

Rule 68.3(c), (e)  
GL/ISPE 10.79

### **5.1 Admissibility of the protest as checked by the formalities officer**

Before initiating the protest procedure the formal admissibility of the protest in the sense of Rule 68.3(c) (Chapter II) must be checked.

To be admissible the protest should satisfy the following requirements:

- (a) The applicant must have paid the prescribed protest fee (Rule 68.3(e)), and
- (b) The payment under protest must be accompanied by a reasoned statement, i.e. the reasoned statement should have been filed with the payment or at the latest within the time limit set in Form 405 (Chapter II).

The reasoned statement must comply with Rule 68.3(c); i.e. the applicant should argue why the international application complies with the requirement of unity of invention or why the amount of the required additional fee is excessive. In the protest the applicant should question the number of additional examination fees that he has been invited to pay, and not the amount of a single additional fee.

The payment of the protest fee and the filing of a purported reasoned statement are assessed by specially trained formalities officers. If the formalities officer finds any deficiencies, the applicant is informed of them by way of Form 420 or Form 424. Any substantive analysis is made by the Review Panel when assessing the justification of the protest.

### **5.2 The work of the Review Panel**

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For the composition and purpose of the Review Panel, see GL/PCT-EPO B-VII.7.2. The names of the members of the Review Panel are made public on Form 420.

The scope of the review is limited to those inventions for which additional fees have been paid. If the applicant's reasoning is not related to those inventions, the Review Panel will come to the conclusion that the protest is not or is only partially justified, depending on the case.

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If the Review Panel determines that the protest is wholly justified, it will inform the applicant with Form 420 (Decision on Protest Chapter II). This also applies if the Review Panel's finding results in the application not lacking unity. It is not necessary to give any reasoning unless the Review Panel decides that such reasoning would be beneficial. Furthermore, the Review Panel will order the reimbursement of all the additional fees and the protest fee. The examination will be carried out on the inventions for which the fees are paid, and the non-unity reasoning and the number of inventions in the IPER (or WO-IPEA) will be adapted to the Review Panel's decision.

If the Review Panel considers that the protest is not justified at all, it will communicate this to the applicant using Form 420. Reasoning must be given, indicating why the request for payment of additional fees is upheld