

**CA/123/00**

Orig.: English

Munich, 24.08.2000]

SUBJECT: Comments on CA/83/00; Legal basis for future ministerial conferences

DRAWN UP BY: United Kingdom delegation

ADDRESSEES: Administrative Council (for decision)

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1. The discussions at the 14th meeting of the Committee on Patent Law on CA/83/00 considered two possible options for establishing as a permanent body a ministerial conference of the contracting states, namely (1) an amendment to the EPC and (2) a separate Protocol or Resolution to it.
2. It is true that such conferences have been convened without any need of a legal basis. However setting up such a legal basis would make it clear that the European Patent Organisation operates in a political context and recognises that it does so. In our view the inclusion of a suitable provision in the EPC itself would be the most transparent way to achieve this, and also the simplest.
3. We would like to suggest that the Administrative Council considers the following draft text of a new **Article 4(4)**:

**"(4) A conference of Ministers of the contracting states responsible for patents matters shall meet at least every five years to discuss issues pertaining to the Organisation and to the European patent system."**

We have specified Ministers responsible for "patents matters" rather than "intellectual property" because in some administrations "intellectual property" refers to copyright. Also we have included issues pertaining "to the Organisation" so that the paragraph fits more clearly under the heading of Article 4 "European Patent Organisation". Since Ministers will not be taking decisions which are legally binding on the Organisation, we see no need to specify voting arrangements or other formalities, which can be decided for each conference if necessary.

4. If consensus can be reached within the Administrative Council on draft text this could go into the Basic Proposal and to the Diplomatic Conference in due course.
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