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Travaux Préparatoires EPC 1973

Comment:

The collection represents purely an internal research tool for the purpose of Directorate Patent Law of the European Patent Office. No guarantee can be given for its completeness or correctness.

The documents produced before 1969 cannot be provided in English as this was not an official language in the period before that date. These documents therefore are provided in French and German.

- Secretariat -

Joint proposals
by the French and Dutch delegations
for the text of Articles 58a (new), paragraph 1,
and 112a (new), paragraphs 1 and 2

Article 58a (new)

Enlarged Board of Appeal

- (1) The Enlarged Board of Appeal shall be responsible for :
- (a) deciding points of law referred to it by Boards of Appeal and
 - (b) giving opinions on points of law referred to it by the President of the European Patent Office.

Article 112a (new)

- (1) In order to ensure uniform application of the law, or if an important point of law arises :
- (a) the Board of Appeal shall, during proceedings on a case, refer any question to the Enlarged Board of Appeal when a decision is required for the above purposes ;

(b) the President of the European Patent Office may at any time ask the Enlarged Board of Appeal for an opinion on any question, except where such question arises in proceedings on a case.

- (2) The decision of the Enlarged Board of Appeal referred to in paragraph 1 (a) shall be binding on the Board of Appeal in respect of the appeal in question.

Note :

In order to comply with the tenor of the existing text, it seemed preferable to restrict the amendments to providing in Article 58a, paragraph 1, for the possibility of the President of the European Patent Office referring a question to the Enlarged Board of Appeal, and to supplement Article 112a by a reference to the President of the European Patent Office.

As the Working Party considered that, where the President of the European Patent Office refer a question to the Enlarged Board of Appeal, the latter should not give decisions binding on the Boards of Appeal, but should restrict itself to giving opinions, it goes without saying that it is unnecessary to specify the non-binding character of such opinions.

The question of publication of the opinions will be dealt with in the Implementing Regulations.
