

CA/85/04

Orig.: en, fr

Munich, 11.10.2004

Draft

MINUTES

of the

97th meeting of the

ADMINISTRATIVE COUNCIL

(Munich, 15 to 17 June 2004)

DRAWN UP BY: Council Secretariat

ADDRESSEES: Administrative Council (for approval)

The summary of decisions has been distributed separately as CA/84/04.

TABLE OF CONTENTS

Subject	Page
1. AC AND GENERAL AFFAIRS	1
1.1 Adoption of the provisional agenda (CA/12/04 Rev. 1)	1
1.2 Adoption of the list of A items (see CA/68/04 + Corr. 1).....	1
1.3 Approval of the minutes of the Council's 96th meeting (CA/57/04)	3
1.4 Chairman's activities report (B28/7/04)	3
1.5 2003 Annual Report and Activities Report of the President of the Office (CA/14/04 + Add. 1)	3
2. APPOINTMENTS/ELECTIONS	4
2.1 Appointments/reappointments of chairmen and members of the boards of appeal (CA/C 3/04 + CA/C 4/04).....	4
2.2 Setting up a committee according to Article 4 of the Guidelines for the recruitment procedure for Vice-Presidents (DG 1)	6
2.3 Vice-Presidency DG 1 (CA/C 9/04)	7
3. LEGAL AND INTERNATIONAL AFFAIRS.....	7
3.1 Status of ratification procedures (CA/31/04)	7
3.2 Report of the Chairman of the Committee on Patent Law on the Committee's 24th meeting	7
3.3 Co-operation with the JPO and the USPTO; preparation of the 22nd Trilateral Conference (Washington, 15-20.11.2004) (CA/32/04)	8
3.4 Trilateral co-operation - strategic issues (CA/33/04 + Add. 1 and Add. 2).....	8
3.5 Community patent; status report	11
3.6 Draft basic proposal for a revision of the EPC implementing the organisational autonomy of the boards of appeal of the European Patent Office within the European Patent Organisation (CA/46/04 + Corr. 1 and CA/71/04)	12
3.7 Diplomatic Conference, future planning	17
3.8 Amendment of Article 5(1) of the Regulation on the establishment of an institute of professional representatives before the European Patent Office (CA/47/04).....	17
3.9 Strategy debate on PCT co-operation in Europe (CA/70/04 + Addenda).....	18
3.10 Establishment of a patent academy within the EPO (CA/64/04 + Corr. 1)	22
3.11 PCT co-operation - Request from the Finnish delegation	30
3.12 Accession of Malta (CA/76/04).....	30
3.13 Request by Croatia for observer status on the Administrative Council of the European Patent Organisation (CA/81/04).....	31

4.	TECHNICAL CO-OPERATION/INFORMATION	49
4.1	Report of the chairman of the ad hoc <i>epoline</i> Working Party concerning the 11th meeting of the Working Party	31
4.2	Report of the chairman of the Working Party on Technical Information concerning the 59th meeting of the Working Party.....	31
4.3	Status report on co-operation with member states (CA/21/04 + Corr. 1, Add. 1 Rev. 1 and Add. 2)	31
4.4	Technical co-operation activities by EPO member states for 2003 and 2004 (planned) (CA/36/04).....	31
4.5	Co-operation programme on standardised automation services ("Toolbox") (CA/37/04 + Add. 1)	32
4.6	Strategy suggested by the EPO patent information survey (CA/58/04 + Add. 1)	32
4.7	Access to EPO database system (EPOQUE for patent offices of non-member states) (CA/2/04).....	34
4.8	Cost to member states of EPOQUE-BNS access (CA/43/04).....	34
5.	AUTOMATION.....	34
6.	AWARD OF CONTRACTS	34
7.	BUILDING MATTERS	34
7.1	Future of the Building Committee (CA/66/04).....	34
7.2	Meeting the EPO's long-term accommodation requirements in Munich (CA/45/04 + Add. 1)	35
8.	RESERVE FUNDS FOR PENSIONS AND SOCIAL SECURITY (RFPSS)	38
8.1	Summary of conclusions of the RFPSS Supervisory Board's 48 th meeting (FRP/CS PV 45, FRP/CS PV 46, FRP/CS PV 47 + CA/27/04)	38
8.2	Quarterly RFPSS management reports (3/2003 + 4/2003) (CA/22/04 + CA/23/04).....	39
8.3	Quarterly RFPSS budget reports (4/2003 + 1/2004) (CA/24/04 + CA/25/04).....	39
9.	PERSONNEL/POLICY MATTERS	39
9.1	Amendment of Article 12 of the Pension Scheme Regulations on the transfer of pension rights (CA/38/04).....	39
9.2	Long-term care insurance (CA/54/04 Rev. 1).....	39
9.3	Abolition of age-based promotion to A4 (at 50) for A-grade staff (CA/55/04 + Corr. 1).....	39
9.4	Progress report on the EPO Seat Agreement with the Netherlands (oral report) and situation at The Hague (CA/75/04)	40
9.5	Sick leave and invalidity (CA/72/04).....	43

10.	PERSONNEL/OPERATIONAL MATTERS.....	44
10.1	Report on application of the EPO staff home loans scheme adopted by the Administrative Council in CA/D 6/85 on 14 June 1985 (CA/39/04).....	44
11.	PERSONNEL/APPEALS	44
11.1	Appeals IA/5/02, IA/1/03 + IA/2/03 and IA/1/04 (CA/C 5/04, CA/C 6/04 + CA/C 7/04)	44
12.	FINANCIAL MATTERS/BUDGET/PLANNING.....	44
12.1	Report of the chairman of the Budget and Finance Committee concerning the 81st meeting of the Committee (CA/68/04 + Corr. 1)	44
12.2	Quarterly financial statements (4/2003 + 1/2004) (CA/16/04 + CA/17/04)	44
12.3	International Financial Reporting Standards; progress report (CA/18/04 + Add. 1)	44
12.4	Synoptic table of key EPO statistics (2003 + 1/2004) (CA/48/04 Rev. 1 + CA/65/04)	44
12.5	Productivity and production figures reached at the end of 2003 (CA/41/04)	45
12.6	Unit cost productivity (CA/29/04).....	45
12.7	Basic assumptions for the business plan, budget and financial plan 2005 - 2009 (CA/35/04 + Add. 1 and Add. 2)	45
12.8	Information on examining capacity (CA/19/04).....	46
12.9	Reimbursement of costs incurred by states invited to accede to the EPC attending meetings of the Committee on Patent Law in 2004 (CA/26/04).....	46
12.10	Draft supplementary budget: PschorrHöfe Phase VIII (CA/59/04)	46
12.11	Revised Tax arrangements for EPO pensions (CA/61/04).....	46
12.12	Tax treatment of benefits from the Organisation's long-term care insurance scheme (LTC benefits) in the contracting states (CA/53/04).....	47
12.13	Collection of renewal fees (CA/62/04).....	47
12.14	Budget and financial issues relating to the establishment of a patent-related academy set up within the EPO (CA/63/04 + Add. 1)	48
12.15	Draft budget of the European School Munich for the 2005 accounting period (CA/15/04 + Add. 1f)	48
13.	MISCELLANEOUS	48
13.1	Work programme for the meetings of the Council during the second half of 2004 (CA/1/04 Rev. 1e + CA/1/04 Rev.1 Add.1).....	48
13.2	Other business	48
ANNEX 1	LIST OF PARTICIPANTS	49

The Administrative Council of the European Patent Organisation held its 97th meeting in Munich, from 15 to 17 June 2004, with Roland Grossenbacher (CH) in the chair. The list of participants is given in Annex 1. The chairman welcomed the participants, in particular Ms Teresa Mogin Barquin (ES) and Benoît Batistelli (FR), who were attending their first Council meeting as heads of the Spanish and French delegations respectively, as well as the newcomers on various delegations: Paulo Serrão (PT), Eero Mantere (FI), Javier Moreno Ramos (ES) and Beltan Calveyra (FR).

1. AC AND GENERAL AFFAIRS

1.1 Adoption of the provisional agenda (CA/12/04 Rev. 1)

01. The Council adopted the agenda set out in CA/12/04 Rev. 1, and decided, under Article 9(5) of its rules of procedure, that the documents received late would stay on it [CA/33/04 Add. 1 (agenda item 3.4), CA/46/04 Corr. 1 (item 3.6), CA/70/04 Add. 12, Add. 13 and Add. 14 (item 3.9), CA/76/04 (item 3.12), CA/75/04 (item 9.4) and CA/61/04 (item 12.11)]. The chairman explained that under agenda item 2.2, the President would inform the delegations on the appointment of an interim Vice-President DG 1.

1.2 Adoption of the list of A items (see CA/68/04 + Corr. 1)

02. The Council adopted the list of A items in CA/12/04 Rev. 1. In so doing, it noted:
- the quarterly RFPSS management reports (3/2003 + 4/2003) (CA/22/04 + CA/23/04) (= agenda item 8.2)
 - the quarterly RFPSS budget reports (4/2003 + 1/2004) (CA/24/04 + CA/25/04) (= item 8.3)
 - the report on the application of the EPO staff home loans scheme adopted by the Administrative Council in CA/D 6/85 on 14 June 1985 (CA/39/04) (= item 10.1)
 - the quarterly financial statements (4/2003 + 1/2004) (CA/16/04 + CA/17/04) (= item 12.2)
 - the progress report on implementation of International Financial Reporting Standards (CA/18/04 + Add. 1) (= item 12.3)
 - the synoptic table of key EPO statistics (2003 + 1/2004) (CA/48/04 Rev. 1 + CA/65/04) (item 12.4)

- the productivity and production figures reached at the end of 2003 (CA/41/04) (= item 12.5)
- the information on examining capacity (CA/19/04) (= item 12.8)
- the report on the collection of renewal fees (CA/62/04) (= item 12.13)
- the draft budget of the European School Munich for the 2005 accounting period (CA/15/04 + Add. 1f) (= item 12.15),

gave a favourable opinion on:

- the basic assumptions for the business plan, budget and financial plan 2005 - 2009 (CA/35/04), having noted the information in Add. 1 and 2 (= item 12.7)

and approved:

- the budget table in Add. 1 Rev. 1 to CA/21/04, having noted the information provided in the latter document and its Add. 2 (= item 4.3)
- the co-operation programme on standardised automation services ("Toolbox") (CA/37/04 + Add. 1) (= item 4.5)
- solution "b" in CA/2/04 concerning access to the EPO database system (EPOQUE for patent offices of non-member states) (= item 4.7)
- the new rates in CA/43/04 ("Cost to member states of EPOQUE-BNS access") (= item 4.8)
- the draft decision set out in Part II of CA/38/04 ("Amendment of Article 12 of the Pension Scheme Regulations on the transfer of pension rights") (= item 9.1) [see CA/D 7/04]
- the draft decision set out in Part II of CA/54/04 Rev. 1 ("Long-term care insurance") (= item 9.2) [see CA/D 6/04]
- the reimbursement of costs incurred by states invited to accede to the EPC attending meetings of the Committee on Patent Law in 2004 (CA/26/04) (= item 12.9).

03. The German delegation said that it would again abstain on agenda item 4.3 as it had done in the Budget and Finance Committee. It did not feel that the documents presented under item 4.3 reflected the principles endorsed in CA/87/01.

1.3 Approval of the minutes of the Council's 96th meeting (CA/57/04)

04. The Council noted a comment by the Swedish delegation regarding its views set out in point 56 of CA/57/04 on the plan to establish a European industrial property academy. While it did not wish the draft minutes to be amended, it wished to restate its views on the academy and, among others, the European qualifying examination under the relevant agenda item of the present meeting.
05. The Council approved the minutes of its 96th meeting as set out in CA/57/04, with, at the request of the Hungarian delegation, editorial amendments to points 8, 10, 47 (English version only) and an addition to point 112, stating that the Hungarian delegation had supported the Finnish delegation's request regarding the application of Article 157(3) EPC) [reference: CA/PV 96].

1.4 Chairman's activities report (B28/7/04)

06. The chairman reported on the Board's fourth meeting, held in Munich on 27 May 2004, the outcome of which is summarised in B28/7/04. A substantial part of this meeting was devoted to a preliminary exchange of views concerning the way in which the strategic debate on PCT co-operation in Europe is to be organised (see item 3.9 of the agenda below). The members of the Board agreed on the need to define the objectives of such a debate and also to extend its scope beyond the question solely of partnership agreements. The members of the Board also agreed on a proposed timetable for the debate. At its meeting the Board also considered the procedure for recruiting a new Vice President for DG 1.
07. The Council noted this report.

1.5 2003 Annual Report and Activities Report of the President of the Office (CA/14/04 + Add. 1)

08. The President said that the Office now employed almost 6 000 people, ie 60% more than when he took office on 1 January 1996. It had therefore, in terms of personnel, become one of the largest international organisations in the world. This expansion had not in any way interfered with the excellent performance of the Office. On the contrary, its performance had even improved following the introduction, started in 2003 and continued in 2004, of a certain number of changes to procedures. This had particularly been the case as regards extended European search reports. This project was launched on 1 January 2004 and allowed an applicant to have a preliminary idea of whether or not his application was likely to result in the grant of a patent. With this new system, the number of applications withdrawn at a relatively early stage had increased, preventing

examiners from wasting time by having to continue to work on files which, in all likelihood, had no chance of succeeding. The Office was now entirely ready to meet the criteria set at the intergovernmental conference in Paris in 1999, concerning the duration of the grant procedure. The strategy implemented in order to master the workload was beginning to bear fruit and backlogs remained in only a very few areas. In addition to the "quantitative" aspects of this issue, the Office had not lost sight of the need to maintain the highest possible level of quality. Internal consultations had been taking place on the means of achieving further improvements in this respect. Overall, the Office had continued to achieve excellent results, which would not have been possible without the hard work of its staff, who deserved the Council's thanks. After an unsettled period, which had had a disruptive effect on production, a constructive and fruitful dialogue had been renewed between staff and management. The President concluded his report with the hope that this dialogue would continue to bear fruit in future.

09. The Council noted this report and thanked the President and staff for the good results which had been achieved.

2. APPOINTMENTS/ELECTIONS

<h3>2.1 Appointments/reappointments of chairmen and members of the boards of appeal (CA/C 3/04 + CA/C 4/04)</h3>
--

10. Meeting in restricted composition, without the observers and staff representatives, the Council unanimously approved the reappointments proposed in CA/C 3/04 and CA/C 4/04, concerning:
- **Ms C. Holtz (SE)**, reappointed legally qualified member of the boards of appeal and of the Disciplinary Board of Appeal with effect from 1 September 2004;
 - **Mr P. Alting van Geusau (NL)**, reappointed technically qualified member of the Enlarged Board of Appeal and chairman of a technical board of appeal (Mechanics) with effect from 1 October 2004;
 - **Mr S. Chowdhury (GB)**, reappointed technically qualified member of a board of appeal with effect from 1 October 2004;
 - **Mr H. Meinders (NL)**, reappointed technically qualified member of a board of appeal with effect from 1 October 2004;
 - **Mr W. Zellhuber (DE)**, reappointed technically qualified member of a board of appeal with effect from 1 October 2004;

- **Mr P. Mühlens (DE)**, reappointed legally qualified member of the boards of appeal with effect from 1 October 2004;
- **Mr P. Kitzmantel (AT)**, appointed chairman of a technical board of appeal (Chemistry) and technically qualified member of the Enlarged Board of Appeal with effect from 1 October 2004;
- **Mr C. Narcisi (IT)**, appointed technically qualified member of the boards of appeal with effect from 1 October 2004;
- **Mr P. Weber (FR)**, appointed technically qualified member of the boards of appeal with effect from 1 October 2004;
- **Mr G. Ashley (GB)**, appointed technically qualified member of the boards of appeal with effect from 1 October 2004;
- **Mr Y. Jest (FR)**, appointed technically qualified member of the boards of appeal with effect from 1 October 2004;
- **Mr M. Poock (DE)**, appointed technically qualified member of the boards of appeal with effect from 1 October 2004;
- **Mr M. Gordon (GB)**, appointed technically qualified member of the boards of appeal with effect from 1 October 2004;
- **Mr J. Jardon-al-Alvarez (ES)**, appointed technically qualified member of the boards of appeal with effect from 1 October 2004;
- **Mr W. Ehrenreich (DE)**, appointed technically qualified member of the boards of appeal with effect from 1 October 2004;
- **Mr A. Nuss (LU)**, reappointed technically qualified member of the Enlarged Board of Appeal and chairman of a technical board of appeal (Chemistry) with effect from 1 January 2005;
- **Ms M. Günzel (DE)**, reappointed legally qualified member of the Disciplinary Board of Appeal with effect from 1 January 2005;
- **Mr R. Menapace (AT)**, reappointed legally qualified member of the Disciplinary Board of Appeal with effect from 1 January 2005;
- **Mr C. Rennie-Smith (GB)**, reappointed legally qualified member of the Disciplinary Board of Appeal with effect from 1 January 2005;

- **Ms A. Ritzka (DE)**, appointed technically qualified member of the boards of appeal, with effect from a date between 1 October 2004 and 1 January 2005 to be agreed between her and the President of the European Patent Office;
- **Mr T. BOKOR (HU)**, appointed legally qualified member of the boards of appeal, with effect from a date between 1 October 2004 and 1 January 2005 to be agreed between him and the President of the European Patent Office.

2.2 Setting up a committee according to Article 4 of the Guidelines for the recruitment procedure for Vice-Presidents (DG 1)

11. The President first informed the Council that he had appointed Guillaume Minnoye (BE) as interim head of DG 1, with effect from 1 July 2004 until the current Vice-President's successor took up his duties. He took this decision after being assured by the Belgian delegation that Belgium would not put Mr Minnoye forward as a candidate for the position of Vice-President DG 1, and that it would not support his application if he were to apply on a personal basis.
12. The Council noted this information.
13. The Council chairman then submitted the timetable agreed by the Board for the procedure leading to the appointment of the new Vice-President DG 1, as follows:
 - deadline for nominations: 29 July
 - despatch of all files to delegations: 31 August at the latest
 - meeting of the committee: 9 September
 - despatch of shortlist to delegations: 10 September
 - deadline for suggested additions to the shortlist: 5 October
 - meeting of the committee/interviews with short-listed candidates: 21-22 October
 - appointment: 26-28 October (98th meeting of the Council).
14. As far as the composition of the committee was concerned, there were two options, the first being a minimum number of members, ie comprising the chairman and deputy chairman of the Administrative Council with the President, and the second being these three plus, as had been customary in the past, up to

three delegation heads. If the second option were to be chosen, a number of alternate members would also need to be nominated in order to take account of any possible conflicts of interest in the event that candidates and members of the committee were from the same country.

15. The German delegation considered that the simplest solution would be to establish a restricted committee. The chairman and deputy chairman of the Council and the President were all perfectly competent and well qualified. The other option would create a number of difficulties, including in particular the question of conflicts of interest.
16. The Netherlands delegation commented that this could also be a risk as far as members of a restricted committee were concerned.
17. In response to this last comment, the chairman pointed out that, since there was already a Swiss Vice-President and that, in three years' time, the Office would be headed by a British national, the risk was, in fact, very small.
18. In conclusion, the Council decided to set up a committee composed of the chairman and deputy chairman and the President, and approved the timetable suggested by the Board for the procedure for appointing the new Vice-President DG 1, assuming that the appointment would be made at the Council's 98th meeting from 26 to 28 October 2004.

2.3 Vice-Presidency DG 1 (CA/C 9/04)

19. Meeting in restricted composition, without the observers and staff representatives, the Council noted the content of the letter of 14 May 2004 from the current Vice-President DG 1 to its chairman, and decided not to take any action.

3. LEGAL AND INTERNATIONAL AFFAIRS

3.1 Status of ratification procedures (CA/31/04)

20. The Council noted the information in CA/31/04.

3.2 Report of the Chairman of the Committee on Patent Law on the Committee's 24th meeting

21. The Council noted the committee chairman's oral report on the Committee's 24th meeting, held in Munich on 27 and 28 April 2004. Its main focus was the preparation of discussions in WIPO's Standing Committee on the Law of Patents

for May 2004 and finalisation of the discussions on the proposal concerning the autonomy of the boards of appeal. The SPLT negotiations were said to be in a very difficult phase.

3.3	Co-operation with the JPO and the USPTO; preparation of the 22nd Trilateral Conference (Washington, 15-20.11.2004) (CA/32/04)
------------	--

3.4	Trilateral co-operation - strategic issues (CA/33/04 + Add. 1 and Add. 2)
------------	--

22. The President recalled that it had been agreed that the Council would discuss the strategic issues concerning trilateral co-operation at its June meeting each year, with a view to establishing the position to be taken by the Office at the Trilateral Conference in November. Some of the trilateral projects had not given rise to any major problems, including in particular those concerning classification, documentation and electronic tools. Initial results from the project concerning the exchange and use of search reports had been encouraging, but certain difficulties had arisen. Although the search reports drawn up by the Office could be used by the JPO and the USPTO without problems, on the other hand use by the JPO and the Office of search reports issued by the USPTO required permission from the applicant. The USPTO expressed a number of concerns about the Office's proposal that a claims fee should be levied for PCT applications. The Office had serious reservations about the introduction, suggested by the USPTO, of a 30-month grace period outside the scope of the Paris Convention. With regard to the draft Substantive Patent Law Treaty (SPLT), the trilateral partners, noting that discussions at WIPO level had made very little progress, suggested that it would be useful for the Standing Committee on the Law of Patents (SCP) to discuss an initial limited package of issues offering the best prospects for near-term consensus and rapid results (definition of prior art, grace period, novelty and non-obviousness/inventive step). The trilateral partners were of the opinion that, if this proposal was not accepted by the WIPO General Assembly, a one to two-year moratorium on further SCP meetings should be considered. Finally, the USPTO and the JPO suggested expanding harmonisation discussions beyond the trilateral partners to include the EPC contracting states, Canada, Australia and possibly other like-minded states.
23. The United Kingdom delegation declared that it was well satisfied with the Office's role within the trilateral partnership. Its view was that it was important for Europe to take a leading role, as apparently neither Japan nor the United States were

currently in a position to do so. This meant that the Administrative Council should devote sufficient time to reviewing the trilateral co-operation issues, in order to provide the Office with the political support it needed to put forward the positions of the member states at meetings with the other two partners. To this end, it would perhaps be helpful for the Council chairman to take part in the trilateral co-operation strategic discussions. The United Kingdom delegation supported the idea of a claims fee for PCT applications. It was also in favour of the shared use of search results, as that would help to prevent duplication of work. Examiner exchanges were both useful and necessary, as they promoted understanding of the way in which other offices worked, and therefore made the best possible use of the work which had been done. Like the Office, the United Kingdom delegation was opposed to the USPTO proposal for extending the grace period. It also wanted to know the extent of the USPTO's involvement in the EPTOS project, both in financial terms and as regards human resources. With regard to the SPLT, it supported the idea of a moratorium on the SCP work. The concerns of developing countries about the draft Treaty should not be ignored, but it was necessary to remain aware of the fact that these countries were not a homogeneous group and also that their concerns were not all directly related to the SPLT.

24. The Netherlands delegation agreed with the sentiments of the United Kingdom delegation. The trilateral co-operation discussions were certainly very important. However, the Netherlands delegation wanted to know what the overall objective of these discussions was and what results were expected in the medium term.
25. The French delegation said that it very much agreed with the analysis by the United Kingdom delegation. It was also resolutely opposed to the extension of the grace period. With regard to the SPLT, the situation was extremely difficult and there was a real risk of a crisis developing with the developing countries within WIPO. It approved of the idea of limiting the scope of the discussions, but thought that it might be appropriate to discuss this issue again at the next meeting, in the light of the conclusions of the WIPO General Assembly.
26. The German delegation pointed out that, while it was clearly highly desirable for the Office to inform member states about technical projects it was conducting with its two partners as part of trilateral co-operation, it was not absolutely necessary for it to obtain their prior agreement on such matters. However, as far as the strategic issues were concerned, prior agreement was absolutely indispensable, as that would make it possible to prepare for the negotiations at international level, which could often prove very difficult, as had been the case with the SPLT project. On this point in particular, it was important that the Office and the member states

defined those points which were the most important in their eyes, so that the Office could put these views forward at trilateral level to start with and then at international level.

27. The Swedish delegation, backed by the Finnish delegation, declared that it supported the Office's proposal to continue discussions on the SPLT while focusing on a limited number of issues considered as priorities. As regards the other options suggested in the event that this proposal were to be rejected by the WIPO General Assembly, including in particular the option of continuing with the discussions with a restricted group, outside WIPO, it considered that the delegations would need instructions from their governments before being able to take a decision.
28. The Swiss delegation said that it supported the proposed method for continuing discussions on the SPLT. It was necessary to be aware that the developing countries had a fundamentally negative attitude to the whole process because they could not see the real purpose of it, and were concerned that it would lead to unexpected developments which could have detrimental consequences for them. It would therefore be advisable to make greater efforts to demystify the question of intellectual property for these countries. Switzerland would be sorry to see the SCP work suspended, but it was of the opinion that a moratorium would probably be necessary if the discussions on the limited package were to fail.
29. The Portuguese delegation indicated that it approved of the proposal to discuss only a limited number of issues. However, it did emphasise that the concerns of the developing countries should not be ignored.
30. The epi representative pointed out that including questions relating to genetic resources and traditional knowledge, etc. in patent law, as the developing countries would like, would signify the beginning of the end of the patent system.
31. The UNICE representative said that he was totally in agreement with the point of view expressed by the epi representative. Industry was very concerned about the political consequences of the current stalemate in the SPLT work.
32. The WIPO representative explained that it would be wrong to think that the questions raised by the developing countries were all related to intellectual property. Some were related to far more deep-seated concerns. Obviously, it would be necessary to make a greater effort to make them understand what intellectual property was all about, but generally speaking they were well aware of this. The WIPO representative finished by saying that he would be extremely

surprised if the WIPO General Assembly were to support the idea of transferring discussions on the SPLT to a smaller group outside WIPO.

33. The Vice-President DG 5 said that it was not always easy for the Office to maintain a leading role in the trilateral co-operation partnership, because its two partners both had direct links to their governments, which was not the case for the Office. For this reason, it was essential for the Office to come to the trilateral meetings with a clear mandate from the member states on the positions to be put forward in respect of strategic issues. It was therefore absolutely vital for prior discussions to be held within the Council. However, he was not entirely in favour of the idea that member states should themselves take part in the trilateral discussions. Indeed, the trilateral co-operation was effective precisely because only three partners were involved. Any expansion would necessarily reduce the effectiveness of the partnership.
34. Responding to the question raised by the United Kingdom delegation concerning the EPTOS project, the Office explained that the USPTO was currently unable to participate fully in the project for budgetary reasons. The development work would therefore be carried out by the Office alone, but it would keep its American partner up to date with progress.
35. Summarising the discussions, the chairman of the Council said that it was clear that the delegations would like to be more closely involved in the discussions about trilateral co-operation issues. The Board would examine the ways in which discussions on these matters could continue in the most appropriate manner at Council level.
36. In conclusion, the Council noted the information in CA/33/04 and gave a unanimous favourable opinion on the ideas outlined in CA/33/04 Add. 1 and the measure proposed in CA/33/04 Add. 2 (present: 27; for: 27).

3.5 Community patent; status report
--

37. The head of the Irish delegation, representing the state holding the EU Presidency in the first half of 2004, made the following declaration:

"Speaking on behalf of the European Union, I regret to have to confirm that, unfortunately, the Competitiveness Council of the EU at its meeting in Brussels on 17 and 18 May did not manage to reach agreement on the Regulation on the Community patent with the unanimity required. In view of the fact that only a very small number of issues remained unresolved, and that the Irish Presidency has, building on the work carried out by previous Presidencies, tried to put forward all conceivable compromise solutions, this is certainly disappointing. At the same time it is important to note that the compromise proposals submitted to the Council

received a large degree of support. However, since the agreement of all 25 member states is required, support by the majority is not sufficient.

"The question now, therefore, is whether it is likely to be accepted in the near future. There is no clear answer to this. We will have to examine carefully ways in which we might overcome this impasse and the Irish Presidency will notify the European Council of the situation within the next week. Under these circumstances, the European Union considers that the decision to convene a diplomatic conference for the purpose of amending the European Patent Convention should be postponed. We will keep all parties concerned informed about further developments, and the situation should be reviewed at the Administrative Council meeting in October."

38. The Swiss delegation regretted that it had not yet been possible to reach agreement on the Community patent. As it had already mentioned on several occasions, the European patent system would not be complete until a Community patent was established. Furthermore, developments within the European Patent Organisation had been blocked by the impasse surrounding the Community patent issue. It was, therefore, time to act. The Administrative Council should, at its meeting in December 2004, decide whether or not a diplomatic conference on the draft European patent litigation agreement (EPLA) should be convened. Without wishing to pre-empt this decision, the Swiss delegation wished to emphasise that by postponing the Community patent project until the autumn, it would be possible to overcome the current obstacles which could derail such a conference. Therefore, the Swiss delegation asked the European Union member states to carry out consultations between now and the Council's December meeting in order to find a solution to the question of potential conflict between Community law and the European patent litigation system.

3.6	Draft basic proposal for a revision of the EPC implementing the organisational autonomy of the boards of appeal of the European Patent Office within the European Patent Organisation (CA/46/04 + Corr. 1 and CA/71/04)
------------	--

39. The chairman introduced the document.
40. The Finnish delegation thought that the boards of appeal were already working independently and raised the question of whether a diplomatic conference was really necessary. It felt that the financial consequences emanating from the

proposal were unclear. Regarding the appointment of judges, it favoured a renewable term of five years (Alternative B - later mistakenly called the status quo).

41. The Netherlands delegation favoured autonomous boards of appeal. A diplomatic conference was necessary for legal reasons and should take place as soon as possible. It favoured Alternative B but recognised the limitations of this concept in practice.
42. The chairwoman of the Budget and Finance Committee pointed out that the high number of abstentions which had occurred in her committee were due to a perceived lack of financial information.
43. The French delegation likewise asked if a diplomatic conference was necessary. It favoured Alternative B.
44. The Monegasque delegation supported the proposal and favoured Alternative B. It awaited more detailed financial information and wished to see the new Court operate in existing Office buildings in Munich.
45. The Swedish delegation supported the proposal and favoured the lifetime appointment of judges.
46. The UK delegation raised issues of finance and funding. It wondered for example how financial disputes between the President of the Office and the President of the Court of Appeals would be dealt with in practice and how the use and payment of common services would work. It supported the proposal in general and preferred Alternative B.
47. The Danish delegation did not consider autonomy an urgent question and would have preferred discussing a more fundamental change to the structure and composition of the boards of appeal. It did not think that the project merited a separate diplomatic conference and preferred a fixed-term appointment.
48. The Hungarian delegation supported the proposal. It asked for further clarification regarding the budgetary settlement and thought that a diplomatic conference should deal with several major topics. As to the question of appointment, it was open to both options.
49. The Swiss delegation proposed several drafting amendments to the proposal. It favoured Alternative B and thought that the topic was ripe for a diplomatic conference.

50. The Turkish delegation supported the proposal, pointing out that a diplomatic conference was needed according to Article 172 EPC. Regarding the options for appointing judges, it identified a clear trade-off between independence and efficiency. It favoured a five or six-year term but asked whether this would be extended, and if so, whether for another five years or for life. This needed further thought as it had an impact on the question of the independence of the judges.
51. The Portuguese delegation favoured a five-year appointment for judges, which had worked well in the past and was not linked to the autonomy issue or indeed anything that the proposal had set out to address. It felt that a diplomatic conference was necessary to discuss all outstanding matters which would impact on other areas.
52. The German delegation thought that a diplomatic conference was necessary for legal reasons but should wait until other matters could be added to the agenda. It felt that Alternative B was in reality an appointment for life and no true alternative. A real alternative to life-time appointment, ie an appointment for five years with a real option to re-appoint should be sought and discussed in the Committee on Patent Law.
53. The Belgian delegation supported the proposal. It felt that it was not worthy of a single-issue diplomatic conference. It regretted that the Budget and Finance Committee and the Administrative Council had not received detailed information on medium and long-term costs of the future Court. It favoured a short-term, renewable option, but was flexible. However, the Administrative Council should have real powers of rejecting the reappointment of a judge.
54. The Czech delegation supported the proposal but did not regard it as urgent. It favoured Alternative B.
55. The Spanish delegation supported the proposal and was open to holding a diplomatic conference. It had no particular preference for either appointment option.
56. The Polish delegation supported the proposal. It favoured lifetime appointment of judges as it enabled the Organisation to gain the best experts and increase the stability and strength of the system. It favoured forwarding the draft proposals to a diplomatic conference.

57. The Luxembourg delegation did not view the proposal as necessary or in any case a priority item for a diplomatic conference. It did not feel that all questions had been laid on the table. The proposal equally carried risks. It favoured Alternative B.
58. The Hellenic delegation favoured the proposal. It wished to wait for other issues to arise and be dealt with in the same diplomatic conference.
59. The Swiss delegation asked if the status quo really was the same as Alternative B. It favoured reappointment after five years.
60. The Romanian delegation supported the proposal. It might of course be the subject-matter of a future diplomatic conference. It did not wish to see lifetime appointments as it felt that these hindered younger judges or those from new member states being appointed.
61. The Slovenian delegation supported the proposal. It did not regard it as urgent enough for a separate diplomatic conference and favoured Alternative B. These views were supported by the Slovakian delegation.
62. The Irish delegation supported Alternative B and wished to see the proposal included on the agenda of a diplomatic conference jointly with other items. It shared the views of the UK delegation concerning financial management matters.
63. The Estonian and Bulgarian delegations supported the proposal and favoured Alternative B.
64. The Finnish delegation thanked the German delegation for its comments on the question of the urgency of a diplomatic conference.
65. The Netherlands delegation said it favoured a five-year period. By way of compromise, reappointment could then take place taking into account the advice of the President of the new Court.
66. The President stressed that legally there was a guarantee at present that neither the President nor anyone else could intervene in the decisions of the boards of appeal. However, the question was one of political hygiene as here appearances really mattered. He stressed that there were very few cases of judges currently not being reappointed. Refusing to renew a mandate after five years or even ruling out lifetime appointments altogether required, in his view, good reasons to be set out

in the relevant drafting. He also believed that if real problems were to occur, a judge would need to be dismissed from office earlier than at the end of a five-year period. The law governing the status of a judge was thus not the right place to solve problems of a disciplinary nature. In any case, the Administrative Council at present only had the power to appoint judges while holding no supervisory powers over them whatsoever. Further, as the new Court was a specialist court of experts there were no valid reasons for limiting appointment to five years. Lastly, the estimated costs of EUR 1m paled into insignificance compared with the impact which the Community patent might have on the EPO budget. These costs were in any case the necessary price to pay for the aforementioned measure of political hygiene.

67. The Vice-President DG 3 stated that the new Court would, as in the past, rely on the logistical resources of the Office. Such assistance would be granted under administrative agreements between the Office and the Court administration. The new system would not significantly increase overall costs. Rather, the accounting system would differ from the present one. The overall costs of the project had been realistically estimated and constituted a negligible part of the overall budget of the European Patent Organisation. Turning to the questions raised by the Swiss delegation, this was one of simple drafting preferences. Further, the Vice-President DG 3 stressed that lifetime appointments were at the heart of any system setting out to guarantee a judge's independence. The Administrative Council, contrary to what had been expressed by the German delegation, was in fact being presented with two genuinely different options concerning the appointment of judges. The status quo did not in fact equal Alternative B; the former was not tenable given that the right to propose for appointments would have to shift from the President of the Office to the President of the Court of Appeals. Alternative B rather meant that judges of the Court of Appeals would normally be reappointed. Withholding reappointment would require a proposal to this effect by a committee of the Court itself. However, notwithstanding such proposal, the Administrative Council could still reappoint a judge.
68. The Council thought that, on the basis of the text proposed in CA/46/04 + Corr. 1, the project was ripe for a diplomatic conference and that it would be put on the agenda for such a conference. However, further discussion would be needed on the budgetary impact of organisational autonomy and on the appointment of the judges of the future European Court of Patent Appeals.
69. The Council also noted the information in CA/71/04.

3.7 Diplomatic Conference, future planning

70. By way of introduction, the chairman recalled that the question of the Diplomatic Conference was still outstanding, and that a decision ought now to be taken. The report given by the head of the Irish delegation (see item 3.2 above) showed that the negotiations on the Community patent project had reached an impasse. It was clear, therefore, that it would be impossible for a draft basic proposal on this matter to be prepared by the autumn. On the other hand, the question of the organisational autonomy of DG 3 was well advanced, but it did not seem sufficient on its own to justify holding a diplomatic conference. He suggested therefore that the dates initially envisaged for a diplomatic conference (in November 2004) should be unblocked.
71. The President declared that he shared the view of the chairman of the Council that it was no longer reasonable to continue to think in terms of holding a diplomatic conference in November 2004, but felt that it should be clear that the question of the autonomy of the boards of appeal should be on the agenda of such a conference, as and when it could be held.
72. In conclusion, the Council unanimously decided to release the dates initially envisaged for a diplomatic conference (in November 2004) and to return later to the question of planning a conference when the preparatory discussions on the topics likely to feature on the agenda were sufficiently far advanced (present: 28; for: 28).

3.8 Amendment of Article 5(1) of the Regulation on the establishment of an institute of professional representatives before the European Patent Office (CA/47/04)

73. The Vice-President DG 5 introduced the document.
74. The French delegation proposed a change to the short French title to be used for the professional representatives before the European Patent Office.
75. The Spanish delegation proposed inserting the wording "and its equivalent in other languages of the contracting states of the EPC" after the proposed short titles.
76. The Swiss delegation suggested awaiting a diplomatic conference so as to amend the EPC at the same time as amending the Regulation on the establishment of an institute of professional representatives before the European Patent Office. This would avoid inconsistency and could serve to enhance the legal protection of the professional representatives.

77. The Council unanimously approved the draft decision set out in Part II of CA/47/04, with the amendment requested by the French delegation (present: 28; for: 28) [see CA/D 2/04].

3.9 Strategy debate on PCT co-operation in Europe (CA/70/04 + Addenda)

78. By way of introduction, the Council chairman recalled that, at its meeting held in March 2004, the Council had agreed on the need for a strategic discussion about future forms of co-operation within the European patent system, especially regarding PCT procedures. It had therefore invited delegations to submit contributions describing possible co-operation models. Twelve contributions had been received from the national delegations and were included as Addenda 1 to 12 to CA/70/04. Section 4 of CA/70/04 set out a procedure and a timetable for the strategic debate. The Council chairman suggested that the delegations should, at this meeting, discuss only the proposals contained in the aforementioned section 4, which had received the support of the Board. The discussion on the aims and objectives of the debate could take place during the October 2004 meeting and the debate on the various co-operation models could take place at an extraordinary meeting of the Council, held from 24 to 26 November (the dates originally proposed for the diplomatic conference).
79. The Swedish delegation pointed out that, in its view, it would be difficult to organise a constructive debate within the Council without prior work. It remained convinced that this prior work should be carried out by an ad hoc working party and had suggested at the last meeting that such a working party should be set up. This ad hoc working party would be responsible for analysing the problems involved and for seeing what should be done to prepare the way ahead. Furthermore, it was very important for users to be involved in these discussions, so the delegations ought to pay particular attention to the views of interested parties in their respective countries.
80. The United Kingdom delegation stated that it agreed with the views of the Swedish delegation. In its opinion, there was no doubt that all member states should be involved in the strategic debate and that the views of users should be taken into account. If a working party were not set up to prepare the discussions, there should at the very least be a facilitator.
81. The Council chairman said that it appeared to him that, during the Council's meeting in March, most of the delegations had wanted the discussions to take place at a plenary session and had rejected the idea of an ad hoc working party, because they were concerned that certain member states would de facto be

excluded from the debate. The Board was not able to begin the debate, but could only prepare it and play a kind of "project leader" role. It was clear that in doing so, the Board should not carry out any kind of screening.

82. The Finnish delegation was opposed to the idea of setting up a restricted working party, as it considered that all the delegations should be able to take part in the debate. In its view, the Board of the Administrative Council, together with the Chairman, was well able to co-ordinate the preparation of the discussions.
83. The Netherlands delegation said that, like the Finnish delegation, it considered that each member state should participate in this debate because of its fundamental strategic importance. It supported the proposals for the procedure and timetable to be followed as set out in section 4 of CA/70/04. It was important to note that the idea for this strategic debate had originated at the request of the Finnish delegation. There was a real risk that the entire European system as it currently stood could fall apart. Therefore, it was necessary to manage the discussion properly. It would be helpful for the Council chairman to send the list of issues to be discussed to the delegations sufficiently in advance of the extraordinary meeting to be held in November, allowing them time to add to this list if required.
84. In response to this last comment, the Council chairman said that he was prepared to submit to the Council's October meeting, if not a final list of the points for discussion, at least a firm proposal with a view to establishing the boundaries of the debate.
85. The French delegation said that it agreed with both the method and the timetable proposed in section 4 of CA/70/04. It congratulated the Office on the synoptic table contained in Addendum 13, although it did point out that it would be writing with an amendment in respect of the position of France as shown in this document.
[NOTE: This amendment, as well as others sent in by other delegations has, in the meantime, been incorporated in the revised version of the document entitled CA/70/04 Add. 13 Rev. 1].
86. The Danish delegation declared that it supported the proposed procedure. Close inspection of the various addenda to CA/70/04, containing the contributions from the member states, revealed that a good number of them were proposing solutions to different problems. It was therefore important to agree on both the objective of the debate and on the issues to be discussed. With regard to the question of deciding whether or not to set up an ad hoc working party, an interim solution

could be for the Council to decide on the highly political issues for discussion and for a working party to debate them.

87. The Spanish delegation wished to point out first of all that, contrary to what might seem to be the case according to CA/70/04 Add. 13, Spain was not in favour of free competition, but rather of co-operation. As far as the organisation of the strategic debate itself was concerned, it considered, like the Swedish delegation, that users should be consulted throughout the process. It was important, however, to define exactly what was meant by "users".
88. The Belgian delegation began by giving an overview of Belgium's position concerning the possible future of PCT co-operation in Europe, and said that it would be submitting a written contribution. In relation to recent developments in the PCT system, it was necessary to define a new framework for co-operation, which not only would meet the needs of users and confirm the pre-eminent role of the European Patent Office, whose financial stability needed to be assured, but also would allow national skills to be maintained. The Belgian delegation also considered that users should be consulted and suggested that the Office should organise a meeting for interested parties, as had already been the case for other issues.
89. The Portuguese delegation said that it too felt that all member states should be able to have their say during the debate. It supported the Belgian delegation's suggestion that the Office should hold a meeting for users. In its view, such a meeting should be held during October or November 2004. In fact, an exercise of this type had already begun in Portugal.
90. The Hellenic delegation said it supported the proposed procedure and timetable. It was necessary to co-ordinate the flow of information properly, and it felt that the Board and the Council chairman were perfectly able to do this.
91. The Luxembourg delegation felt that the procedure proposed for organising the strategic debate was excellent. However, it did wonder if the proposed timetable was not rather too ambitious. It felt in particular that the period allowed for consulting interested circles was too short, since this was not simply a question of making a few technical changes to the grant procedure, but rather a strategic debate which could have an impact on the quality of patents.
92. The Romanian delegation said that it fully supported the procedure and timetable proposed in section 4 of CA/70/04, and announced that Romania was going to submit a contribution.

93. The UNICE representative explained that UNICE was concerned that the strategic debate would lead to a departure from the centralised system. In its view, it would be entirely inappropriate to embark on such a path. It was therefore necessary to examine very carefully what should be done, and it was very important for users to be consulted. Like the Belgian delegation, it felt that it would be a good idea for the Office to organise the consultation of users but, like the Luxembourg delegation, it wondered if the proposed timetable allowed enough time for proper consultation to take place.
94. The President said that he agreed with all the points raised by the UNICE representative concerning the risks involved in the possible outcome of the strategic debate. He was fully in support of the procedure proposed in CA/70/04 for organising this debate. Once the boundaries of the debate and its strategic objectives had been defined, then the possible models to be used for achieving these objectives should be discussed. The final objective of the debate should be to reach a general consensus on a solution which would be in the interests of both users and the general public. This meant that the debate should be completely open and that users should be given sufficient notice of all the options up for discussion and of their potential consequences. In any case, the Administrative Council could count on the support of the Office on this issue.
95. In response to all these various comments, the chairman pointed out that while the proposed work programme was ambitious, it was important not to lose sight of the fact that the Finnish delegation expected the Council to take a decision on its request. It had agreed that the decision could be postponed until the strategic debate was completed. He felt that there was no doubt that the users should be consulted and that the debate should be fully open. One solution for facilitating such a debate and overcoming the problems arising from a very tight timetable would be to apply the provisions of Article 13(2) of the Council's Rules of Procedure and to post all contributions to the debate on the Office website, establishing a forum for discussion in which users could put forward their points of view.
96. The staff representatives were adamant that the theme of the debate needed to be properly defined. In their view, this debate should cover what needed to be done to maintain and reinforce Europe's leading role in relation to the PCT. It was also absolutely vital to prevent the debate being derailed by issues relating purely to national interests.
97. In conclusion, the Council gave a unanimous favourable opinion on the procedure and timetable proposed in point 4 of CA/70/04 (present: 28; for: 28). The Council

also agreed that all the contributions to the strategic debate should be placed in the public domain.

3.10	Establishment of a patent academy within the EPO (CA/64/04 + Corr. 1)
-------------	--

98. The President introduced CA/64/04. This document marked the start of the final stage of a process which had begun in June 2003 with the presentation of CA/36/03 at the 93rd meeting of the Council. It was generally accepted that training in the field of industrial property in Europe was not harmonised and that equal access to such training was not available. It also appeared that it was in the interests of the European Patent Organisation to promote the training of highly qualified specialists in intellectual property. The Council recognised the strategic importance of the Office's initiative, in that it could help to strengthen the position of the European economy in the face of globalisation, and that it could lead to the development of synergies within the European patent system. The Council therefore authorised the President to carry out a feasibility study. On the basis of the results of this study, which were set out in CA/7/04 and presented to the Council at its 96th meeting, the Council gave a favourable opinion concerning the principle of establishing an Academy. At its 81st meeting, held from 10 to 12 May 2004, the Budget and Finance Committee had given a favourable opinion on CA/63/04, setting out the financial aspects of this project. The Committee had asked for a certain number of clarifications, which were provided in CA/63/04 Add. 1, the subject of item 12.14 on the agenda of this meeting. The Council was therefore now required to take a decision on the subject of the draft decision set out in Part II of CA/64/04, setting up an official Patent Academy within the European Patent Organisation.
99. The chairman of the Budget and Finance Committee confirmed that the Committee had, at its 81st meeting, given a favourable opinion on CA/63/04. From a personal point of view, and without wishing to prejudge the opinions of the delegations, she felt that CA/63/04 provided the clarifications requested by the Committee.
100. The German delegation said that it had voted against the proposals contained in CA/63/04 in the Budget and Finance Committee, because it had serious misgivings about the financial burden that running an Academy could impose on the Office and because it considered the estimated level of coverage of its costs by income to be insufficient. It still had reservations on this point and also about the legal basis for creation of the Academy. It still felt that by creating the Academy, the Office risked exceeding its competence under the EPC. In this connection, it was surprised that Article 2 of the draft Regulations still gave the

Academy's name as the "European Intellectual Property Academy", as it was under the impression that it had been agreed, in the light of the "implied powers doctrine", that it should only refer to patents. However, not wishing to be the only one to vote against, the delegation was prepared to change its stance and abstain from the vote.

101. The Swedish delegation pointed out that it was not at all in favour of one of the suggestions made by the President at the previous meeting, ie that "One option would be to make a training course at the Academy a precondition for sitting the European qualifying examination," (see minutes of the 96th meeting of the Administrative Council, CA/PV 96, point 76). In its view, the precondition for being allowed to sit the examination should be whether or not the person had sufficient knowledge, and not where that person was trained. It was not clear from Article 4(b) of the draft decision, defining the tasks of the Academy, that it would not be mandatory to take a training course at the Academy in order to be allowed to sit the examination. This Article should therefore be redrafted in order to remove any ambiguity on this point.
102. The French delegation said that it had abstained from the Budget and Finance Committee vote, because it had a number of questions which the Office had still not satisfactorily addressed. Like the President, it considered it important to give the training its proper due, and that this should be treated as a priority. However, the concept had changed considerably since it was first proposed. The architecture now being proposed by the Office seemed, in its opinion, to be extremely cumbersome, extremely complex and extremely centralised. It would be better to go back to the first idea which was that the Academy established by the Office would complement the training establishments already in place in Europe rather than replace them. The objective should be to facilitate the creation of the Academy and to encourage synergies between the various training institutions already in place. Therefore, the French delegation was inclined to think that it was not possible for the Council to take a decision at this meeting on the architecture in its current form, and that further information should be obtained to ensure that it would be able to network properly and that the existing establishments would be augmented rather than diminished by anything the Office did with its own budget.
103. The Swiss delegation wished first of all to reiterate that it supported the Office's project in principle. It supported the initial idea, which was to fill the gaps in the training system currently available in Europe. However, it felt that the tasks which it was proposed to assign to the Academy far exceeded this aim. Furthermore, the way the future Academy was supposed to work with the existing training institutions in Europe had not been made entirely clear. It was vital that their

respective roles should be clearly defined, because it was important that the Academy should not be allowed to be in a position where, as a result of the considerable financial resources placed at its disposal by the Office, it could compete unfairly with other training institutions which did not have the same level of financial backing. It was also vital to define clearly the relationship between the training provided by the Academy and that already being provided by the Office, either through the International Academy or through the Vienna sub-office.

104. The Netherlands delegation also reiterated its support in principle for the project. However, as the other delegations had already said, it considered that a certain number of points were not clear. In particular, it was not in favour of the Academy being responsible for examinations, because there would always be a risk that candidates who had undergone training at the Academy would be unfairly favoured. It was necessary to do away with any ambiguity in this respect.
105. The United Kingdom delegation recalled that it too was one of the delegations which had initially given their support to the Office's project, but felt that it was important not to get carried away by enthusiasm for the project and that it was necessary to look at it carefully to ensure that the structure now being proposed was really in Europe's best interests and that it would really create synergies with the work being carried out by the other training institutions already operating in Europe. Furthermore, the Office had not yet replied in full to all the questions it had raised concerning the financial aspects. It had not presented a clear economic model, indicating to what extent and how likely it was that other sources of revenue would be possible. For these reasons, it was, in its opinion, impossible as things stood to take a decision on the scheme as set out in CA/64/04.
106. The Portuguese delegation said that it supported the project on the lines set out in CA/64/04. While it understood the concerns expressed by the Swedish, Swiss and French delegations with regard to the risk that the Academy could represent a source of unfair competition for the existing training institutions, it felt that it would be inappropriate to include provisions on this point in the regulations, as that could have a detrimental effect on the quality of the training provided. In its view, it would be better for the Council, when approving the Academy's programme of activities, to make sure that it did not compete with other training institutions.
107. The Polish delegation said that it fully supported the draft regulations set out in CA/64/04.

108. The Hungarian delegation said that it too supported this proposal. However, it felt that another paragraph should be added to Article 1 of the draft regulations, stating that another objective of the Academy was to promote equal access to training opportunities in the field of European and international patent law and practice, in all present and future EPC contracting states. It also wondered if "Governing Council" was an appropriate name for the body referred to in Article 7, since, in most cases, it was simply responsible for giving opinions and approving directives. Moreover, while it did not object to this body having a limited number of members, it felt that their term of membership should not be renewable, as there should be a certain rotation and it was important to make it possible for all member states to be represented on this council.
109. The Monegasque delegation said that although it was wholly sympathetic to any initiative designed to encourage training in Europe, and although it considered that the Academy proposed by the Office would be a very useful means of doing so, it shared the concerns expressed by the other delegations. Therefore it felt that more thought needed to go into the project and for that reason it would abstain from the vote.
110. The Belgian delegation said that it still had reservations concerning the risk that the Academy's costs would be higher than estimated. This point would need to be watched closely. Like the German delegation, it felt that the proposed name covered somewhat too wide a concept, in view of the fact that its scope had been defined as rather more limited. And finally, the proposed system seemed rather cumbersome, with a fairly large number of bodies whose respective roles did not seem clearly defined. However, it was prepared to vote in favour of the proposal as it stood.
111. The Danish delegation considered that it was necessary to examine the proposal in more detail. It would therefore abstain from the vote.
112. The Italian delegation said that it was somewhat surprised by the reservations expressed by the other delegations. It thought that the Office had answered all the questions raised, particularly as regards the budgetary aspects. It understood the Swedish delegation's concern on the question of the risk that the Academy would represent too much competition for the existing training establishments. However, in its view, an Academy whose role was restricted solely to one of co-ordination would not be capable of meeting the challenges facing Europe in relation to the rest of the world. Since practically all the delegations were agreed that there was a need for improving industrial property training in Europe and that the Academy proposed by the Office was likely to be able to meet this need, they now needed to

rely on the information which had been given to them and have the courage to approve the proposal.

113. In response to these comments, the Austrian delegation explained that the delegations' reservations had nothing to do with lack of courage. On the contrary, it was quite natural and, in fact, its duty for the Council to examine closely every aspect of a decision which could have a major impact, particularly from the financial point of view. Therefore, while remaining in principle in favour of the Office's proposal, it, like the Monegasque delegation, considered that the project needed further examination and that all the questions currently outstanding should be clarified before the Council would be in a position to take a decision.
114. The Romanian delegation said that it was prepared to vote in favour of the Office's proposal.
115. The Finnish delegation reiterated its support for the Academy project. However, like the Swedish delegation, it considered that it should be made clear that participation in the training provided by the Academy would not be a prerequisite for being able to sit the European qualifying examination.
116. The Czech and Slovak delegations said that they were prepared to vote in favour of the Office's proposal, which they had supported from the start.
117. The epi representative said that he was fully in agreement with the comment made by the German delegation concerning the name "European Intellectual Property Academy". Like the Hungarian delegation, he considered that "promoting equal access to training" should be included as one of the Academy's objectives. He would also share the Swedish delegation's reservation if it was in fact justified, but in his view this was not the case. Right from the start, it had been made very clear that the Academy would complement existing training institutions. There was never any question that participation in the training sessions would be a prerequisite for sitting the European qualifying examination. If that were the case, the epi would never have supported the idea. In conclusion, it was important to see that the Academy was not aimed primarily at meeting training needs in countries such as Germany, France and the United Kingdom, which are, to a certain extent, the "core" countries of the Organisation, because they are already relatively well served in this respect, but rather at those of the new member states on the periphery of Europe.
118. The staff representatives said they were fairly surprised by the way the debate was going. Certain considerations should certainly be taken into account, but others were frankly astonishing, particularly the view put forward by the

Netherlands delegation that the Academy should not be permitted to grant diplomas. When a university teaches it goes on to grant degrees. The representatives wondered if there was not perhaps a hidden agenda behind these rather puzzling statements. Several delegations had said that it was important not to be carried away by enthusiasm. For their part, the staff representatives had seen very little sign of any such enthusiasm around the table so far. It was clear, however, that a certain number of details still needed to be ironed out. That would perhaps justify postponing the debate, but in doing so, it was important not to lose sight of the basic objective of the project which was to serve the interests of the public.

119. In response to these comments, the Netherlands delegation was keen to point out that it had not meant that the Academy should not have the right to grant diplomas, but simply that candidates sitting the European qualifying examination who had trained at the Academy should not have an unfair advantage over those who had attended courses at other training institutions.
120. The President said that, on a small number of points, the criticisms made by the delegations were valid and that it would not be a problem to take these into account. This was particularly so as far as the name "European Intellectual Property Academy" was concerned, as this name was indeed too wide in scope. The reason for this went back to the very beginning of the project, when it was envisaged that it would cover all aspects of intellectual property. However, this proved to be impossible from a legal point of view. The Academy's name should therefore be changed accordingly. In his opinion, there was never any question of participation in the Academy's training courses being a prerequisite for being able to sit the European qualifying examination. However, in order to reassure the delegations which had expressed concerns on this point, he was prepared to reword the text so that there was absolutely no ambiguity. Neither would he have any problem with complying with the Hungarian delegation's wishes and specifying that another objective of the Academy would be to permit equal access to training. However, as far as the general attitude of the delegations was concerned, he rather had the impression that they were simply reluctant to take the plunge, even though everything was ready and that everything had already been discussed at length. They had resurrected points that he thought the feasibility study, the results of which had, moreover, already been approved by the Council, had already clarified in full. He was therefore tempted to echo the Italian delegation's remarks and to urge the Council not to get side-tracked by issues which seemed surprising to say the least at this stage. One objection which particularly surprised him was

the comment that the Academy should not compete with existing training institutions. This objection was all the more surprising in that it was made by the delegation of a country (France) which itself had decided to set up an institution in competition with the CEIPI, and not only that, but to set it up in the very same city as the CEIPI. Furthermore, it was perhaps important not to have too many illusions about the real capabilities of the existing establishments, which could not provide for everyone, particularly people from the new member states. Nor, in his view, was the other objection made by the French delegation, ie that the Academy would be extremely cumbersome and excessively centralised, a valid criticism. One simply had to read Article 4 of the draft regulations carefully to realise this. And finally, as far as the financial aspects were concerned, it should be remembered that both the Budget and Finance Committee and the Administrative Council would always have something to say and could always require an adjustment to be made if they felt that there was a risk of exceeding the budget. All this being so, and although in his view a good number of the concerns expressed by the delegations were without foundation, the President of the Office could see that that the proposed text of the regulations could not be accepted in its current form, and he was prepared to revise it in order to take certain comments into account.

121. Taking the floor again, the French delegation was anxious to emphasise that France was not afraid of competition and was perfectly happy for several institutions to provide different types of training. It thought, however, that the principle of subsidiarity should be applied in this respect, and that it was important not to do something at European level that could not be done at other levels. It regretted that, from this point of view, the text proposed in CA/64/04 focused on administrative organisation and not on setting forth a certain number of principles with regard to the Academy's objectives. It did not feel therefore that the current draft was worded in the most productive manner.
122. Later in the meeting, the President submitted CA/64/04 Rev. 1, which took into account some of the comments made by the delegations.
123. The United Kingdom delegation, and the Swedish, French, German, Spanish, Hungarian, Danish and Irish delegations considered that this revised document did take into account the reservations they had had about the original version. They thanked the Office for having produced this document and for having had it translated so quickly.

124. The Hellenic delegation said that it was astonished that so many delegations which had in the beginning been in favour of establishing the Academy should have expressed so many reservations at the last minute. In its opinion, these reservations were purely the result of misunderstandings. It felt that all misunderstandings had been clarified by the feasibility study. It had, for example, been clearly stated as a principle that the Academy should not compete with existing training establishments, but should complement them. It was pleased that the revised version of CA/64/04 removed any ambiguity in respect of the points which had not been clear to some of the delegations, and hoped that the Council was now going to be able to take a decision on this basis, because the best way to bury a project was to talk it to death.
125. The Romanian delegation was also pleased with the changes made in the revised version of CA/64/04. However, it did suggest that the following paragraph (g) should be added to Article 8(1): "appoint up to four experts in intellectual property education and training according to Article 11(1)(f)".
126. The Monegasque delegation said that all the reservations it may have had had now been removed by CA/64/04 Rev. 1. It merely wondered whether it would be possible to make a small change to the first paragraph of Article 7 to say that the representatives of the contracting states on the Supervisory Board should be chosen by the Administrative Council on a proposal from each of the seven contracting states concerned.
127. With reference to the last item in the recitals to the draft decision ("Having regard to the need to finalise a financial model to be adopted by the Administrative Council"), the chairman of the Council proposed postponing until the October meeting a discussion on the financial aspects (item 12.14 on the agenda).
128. The Swiss delegation said that it totally agreed that this discussion on the financial aspects should be postponed. For all that, the Council needed to take a decision on the draft decision set out in Part II of CA/64/04 Rev. 1 now, but the document contained an article (Article 14) on "Financial Regulations". The second sentence of this Article 14 stated that "A dedicated cost centre shall be opened by the Academy, where all costs of the Academy shall be collected", whereas, according to Article 3, the Academy was to be an institution of the European Patent Organisation, which would mean that it did not have legal personality. It could not

understand therefore how an institution without legal personality could open a cost centre. There was also another point related to Article 14 which it would like the Office to consider as part of the discussion to take place at the next meeting, ie whether the Academy would be added to the list of products and services appearing in Annex IV to the Financial Regulations. It also pointed out that the name "Governing Council" had been left in Article 11(3) by mistake and should be replaced by "Supervisory Board".

129. The Council unanimously approved the draft decision set out in Part II of CA/64/04 Rev. 1, with the amendments requested by the Swiss and Romanian delegations (present: 28; for: 28) [see CA/D 10/04].

3.11 PCT co-operation - Request from the Finnish delegation

130. The Finnish delegation recalled that, at the Council's previous meeting, it had said it was willing to await the outcome of the strategic debate on future co-operation in Europe on PCT procedures before a decision on its request was taken. It was now clear that this debate would not be completed at the next meeting in October 2004. With regard to the part of its request which concerned the conclusion of a Partnership Agreement between the European Patent Office and the Finnish Patent Office, it was willing to wait a little longer. However, it wanted the part of its request which related to the application of Article 157(3) EPC to be dealt with at the October meeting, because it wanted Finland to be treated on an equal footing with those member states, Spain, Austria and Sweden, which were in a similar position.
131. In conclusion, the Council agreed to return to the request from the Finnish delegation at its meeting in October 2004.

3.12 Accession of Malta (CA/76/04)

132. The chairman introduced CA/76/04.
133. The representative of Malta, which had been invited to join the European Patent Organisation, gave an overview of the history of intellectual property and patent legislation in Malta. He also outlined Malta's planned future policies.
134. The Council unanimously approved the draft decision set out in Part II of CA/76/04 (present: 28; for: 28) [see CA/D 3/04].

3.13	Request by Croatia for observer status on the Administrative Council of the European Patent Organisation (CA/81/04)
-------------	--

135. The chairman introduced CA/81/04.
136. The Council unanimously decided to grant Croatia observer status (present: 28; for: 28).

4. TECHNICAL CO-OPERATION/INFORMATION

4.1	Report of the chairman of the ad hoc <i>epoline</i> Working Party concerning the 11th meeting of the Working Party
------------	---

137. The chairman of the ad hoc *epoline* Working Party gave an oral report on the 11th meeting of the Working Party, held in Prague on 20 April 2004.
138. The Council noted the Working Party chairman's oral report (see CA/T 40/04, Draft minutes of the 11th meeting of the ad hoc *epoline* Working Party).

4.2	Report of the chairman of the Working Party on Technical Information concerning the 59th meeting of the Working Party
------------	--

139. The chairman of the Working Party on Technical Information gave an oral report on the 59th meeting of the Working Party, held in Prague from 21 to 23 April 2004.
140. The Council noted the Working Party chairman's oral report (see CA/T 41/04, Draft minutes of the 59th meeting of the Working Party on Technical Information).

4.3	Status report on co-operation with member states (CA/21/04 + Corr. 1, Add. 1 Rev. 1 and Add. 2)
------------	--

141. "A" item - see item 1.2 above.

4.4	Technical co-operation activities by EPO member states for 2003 and 2004 (planned) (CA/36/04)
------------	--

142. The aforementioned document was introduced by the Vice-President DG 5, who pointed out both that international technical co-operation activities by member states were on the increase and also that the Office was increasingly involved in these activities.

143. The United Kingdom delegation said that it was important that each technical co-operation activity undertaken should have a clear objective.
144. The Council noted the information.

4.5 Co-operation programme on standardised automation services ("Toolbox") (CA/37/04 + Add. 1)

145. "A" item - see item 1.2 above.

4.6 Strategy suggested by the EPO patent information survey (CA/58/04 + Add. 1)
--

146. The Vice-President DG 4 explained that the results of the survey were rather disappointing, as they revealed that there were deficits at all levels. They also showed that there were marked differences in both the use of and the need for patent information between the "old" member states and the "new" ones. It was clear that the development of information tools such as esp@cenet®, while undoubtedly useful, was not sufficient, and that further efforts should be made to make patent information more readily accessible to the public. Co-operation in this regard between the Office and the national offices should be strengthened. Patent information should also be included in university syllabi. In this connection, it should be noted that the Office had recently organised a "virtual class" on the Internet, which was a great success. This would probably be a venture worth pursuing. The Vice-President DG 4 concluded his remarks by emphasising that the Office and the national offices should work together to remedy the deficits revealed by the patent information survey.
147. The chairman of the Working Party on Technical Information said that this question had given rise to a long and heated discussion at the 59th meeting of the Working Party held in April 2004 in Prague. The members of the Working Party considered that the results of the survey were surprising, but not entirely unexpected. The promotion of patent information was one of the most difficult tasks facing patent offices. The results of the survey obviously called for measures, still to be defined, to be taken by everyone, but particularly by the national offices. The Working Party considered that it would be helpful to repeat the survey in two years' time.

148. The Swedish delegation said that it would have liked CA/58/04 to be dealt with in the light of the Administrative Council's decision of 10 June 1988 on a European patent information policy (decision CA/D 12/88). This decision stipulated, in the last sentence of paragraph 1.1, that "... the European Patent Office shall actively support their [the] activities [of the national offices] in the field of patent information.". In view of the fact that, as far as it was aware, CA/D 12/88 was still in force, it would be useful to discuss the manner in which the Office could provide more and better support to the national offices in their activities in the field of patent information.
149. The Danish delegation thanked the Office for this revealing document and considered that it should serve as a basis for all future strategic discussions. As far as the results of the survey themselves were concerned, they revealed that patent information awareness was very low in SMEs. This was a very important point that needed rectifying, given the economic importance of SMEs.
150. The French delegation considered that patent information was a major issue which merited an in-depth debate, going beyond just the technical aspects. In its view, the development of information tools raised two questions, firstly the question of just how much a public organisation such as a patent office, on the one hand, or private sector players, on the other, could do with regard to patent information, and secondly the question of the respective roles of the national offices and the European Patent Office in this field.
151. The Netherlands delegation agreed with the comments of the French delegation and pointed out that the Netherlands Patent Office had come up against the legal problem of competition with the private sector as a result of its activities in the patent information field. This was a risk which was likely to be faced by other member states and should therefore be examined.
152. The Turkish delegation said that, in its opinion, the most important lesson to be learnt from the survey was that patent information dissemination and awareness were so uneven. There were considerable disparities, particularly between regions. This is why it considered it necessary to carry out more studies, taking regional differences into account.
153. In conclusion, the Council noted the information contained in CA/58/04 and the addendum, and expressed a strong wish to be kept informed about the follow-up on this issue.

4.7	Access to EPO database system (EPOQUE for patent offices of non-member states) (CA/2/04)
------------	---

154. "A" item - see item 1.2 above.

4.8	Cost to member states of EPOQUE-BNS access (CA/43/04)
------------	--

155. "A" item - see item 1.2 above.

5. AUTOMATION

6. AWARD OF CONTRACTS

7. BUILDING MATTERS

7.1	Future of the Building Committee (CA/66/04)
------------	--

156. The Vice-President DG 4 introduced the document.

157. The Swedish delegation thought that construction experts under Model 2 were best-placed to give specialist recommendations on building matters.

158. The UK delegation preferred Model 1 as this would use the knowledge and contacts accumulated within a wider group of people, ie the member states. Four to six experts would suffice for such a set-up. It thought it important to use real experts and to be clear about funding them.

159. The Swiss delegation favoured Model 1 as it thought that a body of the Administrative Council should be set up by the Council.

160. The French delegation suggested inserting a recommendation for a "light" building committee, made up of experts from the member states, in a report from the Budget and Finance Committee to be submitted to the Administrative Council. Combining technical and financial opinions on a given building project seemed more efficient.

161. The Belgian delegation favoured Model 1. If large investments, such as the ones entailed in building projects, went wrong members states would ultimately be obliged to cover the shortfall.

162. The Austrian delegation welcomed the debate. It felt that Model 2 left the Administrative Council sufficiently in control of matters. It preferred a committee with an identity different from a sub-committee. Moreover, staffing the committee suggested under Model 1 might give rise to difficult political questions.
163. The Italian delegation preferred a body which was in a position to take political decisions. Maintaining the balance of power between the Administrative Council and the Budget and Finance Committee, such a body could make recommendations to the Administrative Council in the same way as the Budget and Finance Committee.
164. The Spanish delegation favoured Model 1, possibly with an even higher number of specialists. Any member state wishing to be present at a particular committee meeting should be allowed to be.
165. The Irish delegation preferred Model 1. The *modus operandi* could be discussed later.
166. The Polish delegation favoured Model 2. This was preferable to using experts from some member states only.
167. The chairman stated that Model 1 had gained greater overall support. The Council asked the Office to prepare a draft decision on the matter for the Council's October 2004 meeting.

7.2 Meeting the EPO's long-term accommodation requirements in Munich (CA/45/04 + Add. 1)

168. The President introduced the document.
169. The Netherlands delegation drew attention to the high number of abstentions in the Budget and Finance Committee for both CA/45/04 + Add. 1 and the supplementary budget. It was important to understand why certain discount rates and net present values were being used for weighing up the options of renting or buying. Given that no one could look 20 years into the future, it felt very strongly about the advantages of renting.
170. The Belgian delegation stressed that there were many unknown parameters such as the uncertainty about the seat of DG 1. It had no global view of the Office's

financial situation. Renting gave the Office more flexibility. Prudence was needed in view of the high cost of the project.

171. The UK delegation was still not confident that it had been given sufficient financial information. The document did not explore fully all financial risks or the option of simply renting. It saw no sense in buying at the present time. For reasons of prudence it advocated renting and explained that it would vote against the proposal.
172. The Finnish delegation felt that the proposal merited support as it believed that the Office was likely to stay in Munich.
173. The Swiss delegation shared the preference for renting with a buy-option. It cited financial and strategic reasons. It would prefer the Budget and Finance Committee to look closely at the new information in CA/45/04 Add. 1.
174. The French delegation likewise queried the wisdom of buying given the fact that the Office's financial reserves had been decreasing over the two previous years. Considering the high costs involved and the loss of flexibility, it could not support the proposal.
175. For reasons of flexibility the Italian delegation preferred renting to buying. It also wondered whether host countries to international organisations should not lend a helping hand in this regard.
176. The Danish and Spanish delegations endorsed the views of those who were against the proposal.
177. The staff representatives, strongly in favour of the proposal, referred to financial and strategic aspects as well as staff matters. They did not think it wise to sit on the sidelines awaiting the outcome of strategic debates before tackling building matters.
178. The Vice-President DG 4 explained that the IFRS, while changing the look of the balance sheet, would not affect the Office's real overall financial position. The Office had been reducing fees since 1992 so as to achieve a balanced budget. It was, however, by no means in a difficult financial position. On the question of risks, he stressed that the purchase price was a fixed sum. The net present values used in the calculations had been set at 4% based on today's situation and it was difficult to plan 20 to 50 years ahead. Buying a building meant exchanging cash for

a valuable asset. Lastly, the proposal did not imply creating additional capacities as the Office would give up rented buildings in Munich.

179. The President stressed that the Office was debt-free, which he regarded as most unusual for an organisation such as the EPO. The Office had always had a policy of owning its buildings. Moreover, owning ground in Munich would always constitute a valuable investment. He stressed though that the Office was a public service organisation as opposed to a property investment company. He asked for delegations to consider the "spirit" behind the proposal and also recalled certain everyday benefits and practical considerations.
180. The Swedish delegation stressed that it still supported the proposal as it had done in the Budget and Finance Committee.
181. The UK delegation preferred to rent with a buy option.
182. The Italian delegation stressed that flexibility was of paramount importance in the absence of a general strategy. It pointed out that in coming to its view it had not been concerned about questions of affordability or the wish to make a good investment. It further stressed that it, too, had the best interests of the staff at heart.
183. The Netherlands delegation thought that arguments such as "spirit", synergy, standardisation and atmosphere were equally valid for a rented and a purchased building.
184. The Portuguese delegation deemed purchasing an excellent investment with minimum risk. It asked for this unique opportunity not to be lost. The Austrian, Finnish, Turkish, Czech, Bulgarian, Cypriot, Polish and Hungarian delegations endorsed this view.
185. The Danish, Belgian, Swiss, Irish, French, Monegasque, Luxembourg and Netherlands delegations stated that they could support the proposal of renting with a buy option.
186. The President emphasised that the building was indeed needed and stressed that the project should not fail even if it meant renting with a buy option, as opposed to outright purchase.
187. The request in section VI of CA/45/04 was rejected, having failed to reach the necessary qualified majority at the time of voting (present: 28; for: 16 - BG, CZ,

DE, EE, GR, CY, HU, AT, PL, PT, RO, SI, SK, FI, SE, TR; against: 10 - BE, DK, FR, IE, IT, LI, MC, NL, CH, GB; abstentions: 2 - ES, LU).

188. In view of this outcome, the Council mandated the Office to negotiate a lease with an option to buy, and to present a proposal to this effect at the Council's October 2004 meeting. (Result of the vote on this issue: present: 28; for: 24 - BE, DK, DE, GR, ES, FR, IE, CY, LI, LU, HU, MC, NL, AT, PL, PT, RO, CH, SI, SK, FI, SE, TR, GB; against: 1 - EE; abstentions: 3 - BG, CZ, IT).
189. The President later asked the delegations to consider the vote concerning the Office's use of PschorrHöfe Phase VIII as binding. He stressed that he was keen to preserve the image of the Office as a reliable business partner.

8. RESERVE FUNDS FOR PENSIONS AND SOCIAL SECURITY (RFPSS)

8.1 Summary of conclusions of the RFPSS Supervisory Board's 48th meeting (FRP/CS PV 45, FRP/CS PV 46, FRP/CS PV 47 + CA/27/04)
--

190. The chairman of the RFPSS Supervisory Board said that at its 48th meeting in February 2004 the Supervisory Board had reviewed the results of the Funds for the financial year 2003. The Funds' performance during 2003 had improved by about +13.5%, ie 2% more than the benchmark. Overall, the Supervisory Board was pleased with the direction taken by the Fund Administrator with regard to the investment management policy, while still maintaining diversity of investments. At the end of 2003, RFPSS net assets had regained their value, returning to the level recorded prior to the financial crisis (1999). Over the long term (10 years), the performance of the funds had exceeded the target set (rate of inflation in Germany +3.55) by 1.5 percentage points. As customary, the Supervisory Board also reviewed the question of non-recovered taxes. The non-refund of taxes was essentially due to countries which did not recognise the tax status of the European Patent Office. On the other hand, the rate of recovery was satisfactory in the case of countries which did recognise this status. At the end of 2003, the Fund Administration, with the support of the Supervisory Board, had embarked on a policy of diversification, focusing on property investments. A virtual portfolio was created for the investments, and the Supervisory Board was able to review the early results at its meeting in February. It was agreed, however, that they covered too short a period for conclusions to be drawn at that stage. At the end of 2003, a currency overlay policy was established. This system was now fully operational, and 80% of the portfolios in the three core currencies (US dollar, pound sterling and Japanese yen) were now hedged. Discussions were held between the Fund

Administrator and the chairman of the Supervisory Board with a view to establishing an investment policy which would make it possible to control short and medium-term variations. A certain number of questions still needed to be examined, including in particular the way in which the investment policy was to operate and be managed. In this connection, it should be noted that the next meeting of the Supervisory Board (Mondorf-les-Bains, 22-23 June 2004) would be preceded by a workshop in which it would be possible to have an exchange of views about these issues with managers of other similar funds. In conclusion, the chairman of the RFPSS Supervisory Board confirmed that the aim was to achieve more comprehensive and more diversified financial management. This assumed that the Fund Administration had all the necessary resources.

191. The Administrative Council noted this report.

8.2	Quarterly RFPSS management reports (3/2003 + 4/2003) (CA/22/04 + CA/23/04)
------------	---

192. "A" item - see item 1.2 above.

8.3	Quarterly RFPSS budget reports (4/2003 + 1/2004) (CA/24/04 + CA/25/04)
------------	---

193. "A" item - see item 1.2 above.

9. PERSONNEL/POLICY MATTERS

9.1	Amendment of Article 12 of the Pension Scheme Regulations on the transfer of pension rights (CA/38/04)
------------	---

194. "A" item - see item 1.2 above.

9.2	Long-term care insurance (CA/54/04 Rev. 1)
------------	---

195. "A" item - see item 1.2 above.

9.3	Abolition of age-based promotion to A4 (at 50) for A-grade staff (CA/55/04 + Corr. 1)
------------	--

196. The above-mentioned document was introduced by the President. Addressing in particular the staff representatives, he emphasised that the promotion of an employee should be based solely on merit and not on age.

197. The staff representatives said that there was a risk that the abolition of the current system would have a demotivating effect. On the one hand, this system made it possible to take into account the situation of employees who joined the Office at a relatively advanced age and, on the other, individual performance was already taken into consideration anyway.
198. In conclusion, the Council unanimously approved the draft decision set out in Part II of CA/55/04 (present: 28; for: 28) [see CA/D 8/04].

9.4 Progress report on the EPO Seat Agreement with the Netherlands (oral report) and situation at The Hague (CA/75/04)

199. The President explained that the situation had not changed to any great extent. The Netherlands Minister of Foreign Affairs had written to him saying that, in view of the considerable progress that had already been made, it was possible to envisage that the problem would be resolved by the time his term as President ended. The Netherlands Minister of Foreign Affairs also indicated that for several months the Netherlands authorities had been working on drawing up regulations which would apply to all international organisations established in the Netherlands. He did not, however, provide details and the President was not therefore able to commit himself without knowing more about the content of these new rules. Other problems, not directly related to the Seat Agreement, further complicated the situation. One of these was the recent decision taken by the Netherlands government unilaterally, without notifying the Office in advance, to change an important parameter used in calculating the salaries of Office staff, ie the cost of rent. The Netherlands government had decided that, henceforth, they would take into account 90% of institutional rents, ie rents subsidised by the state, and only 10% of private sector rents. This change would result in an 8% reduction in salary for staff posted in The Hague, which had, understandably, aroused considerable anger, as expressed in CA/75/04, submitted by the Staff Committee at The Hague. Anyway, he had informed the Netherlands government that he thought that acting in such a manner, without prior consultation or information, was completely unacceptable. Other problems were still outstanding and he felt it was clear that nothing would be resolved unless everything were resolved.
200. The Netherlands delegation said that the negotiations on the new Seat Agreement, which began some time ago, had come up against two different stumbling blocks, one being the question of immunities and the other the question of privileges. As far as immunities were concerned, there was still a difference of opinion, but it was likely that this could eventually be resolved fairly quickly. The

main discussion concerned privileges, particularly tax privileges. The Netherlands government did not consider that these privileges were all necessary for the proper functioning of the Office, and therefore did not see why they should be maintained. This was particularly so in the case of motor vehicle tax exemption. The system of taxation of income other than the salaries paid by the Office was in effect everywhere else in Europe, regardless of the country of origin of this income. With regard to the taxation of pensions, the Netherlands authorities had indicated that they would be prepared to accept an alignment of the European Patent Organisation's Protocol on Privileges and Immunities (EPO-PPI) with the European Community's PPI (EC-PPI) as soon as the Community patent was established. As in fact the Community patent had not yet seen the light of day, the Netherlands authorities were reluctant to carry out such an alignment at this stage, particularly because they did not know what the financial consequences would be. With regard to the increase in the proportion of institutional rents to be taken into account for calculating rent parities in the Netherlands, it wished to point out that this change was not initiated by the Netherlands national statistics office, but was carried out at the request of the Statistical Office of the European Communities (EUROSTAT). The Netherlands delegation could well understand the anger expressed by the Office staff at the prospect of a significant reduction in their salaries. However, it wished to point out that the method of calculation had been established for the European Union and not for the Office. The Administrative Council had decided to adopt it. It could also decide to abandon this method, or else to provide compensation for its staff. The Netherlands delegation concluded by saying that, from a personal point of view, it felt that the Office's tax claims were clearly excessive and had little chance of success. In any case, the Netherlands delegation had the impression that the President was rejecting the signature of the Seat Agreement without good reason.

201. The staff representatives refuted the comments made by the Netherlands delegation, which had presented the issue as though it were a question of "gifts" to the staff. The heart of the problem was the need to make sure that all the Office staff were treated on an equal footing, wherever they were posted. The staff had accepted the method approved by the Administrative Council for calculating salaries because they considered that, overall, it would guarantee equality of purchasing power across sites. It was perfectly understandable that they should be angry if one country decided unilaterally to change one of the parameters used for this calculation, particularly if the change in question resulted in an 8% reduction in the salaries paid in the country concerned. The staff representatives understood that it would be difficult to align the Office PPI with that of the European

Communities before the Community patent had been established. In the meantime, they were asking the Council to approve the introduction of the compensatory measures proposed in CA/8/04 which the Office had tabled at its last meeting. It should be stressed that the purpose of these measures was not tax exemption for the pensions paid by the Office, but rather to ensure that they were not subject to double taxation. On top of all these problems, a number of other problems were faced by non-Dutch nationality staff posted in The Hague in their day-to-day life. It was often difficult, if not impossible, for spouses of EPO staff members who were not nationals of an EU member state, and even for those who were nationals of EU member states, to obtain a work permit in the Netherlands. The Staff Committee of The Hague was appealing to the Administrative Council because it felt it was the Council's role to ensure that the conditions allowing the Office to function properly were met. For the moment, the staff at The Hague had decided to limit their industrial action to a work-to-rule, but it was possible that they would take stronger action in the autumn if progress had not been made by then. In the meantime, the number of patents granted had already fallen by 50%.

202. The chairman of the Council said he was doubtful about the effectiveness of this ultimatum for the autumn, firstly since the Council had not planned to take a decision on this issue during the present meeting, and secondly because its next meeting was not due to take place until October.
203. The President took the trouble to emphasise that his remarks were not directed personally at the Netherlands delegation but rather at the Netherlands government, then went on to say that he was not prepared to accept the assertion that he was rejecting the signature of a Seat Agreement without good reason. It was simply that when the Netherlands Minister of Foreign Affairs had written to him that draft regulations applicable to all international organisations located in the Netherlands were under consideration and that these regulations would have an impact on the Seat Agreement, he had replied that he could not make any commitment on the subject of such an Agreement without knowing what these new regulations would contain, and that to date he had not received any response. The President concluded his remarks with a warning. He had always said that the Office would not pull out of the Netherlands, and was still of this view, but it was, nonetheless, necessary to take certain signals into account and to avoid launching into a process which, once started, could get out of hand.
204. The Council chairman commented that there had already been a number of lively exchanges on this subject in the past and that they had never achieved anything. He was counting on the next President to look into this matter. For his part, he

intended to ask the Board to examine the issue. It should however be clear that it was up to the President, and to him alone, to enter into negotiations with the Netherlands government on behalf of the Organisation with a view to concluding a new Seat Agreement.

205. Professor Pompidou, President designate of the Office, said that he was of course prepared to look into this issue. However, in his opinion, it was fairly unrealistic to hope that any significant progress could be made before October.
206. The Italian delegation said that the current President should be thanked for all the efforts he had made over the years to find a solution, despite the fact that they had, unfortunately, ultimately been unsuccessful. He had been acting more or less alone, as the Administrative Council had obviously underestimated the extent of a problem which was not so much technical as political. The situation had now become catastrophic and it was absolutely vital that the Council should help the next President to find a way out of the impasse. Perhaps it would be sensible to devote one day of the Council's October meeting solely to this Seat Agreement issue.
207. The Swiss delegation said that of course it was necessary for the next President to look into this question. It also wondered if it would not be appropriate to envisage a mediation process.
208. In conclusion, having noted the President's oral report and the contents of CA/75/04, the Council invited the next President to take up the issue.

9.5 Sick leave and invalidity (CA/72/04)

209. The President introduced the document, thanking the staff representatives for their co-operation.
210. The Vice-President DG 4 outlined the changes made in the past in the context of the proposal.
211. Replying to questions from the German delegation, the Vice-President DG 4 explained that time periods under the relevant Service Regulations had always been calculated in working days as opposed to calendar months. Two additional posts had been approved in the 2004 budget; these had been filled by so-called occupational health staff as opposed to in-house medical officers. Cost savings were expected for the 2005 budget due to the new simplified procedures.
212. The staff representative returned the President's thanks.
213. The Council unanimously approved the draft decision set out in Part II of CA/72/04 (present: 28; for: 28) [see CA/D 11/04].

10. PERSONNEL/OPERATIONAL MATTERS

10.1	Report on application of the EPO staff home loans scheme adopted by the Administrative Council in CA/D 6/85 on 14 June 1985 (CA/39/04)
-------------	---

214. "A" item - see item 1.2 above.

11. PERSONNEL/APPEALS

11.1	Appeals IA/5/02, IA/1/03 + IA/2/03 and IA/1/04 (CA/C 5/04, CA/C 6/04 + CA/C 7/04)
-------------	--

215. Meeting in restricted composition, without the observers and staff representatives, the Council unanimously rejected the aforementioned appeals.

12. FINANCIAL MATTERS/BUDGET/PLANNING

12.1	Report of the chairman of the Budget and Finance Committee concerning the 81st meeting of the Committee (CA/68/04 + Corr. 1)
-------------	---

216. The chairman of the Budget and Finance Committee gave an oral report on the 81st meeting of the Committee, held in Munich from 10 to 12 May 2004.

217. The Council noted the Committee chairman's oral report (see CA/68/04: Draft minutes of the 81st meeting of the Budget and Finance Committee).

12.2	Quarterly financial statements (4/2003 + 1/2004) (CA/16/04 + CA/17/04)
-------------	---

218. "A" item - see item 1.2 above.

12.3	International Financial Reporting Standards; progress report (CA/18/04 + Add. 1)
-------------	---

219. "A" item - see item 1.2 above.

12.4	Synoptic table of key EPO statistics (2003 + 1/2004) (CA/48/04 Rev. 1 + CA/65/04)
-------------	--

220. "A" item - see item 1.2 above.

12.5	Productivity and production figures reached at the end of 2003 (CA/41/04)
-------------	--

221. "A" item - see item 1.2 above.

12.6	Unit cost productivity (CA/29/04)
-------------	--

222. The Office introduced the aforementioned document, which explained the reasoning behind the introduction of a new method of calculating productivity. The ADL method, which had been in use since 1998, had produced, and was still producing, valuable results, but it was no longer entirely suited to the Office's current situation, taking into account the changes which had been taking place recently, including in particular the fact that BEST had now achieved a penetration rate of 90%, the introduction of joint clusters and the fact that the budget was now balanced. The new method would be introduced in stages and the ADL would run in parallel with it for another 1 or 2 years.

223. The Swedish delegation said that the ADL had certain weak points, particularly as far as the calculation of productivity in non-core areas of the Office was concerned. The new method would probably be a more accurate means of measuring performance, but it would have been advisable for the document to specify all the areas which would be covered by the Balanced Scorecard.

224. The French delegation was pleased with this change, which it had wanted for some time. The German delegation agreed, and added that it would be monitoring the introduction of the new method very closely, as the German Patent and Trade Mark Office was also planning to introduce the Balanced Scorecard.

225. The Spanish delegation felt that the ADL method should run in parallel for at least two more years, so that comparisons could be made.

226. In conclusion, the Council gave a unanimous favourable opinion on the approach outlined in CA/29/04 (present: 28; for: 28).

12.7	Basic assumptions for the business plan, budget and financial plan 2005 - 2009 (CA/35/04 + Add. 1 and Add. 2)
-------------	--

227. "A" item - see item 1.2 above.

12.8 Information on examining capacity (CA/19/04)

228. "A" item - see item 1.2 above.

12.9 Reimbursement of costs incurred by states invited to accede to the EPC attending meetings of the Committee on Patent Law in 2004 (CA/26/04)

229. "A" item - see item 1.2 above.

12.10 Draft supplementary budget: PschorrHöfe Phase VIII (CA/59/04)

230. In view of the outcome of the discussions on item 7.2, the Council considered the item redundant.

12.11 Revised Tax arrangements for EPO pensions (CA/61/04)

231. The Belgian delegation thanked the Office for the information contained in CA/61/04. It did, however, reiterate the request it had made at the March 2004 meeting, when the Office had tabled CA/8/04, in which it proposed that on top of the 50% of national tax already refunded to pensioners (requiring the member states concerned to reimburse it this amount), it would reimburse the remaining 50% from its own budget. At that meeting, the Belgian delegation had asked the Office to provide a projection of the medium and long-term financial impact of such a measure. It also wished to point out in passing that Eurocontrol, which the Office had quoted as an example of an organisation which refunded the entire amount of the national tax levied on the pensions paid to its former employees, was now in severe financial difficulties. The Belgian Ministry of Finance had not yet taken a decision on the subject of the Office's proposals, but its initial view was that rendering pensions totally tax-free was, if not unacceptable, then at the very least a matter that should be looked at very carefully in terms of its potential financial consequences, which were difficult to foresee at this stage.
232. The Swiss delegation recalled that at the previous meeting it had expressed surprise about the Office's assertion that its pensioners were taxed twice. It repeated the request it had made at that meeting, which was for the Office to provide specific figures showing the actual amount of internal tax and also comparative figures for pensions before and after internal tax. Generally speaking, it felt that the time had come to put an end to the reimbursement by member states of the 50% tax adjustment. It therefore proposed that the Office should pay the entire amount of the reimbursement and that the pensions regulations and the implementing regulations should be amended accordingly. The situation should be

reviewed again at a later date, when the number of pensioners had increased, in order to evaluate the financial burden that this would place on the Office's budget.

233. The French delegation commented that it was clearly stipulated in Article 16 of the Protocol on Privileges and Immunities that internal tax was levied solely on salaries and wages paid to staff in active service. It was therefore extremely sceptical about the claim that pensioners were subject to double taxation.
234. The United Kingdom delegation said that the relevant British authorities had not yet given an opinion on this question, but that it was well known that they were fundamentally opposed both to the European Communities Protocol on Privileges and Immunities and to the question of tax adjustment.
235. The German delegation agreed with the comments made by the Belgian and French delegations. It would like the Office to provide a detailed analysis of the various tax regimes to which the pensioners of international organisations in Europe were subject and the problems that these posed. Like the Swiss delegation, it was in favour of the Office taking responsibility for the 50% tax adjustment currently reimbursed by member states.
236. The Council noted this information.

12.12 Tax treatment of benefits from the Organisation's long-term care insurance scheme (LTC benefits) in the contracting states (CA/53/04)
--

237. First of all, the Council chairman said that he was doubtful that the Council would realistically be able to give an opinion on this document, as had been planned, in view of the fact that a large number of member states had not provided the information which had been requested.
238. The President said that he was entirely in agreement with the Council chairman, and asked those member states which had not yet provided the required information to do so.
239. The Council took note.

12.13 Collection of renewal fees (CA/62/04)
--

240. "A" item - see item 1.2 above.

12.14 Budget and financial issues relating to the establishment of a patent-related academy set up within the EPO (CA/63/04 + Add. 1)
--

241. The Council agreed to postpone discussion of this point until its October 2004 meeting.

12.15 Draft budget of the European School Munich for the 2005 accounting period (CA/15/04 + Add. 1f)

242. "A" item - see item 1.2 above.

13. MISCELLANEOUS

13.1 Work programme for the meetings of the Council during the second half of 2004 (CA/1/04 Rev. 1e + CA/1/04 Rev.1 Add.1)

243. The President asked that "Lease contract for PschorrHöfe Phase VIII" be inserted as agenda item 7.
244. The Council noted the work programme set out in CA/1/04 Rev. 1 Add. 1 including the additional item requested by the President.

13.2 Other business

245. The Council paid tribute to Messrs Elmar Hucko, head of the German delegation, Erik Vrenko, head of the Slovenian delegation, and Reinhard Ganten, head of Principal Directorate 4.7 Administration at The Hague, all of whom were retiring.
246. The farewell ceremony for Mr Ingo Kober also took place during the meeting. The text of the speeches made during this ceremony can be found in Addendum 1 to this document.

ANNEX 1 LIST OF PARTICIPANTS

CA/13/04 Rev. 1

Orig.: de, en, fr

München/Munich, 11.06.2004

BETRIFFT: Teilnehmerliste der 97. Sitzung des Verwaltungsrats
(München, 15. bis 17. Juni 2004)

SUBJECT: List of participants of the 97th meeting of the Administrative Council
(Munich, 15 to 17 June 2004)

OBJET : Liste des participants de la 97^e session du Conseil d'administration
(Munich, du 15 au 17 juin 2004)

VERFASSEN: Ratssekretariat

DRAWN UP BY: Council Secretariat

ORIGINE : Le secrétariat du Conseil

EMPFÄNGER: Verwaltungsrat (zur Unterrichtung)

ADDRESSEES: Administrative Council (for information)

DESTINATAIRES : Le Conseil d'administration (pour information)

PRÄSIDENT - CHAIRMAN - PRESIDENT

Herr Roland GROSSENbacher
Direktor
Eidgenössisches Institut für Geistiges Eigentum
(Schweiz/Suisse/Svizzera)

VIZEPRÄSIDENT - DEPUTY CHAIRMAN - VICE-PRESIDENT

Ms Alison BRIMELOW
European Affairs Advisor to the UK Patent Office
(United Kingdom)

VORSITZENDER DES HAUSHALTS- UND FINANZAUSSCHUSSES
CHAIRMAN OF THE BUDGET AND FINANCE COMMITTEE
PRESIDENT DE LA COMMISSION DU BUDGET ET DES FINANCES

Mme Maria Ludovica AGRÒ
Directrice
Office italien des brevets et des marques
(Italia)

VORSITZENDER DER ARBEITSGRUPPE "TECHNISCHE INFORMATION" UND DER
AD-HOC-ARBEITSGRUPPE „EPOLINE“
CHAIRMAN OF THE WORKING PARTY ON TECHNICAL INFORMATION AND OF THE
AD HOC EPOLINE WORKING PARTY
PRESIDENT DU GROUPE DE TRAVAIL "INFORMATION TECHNIQUE" ET DU
GROUPE DE TRAVAIL AD HOC "EPOLINE"

Mr Lars BJÖRKLUND
Deputy Director General
Swedish Patent and Registration Office
(Sverige)

VORSITZENDER DES AUSSCHUSSES "PATENTRECHT"
CHAIRMAN OF THE COMMITTEE ON PATENT LAW
PRESIDENT DU COMITE "DROIT DES BREVETS"

Mr Wim VAN DER EIJK
Head of the Patent Department
Netherlands Industrial Property Office
(Nederland)

VORSITZENDER DES AUFSICHTSRATS DER RFPSS
CHAIRMAN OF THE SUPERVISORY BOARD OF THE RFPSS
PRESIDENT DU SUPERVISORY BOARD OF THE RFPSS

M. Jean SEBEYRAN
Chairman of the Conseil de surveillance
(France)

EHRENGAST - GUEST OF HONOUR - INVITE D'HONNEUR

Mr Johannes Bob VAN BENTHEM
Former President of the European Patent Office

MITGLIEDSTAATEN - MEMBER STATES - ETATS MEMBRES

BÄLGARIJA

Ms Margarita NEDYALKOVA-MECHEVA	Vice-President Patent Office of the Republic of Bulgaria
Ms Evgeniya TABOVA	Head of the Dispute Department Patent Office of the Republic of Bulgaria

BELGIQUE/BĚLGIE

M. Geoffrey BAILLEUX	Conseiller adjoint Office de la Propriété intellectuelle Direction générale de la Régulation et de l'Organisation du Marché Service public fédéral Economie, P.M.E., Classes moyennes et Energie
----------------------	---

ČESKÁ REPUBLIKA

Mr Karel ČADA	President Industrial Property Office
Ms Světlana KOPECKÁ	Director of the International and European Integration Department Industrial Property Office

DANMARK

Mr Jesper KONGSTAD

Director General
Danish Patent Office

Ms Anne REJNHOLD JØRGENSEN

Director
International Affairs
Danish Patent Office

Mr Niels RAVN

Senior Legal Adviser
International Affairs
Danish Patent Office

DEUTSCHLAND

Herr Elmar HUCKO

Ministerialdirektor
Bundesministerium der Justiz

Herr Jürgen SCHADE

Präsident
Deutsches Patent- und Markenamt

Frau Cornelia RUDLOFF-SCHÄFFER

Leitende Regierungssdirektorin
Deutsches Patent- und Markenamt

Frau Petra STUCKE

Regierungsdirektorin
Bundesministerium der Justiz

Frau Verena WOLF

Regierungsrätin
Deutsches Patent- und Markenamt

EESTI

Mr Matti PÄTS

Director General
Estonian Patent Office

Mr Toomas LUMI

Deputy Director General
Estonian Patent Office

ELLÁDA

Mr George KOUMANTOS

President of the Administrative Council
Industrial Property Organisation (OBI)

Mr Emmanuel SAMUELIDES

Director General
Industrial Property Organisation (OBI)

ESPAÑA

Ms Teresa MOGIN BARQUÍN

Director General
Spanish Patents and Trademarks Office

Mr Miguel Angel GUTIERREZ CARBAJAL

Director
Patent and Technological Information
Department
Spanish Patents and Trademarks Office

Mr Javier MORENO RAMOS

Director of International Relations and Legal
Coordination Department
Spanish Patents and Trademarks Office

FRANCE

M. Benoît BATTISTELLI

Directeur général
Institut National de la Propriété Industrielle

Mme Benjamine VIDAUD-ROUSSEAU

Conseiller juridique
Direction générale de l'INPI
Institut National de la Propriété Industrielle

M. Beltran CALVEYRA

Auditeur à la Cour des Comptes

M. Daniel HANGARD

Chef de mission de contrôle
Ministère de l'Economie, des Finances et de
l'Industrie

IRELAND/ÉIRE

Mr Sean FITZPATRICK

Controller of Patents, Designs and
Trademarks
Irish Patents Office

Ms Helen CURLEY

Assistant Principal
Intellectual Property Unit
Department of Enterprise, Trade and
Employment

ITALIA

M. Giulio PRIGIONI

Ministre Conseiller
Ministère des Affaires Etrangères

Mme Maria Ludovica AGRÒ

Directrice
Office italien des brevets et des marques

KÝPROS

Mr Spyros KOKKINOS

Senior Officer of Registrar of Companies
and Official Receiver
Ministry of Commerce, Industry and
Tourism

Mr Christos NICOLAOU

Examiner
Ministry of Commerce, Industry and
Tourism

LIECHTENSTEIN

Frau Christine STEHRENBARGER

Stellvertretende Leiterin des Amtes für
Auswärtige Angelegenheiten

LUXEMBOURG

M. Claude SAHL

Chef du secteur "législation"
Direction de la propriété intellectuelle

MAGYARORSZÁG

Mr Miklós BENDZSEL

President
Hungarian Patent Office

Mr Mihály FICSOR

Vice-President for Legal Affairs
Hungarian Patent Office

MONACO

M. Yann STRIDDE

Chef de section
Division de la propriété intellectuelle
Direction de l'Expansion Economique

NEDERLAND

Mr Harry GEIJZERS

President
Netherlands Industrial Property Office

Mr Derk-Jan DE GROOT

Head of Industrial Property Unit
Ministry of Economic Affairs

Mr Wim VAN DER EIJK

Head of the Patent Department
Netherlands Industrial Property Office

ÖSTERREICH

Herr Richard FLAMMER

Vizepräsident
Österreichisches Patentamt

Herr Karl WOLF

Vizepräsident
Österreichisches Patentamt

POLSKA

Ms Alicija ADAMCZAK

President
Patent Office of the Republic of Poland

Ms Ewa NIZINSKA MATYSIAK

Acting Director of the Cabinet of the
President
Patent Office of the Republic of Poland

PORTUGAL

Mr Jaime SERRÃO ANDREZ

President of the Administrative Council
National Institute of Industrial Property

Mr Paulo SERRÃO

Member of the Administrative Council
National Institute of Industrial Property

ROMÂNIA

Mr Gábor VARGA

Director General
State Office for Inventions and Trademarks

Mr Alexandru Cristian ȘTRENC

Deputy Director General
State Office for Inventions and Trademarks

Mr Bogdan GEAVELA

Legal Adviser
International Co-operation Bureau
State Office for Inventions and Trademarks

SCHWEIZ/SUISSE/SVIZZERA

Herr Felix ADDOR

Leiter Abteilung Recht und Internationales
Mitglied der Direktion
Eidgenössisches Institut für Geistiges
Eigentum

Herr Stefan LUGINBUEHL

Jurist
Rechtsdienst Patente und Design
Abteilung Recht & Internationales
Eidgenössisches Institut für Geistiges
Eigentum

Frau Romina MOSSI

Persönliche Mitarbeiterin des Direktors
Eidgenössisches Institut für Geistiges
Eigentum

SLOVENIJA

Mr Erik VRENKO

Director
Slovenian Intellectual Property Office

Mr Andrej PIANO

Deputy Director
Slovenian Intellectual Property Office

SLOVENSKÁ REPUBLIKA

Ms Darina KYLIÁNOVÁ

President
Industrial Property Office

Mr L'uboš KNOTH

Director
Secretariat of the President
Industrial Property Office

SUOMI/FINLAND

Mr Martti ENÄJÄRVI

President
National Board of Patents and Registration

Ms Maarit LÖYTÖMÄKI

Deputy Director
Patents and Innovations Line
National Board of Patents and Registration

Mr Eero MANTERE

Director
International and Legal Matters
National Board of Patents and Registration

Ms Marja-Leena RINKINEVA

Government Counsellor
Ministry of Trade and Industry

SVERIGE

Ms Gun HELLSVIK

Director General
Swedish Patent and Registration Office

Mr Lars BJÖRKLUND

Deputy Director General
Swedish Patent and Registration Office

TÜRKIYE

Mr Yusuf BALCI

President
Turkish Patent Institute

Mr Hüseyin ULUDAG

Patent Expert
International Affairs Department of TPI
Turkish Patent Institute

UNITED KINGDOM

Mr Ron MARCHANT

Chief Executive and Comptroller General
The Patent Office

Ms Alison BRIMELOW

European Affairs Advisor to the UK Patent
Office

Mr Sean DENNEHEY

Director of Patents
The Patent Office

Mr Jim AYLING

European Policy Advisor to the Chief
Executive
The Patent Office

Mr Robert SHORTHOUSE

Policy Adviser
Intellectual Property and Innovation
Directorate
The Patent Office

BEOBACHTER - OBSERVERS - OBSERVATEURS

1. Staaten - States - Etats

ÍSLAND

Ms Ásta VALDIMARSDÓTTIR

Director General
Icelandic Patent Office

LATVIJA

Mr Zigrids AUMEISTERS

Director
Patent Office of the Republic of Latvia

Ms Ieva VILUMA

Director
Legal Department
Patent Office of the Republic of Latvia

LIETUVA

Mr Rimvydas NAUJOKAS

Director
State Patent Bureau of the Republic of
Lithuania

Mr Žilvinas DANYS

Chief Specialist of the Legal Division
State Patent Bureau of the Republic of
Lithuania

NORGE

Mr Bjarne KVAM

Deputy Director General
Norwegian Patent Office

Mr Jostein SANDVIK

Senior Legal Advisor
Norwegian Patent Office

2. **Zwischenstaatliche Organisationen - Inter-Governmental Organisations - Organisations intergouvernementales**

World Intellectual Property Organization
Organisation Mondiale de la Propriété Intellectuelle (WIPO/OMPI)

Mr Philip THOMAS

Director
Patent Policy Department

Europäische Gemeinschaft / European Community / Communauté européenne

Rat der Europäischen Union
Council of the European Union
Conseil de l'Union européenne

Herr Klaus GRETSCHMANN

Director General
DG C

Mr Anders OLANDER

Director
DG C-I (Internal Market)

Europäische Kommission
European Commission
Commission européenne

M. Thierry STOLL

Directeur Général Adjoint
DG Marché intérieur

Mr Jens L. GASTER

Principal Administrator
Industrial Property Unit
Internal Market Directorate-General

Office for Harmonization in the Internal Market (OHIM)
Office de l'harmonisation dans le marché intérieur (OHMI)

Mr Alberto CASADO

Vice-President

3. Nichtstaatliche Organisationen - Non-Governmental Organisations - Organisations non-gouvernementales

Institut der beim Europäischen Patentamt zugelassenen Vertreter
Institute of Professional Representatives before the EPO
Institut des mandataires agréés près the Office européen des brevets

Herr Walter HOLZER Präsident

Mr Francesco MACCHETTA Vice-President

Union of Industrial and Employer's Confederations of Europe
Union des Confédérations de l'Industrie et des Employeurs d'Europe

Mr Jan GALAMA	Vice Chairman of UNICE's working group on Patents Chairman of UNICE's working group on Copyright Philips International BV
---------------	---

Mr Klaus-Dieter LANGFINGER Chairman of UNICE's working group on
Patents

KOLLEGIUM DER RECHNUNGSPRÜFER DER EPO
EPO BOARD OF AUDITORS
COLLEGE DES COMMISSAIRES AUX COMPTES DE L'OEB

M. Michel CAMOIN	Commissaire aux comptes
Mr José FERRÍN GUTIÉRREZ	Auditor
Herr Jean OLINGER	Rechnungsprüfer

EUROPÄISCHES PATENTAMT
EUROPEAN PATENT OFFICE
OFFICE EUROPEEN DES BREVETS

Herr Ingo KOBER	Präsident
M. Alain POMPIDOU	Président désigné (01.07.2004)
Mr Niclas MOREY	Head of the President's Office (0.1)
Mr Aidan KENDRICK	Principal Administrator (0.1)

Mr Ciarán McGINLEY	Controller (0.3)
M. Dominique GUELLEC	Directeur (0.3.1)
Mr James PEARCE	Director (0.3.2)

Mr Silvio VECCHI Principal Director (0.5)

M. Bernard PAYE	Directeur principal (0.6)
Herr Wolf Hans MARDER	Leiter (0.7)
Frau Sabine REICHL	Verwaltungsrätin (0.7)
M. Lionel BARANES	Vice-Président (DG 1)
M. Jacky MAISONNEUVE	Directeur principal (1.0.1)
Mr Helge RASMUSSEN	Principal Director ((1.2.3)
Herr Bernd BETTELS	Direktor (1.2.5.3)
M. Gérard GIROUD	Directeur Principal (1.3)
Mr Pantelis KYRIAKIDES	Vice-President (DG 2)
Mme Anne SCHUEMACHER	Examinatrice (2.1.0.1.)
Herr Lambertus VAN GOLDE	Prüfer (2.1.0.9)
M. Pierre UIBER	Examineur (2.1.2.3)
Mme Sylvie TRIFILIEFF-RIOLO	Examinatrice (2.1.2.3.)
Frau Andrea BOESENBERG-CHOUET	Bedienstete für Spezialgebiete (2.1.4.3)
Herr Bertil HJELM	Hauptdirektor (2.2.2)
M. Paul HASLAUER	Directeur (2.2.1.4)
Herr Wolfram FÖRSTER	Hauptdirektor (2.2.3)
Mr David ELLIS	Examiner (2.3.0.3)
Herr Paul BUEGL	Direktor (2.3.1.3)
Frau Barbara HEIMANN-POHL	Prüferin (2.4.0.1)
M. Enrico LUZZATTO	Examineur (2.4.0.2)
Frau AGNES KRONESTER-FREI	Prüferin (2.4.0.3)
Mr Bart CLAES	Examiner (2.4.0.6)
Frau Karin DOUSCHAN	Prüferin(2.4.0.4)
Herr Joachim HESSEN	Direktor (2.4.1.1)
Herr Peter MESSERLI	Vizepräsident (DG 3)
Mr Franco BENUSSI	Director (3.0)
Ms Alessandra PIGNATELLI	Mitglied der Beschwerdekammer (3.1.1)
Herr Richard MENAPACE	Mitglied der Beschwerdekammer (3.3.1)
Herrn Reinhard FREIMUTH	Mitglied der Beschwerdekammer (3.3.1)

Mr Curt EDFJÄLL
M. Guillaume MINNOYE
Herr Roland WECKEND
Herr Johann WITLAM
M. Paul FEIDT
Frau Sabine REIFKOGEL
Herr Martin LEUPOLD
Herr Erich MATREUX
Mme Ginette PERAKIS
M. Jean-Pol ROBIN
Herr Thomas MICHEL
Herr Norbert STRATMANN
Herr Wolfgang PILCH
Herr Georgios PANTOGLU
Herr Reinhard GANTEN
M. Wiek CRASBORN

Mr Manuel DESANTES
Herr Godehard NOWAK
Herr Rainer OSTERWALDER
M. Richard YUNG
M. Jean-Michel ZILLIOX
Herr Gert KOLLE
Herr Ingwer KOCH
Frau Martina BLASI
Frau Petra SCHMITZ
Herr Robert CRAMER
Frau Theodora KARAMANLI
Herr Eugen STOHR
Herr Ulrich JOOS
Herr Panagiotis RIGOPOULOS
M. Eskil WAAGE
Mme Sylvie STROBEL
Ms Lise DYBDAHL
Herr Hans-Christian HAUGG
Herr York BUSSE
Mr Brian DERBY
Herr Gerhard ULLRICH
Ms Marianna FUCCI
M. Marcello ACCINNI
M. Herman ZAAIMAN
Herr Christoph MATTHIES

Vice-President (DG 4)
Directeur Principal (4.1)
Verwaltungsrat (4.2.1.2)
Verwaltungsrat (4.2.1.3)
Directeur (4.2.2)
Verwaltungsrätin ((4.2.2.2)
Hauptdirektor (4.3)
Direktor (4.3.2)
Administratrice (4.3.1.3)
Administrateur (4.3.2.3)
Hauptdirektor (4.4)
Verwaltungsrat (4.4.4.2)
Hauptdirektor (4.5)
Direktor (4.5.1)
Hauptdirektor (4.7)
Directeur (4.7.2)

Vice-President (DG 5)
Direktor (5.0.1)
Verwaltungsrat (5.0.1)
Directeur (5.1.1)
Administrateur (5.1.1)
Direktor (5.2)
Direktor (5.2.1)
Juristin (5.2.1)
Juristin (5.2.1)
Jurist (5.2.1)
Juristin (5.2.1)
Direktor (5.2.2)
Jurist (5.2.2)
Jurist (5.2.2)
Juriste (5.2.2)
Juriste (5.2.2)
Director (5.2.4)
Jurist (5.2.4)
Direktor (5.2.5)
Lawyer (5.2.5)
Hauptdirektor (5.3)
Director (5.3.1)
Lawyer (5.3.1)
Lawyer (5.3.1)
Jurist (5.3.1)

PERSONALAUSSCHUSS - STAFF COMMITTEE - COMITE DU PERSONNEL

M. Florent BÉRAUD	Président Comité central du personnel
Herr Hannes SENFTL	Vorsitzender Personalausschuß München
Herr Wolfgang MANNTZ	Vorsitzender Personalausschuß Berlin
Herr Ansgar WANSING	Vorsitzender Personalausschuß Den Haag
M. François BASTY	Président Comité du personnel Vienne
Mr Anders SUNNHAGEN	Membre Comité du personnel Munich

SEKRETARIAT - SECRETARIAT

M. Yves GRANDJEAN	Chef du Secrétariat
M. Philippe MOREAU	Administrateur
Frau Cornelia UMBACH	Verwaltungsrätin
Ms Gerry COLLINS	Supervisor
Frau Julia HARTMANN	Assistentin
Frau Karolin KREUZER	Assistentin