



Consultation feedback analysis

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Detailed survey analysis

The online survey contained 48 questions; most of them were multiple choice and were followed by free text boxes to express alternative, dissenting or complementary opinions. The survey included five sections on competences, assessment methodologies, adaptability, design and modularity, and the online examination platform. The survey was complemented by a set of model papers, drafted between November 2021 and March 2022 by EPO EQE examination committee members and epi members of the PEC committee.

1. Survey Section I – Competences

Regarding the approach taken to breaking down the current papers into specific and transversal competences, 49% of respondents agreed with the approach taken, 31% said they could not assess the approach proposed and 20% disagreed with the proposed approach.

Among respondents who used free text to comment on the specific and transversal competences, two underlined the importance of the actions currently covered in papers A, B and C continuing to be examined¹ and of the problem-solution approach to attack the inventive step in a claim continuing to feature in the examination.² Some commented that the use of current EQE papers as the basis for extracting specific and transversal competences would be too formalistic for such purpose.³ However, most free text responses did not deal with the focus of the question – i.e. "specific" or "transversal" competences – and made observations that would be relevant elsewhere.⁴

Among the letters received, CIPA Informals Committee considered "that the proposal suitably removes repetition of competencies in the main examinations, reducing the burden on candidates to sit lengthy examinations and providing increased flexibility".⁵ Maastricht noted that the proposed structure of the syllabus, with repetition of the basic elements and the gradual incorporation of more complicated matters therein, stimulates a true understanding of the legal aspects and the development of insights by the candidate.⁶ Mewburn Ellis highlighted that the proposal thoroughly examines aspects relating to the law and advising clients, which was appreciated. Nevertheless, they felt that "drafting, responding to office actions and filing oppositions" must continue to be strong components and it is necessary to "ensure that these examinations strike the right balance between practice and theory, between 'doing' and 'advising'". Similar views were expressed by CIPA, noting that, while "no specific objections were received to the use of a competence-based approach to the design of the new EQE and some respondents positively approved this approach (...)" key

¹ ID 26, ID 64.

² ID 100.

³ ID 94.

⁴ Too many papers (ID 26, ID 51, ID 87, ID 128, ID 131), scheduling once a year (ID 33), the aim of the reform is to make the examination more difficult (ID 17), concern about transition (ID 14, ID 47, ID 55, ID 93, ID 147, ID 149), multiple choice is not the right assessment methodology (ID 35), PCT should not be covered and UPC should be covered (ID 36), praise for PDF modules but note that WISEflow modules have not been consulted (ID 59, ID 145), online examination, and notably breaks, facilitate fraud (ID 61, ID 62), scheduling is not correct (ID 81), present EQE examiners' reports are not clear and the correctness of the answers is put into question (ID 91), the concept paper should have considered the training aspects more carefully (ID 186), online examination is not appropriate and 2.5 hour-long papers are too short (ID 60, ID 94), the exams should last more than 2 hours (ID 70, ID 78).

⁵ CIPA Informals Committee, CIPA Informals Committee Response to the New EQE Proposal and Consultation.

⁶ Maastricht, p. 2.

competences, such as drafting patent applications, in particular claims, responding to office actions (including amendment) and filing oppositions should be tested in every set of the main exams".⁷ Delta, Siemens, Maastricht, PAK-AT and GSK also noted that core competences – claim drafting, opposition and amendments – should be routinely and thoroughly tested.⁸ For its part, DE-PAK disagreed and held that the competences-based approach did not solve the problems of the old EQE ("formalistic approach" and "mosaic-view"), whereas other solutions could remedy that.⁹ Siemens also considered that the approach was unnecessary since the competences identified were already tested.¹⁰

Questions 4 and 6 of the survey asked whether all the competences identified in current papers had been transferred to the new model. Most expressed the view that all the specific and general competences identified had been transferred when compared to present papers. In particular, 62% of respondents stated that all the specific competences identified had been included and 60% affirmed that all the transversal competences identified had been incorporated. Questions 5 and 7 of the survey provided space to comment in more detail about the specific and general competences, respectively.

Among respondents who used the free text to comment, some observed that the list of specific competences should be accompanied by a prioritisation of competences,¹¹ others observed that not all competences could always be tested,¹² while others alleged that the competences needed to pass the EQE differ from those necessary to become a European patent attorney.¹³ Some respondents stated that the five-year analysis conducted by the Working Group could overlook the fact that the present syllabi include topics that have not been tested over the past five years.¹⁴ Some responses highlighted transversal competences, notably working under time pressure,¹⁵ while others referred generally to present papers.¹⁶ Among the specific competences that would need more attention, mention was made of the right to be heard and impartiality,¹⁷ representing a client in oral proceedings,¹⁸ identifying the closest prior art¹⁹ and deciding on the best means of attack,²⁰ a thorough analysis of inventive step,²¹ dealing with the client's budget,²² creativity,²³ claim construction²⁴ and drafting,²⁵ and technical knowledge.²⁶ Other answers related to matters

⁷ CIPA, Conclusions and Point 1 (IV).

⁸ CIPA, p. 13, Delta-bis, p. 14, Mewburn Ellis, p. 4, GSK, p. 6, PAK-AT, p. 7.

⁹ DE-PK, p. 6.

¹⁰ Siemens, p. 3.

¹¹ ID 80.

¹² ID 58.

¹³ Either as a matter of principle or in the examination proposed, i.e. ID 110, ID 111, ID 112, ID 116, ID 117, ID 122, ID 127, ID 130, ID 136, ID 168, ID 175.

¹⁴ ID 148.

¹⁵ This is the case of working under time pressure (ID 26, ID 52, ID 126).

¹⁶ Reference made to the competences tested by papers A and B (ID 34), A, B, C and D2 (ID 35), C and D (ID 43) and A, B and C (ID 52).

¹⁷ ID 36.

¹⁸ ID 54.

¹⁹ ID 104.

²⁰ ID 63.

²¹ ID 70.

²² ID 117.

²³ ID 126.

²⁴ ID 173, ID 174.

²⁵ ID 169, ID 154, ID 156.

²⁶ ID 179.

covered by other sections of the questionnaire,²⁷ or fell outside of the scope of the concept paper.²⁸

The concern of CIPA did not focus on whether the central competences of "filing an appeal, dealing with a summons to oral proceedings and responding to a notice of opposition" were included in the proposal, but on the fact that it was felt that, due to the design, it "may be possible for candidates to pass the new EQE without being tested on certain key competences".²⁹ Similar comments were made by Maastricht.³⁰ DE-PAK noted that more emphasis must be given to essential techniques of claim drafting and claim amendment.³¹ Indirectly, and because of the statement of DE-PAK that there is "absolutely no backward compatibility" between present EQE and past EQE, it can be inferred that it is also felt by DE-PAK that some competences have not been transferred.³² Mewburn Ellis noted that it is possible that more attention needs to be paid to opposition.³³ Maastricht noted that it would be beneficial to introduce a gradual build-up of the competences tested in each module.³⁴

Question 8 asked whether there are any knowledge elements (the what, the how and the strategic view related to the competences identified) which are not included in the syllabus of the modules. 64% of the respondents felt that knowledge elements are well covered.

Among the responses in the free text space left for those stating that there are knowledge elements missing, the majority referred to specific topics (such as UP/UPC,³⁵ ethics of patent attorneys,³⁶ problem-solution approach,³⁷ scope of protection and right to be heard³⁸) while others referred to the how (identify patent-related legal problems and make suggestions for resolving them or taking additional advice from other legal practitioners, i.e. skill of reading contracts, drafting contracts, collecting information),³⁹ communication skills⁴⁰ and analysing and working with decisions of the boards.⁴¹

Some answers stated that it is difficult to see differences between specific competences and knowledge elements, or that it is difficult to know where the knowledge elements mentioned

²⁷ Longer papers (ID 43, ID 158), security of online examinations (ID 61, ID 62, ID 75), noting that the profession, candidates and tutors should be consulted (ID 185), assessment techniques (ID 117).

²⁸ Whether a master's degree or a bachelor's degree should suffice to take the papers (ID 60).

²⁹ CIPA, Point 1 (I) (i).

³⁰ Maastricht, pp. 5-6.

³¹ DE-PAK, p. 7.

³² DE-PAK, pp. 7 and 8.

³³ Mewburn Ellis, p. 4.

³⁴ I.e. for F1: only EPC, PCT and some chapters of the Guidelines; for M3: EPC, PCT, full Guidelines and most important G decisions, Unitary Patent; for M4: EPC, PCT, full Guidelines, relevant case law, Unitary Patent, some basic knowledge of the UPC, some basic knowledge of national patent laws of main EPC contracting states and of the other IP5 offices. Maastricht, p. 2.

³⁵ ID 22.

³⁶ ID 27.

³⁷ ID 100.

³⁸ ID 36.

³⁹ ID 45.

⁴⁰ ID 13.

⁴¹ ID 162.

are to be found.⁴² Other comments restated a negative answer,⁴³ while some responses went beyond this question.⁴⁴

Question 10 asked participants whether they agree with the statement that, "to be 'fit to practise', EQE candidates must first gain knowledge and subsequently develop skills to acquire competences". 57% of respondents agreed with this statement.

Those providing additional details in their responses added that knowledge and skills are acquired simultaneously,⁴⁵ that flexibility in acquiring knowledge and skills should be the main principle,⁴⁶ and confirmed the importance of practise to becoming a European patent attorney.⁴⁷

Among the letters received, Siemens was of the opinion that knowledge and skills could not be clearly distinguished, thus they disagree with "the sequence chosen for the six modules".

Question 12 inquired about progression between the modules. There were seven possible positive answers and two possible negative answers. Among the positive ones, the first reflected the general level of agreement with the proposed progression, while the others focused on the differences between specific modules (F1 vs. F2, F2 vs. M1, etc.). Most respondents noted that there is good progression across modules, either in general (63%) or in general with improvements that can be introduced in respect of one module or another (12%). Those indicating that the difference in difficulty between modules is too high or that there is too marked a difference between F1 and M4 represented 12% and 13% of the respondents respectively. This question can be linked to questions 24-37, which specifically asked about the progression between particular modules. Answers therein emphasised that, if more work needs to be done, this mostly relates to the differences between modules F1, F2 and M1.

Maastricht agreed with the "modular approach of the proposed exam structure, with a gradual build-up of the level of knowledge, skills, insights and general mastery of professional competences."⁴⁸ CIPA noted that: "There were no specific objections to the gradual increase in the complexity of the exams in the new proposal."⁴⁹ Mewburn Ellis also endorsed the progressive acquisition of knowledge enabled by the approach proposed.⁵⁰ Siemens did not endorse increasing complexity across modules.⁵¹

When, in question 13, respondents were asked whether they would agree with the development of an EQE that goes beyond representing clients before the EPO, the answers favoured retaining the focus on the present work of European patent attorneys before the EPO. The question offered four

⁴² ID 33, ID 35, ID 58, ID 76, ID 110, ID 111, ID 113, ID 116, ID 117, ID 121, ID 130, ID 136, ID 141, ID 142, ID 155, ID 168, ID 175, ID 181.

⁴³ ID 60, ID 75 state that "all" or "several" are missing; ID 58.

⁴⁴ ID 62, ID 185, ID 119, ID 112, ID 185.

⁴⁵ ID 17, ID 33, ID 58, ID 61, ID 64, ID 69, ID 89, ID 90, ID 99, ID 104, ID 108, ID 131, ID 142, ID 156, ID 157, ID 158, ID 162, ID 169, ID 171, ID 173, ID 174, ID 179, ID 181.

⁴⁶ ID 18, ID 71, ID 72, ID 80, ID 148, ID 176.

⁴⁷ ID 20, ID 94, ID 110, ID 111, ID 113, ID 114, ID 116, ID 122, ID 126, ID 127, ID 130, ID 136, ID 141, ID 152, ID 154, ID 155, ID 168, ID 175, ID 181, ID 186.

⁴⁸ Maastricht, p. 2.

⁴⁹ CIPA, Point 1 (IV).

⁵⁰ Mewburn Ellis, p. 1.

⁵¹ Siemens, p. 3.

possible answers: two positive, two negative. The two negative answers combined equated to 60% of responses, whereas the two positive answers represented 40%.⁵² The reasons given in question 14 against a broader syllabus included the lack of expertise of the epi/EPO in marking topics such as litigation or licensing, the fact that it would be too broad and too complex for candidates and that some candidates could be put in a disadvantaged position.⁵³

Among the letters received, CIPA noted that most respondents to their survey "were not in favour of this and felt that the EQE should be limited to testing a candidate's knowledge and ability to represent applicants in EPO proceedings".⁵⁴ Siemens, FICPI, and PAK-AT expressed the same view, notably in relation to knowledge about non-EPC countries.⁵⁵

Question 15 specifically asked what competences can only be acquired in actual practice. Some answers provided to this question could guide the activities conducted in the period of traineeship; others referred to general topics, or to topics beyond the remit of the question.

2. Survey Section II – Assessment methodologies

Question 16 focused on evaluation techniques and asked whether the variety of evaluation techniques is an asset. 52% of the respondents felt that a variety of evaluation techniques is an asset, 48% felt it is not.

Analysis of the free text responses to this question identified four groups of respondents. A first group included those who oppose evaluation assessments using something other than free text, those who said that multiple choice should not be the only technique employed and those who argued that more free text should be used.⁵⁶ A second group included those in favour of variety, those who focused on the need to ensure quality whichever technique is employed,⁵⁷ and those who recommended reducing the number of evaluation techniques to avoid confusion.⁵⁸ There was a third group that commented on specific points that need more careful consideration, such as diversity and inclusion, and the importance of the quality of the correction.⁵⁹ A fourth group raised topics that go beyond the specific question.⁶⁰

Among the letters received, the impression of the University of Maastricht was "that these different formats allow to test the candidate's knowledge and insights better than the current True/False format of the pre-exam".⁶¹ Nevertheless, too many types of questions may be an issue for Maastricht and also for CIPA⁶², who expressed the view that "exams have a greater

⁵² One of the two positive answers, though, stated that this could be made an optional route, via independent certificates. This was supported by 22%. Full inclusion was supported by 17%.

⁵³ For instance: ID 28, ID 33, ID 36, ID 58, ID 168, ID 158, ID 156, ID 155, ID 152, ID 141, ID 158, ID 186.

⁵⁴ CIPA, Point 1 (I) (ii), Point 1 (IV) and Conclusions.

⁵⁵ Siemens, p. 4, FICPI, p. 2, PAK-AT, p. 2, p. 8, CIPA, p. 3.

⁵⁶ ID 30, ID 33, ID 63, ID 70, ID 75, ID 76, ID 87, ID 141, ID 155, ID 157, ID 165, ID 169, ID 168, ID 185, ID 170.

⁵⁷ ID 64, ID 68, ID 72, ID 83, ID 99, ID 142, ID 148, ID 158, ID 183.

⁵⁸ ID 89, ID 91, ID 158, ID 152, ID 176, ID 182.

⁵⁹ Diversity and inclusion concerns arising from multiple evaluation techniques (ID 26); the focus should be on the quality of the assessment, not the assessment *per se*; concern expressed regarding technical problems (ID 171, ID 174, ID 176, ID 177, ID 178).

⁶⁰ Exam should be sat in physical centres (ID 52), general disagreement with the model (ID 51, ID 54, ID 98), content-related aspects of the different modules (ID 57, ID 61, ID 100), IT setting (ID 62).

⁶¹ Maastricht, p. 7.

⁶² CIPA, Point 1 (II). The letter further comments on this, noting that the diversity of evaluation techniques "introduced an unnecessary degree of complexity to the exams and increased the potential to confuse candidates." CIPA, Point 1 (II) (ii).

complexity than the current pre-exam due to the increased number of question types that have been used and the corresponding increase in the answer options available to candidates".⁶³ The letter expressed a preference for free text, and stated that, "If different question formats are to be used, it was considered that these should be kept to a minimum to avoid confusion".⁶⁴ Consequently, "clearer instructions are therefore required for the new question formats of the online examinations".⁶⁵ CIPA respondents also addressed specific issues, such as word limit, which could create an additional burden on candidates.⁶⁶ Similar views were expressed by CIPA Informals Committee and GSK.⁶⁷ J A Kemp also emphasised that question types should probably be fewer and clearer.⁶⁸ Delta, GSK and Maastricht also emphasised that the types of examination question proposed were too varied.⁶⁹ DE-PAK believed that only free text is appropriate for the EQE, since some of the proposed techniques "can only test passive knowledge".⁷⁰ Siemens shared the view that only "fully free text" should be used.⁷¹ Longer exams with free text were endorsed by CIPA, FICPI and Delta.⁷² Related questions, such as clarifying whether it is an open-book exam and what resources could be used were mentioned by Delta and CIPA.⁷³

Question 18 focused on whether the model proposed brings the EQE closer to the profession and provided two examples: working under time pressure and using digital resources. Four options were possible to answer this question. One stated that "it is not necessary to bring the EQE closer to the conditions of today's profession", while the other three addressed whether the model proposed achieves the intended goal of bringing the EQE closer to the profession. A positive, a negative and a positive but qualified answer, in the sense that more efforts should be made to attain that objective, were possible. Noting that 14% of respondents stated that the EQE should not be brought closer to the profession, of the remaining 86% who focused on whether the proposal achieves such goal, 29% thought that the proposal is successful in bringing the EQE closer to the profession, 30% thought that it has limited success but more can be done and 27% felt that the proposed EQE is not successful in bringing the EQE closer to the conditions of the profession.⁷⁴ In other words, 69% of those who support bringing the EQE closer to the profession think that this is achieved or that, while this is the case, more should be done.

Answers in the free text box available to answer this question can be grouped into those who agreed that the model brings the EQE closer to the profession and proposed improvements (such as allowing some printing and improving editing functions within the software, making more resources available online (notably the PCT), and offering a module on digital skills),⁷⁵

⁶³ CIPA, Point 1 (II) (x) and Conclusions.

⁶⁴ CIPA, Point 1 (II) (ii).

⁶⁵ CIPA, Point 1 (II) (iii) and Conclusions.

⁶⁶ There should be a word counter and the consequences of exceeding the limit need to be clear. CIPA, Point 1 (II) (iv).

⁶⁷ CIPA, p. 6, GSK, p. 4.

⁶⁸ J A Kemp, pp. 4 and 5.

⁶⁹ Delta, p. 2, Delta-bis, p. 28, GSK, p. 4, Maastricht, p. 7.

⁷⁰ PAK, p. 5.

⁷¹ Siemens, p. 5.

⁷² CIPA, p. 4, Delta, p. 2, Siemens, p. 1 and p. 4, FICPI, p. 3.

⁷³ CIPA, p. 4 and p. 19, Delta-bis, p. 27.

⁷⁴ It is assumed that those who chose the option stating that the proposed EQE is not successful in bringing it closer to the profession think, however, that it would have been good if this had happened. Should this assumption not be correct and two blocks were more appropriate, the positive one (the proposal is successful + it is successful but more effort can be done) would take 59% of the answers, while the negative (it is not necessary and it is not achieved), would take 41% of the answers.

⁷⁵ ID 26, ID 31, ID 80, ID 85, ID 88, ID 163, ID 89, ID 104, ID 123, ID 154, ID 156.

and those who expressed their views on a range of issues, most beyond the scope of the question.⁷⁶

Among the letters received, CIPA Informals Committee agreed "with adapting the EQE for an online platform as this resembles the conditions of the profession today by allowing candidates to type answers and refer to online resources on the EPO website" and that a "wider range of resources could be provided including the PCT on the WIPO website and the legislation of other jurisdictions if this knowledge is required for the exams."⁷⁷ Inclusiveness is also noted as an advantage of online examination, and it is noted that "the way this system has been arranged and explained seems as fair, logical and as empowering as possible".⁷⁸ That the reform is "an excellent opportunity to utilise the benefits of technology and improve the experience of all candidates" is noted by IP Inclusive, who also stated that "online examinations will often suit disabled candidates better than paper based examinations". Inclusiveness should also be considered when scheduling papers in the calendar year, notably in view of caring responsibilities. Mewburn Ellis noted that they were broadly in support of the changes outlined within the consultation and that the proposed modular system aligns with the stated aims of bringing the exams closer to the professional practice of today's patent attorneys.⁷⁹

Siemens also agreed that "the EQE should be held digitally as to reflect the working conditions of the patent attorney", although questioned whether this should be online for data protection and security issues.⁸⁰ DE-PAK proposed computer-based exams, but in physical centres. And Siemens endorsed digital exams and stated that online exams are not yet feasible.⁸¹

3. Survey Section III – Adaptability

Question 20 noted that the scope of situations that can be evaluated has been broadened and that the proposed EQE will make it possible to target different topics each year. 23% stated that being able to swiftly vary topics in each edition increases the quality, 49% felt that this option needed to be carefully implemented to benefit candidates and the work of committees and 28% of the respondents stated that this option unnecessarily increased the difficulty by making the questions that will be asked less predictable. Thus, 72% favoured some degree of variability but the large majority within that group urged care when implementing such variability to benefit candidates and the committees.

Among the letters received, CIPA noted that "the format of the new EQE is more adaptable than the current EQE and makes it potentially easier to target different topics from the syllabus each year." At the same time, the uncertainty of the types of work that will be tested in some modules may stress candidates⁸² and changing questions every year may not be

⁷⁶ More free text should be available (ID 63, ID 148), the modules seem too short (ID 78), questions regarding IT (ID 62, ID 74) and how would it work in actual practice (ID 72), dislike the general format (ID 152, ID 158), and concerns of those who do not have French, English or German as main language (ID 163).

⁷⁷ CIPA Informals Committee, CIPA Informals Committee Response to the New EQE Proposal and Consultation.

⁷⁸ See Jonathan's Voice.

⁷⁹ Mewburn Ellis, p. 1.

⁸⁰ Siemens, p. 2.

⁸¹ Siemens, p. 4.

⁸² CIPA, Point 1 (III), also similar from CIPA Informals Committee. See CIPA Informals Committee Response to the New EQE Proposal and Consultation.

fair to all candidates.⁸³ Siemens did not criticise adaptability but believed that this was also possible by amending the present EQE Regulations.

In relation to question 21, 41% of respondents stated that they did not know whether the design of the examination based on declarative knowledge, its application and its strategic component allowed the exam to be adapted to future content and situations, a further 30% agreed with the statement and 26% disagreed with it. The text of the question explained that the proposed approach would facilitate the incorporation of a specific new competence in the proposed modules, should this be necessary. Respondents gave more detailed answers in the free text box available for this purpose.

Four groups can be identified from the free text responses: those choosing "no" for different reasons but accepting variation in the content of EQE editions,⁸⁴ those stating that no new topics or variation should be possible or was desirable in subsequent EQE editions,⁸⁵ those fearing that variation would introduce complexity⁸⁶ and those who shared views on topics unrelated to the question.⁸⁷

4. Survey Section IV – Design and modularity

Question 23 dealt with flexibility within modularity. The proposed system builds on a modular evaluation scheme of cumulative knowledge and increasing complexity. Whether candidates follow the proposed path or decide, as now, to take all exams at the end is left to the discretion of the candidate. Respondents could choose from the following options: the sequence should be made compulsory, endorsing flexibility and proposing to take all the exams at once, as at present. Flexibility was the most popular option: 59% of respondents chose that option, 18% stated instead that the sequence of modules should be compulsory, and a third group made up of 23% of the respondents noted that there should be no sequencing.

Maastricht noted that "the required level of difficulty and complexity can be obtained with the proposed format".⁸⁸ Mewburn Ellis noted that: "Staggering the exams over a two-year period and taken in the order recommended will likely lessen the exam burden on students as it facilitates continuous learning and development, rather than an intensive single set of exams at the end of the training period".⁸⁹ Flexibility was appreciated as well by J A Kemp, noting only the "gatekeeping" examinations – i.e. that once candidates have passed F1 and F2 they would be free to sit the remaining examinations in any order. CIPA also noted that "the vast majority of respondents felt that candidates should be allowed maximum flexibility as to when they choose to sit the exams"⁹⁰ and "flexibility to delay or group different EQE papers is

⁸³ CIPA, Point 1 (IV).

⁸⁴ Some participants noted that they agree or could agree but chose the negative option instead because in reality this – the introduction of new topics – is not new (ID 26, ID 58, ID 82, ID 98). Others also said they would agree but also marked that they don't agree because they are mostly concerned about the information made available to candidates or in syllabi (ID 142, ID 156). In the same group a respondent noted that, if the law changes, that knowledge should also be integrated in the examination but chose "no" among the three options (ID 36).

⁸⁵ ID 60, ID 83, ID 158, ID 165, ID 169.

⁸⁶ ID 95, ID 120.

⁸⁷ Working under pressure should not be a competence (ID 51); IT (ID 62); cheating (ID 67); the need to communicate any change to candidates (ID 80); drafting should be taken more into account (ID 157); general objections (ID 180, ID 185).

⁸⁸ Maastricht, p. 2.

⁸⁹ Mewburn Ellis, p. 1.

⁹⁰ CIPA, Point 1 (IV).

therefore essential"⁹¹ provided all candidates are tested in drafting claims and preparing an opposition.⁹² Also among the letters, Siemens stated that "the flexibility needs to exist to take all the exams at the end".⁹³ FICPI felt strongly that the exams should be taken every six months.⁹⁴ Speaking against flexibility, GSK noted that, if all exams could be taken in one go, there would be no gradual increase in complexity.⁹⁵ Taking all the exams in one week was also the option preferred by DE-PAK.⁹⁶

In the following question of the survey, 49% of respondents agreed that the proposed six modules of the EQE move gradually from acquiring legal and procedural knowledge towards applying that knowledge and practical skills. 22% also saw progression but noted that it should be made clearer. However, 29% felt that there is no progression.

Those who answered that the progression should be made clearer were able to clarify how they would achieve this. The majority (59%) stated that the solution would be to remove one module. Others were of the opinion that what should be done is to make the sequencing conditional (41%).

Among the letters received, Siemens stated that a progression can be observed, but that "the examination should not be a training syllabus". A concern was expressed regarding the perceived "focus on basic, 'non-creative' skills (F1, F2, M1, M2)". Some letters noted that some papers may appear too early in the training period. FICPI, CIPA, Delta, GSK and Maastricht would propose starting at the earliest after 18 months.⁹⁷ Others propose 24 months before starting the M modules.⁹⁸

The following six questions asked whether, respectively, the syllabi for modules F1, F2, M1, M2, M3, M4 are well defined and clear or require an improved definition. For each module, a similar percentage felt that these were clear in the respective module: 61% for F1, 62% for F2, 58% for M1, 58% for M2, 64% for M3, 60% for M4. The free text comments offered further guidance on this.

Regarding F1, most comments in free text stated that the level of difficulty was too high.⁹⁹ Other comments requested further clarification or addressed unrelated aspects.¹⁰⁰

Maastricht, for instance, proposed that either the level of these two modules should be lower or that they take place later in time, with the preference to shift F2 to 18 months.¹⁰¹

⁹¹ CIPA, Point 1 (IV).

⁹² CIPA, Point 1 (IV).

⁹³ Siemens, p. 5.

⁹⁴ FICPI, p. 2.

⁹⁵ GSK, p. 5.

⁹⁶ PAK, p. 3.

⁹⁷ FICPI, p. 2, CIPA, p. 2, p. 12, Delta, p. 3, Delta-bis, p. 12, GSK, p. 5, Maastricht, p. 4.

⁹⁸ CIPA, p. 12, Delta, p. 3, Delta-bis, p. 12, Maastricht, p. 4.

⁹⁹ ID 54, ID 74, ID 88, ID 105, ID 110, ID 111, ID 116, ID 117, ID 118, ID 119, ID 121, ID 125, ID 126, ID 130, ID 136, ID 138, ID 141, ID 142, ID 152, ID 155, ID 156, ID 168, ID 175, ID 179.

¹⁰⁰ More details to be provided to tutors and candidates (ID 71); resembles the pre-exam, hence, is negative (ID 95); IT concerns (ID 61, ID 62); scheduling concerns (ID 54, ID 112, ID 186).

¹⁰¹ Maastricht, p. 4.

In the case of F2, most comments in free text stated that the syllabus was too broad¹⁰² or not clearly differentiated from F1 and M1.¹⁰³ Other comments related to subjects other than the definition of the syllabus.¹⁰⁴

Among the letters, DE-PAK proposed deleting the F modules altogether and expressed a preference for moving the legal content currently included in the F papers to later in the syllabus.¹⁰⁵ Along similar lines and assuming that the F modules partially correspond to the pre-exam, Siemens suggested abolishing the pre-exam. CIPA and GSK also wondered whether F1 and F2 could be taken at the same sitting.¹⁰⁶ Delta proposed deleting F1, or that it should be possible to skip F1 if F2 is passed. PAK thought both F1 and F2 could be deleted.

For M1, among those who requested more clarity, most stated that the difference between the F modules and M1 should be clearer.¹⁰⁷ Although fewer, some respondents were of the view that clarity should be provided regarding the difference between M1 and M2.¹⁰⁸ Other comments related to the need to further clarify the breadth of the module and provide information for tutors and candidates.¹⁰⁹ Some other comments were unrelated to the contents of the syllabus of M1.¹¹⁰

Among the letters received, CIPA requested more clarity on the proposed introduction of a chemistry paper, a proposal endorsed by Siemens and Maastricht.¹¹¹ More clarity regarding a possible chemistry paper was also requested by Delta and J A Kemp.

Concerning M2, the most frequent comment in free text focused on the scope of the module, which several respondents considered to be too broad.¹¹² A few other comments related to the clarification of the syllabus¹¹³ while others were unrelated to the syllabus.¹¹⁴

Some letters – Delta, GSK and Maastricht – suggested swapping modules M2 and M3 since candidates will be better prepared and more familiar with some of the procedures expected to be known for M2 (e.g. appeal) after 24 months.¹¹⁵ Maastricht

¹⁰² ID 110, ID 111, ID 116, ID 118, ID 121, ID 122, ID 126, ID 134, ID 136, ID 138, ID 141, ID 142, ID 152, ID 155, ID 156, ID 168, ID 174, ID 175, ID 179.

¹⁰³ ID 104, ID 131, ID 156, ID 169.

¹⁰⁴ Auto-scoring is not appropriate (ID 52), IT settings and security (ID 61, ID 62), more clarity for candidates and tutors (ID 72), similar to pre-exam, hence superfluous, scheduling (ID 112, ID 186).

¹⁰⁵ PAK, pp. 3-4.

¹⁰⁶ CIPA, p. 12, GSK, p. 5.

¹⁰⁷ ID 110, ID 111, ID 112, ID 114, ID 116, ID 117, ID 121, ID 122, ID 130, ID 136, ID 138, ID 155, ID 175, ID 185.

¹⁰⁸ ID 71, ID 83, ID 91, ID 115.

¹⁰⁹ ID 21, ID 72, ID 80, ID 125, ID 104.

¹¹⁰ IT security (ID 52, ID 62), assessment techniques (ID 61, ID 75, ID 95), scheduling (ID 118, ID 186).

¹¹¹ There could/should be chemistry and non-chemistry versions (CIPA, p. 8, Siemens, p. 3, Maastricht, p. 7); (also for M2 or any module with claim drafting).

¹¹² ID 104, ID 110, ID 111, ID 112, ID 116, ID 117, ID 122, ID 125, ID 126, ID 133, ID 134, ID 136, ID 138, ID 142, ID 156, ID 168, ID 173, ID 185.

¹¹³ Overlap with M1 (ID 83, ID 91), testing different fields could lead to unequal treatment (ID 83), need to provide more information (ID 72, ID 80).

¹¹⁴ Time too short (ID 10, ID 186), IT (ID 62), general proposal (ID 75), longer papers (ID 95).

¹¹⁵ Delta-bis, pp. 18-19, GSK, p. 5, Maastricht, p. 2.

proposed splitting the papers into three parts.¹¹⁶ More clarity was requested regarding the type of document to be prepared.¹¹⁷

Concerning M3, the most frequent comment also focused on the breadth of content, which some considered too difficult.¹¹⁸ Others pointed out that the syllabi may cover topics beyond the scope of what a European patent attorney should do.¹¹⁹ Other comments did not relate to the syllabus.¹²⁰

Concerning M4, the most frequent comment was that it may go beyond what should be expected of a European patent attorney.¹²¹

In question 38, respondents were asked whether they would agree with the approach that assumes that basic levels of declarative knowledge are subject to stand-alone e-assessment methodologies, whereas subsequent exams target procedural and metacognitive knowledge in supervised free text format. 57% agreed with this approach. Those opposing such an approach could give their views in free text. Most answers received related to the importance of retaining free text.¹²² One specific answer emphasised that it is important to ensure that the different substantive aspects are tested, for example by having three cases in M2: one on drafting, one on attacking and one on defending, and by swapping M2 and M3, which would match better with the experience already gained by candidates and address procedure matters first before entering into substance.¹²³

Requests for realigning the examination calendar to take account of national examinations were made by CIPA, Mewburn Ellis, J A Kemp, GSK, SBO and DE-PAK.¹²⁴ Maastricht also noted that March and September are preferred to avoid clashes with national exams.¹²⁵ In a related context, the same letters emphasised that the compatibility of content between national examinations and EQE would facilitate recognition and avoid delays in the path to becoming a patent attorney, either at the national or European level. J A Kemp underlined that "holding examinations in March would be least disruptive in view of existing training systems." Avoiding January and September-October was also requested to avoid clashes with holidays or national examinations. Preference was expressed for September.¹²⁶ The benefit of maintaining national equivalences was also expressed by J A Kemp.

5. Survey Section V – General questions on the online examination platform

Question 40 asked about the overall impression of the EQE modules in the online examination platform. In response, 24% stated the impression was good, 18% stated it was average, 27% stated

¹¹⁶ Maastricht, p. 6.

¹¹⁷ CIPA, p. 11, Delta-bis, p. 15, GSK, p. 5.

¹¹⁸ ID 111, ID 112, ID 115, ID 121, ID 122, ID 126, ID 136, ID 138, ID 175.

¹¹⁹ ID 74, ID 88, ID 105.

¹²⁰ General approach (ID 75), IT (ID 62), scheduling (ID 186).

¹²¹ ID 14, ID 59, ID 104, ID 110, ID 112, ID 116, ID 117, ID 118, ID 121, ID 122, ID 125, ID 131, ID 136, ID 138, ID 141, ID 142, ID 152, ID 154, ID 155, ID 168, ID 170, ID 171, ID 173, ID 176, ID 179.

¹²² Assessment techniques (ID 52, ID 61, ID 64, ID 75, ID 87, ID 89, ID 92, ID 95, ID 118, ID 120, ID 132, ID 148, ID 152, ID 155, ID 158, ID 166, ID 173), IT (ID 62), general approach (ID 112, ID 131, ID 138, ID 141, ID 168, ID 185).

¹²³ ID 64.

¹²⁴ CIPA, pp. 15-17, Mewburn Ellis, pp. 1-3, J A Kemp, p. 1, GSK, p. 5, SBO.

¹²⁵ Maastricht, p. 6.

¹²⁶ J A Kemp.

that the impression was poor, while another 31% stated that they could not judge since they used the PDF version.

Mewburn Ellis thought "the online system itself to be self-explanatory and clear and we did not experience any issues accessing or testing the online modules."¹²⁷ Letters from CIPA also noted the need to be able to "fit question and answer on a single screen",¹²⁸ the convenience of splitting screens,¹²⁹ reducing scrolling,¹³⁰ and that "candidates will therefore need to become familiar with what they can and cannot do in WISEflow and opportunities will need to be provided for candidates to gain this familiarity."¹³¹ Observations regarding the screen were also made by Delta and GSK.¹³² Improvements to the text editor were also mentioned in the letters of CIPA, Delta-bis, GSK and Siemens.¹³³ Specific requests, such as the ability to move freely between questions and review the answers, and also clarify the marks associated with the papers, were noted by J A Kemp.¹³⁴ When it comes to disability, while possibilities provided by the online examination platform were welcomed (customising font sizes, enablement of some assistive technologies), more work will be done on enabling assistive technologies and paying due attention to inclusive actions when amending the EQE legal setting.¹³⁵

Question 41 asked whether the multiple-choice questions in F1 and F2 made them more difficult, easier or had no effect. 35% were of the view that the online format had no effect, 34% stated that it made the modules easier and 31% stated that multiple choice made the F modules more difficult.

Question 42 asked whether the free text option for M1 and M2 gave candidates the right on-screen display. 60% answered positively and 40% answered negatively. In the free text box made available for this question, some respondents pointed out the need for candidates to be able to organise the documents on the screen,¹³⁶ or that the screen should allow for more space,¹³⁷ or that editing options should be enhanced and scrolling reduced.¹³⁸ Others focused on other topics.¹³⁹

The mixture of multiple choice and free text in M3 was welcomed by 54%, whereas 46% stated that it did not reflect the level of difficulty of the questions tested. Among those opposing, two main messages emerged: that multiple choice should not be used,¹⁴⁰ and that the module led to confusion either because of the structure of the question¹⁴¹ or the visual presentation of the questions.¹⁴² The

¹²⁷ Mewburn Ellis, p. 4.

¹²⁸ CIPA, Point 1 (II) (ix).

¹²⁹ CIPA, Point 1 (II) (x).

¹³⁰ CIPA, Point 1 (II) (x).

¹³¹ CIPA, Point 1 (II) (ix).

¹³² Delta-bis, pp. 21-22, GSK, p. 5.

¹³³ CIPA, p. 13, Delta-bis, p. 22, GSK, p. 4, Siemens, p. 4.

¹³⁴ J A Kemp, p. 3.

¹³⁵ IP Inclusive.

¹³⁶ ID 64.

¹³⁷ ID 83, ID 91, ID 110, ID 112, ID 148.

¹³⁸ ID 104, ID 154.

¹³⁹ Competition in the profession (ID 61), IT (ID 62, ID 70, ID 82), online format (ID 75, ID 83, ID 120), physical centres request (ID 187).

¹⁴⁰ i.e. ID 26, ID 36, ID 52, ID 60, ID 70, ID 75, ID 76, ID 112, ID 118, ID 155, ID 157, ID 173.

¹⁴¹ ID 88, ID 148, ID 169.

¹⁴² ID 74, ID 83, ID 123.

comparison with what a patent attorney would face in real life, and whether more or less free text should be present, also featured among the contributions,¹⁴³ while some focused on other topics.¹⁴⁴

Visual presentation of questions and enabling printing was also present in the letter received from CIPA.¹⁴⁵

Regarding module M4 it was asked whether the setting in several parts testing how a candidate handles complex situations based on a set of different options provides the right level of complexity for assessing whether a candidate is "fit to practise"; 54% of the respondents answered positively and 46% answered "no". Among those responding "no", several were of the view that a number of short questions instead of a longer one simplified things.¹⁴⁶ Answers, though, addressed a number of topics, such as whether time pressure or commercial aspects of IP should be part of the examination.¹⁴⁷ Other responses raised issues relating to the syllabus,¹⁴⁸ while others related to aspects going beyond the specific question.¹⁴⁹

¹⁴³ ID 81, ID 104, ID 132.

¹⁴⁴ Competition in the profession (ID 61), IT (ID 62).

¹⁴⁵ CIPA, Point 1 (II) (vii).

¹⁴⁶ ID 111, ID 112, ID 118, ID 125, ID 136, ID 138.

¹⁴⁷ ID 46.

¹⁴⁸ General: drafting, opposition and responding.

¹⁴⁹ IT (ID 62), against online examination (ID 75), editing options and visual presentation of documents (ID 83).