

**PROTOCOL ON A POSSIBLE MODIFICATION OF THE CONDITIONS OF ENTRY INTO
FORCE OF THE AGREEMENT RELATING TO COMMUNITY PATENTS**

THE HIGH CONTRACTING PARTIES to the Treaty establishing the European Economic Community,

HAVING REGARD to the Agreement relating to Community Patents, done at Luxembourg on 15 December 1989,

CONSIDERING the interest of implementing the Community patent system at the moment of completion of the Internal Market,

CONSIDERING that a procedure should be provided for achieving this aim in the event of certain difficulties not permitting the completion in due time of the formalities set out in Article 10 of the Agreement, the final objective remaining, however, the implementation of the system in respect of all the signatory States,

CONSIDERING that in the event of this procedure being applied the operation of the system established by the Agreement would require that certain Institutions of the European Communities be given powers in respect of Community patents even before that Agreement is in force in respect of all the signatory States,

HAVE AGREED AS FOLLOWS:

Article 1

If on 31 December 1991 the Agreement relating to Community Patents, done at Luxembourg on 15 December 1989, hereinafter referred to as 'the Agreement', has not entered into force, a Conference of Representatives of the Governments of the Member States of the European Economic Community shall be convened by the President of the Council of the European Communities. This Conference shall be empowered to amend, unanimously, the number of States which must have ratified the Agreement in order for it to enter into force.

Article 2

If the Conference takes a decision under the preceding Article, the following provisions shall apply:

- (a) the Court of Justice of the European Communities shall in respect of Community patents have the jurisdiction conferred on it by the Agreement. The Protocol on the Statute of the Court of Justice of the European Economic Community and the Rules of Procedure of the Court of Justice shall apply. The Rules of Procedure shall be adapted and supplemented, as necessary, in conformity with Article 188 of the Treaty establishing the European Economic Community;
- (b) the other Institutions of the European Communities referred to in the Agreement and the Court of Auditors shall exercise the powers conferred on them by that Agreement;
- (c) any ratification after the entry into force of the Agreement shall take effect on the first day of the third

month following the deposit of the instrument of ratification. If, however, the European Patent Convention becomes effective in respect of the State concerned at a later date, the Agreement shall take effect in respect of that State on that date;

- (d) as long as the Agreement has not entered into force in respect of a signatory State, that State may take part as an observer in the Select Committee of the Administrative Council of the European Patent Organization, hereinafter referred to as 'the Select Committee', and in the Administrative Committee of the Common Appeal Court and may appoint a representative and an alternative representative to each of these bodies for this purpose. However, that State may take part as a full member of the body concerned where:
 - that body is acting under Article 13, second sentence, of the Agreement, or
 - the Select Committee is exercising its competence under Article 16 (1) of the Community Patent Convention;
- (e) as long as the Agreement has not taken effect with respect to one of the signatory States, the percentage laid down for that State in the scale laid down in Article 20 (3) of the Community Patent Convention shall be distributed proportionally among the Contracting States. After the entry into force of the Agreement with respect to the State concerned, this provision shall continue to apply with regard to the distribution of the revenue derived from renewal fees received for Community patents which have no effect in the territory of that State;

- (f) any percentage of the scale laid down in Article 20 (3) of the Community Patent Convention which concerns a signatory State which has not yet ratified the Agreement at the time of its entry into force may not be amended in accordance with the procedure laid down in Article 20 (4) and (5) of that Convention until five years after the entry into force of the Agreement with respect to that State;
- (g) when the Agreement becomes effective in respect of a State after its entry into force, Article 82 of the Community Patent Convention shall apply to European patent applications to which the Agreement applies and in which that State is designated;
- (h) a reservation made by a signatory State under Article 83 (1) of the Community Patent Convention shall cease to have effect at the latest at the end of the 10th year after the entry into force of the Agreement with respect to all the signatory States. Article 83 (2), second sentence, shall also apply.

Article 3

1. This Protocol shall be open until 21 December 1989 for signing by the States parties to the Treaty establishing the European Economic Community.

2. This Protocol shall be subject to ratification by the 12 signatory States; the instruments of ratification shall be deposited with the Secretary-General of the Council of the European Communities.

Article 4

This Protocol shall enter into force on the first day of the third month following the deposit of the instrument of ratification of the last of the 12 signatory States to complete that formality.

Article 5

This Protocol, drawn up in a single original in the Danish, Dutch, English, French, German, Greek, Irish, Italian, Portuguese and Spanish languages, all 10 texts being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Communities. The Secretary-General shall transmit a certified copy to the Government of each of the Member States of the European Economic Community.

En fe de lo cual los plenipotenciarios abajo firmantes han suscrito el presente Protocolo.

Til bekræftelse heraf har undertegnede befuldmægtigede underskrevet denne protokol.

Zu Urkund dessen haben die unterzeichneten Bevollmächtigten ihre Unterschrift unter dieses Protokoll gesetzt.

Σε πίστωση των ανωτέρω οι υπογράφωντες πληρεξούσιοι έθεσαν την υπογραφή τους κάτω από το παρόν πρωτόκολλο.

In witness whereof, the undersigned Plenipotentiaries have affixed their signatures below this Protocol.

En foi de quoi, les plénipotentiaires soussignés ont apposé leurs signatures au bas du présent protocole.

Dá fhianú sin, chuir na Lánchumhachtaigh thíos-sínithe a lámh leis an bPrótacal seo.

In fede di che, i plenipotenziari sottoscritti hanno apposto le loro firme in calce al presente protocollo.

Ten blijke waarvan de ondergetekende gevolmachtigden hun handtekening onder dit Protocol hebben gesteld.

Em fé do que, os plenipotenciários abaixo-assinados apuseram as suas assinaturas no final do presente Protocolo.

Hecho en Luxemburgo, el quince de diciembre de mil novecientos ochenta y nueve.

Udfærdiget i Luxembourg, den femtende december nitten hundrede og niogfirs.

Geschehen zu Luxemburg am fünfzehnten Dezember neunzehnhundertneunundachtzig.

Έγινε στο Λουξεμβούργο, στις δέκα πέντε Δεκεμβρίου χίλια εννιακόσια ογδόντα εννέα.

Done at Luxembourg on the fifteenth day of December in the year one thousand nine hundred and eighty-nine.

Fait à Luxembourg, le quinze décembre mil neuf cent quatre-vingt-neuf.

Arna dhéanamh i Lucsamburg, an cúigiú lá déag de mhí na Nollag míle naoi gcéad ochtó a naoi.

Fatto a Lussemburgo, addì quindici dicembre millenovecentottantanove.

Gedaan te Luxemburg, de vijftiende december negentienhonderd negentachtig.

Feito no Luxemburgo, em quinze de Dezembro de mil novecentos e oitenta e nove.

Pour Sa Majesté le roi des Belges
Voor Zijne Majesteit de Koning der Belgen

For Hendes Majestæt Danmarks Dronning

Für den Präsidenten der Bundesrepublik Deutschland

Οκτώβριος 1989
Αλέξανδρος Κριεγκας
Πρόεδρος Τραμπ

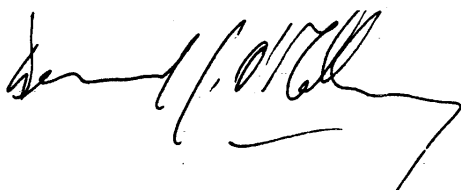
Για τον Πρόεδρο της Ελληνικής Δημοκρατίας

Por Su Majestad el Rey de España

Pour le président de la République française

Judith Cresson

For the President of Ireland
Uachtarán na hÉireann



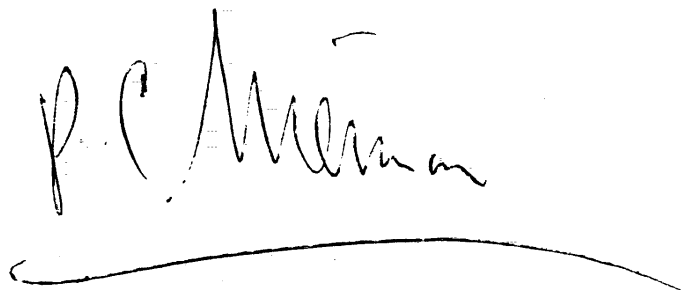
Per il Presidente della Repubblica italiana



Pour Son Altesse Royale le grand-duc de Luxembourg



Voor Hare Majesteit de Koningin der Nederlanden



Pelo Presidente da República Portuguesa

A handwritten signature in black ink, appearing to be 'M. Soares', written in a cursive style.

For Her Majesty the Queen of the United Kingdom of Great Britain and Northern Ireland

A handwritten signature in black ink, reading 'John Redwood', written in a cursive style.