the technical efficiency of the invention proposal, communicates to him the technical and organizational experience gained or provides assistance in the execution of the invention proposal.

(5) The parties shall specify in the contract the date of the beginning of the first accounting year. Where the time

limits for the payment of the licence fee are not specified the licensee shall pay the fee within two months of the end of each accounting year.

(6) At the request of the grantor of the licence, the licensee shall submit in writing a statement of the economic results obtained in each accounting year.

31. — In the case of a contract concerning the divulgence of an unprotected invention proposal, which is the secret of a unit of the socialized sector, the unit to which the proposal is divulged shall take all necessary steps to ensure the keeping of the secret during the term of the contract and after its expiry. The consent of the divulging unit is required before the proposal can be divulged to a third party, but this does not apply when the state of secrecy no longer exists. Articles 29 and 30 of this Decree shall apply *mutatis mutandis*.

32. — (1) A contract for the application of an invention proposal expires at the latest on the expiry of the patent or certificate for the protection of a utility model or of the state of secrecy in the case of an unprotected invention proposal which was a secret of a unit of the socialized sector.

(2) The provisions of paragraph (1) shall apply *mutatis mutandis* in the case of the cancellation or refusal of a patent or certificate for the protection of a utility model.

Chapter 2

Contracts relating to the Assignment of Rights

33. — (1) Contracts for the assignment of a right from one unit of the socialized sector to another may be concluded where this is economically justified. By such a contract, unless the parties decide otherwise, the unit of the socialized economy which owns the right (assignor) undertakes to transfer the right to another unit of the socialized sector (assignee), which undertakes to pay the fee.

(2) The assignment of a right from a State organizational unit to an organizational unit which is not a State unit requires the consent of the superior unit.

(3) Contracts for the assignment of a right should state in particular:

- (i) the right which is the subject-matter of the contract;
- (ii) the amount of and time limit for payment of the fees;
- (iii) the date of assignment of the right.

34. — (1) The amount of the fees is determined on the basis of the technical and economic value of the invention or utility model and of other material circumstances specified in the contract.

(2) A contract for the assignment of a right may stipulate that the fees and the time limits within which they must be paid shall be determined in accordance with the provisions of article 30 of this Decree. In this case, unless the parties decide otherwise, the amount of the fee shall be determined in accordance with the principles applicable in fixing the maximum amount of a licence fee payable for the granting of an

exclusive licence for a period of three years (article 30, paragraph (3), of this Decree).

(3) The parties may make changes in or additions to the principles for determining the fee laid down in paragraph (2) or, with the consent of the assignee's superior unit, determine the amount of the fee on a different basis.

(4) If the assignor assists the assignee in the execution of the invention or the utility model, the parties may fix an additional payment for the provision of the said assistance.

35. — (1) In the event of the cancellation of a patent or of a certificate for the protection of a utility model, the assignee shall be entitled to the reimbursement of the amount which he has paid and also to compensation in accordance with general principles. The assignor, however, may deduct the amount of the benefit obtained by the assignee from the working of the invention or utility model before the cancellation; if such benefits are greater than the amount of the fees and of the due compensation, the assignor's liability lapses.

(2) The limitation or exclusion of liability provided for in paragraph (1) is not applicable to an assignor who is guilty of obvious negligence.

(3) Unless the parties decide otherwise, the assignor of the patent or the right to protection of a utility model is not liable in cases where, upon an application filed with the Office for a patent or for a certificate of protection of a utility model, no patent or right to protection is granted; he is, however, liable to the assignee if the working of the invention or utility model infringes the rights of third parties.

Chapter 3

Common Provisions

36. — The provisions of civil law, and in particular of articles 397 to 404 of the Civil Code are applicable to contracts for the application of an invention proposal or for the assignment of rights in cases which are not covered by this Decree.

37. — (1) Where a unit of the socialized sector, having refused to accept an invention proposal on the ground that it is unsuitable for the said unit or having refused to accept it for full application, is of the opinion that the said proposal might be applied in other units of the socialized sector, it shall inform those units or offer to conclude with them a contract for the application of an invention proposal (article 87) or a contract for the assignment of a right (article 42). It shall inform the author of the invention proposal of the offer and conclusion of such a contract.

(2) The unit of the socialized sector to which the offer concerning the conclusion of a contract referred to in paragraph (1) is addressed, shall evaluate the usefulness of the invention proposal for the said unit. The conclusion of such a contract is regarded as the acceptance of the proposal for application in the units of the socialized sector which have signed such a contract.

38. — (1) Units of the socialized sector may conclude contracts for the assignment of rights or licence contracts with Polish citizens or with Polish legal entities which are not units of the socialized sector exclusively on the basis of the principles prescribed for determining the amount of remuneration for employees' invention proposals. The remuneration or licence fees may be increased by an amount equal to the justified costs of executing the invention or utility model, of filing an application for a patent or for the protection of a utility model with the Office and of protecting the same.

(2) With the consent of the superior unit, the parties may fix the remuneration or licence fee in accordance with principles other than those set forth in paragraph (1).

Part IV — Foreign Relations in respect of Invention Proposals

Chapter 1

Filing of Applications for Patents or for the Protection of Utility Models Abroad. Enforcement of the Rights Acquired

39. — (1) Where this is economically justified, applications should be filed for the protection of inventions or utility models abroad. It is desirable to file an application for the protection of an invention or utility model abroad in cases where the sale of articles produced through the application of the invention or utility model, the grant of a licence or the assignment of a right, are to be expected, or where other valid grounds exist.

(2) The unit of the socialized sector in which an invention or utility model has been notified shall investigate the desirability of filing an application for a patent or for a title of protection for a utility model abroad, consulting for that purpose the foreign trade undertaking competent for the type of article concerned. The author of the invention or utility model may also request the filing of an application for a patent or for the protection of the utility model abroad.

(3) The unit of the socialized sector shall inform its superior unit of the decision concerning the filing of an application for a patent or for the protection of a utility model abroad. The said decision shall also be communicated to the author of the invention or utility model.

(4) If the protection of an invention or a utility model is in the interests of the national economy, the competent superior unit or superior organ may order the unit of the socialized sector to file an application for a patent or for the protection of a utility model abroad.

40. — (1) If the author of an invention or utility model which is not an employee's invention or utility model or his successor-in-title intends to file an application for its protection abroad, he shall consult the competent foreign trade undertaking and the unit of the socialized sector which is competent for the type of article concerned about the desirability of such an application.

(2) The units referred to in paragraph (1) shall state their opinion concerning the desirability of filing an application

for a patent or for the protection of a utility model abroad within a period of two months.

41. — (1) Applications for patents or for the protection of utility models abroad may be filed by a unit of the socialized sector, a Polish legal entity which is not a unit of the socialized sector, or a Polish citizen who has filed an application for a patent or for the protection of a utility model, or his successor-in-title (filing abroad).

(2) The filing of an application for the protection of an invention or a utility model must be effected through the intermediary of an authorized unit, unless the main residence or principal place of business of the applicant is situated abroad.

42. — (1) The authorized unit shall carry out the formalities involved in the filing of an application for a patent or for the protection of a utility model abroad acting under a power of attorney from the applicant filing abroad.

(2) From the time it received the said power of attorney the authorized unit shall act in the name of and on behalf of the applicant as his attorney.

(3) The authorized unit may refuse to act as attorney in its sphere of activity if the application abroad is contrary to the principles governing the protection of inventions and utility models in the country in which the application is filed. However, when the unit referred to in article 40 of this Decree declares that an application for the protection abroad of an invention or utility model which is not an employee's invention or utility model is inadvisable, it may make its acceptance of the power of attorney subject to the transfer by the applicant to the authorized unit of the applicant's own foreign exchange resources to cover the expenses involved in filing the said application abroad.

(4) Unless the power of attorney referred to in paragraph (1) provides otherwise, the authorized unit shall carry out the filing of the application for the protection of the invention or utility model and prepare the documents required for such application in the countries in which application is to be made and the applicant for protection abroad shall supply a sufficient number of copies or off-prints of the description of the invention or utility model filed with the Office, provide technical assistance and supply the documents necessary for applying for the protection of an invention or utility model abroad, and for the acquisition and maintenance of such protection.

43. — (1) For carrying out the formalities involved in the protection of an invention or utility model abroad, the authorized unit shall receive from the applicant for protection abroad, a fee in accordance with the scale in force for the activities of patent agents. The applicant shall refund the foreign currency expenses of the authorized unit by paying an equivalent amount in Polish currency at the current rate.

(2) The authorized unit may, under a contract to that effect, concluded with the applicant for the protection abroad of an invention or utility model which is not an employee's

invention or utility model, bear the costs relating to the protection of the invention or utility model abroad. In this case, the amount of such costs shall be deducted, at the current rate of exchange, from the first payments due to the applicant for protection abroad in respect of the exercise of the rights acquired; the authorized unit may, however, waive such deductions.

(3) The maximum amount of foreign exchange that may be devoted to the costs of protecting inventions and utility models abroad is fixed by the Minister of Foreign Trade at the suggestion of the authorized unit.

44. — (1) A unit of the socialized sector which has acquired the protection of an invention or utility model abroad may, after consulting the competent foreign trade undertaking, decide not to maintain such protection if no purpose is served by maintaining it. The provisions of article 39, paragraph (2), of this Decree shall apply *mutatis mutandis*.

(2) The maintenance of the protection abroad of an invention or utility model which is not an employee's invention or utility model may be made subject to the submission to the authorized unit of an opinion on the part of the units referred to in article 40 of this Decree, regarding the desirability of maintaining such protection. The provisions of article 42, paragraph (3), of this Decree shall apply *mutatis mutandis*.

45. — (1) A right acquired abroad is enforced through the intermediary of the authorized unit, unless the holder of the said right (hereinafter called "the holder") has his permanent residence or principal place of business abroad.

(2) The authorized unit shall carry out the functions relating to the enforcement of the rights acquired abroad in accordance with the power of attorney given by the holder. The provisions of article 42, paragraph (2), of this Decree shall apply *mutatis mutandis*.

(3) If the holder is a unit of the socialized sector, the enforcement of a right acquired abroad requires the previous consent of the superior unit.

(4) If the exercise of a right acquired abroad involves the sale of machines, equipment or other products connected with the use of the invention or utility model which is the subject-matter of the said right, the enforcement of the right is effected through the intermediary of the unit of the socialized sector competent for the export of such machines or other products.

(5) In cases where this is justified by the interests of Polish exports or of foreign trade policy, a unit of the socialized sector interested in the application of the invention or utility model may, after consulting the unit of the socialized sector competent for the export of the article produced by the use of the invention or utility model, require the holder and the authorized unit not to exercise the right acquired abroad. In such a case the right acquired abroad shall not be exercised.

46. — (1) Where the holder is a unit of the socialized sector, it shall receive the sums accruing from the enforcement of the right, after deduction of a commission due to the authorized unit, which is fixed by the Minister of Foreign Trade, in the foreign currency in which payment has been made, and of the additional remuneration of the author of the invention or the utility model in the following manner:

- (i) 30 % of the total amount accruing from the enforcement of the right in the foreign currency in which payment was made; these earnings may be used over and above the foreign exchange maxima allowed to units of the socialized sector provided that, in the case of budgetary units and undertakings, the budget credits earmarked for this purpose are increased in accordance with the prescribed procedure by the budgetary units and organs;
- (ii) the remainder in Polish currency at the current rate of exchange.

(2) If the holder is the author of an invention or utility model which is an employee's invention or utility model, or his successor-in-title, he shall receive the amount accruing from the exercise of the right after deduction of a commission payable to the authorized unit, which is fixed by the Minister of Foreign Trade, in the foreign currency in which payment has been made in the following manner:

- (i) 10 % of the total amount accruing from the enforcement of the right in the foreign currency in which payment was made;
- (ii) the remainder in Polish currency at the current rate of exchange.

(3) The unit of the socialized sector on whose demand a right acquired abroad may not be enforced in the interests of Polish exports (see article 45, paragraph (5), of this Decree) shall pay:

- (i) to the holder, if it is a unit of the socialized sector, an amount calculated according to the principles by which licence fees are determined;
- (ii) to the holder, if he is the author of an invention or utility model which is not an employee's invention or employee's utility model, or his successor-in-title, remuneration calculated according to the principles by which the remuneration of employees' invention proposals is determined.

(4) The holder, if a unit of the socialized sector, shall receive 30 % of the amount referred to in paragraph (3), and, if the author of an invention or utility model which is not an employee's invention or utility model, or his successor-in-title, 10 % of that amount in the currency or currencies earned through the export of articles produced by the use of the invention or utility model. The amounts paid in foreign exchange cannot exceed 30 % and 10 % respectively of the foreign exchange earnings.

(5) If a right acquired abroad is not enforced on grounds of foreign trade policy, the unit of the socialized sector referred to in article 45, paragraph (5), of this Decree shall pay the holder remuneration of an amount fixed by estimation by the

competent superior organ in consultation with the Minister of Foreign Trade.

47. — (1) The provisions of articles 39 to 46 of this Decree shall apply *mutatis mutandis* to the divulgation abroad of an unprotected invention proposal.

Chapter 2

Filing by Foreigners with the Office of Applications for Patents or for Certificates for the Protection of Utility Models. Enforcement of Rights Acquired in Poland

48. — (1) The nationals of foreign States and foreign legal entities (hereinafter: "foreign persons") may file applications for patents or for certificates for the protection of utility models with the Office and obtain protection for them only through the intermediary of an authorized unit.

(2) For carrying out the formalities relating to the application concerning the protection of foreign inventions and utility models, the authorized unit shall charge a fee according to the scale in force for the services of patent agents.

49. — (1) Rights acquired in Poland or licences resulting from such rights shall be acquired from foreign persons on behalf of a unit of the socialized sector through the intermediary of an authorized unit.

(2) If, in conjunction with a right acquired in Poland or a licence, machines, equipment, documentation or technical and organizational experience relating to the use of an invention or a utility model are acquired from a foreign person, such right or licence shall be acquired through the intermediary of the unit of the socialized sector competent for the import of such machines, equipment, documentation or technical and organizational experience.

(3) The units referred to in paragraphs (1) and (2) shall conclude contracts with foreign persons for the transfer of rights acquired in Poland or licence contracts in accordance with the instructions of the unit of the socialized sector interested in the application of the invention or utility model.

(4) In the cases referred to in paragraph (3), licence contracts shall provide for the possibility of transferring rights acquired under such contracts to other units of the socialized sector interested in the application of the invention or utility model.

(5) The units referred to in paragraphs (1) and (2) shall give a unit of the socialized sector interested in the application of an invention or utility model which is the subject-matter of a right acquired in Poland by a foreign person every assistance in obtaining indispensable information concerning the invention or utility model.

50. — The acquisition from a foreign person on behalf of a legal entity which is not a unit of the socialized sector of a right acquired in Poland or of a licence resulting from such right requires authorization from the Minister of Foreign Trade. The provisions of article 49 of this Decree shall apply *mutatis mutandis*.

Part V — Contentious Procedure before the Office and the Appeal Commission

Chapter 1

Contentious Procedure before the Office

51. — (1) Under the contentious procedure, the Office examines cases through a judicial board consisting of a provincial court judge as chairman, and two representatives of the Office, one representative of a trade union and one representative of a scientific and technical association as members.

(2) The chairmen of judicial boards are appointed by the Minister of Justice from among the provincial court judges of the Warsaw bench.

(3) The remaining members of judicial boards are appointed by the President of the Office, selecting the representatives of trade unions from a list supplied by the Central Council of Trade Unions and the representatives of scientific and technical associations from a list supplied by the Central Technical Organization.

(4) If the proceedings concern a case relating to national defense, the judicial board also includes a representative of the Army appointed by the President of the Office from a list supplied by the Minister for National Defense.

52. — (1) The members of a judicial board shall keep secret any information which comes to their notice in the performance of their duties other than in public hearings.

(2) The members of a judicial board are independent in their decisions and are subject only to the law.

53. — (1) A petition for the institution of proceedings shall be submitted in writing and contain the names and addresses of the parties, a brief statement of the case and a clearly worded statement of what is requested, an indication of the evidence, and a signature and date.

(2) The petition shall be accompanied by:

- (i) the power of attorney if the petition is filed by an agent;
- (ii) copies of the petition and its annexes in as many copies as there are parties;
- (iii) the receipt for the payment of the statutory fee.

(3) The Office shall check whether the petition meets the formal requirements. If it finds that the petition does not fulfil such requirements, the Office shall call on the party to correct the deficiencies within an appointed period under pain of dismissal of the petition.

(4) If the deficiencies in the petition are not removed during the said period, the Office shall dismiss the petition and stop proceedings.

(5) If the Office finds that it is not competent to examine the petition, it shall refer the case to the competent organ. Such a decision is subject to objection.

(6) If the plaintiff withdraws his petition before the opening of the proceedings, the Office shall stop the proceedings.

(7) In the cases referred to in paragraphs (3) to (6) and in cases concerning the suspension of the proceedings, the Office may also hear the case *in camera*.

54. — (1) If the petition meets the formal requirements, the Office shall send copies of the petition and the documents accompanying it to the other party inviting him, if necessary, to send a written reply within an appointed period fixed by it of at least 30 days.

(2) The Office shall make an entry concerning the lodging of the petition in the register of patents or the register of utility models.

(3) The party invited to reply to the petition shall enclose with his reply as many copies as there are parties involved in the proceedings.

(4) On receipt of the reply to the petition, or after the expiry of the period appointed for its receipt, the Office shall fix the date of the hearing and inform the parties and their agents thereof, sending them, at the same time, a copy of the reply to the petition, if such has been submitted.

(5) The announcement of the date of the hearing must be sent to the parties at least seven days before the hearing.

55. — (1) Hearings before the Office shall be public. In the case of the examination of a case concerning national defense, the Chairman of the judicial board shall order the hearing to be held *in camera*. The Chairman of the judicial board may also order the hearing to be held *in camera* on other important grounds.

(2) The Office may summon witnesses to the hearing and hear their testimony and seek the opinion of experts. It may also ask the competent local district court to hear witnesses and seek expert advice.

(3) The Office may ask for the views of the competent scientific or research institute. The Office may ask the institute for further particulars, either written or oral, through the intermediary of a person appointed for the purpose; it may also order a second opinion from the same or another institute. The opinion of the institute shall indicate the person who conducted the research and gave the opinion. The institute may demand remuneration for the work it has done and for the appearance of its representatives.

(4) The process of gathering evidence shall take place during the hearing; the Office may, however, entrust that procedure, or part of it, to one or more members of the judicial board. The parties or their attorneys shall be informed of the period during which the process of gathering evidence will take place.

(5) The recorder shall write the record of the proceedings under the supervision of the Chairman of the judicial board; the record shall be signed by the Chairman and by the recorder.

(6) The record shall contain:

- (i) the name of the judicial board, the place and date of the sitting, the names of the members of the judicial board,

the recorder, the parties and their attorneys, a description of the case and an indication as to whether it was heard in public or *in camera*;

- (ii) the course of the proceedings and, in particular, the petition and the pleadings of the parties, the findings of the investigation procedure, a list of the orders and decisions given during the hearing and the confirmation that they were duly made public; instead of quoting the petitions and pleadings, the record may refer to the preparatory documents;
- (iii) the acts of the parties which influenced the decision of the Office (arrangements, withdrawal of the demand, avowal, the retraction, change, extension or limitation of the petition).

(7) The parties may demand the rectification or amplification of the record, but not later than the next sitting, and, after the decision has been given, until the expiry of the period for lodging appeals. Decisions refusing the rectification or amplification of a record are subject to objection.

56. — (1) Unless it is otherwise provided, the Office shall decide a case by giving a decision upon the completion of the hearing.

(2) The decision shall be taken by a simple majority of votes. In the event of an equal number of votes, the Chairman's vote is decisive.

(3) A member of the judicial board who disagrees with the majority may present a dissenting opinion with a statement of reasons.

(4) The decision shall contain the name of the judicial board, the date of the examination of the case and of the giving of the decision, the names of the members of the judicial board and the recorder, a list of the parties, an indication of the subject-matter of the case, and how it was decided, and also the decision concerning the costs of the proceedings, reference to the relevant law and the signatures of the members of the judicial board.

(5) The Chairman of the judicial board shall publicly deliver the decision immediately after the hearing, stating briefly the reasons for the decision and drawing the attention of the parties to their right of appeal to the Office Appeal Commission, indicating the time limit and the manner in which the appeal should be lodged.

(6) If the decision cannot be made public immediately after the hearing, the judicial board shall postpone the delivering of the decision; this shall be announced by the Chairman who shall state the date on which the decision will be delivered.

(7) The statement of reasons shall be signed by the Chairman of the judicial board and by the member of the board who drafted the statement. The decision together with the statement of reasons shall be sent to the parties.

57. — (1) For participating in the work of the judicial board, the Chairman and members of the board shall receive remuneration in accordance with the principles laid down by the President of the Office in consultation with the Minister of Labor, Wages and Social Affairs.

(2) Travel expenses shall be refunded to non-local members of the board according to the scale in force for State employees.

58. — (1) The successful party shall be entitled to his taxed costs provided he files a request therefor not later than at the end of the hearing, except for costs arising from irresponsible or clearly improper behavior on his part or from delay in the presentation of evidence. The Office shall award costs of the proceedings to the party concerned to be paid by the other party.

(2) The provisions of paragraph (1) do not apply if the other party has not given cause for the filing of a petition concerning the institution of proceedings and has not, in its reply to the petition, acknowledged that there is any case to answer.

(3) Where a petition is granted in part, each party shall bear his own costs or the costs shall be divided proportionally between them.

(4) Where the proceedings are stopped by reason of the fact that the petitioner withdraws his petition before the case is decided (article 53, paragraphs (6) and (7), of this Decree), the Office shall order the refunding of half the fee to the petitioner; in this case, the other costs of the proceedings are borne by the petitioner.

(5) If the petitioner is a person whose main residence or principal place of business is abroad and who does not possess real property in Poland, the Office may, at the request of the other party, require such a petitioner to pay a deposit as security for the costs of the proceedings failing which the petition shall not be examined.

(6) In matters relating to the costs of proceedings which are not covered by paragraphs (1) to (5), the provisions of the Code of Civil Procedure shall apply *mutatis mutandis*.

59. — In matters not covered by articles 51 to 56 of this Decree, the provisions of the Code of Administrative Procedure shall apply *mutatis mutandis*.

Chapter 2 Appeal Procedure

60. — (1) An Appeal Commission, with its seat in Warsaw, is hereby created in the Office.

(2) The Appeal Commission shall consist of a Chairman and Deputy-Chairmen appointed from among the judges of the Supreme Court by the first president of that Court and 36 members from the list of the President of the Office, 36 members from the list of the Central Council of Trade Unions, and 36 members from the list of the Central Technical Organization, who shall be invited to join the Commission by the Chairman of the Commission. The composition of the Appeal Commission is published in the "Patent Office Gazette" (*Wiadomości Urzedu Patentowego*).

(3) The Appeal Commission shall be supervised by the President of the Council of Ministers, who may delegate the exercise of such supervision to the President of the Office.

The supervision may not encroach upon the area in which the members of the Appeal Commission are independent.

61. — (1) When the Appeal Commission examines a case, it shall be composed of a Supreme Court judge as Chairman, two representatives of the Office, one representative of a trade union, and one representative of a scientific and technical association, who have been invited by the Chairman of the Appeal Commission from among the members of that Commission to join the judicial board.

(2) When the case is complicated, the Chairman of the Appeal Commission may order an appeal to be examined by a board increased by two persons.

62. — (1) The period during which an appeal may be lodged against a decision is two months, and the period during which an objection may be made to an interlocutory order is one month from the date on which the party against whom the decision or interlocutory order was made was given notice of the same.

(2) When an appeal or objection is lodged after the expiry of the prescribed period, and unless there are grounds for extending the period, the Appeal Commission shall take its decision on whether to reject the appeal or objection *in camera*.

63. — (1) When pronouncing judgement on an appeal, the Appeal Commission may either uphold the decision appealed against or annul it in whole or in part and give a new decision on the matter, or annul the decision appealed against and order the Office to re-examine the case.

(2) In the course of such re-examination, the Office shall be bound by the view of the law and the indications concerning further procedure given in the decision of the Appeal Commission.

(3) The provisions of paragraphs (1) and (2) shall apply *mutatis mutandis* to decisions concerning objections.

64. — The provisions of article 51, paragraph (4), of this Decree and articles 52 to 59 of this Decree shall apply *mutatis mutandis* to the appeal procedure.

Chapter 3

Expropriation of Patents and of Rights to Protection. Expropriation Procedure

65. — (1) An interested organ of the State administration or State organizational unit may make a request for the expropriation of a patent.

(2) At the request of the superior organ of an interested unit of the socialized sector, the organ of the State administration or the State organizational unit indicated by the competent superior organ may make a request for the expropriation of a patent for the requirements of a unit of the socialized sector which is not a State organizational unit.

(3) A body intending to make a request for the expropriation of a patent shall, before initiating expropriation proceedings, approach the patentee for the voluntary surrender of the

patent and, if he agrees, may conclude with him a contract for the assignment of the patent.

(4) The contract referred to in paragraph (3) may also be concluded during the expropriation proceedings.

(5) The provisions of paragraph (3) shall not apply if it is impossible to conduct negotiations with the patentee for the voluntary surrender of the patent.

66. — (1) The expropriation of a patent shall affect all rights in it.

(2) A patent subject to expropriation shall pass to the State Treasury from the day on which the decision to expropriate becomes effective. The patent shall be enforced, on behalf of the State Treasury, by the unit which made the request for the expropriation of the patent.

(3) Where a patent is jointly owned, the expropriation shall affect all the co-patentees.

(4) The expropriation of a patent shall also affect the rights of persons who have acquired a licence or sub-licence or who benefit from an invention by virtue of articles 41, 65 and 69.

(5) The Office shall make an entry concerning the expropriation in the patents register.

67. — (1) If the patentee has used an invention in his enterprise before the initiation of or during the expropriation proceedings, the decision concerning the expropriation of the patent may, if the unit making a request for the expropriation agrees, contain an authorization for the continued use of the invention, free of charge, within the limits within which it has been used hitherto.

(2) In the same circumstances as those set forth in paragraph (1), a decision concerning the expropriation of a patent may contain an authorization for the continued use of the invention by the persons who used it under articles 41, 65 and 69.

68. — (1) The amount of compensation for an expropriated patent shall be fixed according to the same principles as those laid down for fixing the remuneration for an employee's invention.

(2) Compensation shall be payable only for the period during which the patentee would have had the exclusive right to use the invention.

(3) At the request of the patentee, the compensation, fixed on the basis of the foreseeable economic results, may be paid once, in the form of a lump-sum.

(4) In the case of the expropriation of a patent of special significance for the national economy, it shall be permissible, at the request of the competent superior organ, for the compensation to be fixed at an amount exceeding the maximum remuneration for an employee's invention.

(5) In the case referred to in article 67(1) of this Decree, the amount of compensation shall be correspondingly reduced.

(6) The organ which has made a request for the expropriation is responsible for paying the compensation.

(7) The patentee is entitled to separate remuneration for supplying documentation useful for the use of the invention which is the subject of the expropriated patent.

69. — (1) The compensation for the expropriation of a patent shall be paid:

- (i) up to 8,000 zł. — within three months from the day on which the decision became final;
- (ii) above 8,000 zł. — 50%, but not less than 8,000 zł. within three months from the day on which the decision became final, and the remainder within 15 months of that day.

(2) If the person entitled to receive compensation refuses to accept it, or if the payment of compensation to him encounters other obstacles, the amount due shall be paid into court.

70. — (1) The expropriation procedure is set in motion on application addressed to the Office by the competent superior organ of the organ making a request for the expropriation of the patent.

(2) The application shall include:

- (i) the number of the patent;
- (ii) the name of the organ making a request for expropriation;
- (iii) the name of the patentee and his address (principal place of business);
- (iv) justification of the need for expropriation of the patent for attaining the purposes set forth in article 70, paragraph (1);
- (v) the present method of applying the invention;
- (vi) the persons working the invention on the basis of a licence, a sub-licence or of articles 41, 65 and 69 and their addresses (principal places of business);
- (vii) the results of efforts to secure the voluntary transfer of the patent;
- (viii) the means for paying compensation available to the applicant for the expropriation of the patent;
- (ix) the approximate amount of compensation, giving reasons and indicating the unit of the socialized sector competent to calculate the amount of compensation due.

71. — (1) The Office shall examine the application for expropriation of a patent in accordance with the contentious procedure.

(2) The Office shall notify the patentee, the applicant for expropriation and the persons mentioned in article 70, paragraph (2)(vi), of this Decree of the institution of expropriation proceedings and shall publish a notice of the institution of proceedings in the premises of the Office and in the Patent Office Gazette. It shall also make an entry on the subject in the patents register.

(3) The notification and the notice shall mention:

- (i) the number of the patent concerned by the application for expropriation;

(ii) the name of the patentee;

(iii) the name of the applicant for expropriation;

(iv) the date of the hearing with instructions concerning the right to submit petitions or observations before or during the hearing.

(4) Licence or sub-licence contracts concluded after the entry concerning the institution of expropriation proceedings in the patents register shall be invalid.

(5) Assignments of the patent after the institution of expropriation proceedings shall have no effect on such proceedings.

(6) The unit of the socialized sector referred to in article 70, paragraph (2)(ix), of this Decree shall, on receiving instructions from the Office, effect the calculations concerning compensation within the period stipulated by the Office.

72. — (1) The decision concerning the expropriation of the patent is taken in the light of all the relevant circumstances and, in particular, after verification of whether the patent in question is indispensable for attaining the objectives set out in article 70, paragraph (1) and whether the applicant for expropriation possesses the means to pay the compensation.

(2) The decision concerning the expropriation of the patent shall mention in particular:

- (i) a description of the patent subject to expropriation and, in the case referred to in article 70, paragraph (3), the additional patent and the extent of the expropriation order;
- (ii) the name of the applicant and of the body making a request for expropriation;
- (iii) an indication of the rights of persons having acquired a licence or sub-licence and of the other rights subject to expropriation in accordance with article 66, paragraph (4), of this Decree;
- (iv) a definition of the rights of the person expropriated and of other persons in the case referred to in article 67 of this Decree;
- (v) the amount of compensation;
- (vi) a detailed statement of the legal and factual grounds of the decision.

(3) If the decision on expropriation covers the rights of persons who have acquired a licence or sub-licence, and if those rights have been recorded in the register of patents, the decision shall include an order to the effect that the payment of compensation to the present owner of the patent shall be made when he has proved that the persons having acquired a licence or sub-licence have expressed their agreement and that, failing such agreement, the compensation shall be paid into court.

73. — The provisions of articles 66 to 72 of this Decree shall apply *mutatis mutandis* in the case of the establishment of the amount and payment of compensation to the owner of a patent for a secret invention (article 60).

74. — The provisions of articles 65 to 73 of this Decree concerning the expropriation of patents shall apply *mutatis mutandis* to the expropriation of the right to the protection of a utility model.

Part VI — Fees for the Protection of Inventions and Utility Models

75. — (1) The protection of inventions and of utility models is subject to the payment of fees payable once only and fees payable periodically.

(2) State organizational units whose financial regulations stipulate that the income from inventions constitutes budgetary income are exempt from the payment of periodical fees for the protection of inventions and utility models.

(3) Where justified, the President of the Office may, at the request of the competent superior organ, exempt a unit of the socialized sector which is not a State organizational unit referred to in paragraph (2) from the payment of periodical fees.

(4) A table of fees relating to the protection of inventions and utility models is given in Annex 2 to this Decree⁴.

76. — (1) The lump-sum fees for the filing of applications, requests, appeals and objections shall be paid in advance.

(2) If as a result of the lodging of an appeal or an objection, the decision or order in question is revoked, the fee paid for lodging the appeal or objection shall be refunded.

77. — (1) The first periodical fee due for the first, and possibly for subsequent, periods of protection of an invention or a utility model is payable within three months of the receipt of the communication from the Office requesting the payment of the said fee.

(2) Fees for subsequent periods of protection are payable in advance, not later than the date on which the preceding period of protection expires.

(3) Periodical fees may also be paid within a period of six months after the due date; such fees, however, shall be increased by 5% if payment is made during the first month after the due date, by 10% if made during the second month, by 15% if made during the third month, by 20% if made during the fourth month, by 25% if made during the fifth month, and by 30% if made during the sixth month. This provision shall not apply to the payments referred to in paragraph (1).

(4) Periodical fees may also be paid up to one year before the time limit. These fees shall be refunded if, before the time limit, the patent or the right to protection of a utility model is invalidated or expires. Fees for earlier periods or for the current period are not refundable.

(5) In the event of the granting of an additional patent or additional right to protection of a utility model, a lump-sum

fee is payable for the protection of the invention or utility model which is the subject of the patent or right to protection. If the additional patent or additional right to protection becomes an independent patent or independent right to protection, the protection of the invention or utility model in question is subject to the payment of periodical fees starting from the period which commences when the principal patent or principal right to protection ceases to apply. The amount of these fees is the same as the amount which would be payable for the following and subsequent periods of protection of the invention or utility model protected by the said principal patent or principal right to protection respectively.

(6) The provisions of paragraph (1) shall apply *mutatis mutandis* to lump-sum payments for the protection of an invention by an additional patent and to lump-sum payments for the protection of a utility model by an additional right to protection.

(7) If the person to whom a patent or right to protection has been granted cannot, for reasons beyond his control, observe the time limit for the payment of a periodical or a lump-sum fee for the protection of an invention or a utility model, he may submit a request, stating reasons, to the Office requesting an extension of the time limit. When submitting such a request, the person concerned shall pay the fee in arrears increased by 30%.

(8) The request for an extension of the time limit may be submitted within one month of the date on which the reason for the non-observance of the time limit ceased to be operative, but not later than one year from the date of expiry of the time limit.

78. — (1) The filing of applications, requests, appeals and objections, except for requests for the entering in the register of changes affecting the patentee or the holder of a right to protection, or concerning a patent or a right to protection of a utility model, may, at the request of the applicant, be exempted by the Office in whole or in part, from the payment of a lump-sum fee, if the applicant can prove that he is unable to pay it without prejudice to his own subsistence or that of his family. If the applicant is the author of an employee's invention proposal, total or partial exemption from the payment of the fee may be granted on the basis of a petition, giving reasons, submitted by the competent works' or joint works' technical and rationalization club.

(2) At the request of the patentee or of the owner of a right to protection for a utility model which is not a unit of the socialized sector, the Office may, in the circumstances described in the first sentence of paragraph (1), exempt such person wholly or partially from the payment of the periodical and lump-sum fees for the protection of the invention or utility model.

(3) In the circumstances described in paragraphs (1) and (2), the Office may extend by six months the time limit for the payment of the periodical or lump-sum fees for the protection of an invention or utility model.

⁴ This Annex is not published here.

(4) The Office may also, at the request of the patentee or of the owner of a right to protection for a utility model, exempt such person wholly or partially from the payment of the deferred fees referred to in paragraph (3), if the patent or right to protection expires after the expiry of the first or second period of protection of the invention or utility model owing to the non-payment of the fee for the second or third period of protection of the invention or utility model.

(5) With regard to the matters referred to in paragraphs (1) to (4), the Office shall make orders. Such orders may be the subject of objections.

79. — (1) The fees prescribed in this Decree are payable in cash to a branch of the Polish National Bank, or by money order, or by transfer to the account of the Office with the Polish National Bank.

(2) Fees relating to different cases shall be paid separately.

Part VII — Transitional Provisions and Final Clauses

80. — (1) Applications for patents filed by units of the socialized sector after July 1, 1971, are considered as applications for a provisional patent unless, during the three months following the entry into force of this Decree, the unit in question has filed a separate application for a patent. This provision does not apply if the Office has fully examined the application.

(2) The provisions of this Decree shall apply to remuneration for employees' invention proposals which has not been paid before its entry into force.

81. — (1) From the day of entry into force of this Decree, the existing provisions concerning the subjects regulated herein are repealed.

(2) In particular, the following provisions with all their amendments and supplements are repealed:

- (i) the Decree of the Council of Ministers of March 16, 1963, concerning the contentious procedure before the Patent Office of the Polish People's Republic and concerning the setting-up and organization of an Appeal Commission in the Patent Office of the Polish People's Republic and the procedure before that Commission (Official Journal, No. 16, text No. 84);
- (ii) the Decree of the Council of Ministers of March 16, 1963, concerning the setting-up and organization of an Arbitration Commission in the Patent Office of the Polish People's Republic and the procedure before that Commission (Official Journal, No. 16, text No. 85);
- (iii) the Decree of the Council of Ministers of August 16, 1963, concerning the notification of inventions to be

patented abroad, the enforcement of patent rights acquired abroad and the acquisition from foreign persons of patent rights acquired in Poland (Official Journal, No. 41, text No. 227);

- (iv) the Decree of the Council of Ministers of June 2, 1964, concerning the principles and methods of the establishment and payment of remuneration for inventions and utility models relating to national defense (Official Journal, No. 20, text No. 121);
- (v) the Decree of the Council of Ministers of June 19, 1965, concerning the principles and methods of expropriating patent rights for inventions (Official Journal, No. 28, text No. 183);
- (vi) Decision No. 74 of the Council of Ministers of February 5, 1963, concerning the principles governing the organization, management and co-ordination of invention activities, the dissemination of invention proposals and the principles governing the remuneration and financing of invention activities (*Monitor Polski*, No. 18, text No. 100);
- (vii) the Decision of the Council of Ministers and of the Central Council of Trade Unions of April 5, 1963, concerning the principles governing the setting-up and the activities of rationalization brigades (*Monitor Polski*, No. 48, text No. 239);
- (viii) Decision No. 135 of the Council of Ministers of May 8, 1964, concerning the principles governing the conclusion of agreements with private individuals for the performance of work in connection with invention activities (*Monitor Polski*, No. 33, text No. 142);
- (ix) the Order of the President of the Committee for Science and Technology of October 14, 1967, concerning the principles governing the organization and competence of technical services in relation to invention activities (*Monitor Polski*, No. 59, text No. 281).

(3) So far as regards inventions and utility models, the following provisions are repealed:

- (i) the Decree of the President of the Council of Ministers of May 22, 1963, concerning priority in obtaining a patent for an invention or registration of a utility model, an industrial design or a trademark in the event of the display of the invention or utility model at a public exhibition in Poland or abroad or of the placing of the trademark on goods exhibited at such an exhibition (Official Journal, No. 23, text No. 133);
- (ii) the Decree of the Council of Ministers of August 25, 1970, concerning fees for the protection of inventions, utility models, industrial designs and trademarks (Official Journal, No. 22, text No. 180).

82. This Decree shall enter into force on January 1, 1973.

LETTERS FROM CORRESPONDENTS

Letter from Poland

Andrzej KOPFF *



