Article 28 E

Travaux Préparatoires (EPC 1973)

Comment:

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MPÜ
Präsidium

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III. Discussion of the proposal

1065. The Chairman noted that the UNEPA proposal satisfied the necessary requirements and could therefore be considered by the Committee. He then listed the various proposals which had been made: proposals by Portugal (M/72), Spain (M/29), joint proposal by Greece and Turkey (M/99), proposals by Yugoslavia (M/102), UNEPA (M/83), the Federal Republic of Germany (M/116) and the Netherlands (M/93). These proposals would be discussed in the reverse order of their proximity to the current wording of Article 166. The Portuguese proposal, being the furthest removed, would be discussed first.

A. Proposal by Portugal

1066. The Portuguese delegation, which had taken part in the preparatory discussions with the aim of including Portugal in the European patent system, maintained its proposal which, without wishing to go to extremes, constituted a prerequisite for accession by Portugal. Furthermore, the principle of progressive agreement referred to in its proposal had been based on Article 161 of the Draft Convention. The Portuguese delegation asked the Committee to give an opinion in the light of these considerations before giving its support to any proposal along lines similar to those indicated by Portugal.

1067. The Netherlands delegation deplored the maintenance in its entirety of the Portuguese proposal, which the majority of the Committee had implicitly deemed unacceptable. It felt that the countries in question might well have done better to draw up a potentially acceptable joint proposal, and maintained its original views as regards the Portuguese proposal.

1068. The Chairman pointed out that proposals could not be put to the vote unless they were seconded by another delegation, whereupon the Spanish delegation lent its support to the Portuguese delegation. Following a question put by the Austrian delegation, the Chairman indicated a preference for a vote on the whole of the Portuguese proposal rather than on individual parts thereof.

1069. The Portuguese delegation once again outlined the rationale of its proposal. In view of the fact that a number of countries were unable to shoulder all the various obligations under the Convention immediately, the Portuguese proposal had been based on the principle of gradual integration, rather than reject all obligations or even permit their nationals to take advantage of the facilities offered by the European Patent Office. The countries concerned by this problem were ready to accept a certain number of constraints immediately. Quite irrespective of the examples and arguments adduced by certain delegations with reference to the interests of developing countries, the Portuguese delegation wondered whether the so-called compromise offered by Article 166 had been achieved to their advantage. Gradual integration would, on the contrary, facilitate total accession, as the development of the fields of technology covered by the Convention would induce calls for protection in other fields. The Portuguese delegation was sensible of the difficulty of the cause which it had pleaded, and concluded by emphasising the drawbacks which would ensue if a large number of countries did not accede to the Convention.

In reply to a question put by the Chairman, the Portuguese delegation evinced no objections to a vote on its proposal as a whole, while stressing the basic importance of paragraph 3 as contained therein.

1070. The Portuguese proposal was put to the vote on a proposal by the Chairman. The Committee voted against the Portuguese proposal by 11 votes to 6, with 3 abstentions.

1071. The Portuguese delegation continued to support the principle of gradual integration, to which it attached special importance. The Chairman noted that the Portuguese proposal had been rejected as a whole, and declared the debate closed on this matter, which the Portuguese delegation was at liberty to bring before the Committee of the Whole. The Portuguese delegation stated that it wished to retain paragraph 3 of its proposal and was supported in this procedural decision by the Greek delegation.

B. Proposal by Spain

1072. The Chairman noted that on the basis of the order in which proposals were to be discussed, it was now the turn of the Spanish proposal, in view of the position adopted therein with regard to the reservation period. The Netherlands delegation pointed out that the Spanish proposal merely contained principles for amending Article 166, and was not framed in the form of actual amendments. The Spanish delegation considered that the principles underlying its statement were sufficiently explicit to constitute amendments and that the precise wording of the proposals could be referred to the Drafting Committee subsequently. The Chairman accepted this point on the grounds that it was not basically contrary to the Committee's working methods. In reply to a question put by the Netherlands delegation, which concerned its effect, the rejection of the principles underlying the Spanish proposal would have on other proposals of similar scope relating to certain fields, the Chairman pointed out that no opinion expressed by the Committee in the form of a vote could affect any part of another proposal: while it might be feasible to have a vote paragraph by paragraph, such a procedure would, at least for the time being, only jeopardise the harmony of proposals.

1073. The United Kingdom delegation, speaking in support of the Chairman's opinion, considered that it was preferable to express an opinion on a proposal as a whole, on the grounds that if the proposal were rejected in its entirety, this did not automatically mean that the various parts contained in it had also been rejected. Each proposal was a coherent whole and it would therefore be ill-advised to express an opinion on one of these parts in isolation, as would be the case in taking a decision out of context solely on the principle of extending reservations to chemical products.

1074. The Yugoslav delegation recalled that it had supported the Spanish proposal as set out in M/67. Despite the slight amendments which had since been made to the document, the Yugoslav delegation wholly concurred with the Spanish proposal. The Portuguese and Turkish delegations subscribed to the same opinion, as did the Greek delegation despite the differences between its own proposal and that submitted by the Spanish delegation.

1075. Before the vote, the Spanish delegation briefly recalled the reasons underlying its proposal: the lengthening of the reservation period and the extension of reservations to take in chemical products was intended to allow accession to the Convention by countries which would otherwise be faced by considerable economic difficulties.

1076. In reply to the question put by the Netherlands delegation, the Spanish delegation pointed out that the reservation period given in its proposal was to be considered as indefinite and was to be left to the discretion of the Governments concerned.

1077. The Committee voted against the Spanish proposal by a majority of 11 to 6, with 3 abstentions. The Chairman then called upon the Committee to turn to the proposal submitted by Yugoslavia.
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MINUTES
OF THE
MUNICH DIPLOMATIC CONFERENCE
FOR THE SETTING
UP OF A EUROPEAN SYSTEM
FOR THE GRANT OF PATENTS

(Munich, 10 September to 5 October, 1973)

published by the
Government of the Federal Republic of Germany
Article 28

Board

(1) When there are at least eight Contracting States, the Administrative Council may set up a Board composed of five of its members.

(2) The Chairman and the Deputy Chairman of the Administrative Council shall be members of the Board ex officio; the other three members shall be elected by the Administrative Council.

(3) The term of office of the members elected by the Administrative Council shall be three years. This term of office shall not be renewable.

(4) The Board shall perform the duties given to it by the Administrative Council in accordance with the Rules of Procedure.
MUNICH DIPLOMATIC CONFERENCE
FOR THE SETTING UP OF A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

- 1973 -

Munich, 30 September 1973
M/ 146/R 2
Original: English/French/German

CONFERENCE DOCUMENT

Drawn up by: General Drafting Committee

Subject: Convention: Articles 27 to 54
1 Ihrer Majestät Regierung stimmt den Entwürfen des Übereinkommens, der Protokolle sowie der sonstigen Texte generell zu und möchte vorerst vorbehaltlich des Rechts, weitere als wünschenswert erscheinende Änderungen anzuzeigen, folgende Vorschläge unterbreiten.

ALLGEMEINES

2 Wir würden es für zweckmäßiger halten, daß die unter Nummer 49 des Berichts über die Konferenz vom Juni 1972 enthaltenen Feststellungen auch in den Bericht über die Diplomatische Konferenz aufgenommen werden.

ÜBEREINKOMMEN

Artikel 21

3 Obgleich wir es begrüßen, daß die Mitglieder der Beschwerdekammern und der Großen Beschwerdekammer Personen mit großer Verantwortung sein werden, geht es unseres Erachtens zu weit vorzuschreiben, daß sie unter keinen Umständen während ihrer fünfjährigen Amtszeit ihres Amts enthoben werden können.

Unseres Erachtens sollten daher am Schluss des Absatzes 1 die Worte „es sei denn, daß der Verwaltungsrat aufgrund des Artikels 11 Absatz 4 einen entsprechenden Beschluß faßt“ angefügt und in Artikel 33 Absatz 2 die Worte „Artikel 11 Absatz 4“ eingefügt werden.

Artikel 23

4 Wir sind der Ansicht, daß nationale Gerichte auf technische Gutachten des Europäischen Patentamts großen Wert legen könnten. Wir nehmen an, daß der Präsident, falls eine Partei in einem Gerichtsverfahren um Gelegenheit zu einem Kreuzverhör („to cross-examine“) nachsucht, zu diesem Zweck ein Mitglied der Prüfungsabteilung abordnen würde, das für die Erstattung des Gutachtens zuständig war.

Artikel 26

5 Wir treten dafür ein, daß der zweite Satz des Absatzes 3 gestrichen wird. Dieser Satz könnte zum zwangsläufigen Ausschluß eines bewährten Mitglieds führen.

Artikel 50

6 Wir möchten, daß der Begriff „therapeutische Behandlung“ („treatment by therapy“) so verstanden wird, daß er die Behandlung von Krankheiten betrifft und sich bei Tieren nicht auf Behandlungen bezieht, die beispielsweise darauf abzielen, die Menge oder die Qualität des Enderzeugnisses zu steigern.

CONVENTION

Article 21

3 Although we appreciate that the members of the Boards of Appeal and the Enlarged Board of Appeal will be responsible people, we think it is going too far to provide that in no circumstances may they be removed from office during their five-year term.

We think therefore that the words “except by decision of the Administrative Council under Article 11, paragraph 4,” should be added at the end of paragraph 1 and that “Article 11, paragraph 4” should be inserted in Article 33, paragraph 2.

Article 23

4 It seems to us that national courts could attach great weight to technical opinions issued by the European Patent Office. We assume that if a party to the court proceedings requests the opportunity to cross-examine, the President would make available for this purpose a member of the Examining Division responsible for the issue of the opinion.

Article 26

5 We favour deletion of the second sentence of paragraph 3. This sentence could result in the automatic exclusion of a member of proven worth.

Article 50

6 We should like it to be understood that “therapy” is concerned with the treatment of illness or disease and does not extend, in the case of animals, to treatments effected with a view e.g. to increasing the quantity or quality of the ultimate product.
STELLUNGNAHME
DER REGIERUNG DES VEREINIGTEN KÖNIGREICHS

COMMENTS
BY THE UNITED KINGDOM GOVERNMENT

PRISE DE POSITION
DU GOUVERNEMENT DU ROYAUME-UNI
Artikel 25
Vorsitz

(1) Der Verwaltungsrat wählt aus den Vertretern der Vertragsstaaten und deren Stellvertretern einen Präsidenten und einen Vizepräsidenten. Der Vizepräsident tritt im Fall der Verhinderung des Präsidenten von Amts wegen an dessen Stelle.

(2) Die Amtszeit des Präsidenten und des Vizepräsidenten beträgt drei Jahre. Wiederwahl ist zulässig.

Artikel 26
Präsident

(1) Beträgt die Zahl der Vertragsstaaten mindestens acht, so kann der Verwaltungsrat ein aus fünf seiner Mitglieder bestehendes Präsidium bilden.

(2) Der Präsident und der Vizepräsident des Verwaltungsrats sind von Amts wegen Mitglieder des Präsidiums; die drei übrigen Mitglieder werden vom Verwaltungsrat gewählt.


(4) Das Präsidium nimmt die Aufgaben wahr, die ihm der Verwaltungsrat nach Maßgabe der Geschäftsordnung zuweist.

Artikel 27
Tagungen

(1) Der Verwaltungsrat wird von seinem Präsidenten einberufen.

(2) Der Präsident des Europäischen Patentamts nimmt an den Beratungen teil.

(3) Der Verwaltungsrat hält jährlich eine ordentliche Tagung ab; außerdem tritt er auf Veranlassung seines Präsidenten oder auf Antrag eines Drittels der Vertragsstaaten zusammen.

(4) Der Verwaltungsrat berät aufgrund einer Tagesordnung nach Maßgabe seiner Geschäftsordnung.

(5) Jede Frage, die auf Antrag eines Vertragsstaats nach Maßgabe der Geschäftsordnung auf die Tagesordnung gesetzt werden soll, wird in die vorläufige Tagesordnung aufgenommen.

Artikel 25
Chairmanship

(1) The Administrative Council shall elect a Chairman and a Deputy Chairman from among the Representatives and alternate Representatives of the Contracting States. The Deputy Chairman shall ex officio replace the Chairman in the event of his being prevented from attending to his duties.

(2) The duration of the term of office of the Chairman and the Deputy Chairman shall be three years. It shall be renewable.

Article 26
Board

(1) When there are at least eight Contracting States, the Administrative Council may set up a Board composed of five of its members.

(2) The Chairman and the Deputy Chairman of the Administrative Council shall be members of the Board ex officio; the other three members shall be elected by the Administrative Council.

(3) The term of office of the members elected by the Administrative Council shall be three years. This term of office shall not be renewable.

(4) The Board shall perform the duties given to it by the Administrative Council in accordance with the Rules of Procedure.

Article 27
Meetings

(1) Meetings of the Administrative Council shall be convened by its Chairman.

(2) The President of the European Patent Office shall take part in the deliberations of the Administrative Council.

(3) The Administrative Council shall hold an ordinary meeting once each year. In addition, it shall meet on the initiative of its Chairman or at the request of one-third of the Contracting States.

(4) The deliberations of the Administrative Council shall be based on an agenda, and shall be held in accordance with its Rules of Procedure.

(5) The provisional agenda shall contain any question whose inclusion is requested by any Contracting State in accordance with the Rules of Procedure.
MÜNCHNER DIPLOMATISCHE KONFERENZ
ÜBER DIE EINFÜHRUNG EINES EUROPÄISCHEN
PATENTTERTEILUNGSVERFAHRENS 1973
(München, 10. September bis 6. Oktober 1973)

MUNICH DIPLOMATIC CONFERENCE
FOR THE SETTING UP OF A EUROPEAN SYSTEM
FOR THE GRANT OF PATENTS, 1973
(Munich, 10 September to 6 October 1973)

CONFERENCE DIPLOMATIQUE DE MUNICH
POUR L'INSTITUTION D'UN SYSTÈME EUROPÉEN
DE DÉLIVRANCE DE BREVETS
(1973)
(Munich, 10 septembre - 6 octobre 1973)

VORBEREITENDE DOKUMENTE
ausgearbeitet von der
Regierungskonferenz über die Einführung eines europäischen Patenterteilungsverfahrens
herausgegeben von der
Regierung der Bundesrepublik Deutschland

PREPARATORY DOCUMENTS
drawn up by the
Inter-Governmental Conference for the setting up of a European System for the Grant of Patents
and published by the
Government of the Federal Republic of Germany

DOCUMENTS PRÉPARATOIRES
élaborés par la
Conférence intergouvernementale pour l'institution d'un système européen de délivrance de brevets
et publiés par le
Gouvernement de la République fédérale d'Allemagne

1972
In connection with this Article it was examined whether the right of the Administrative Council to set up committees should be expressly laid down in the Convention. As the Conference was of the opinion that such committees should have just as little power of decision as that vested in the Board, it considered it sufficient to deal with the matter in the Rules of Procedure of the Administrative Council.

The Conference deferred examination of the question of whether different rules should be applicable to the setting up of a finance committee.

Article 35 m (Voting Rules)

The German, Netherlands and United Kingdom delegations proposed providing for a majority of only three-quarters in all the cases which, under paragraph 1, required unanimity. The difficulty of arriving at a unanimous decision would in many cases necessarily lead to undesirable delays in the entry into force of decisions. It was also hardly advisable to allow, in Article 162, that the Convention itself could be revised without the agreement of all the Contracting States when decisions of far less import taken by the Administrative Council required unanimity. The Conference adopted this proposal.

As a result of the unanimity requirement being eliminated, the voting rules laid down in paragraph 1 B, C and D were also deleted.
Article 35 g (Board of the Administrative Council)

113. The Conference then examined whether it should be made compulsory to set up a Board. It considered that it would suffice to allow the Administrative Council to set up a Board if and when required. As the Board itself was to consist of five members, it also appeared unnecessary to set it up if there were less than eight Contracting States. Paragraph 1 was amended accordingly.

114. In accordance with the rule laid down for the terms of office of the President and Vice-President of the Administrative Council (see point 112, Article 35 f), the Conference, in derogation from paragraph 3, provided for different durations for the first terms of office of the members of the Board, in order to ensure continuity in the work of the Board.

115. The Conference also examined what duties the Board is to carry out. The opinion expressed by some delegations that the Board should be able to take decisions in place of the Administrative Council when so authorised by the Administrative Council was rejected. The Conference therefore agreed that the Administrative Council may delegate certain tasks, such as the preparation of its decisions, to the Board, but that it could not delegate its own decisions to the Board. Decisions could therefore only be taken by the Administrative Council itself in plenary session. This is the sense in which the final paragraph adopted by the Conference ("The Board shall perform the duties given to it by the Administrative Council in accordance with the Rules of Procedure") is to be interpreted.
MINUTES

of the

4th Meeting of the Inter-Governmental Conference
for the setting up of a European System
for the Grant of Patents
(Luxembourg, 20 to 28 April 1971)
Article 35g
Board of the Administrative Council

(1) The Administrative Council shall have a Board composed of five of its members.

(2) The President and the Vice-President of the Council shall be members of the Board ex officio; the other three members shall be elected by the Council.

(3) The term of office of the members of the Board shall be three years; this term shall not be renewable for members other than ex officio members.

(4) The Board shall assist the President in carrying out the duties devolving upon him during the interval between the meetings of the Council, in accordance with the provisions of the Rules of Procedure.
FIRST PRELIMINARY DRAFT OF A CONVENTION
ESTABLISHING
A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

- Stage reached on 29 January 1971 -


23. In the intervals between meetings of the Council, which in principle will only take place once a year (cf. Article h), and in view also of the importance of the functions of the Council, the President should, in the opinion of the Working Party, carry out certain duties, in doing which he would be assisted by a Board. The composition of this Board is dealt with in Article g. The terms under which the Board will assist the President of the Council will be laid down by the Rules of Procedure of the Board.

24. The Working Party believed that the provisions of this Article were of sufficient importance for them to be incorporated in the provisions of the Convention dealing with the proceedings of the Council.

25. The Working Party did not discuss the contents of the Rules of Procedure. It restricted itself to noting that these Rules should include a provision whereby the decisions taken by the Council would state the date of their entry into force.

26. In paragraph 1, the Working Party adopted a provision similar to that of Article 34 (1) of the Draft Convention. For reasons of efficiency, it did not seem possible to the Working Party to extend the number of languages which may be used in the deliberations of the Administrative Council.
MINUTES

of the meeting of Working Party II
(Luxembourg, 4–6 March 1970)

I

1. The first working meeting of Working Party II, set up by the Conference at the latter's meeting of 13–16 January 1970, was held at Luxembourg from Wednesday 4 to Friday 6 March 1970.

In accordance with the decision taken by the Working Party at its inaugural meeting held at Luxembourg on 16 January 1970, the Chair was taken by Mr. LAZRY, Counsellor at the Ministry of Foreign Affairs (France).

The Commission of the European Communities, EIRPI and the International Patent Institute (IIB) took part in the meeting as observers. The representative of the General Secretariat of the Council of Europe, who had also been invited to take part in the meeting, apologized for being unable to attend (1).

(1) See list of participants in the meeting of the Working Party given in Annex II. As regards Annex I, see point 38 on page 16.
Article 6

Board of the Administrative Council

(1) The Administrative Council shall have a Board composed of five of its members.

(2) The President and the Vice-President of the Council shall be members of the Board ex officio; the other three members shall be elected by the Council.

(3) The term of office of the members of the Board shall be three years; this term shall not be renewable for members other than ex officio members.

(4) The Board shall assist the President in carrying out the duties devolving upon him during the interval between the meetings of the Council, in accordance with the provisions of the Rules of Procedure.
FIRST PRELIMINARY DRAFT CONVENTION
ESTABLISHING A EUROPEAN SYSTEM
FOR THE GRANT OF PATENTS

Provisions relating to the Administrative Council
Text drawn up by Working Party II
(4 to 6 March 1970)
insurmountable obstacle, as the Statutes of the Court authorised it to call in experts.

The Working Party did not feel that it could adopt this proposal. It considered that the technical nature of the disputes would make arbitration procedure preferable, especially as the number of disputes would probably be too small to allow the International Court of Justice to become really specialised in this respect. It also pointed out that there was nothing to prevent a Judge of this Court being appointed as arbitrator for disputes which did not involve technical matters.

The Swiss delegation reserved the right, however, to raise this question in the Conference itself.

Article h - Limitation of reservations

22. The Working Party did not wish to allow the possibility for reservations to be made other than in the cases explicitly provided for in the Convention.

Article i - Duration of the Convention

23. The Working Party felt it expedient to state formally that the purpose of the Convention was to set up a permanent system.

Article j - Denunciation

24. The Working Party decided to choose the date of deposit of the instrument of denunciation as marking the beginning of the period on the expiry of which a denunciation should take effect, by analogy with the provisions on the coming into effect of ratification and accession.

25. The Working Party also agreed to specify that where a State which had denounced the Convention ceased to be party thereto pursuant to Article 8, paragraph 4(b) before the expiry of the period laid down for denunciation to take effect, the Convention would immediately cease to be applicable to that State.
accede, and without the procedure laid down in paragraph 2 for requests for accession by other States being applicable to them.

18. The Working Party felt that accession should also be automatic where a State had already been party to the Convention but had ceased to be a party to it as a result of the application of Article a(4).

Article e - Entry into force

19. The Working Party decided that the deposit of instruments of ratification as well as of instruments of accession should be taken into account with regard to the calculation of the number of applications required for the entry into force of the Convention.

The number of 180,000 given in paragraph 1 was adopted by the Working Party in the light of the number of patent applications filed on the territory of the Six Member States of the European Economic Community.

Article f - Territorial field of application

20. No comments.

Article g - Settlement of disputes

21. The Swiss delegation raised the question as to whether it might be appropriate to provide that all disputes referred to in Article f should be subject to the jurisdiction of the International Court of Justice, pointing out that this solution was in line with the efforts of the States of Western Europe to have the compulsory jurisdiction of this Court accepted in the greatest possible number of disputes between States. The Swiss delegation added that any likely technical aspect of the disputes in question would not form an
MINUTES
of the Meeting of Working Party II
(Luxembourg, 1-4 September 1970 - 2nd meeting)

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I

1. The second meeting of Working Party II was held at Luxembourg, from Tuesday 1 to Friday 4 September 1970, under the Chairmanship of Mr. R. LIBRY, Counsellor at the Ministry of Foreign Affairs (France).

The Commission of the European Communities and the International Patent Institute attended the meeting as observers. (1).

2. The Working Party would draw attention to the provisional nature of the wording of the texts it adopted.

Bearing in mind the timetable laid down for the meetings of the other Working Parties, the outcome of which might lead the Working Party to revise some of the provisions which it had previously adopted, in particular those relating to the Administrative Council,

.../...

(1) The list of those attending the meeting is given in the Annex.
Article 6

Board of the Administrative Council

(1) The Administrative Council shall have a Board composed of five of its members.

(2) The President and the Vice-President of the Council shall be members of the Board ex officio; the other three members shall be elected by the Council.

(3) The term of office of the members of the Board shall be three years; this term shall not be renewable for members other than ex officio members.

(4) The Board shall assist the President in carrying out the duties devolving upon him during the interval between the meetings of the Council, in accordance with the provisions of the Rules of Procedure.
FIRST PRELIMINARY DRAFT CONVENTION
ESTABLISHING A EUROPEAN SYSTEM
FOR THE GRANT OF PATENTS

Provisions relating to the Administrative Council
Text drawn up by Working Party II
(4 to 6 March 1970)
C. Proposal by Yugoslavia

1078. The Yugoslav delegation stated that countries faced with the need for industrial development could not be expected to give up the efforts which they had made in this direction nor to surrender their sovereignty under a Convention the scope of which had been enlarged by the adoption of the maximum solution. It would take several decades and considerable sacrifices would have to be made before a level of development was achieved which would make it possible to accept an integrated patent system. As it stood at present, the Convention imposed a system for protecting chemical, pharmaceutical and food products on all the Contracting States which would have implications in all spheres of commercial life: both small- and large-scale industries, consumers and even social welfare services would be affected. Since it was no longer possible to question the adoption of the maximum solution with all the consequences this involved, the Yugoslav delegation had attempted to draw up a proposal (M/102) embodying a compromise which would extend to 15 years the period for which reservations could be made and enable them to cover chemical products as well. In accordance with a European patent system, Yugoslavia would encounter considerable difficulties in various fields, but it was its very desire to be party to such a system that made the Yugoslav delegation adopt so firm a position.

1079. The Spanish and Portuguese delegations supported the Yugoslav proposal. It was also seconded by the Greek delegation which pointed to the aim of achieving a compromise solution. The Turkish delegation shared this view.

1080. The Netherlands delegation considered that Article 166 as it stood was the outcome of a satisfactory compromise and that, although it might be possible to arrive at a better compromise, it considered the Yugoslav proposal to be unacceptable in view of the Committee's interpretation of paragraph 4.

1081. The Committee rejected the Yugoslav proposal (M/102) by 9 votes to 7, with 4 abstentions.

D. Joint proposal by Greece and Turkey

1082. The Turkish delegation stated that whilst this proposal was not very satisfactory for Turkey, it constituted the minimum compromise acceptable to the five States which objected to Article 166 in its present form and would enable the common desire expressed in the Preamble to the Convention to be realised.

1083. The Greek delegation stated that the aim of the proposal which it had submitted jointly with the Turkish delegation was to achieve unanimity on a serious political problem whilst taking account of the difficulties previously described. The proposal was to extend the period for which reservations could be made in the fields at present specified to 15 years and to include the possibility of making reservations in respect of chemical products for a period of only 10 years. The last paragraph of the proposal embodied the Committee's interpretation on the question of the point at which rights arose and gave it a precise legal formulation. In contrast to the procedure for earlier proposals it would be possible to deal separately with the two major points of the joint proposal put forward by the Greek and Turkish delegations. If the first point concerning the introduction of two separate periods for reservations, depending on the product, was accepted, the Greek delegation thought that the second point could be merged with a paragraph in the German proposal which reflected an identical viewpoint.

1084. The Chairman asked the Committee whether the points contained in the joint proposal by Greece and Turkey should be voted on separately, and pointed out that a negative vote on the proposal as a whole would not necessarily mean that all its individual parts would be rejected.

1085. On this question of procedure the Netherlands delegation considered that all proposals should be dealt with in the same manner.

1086. The Yugoslav delegation supported the view of the Netherlands delegation. It also expressed its astonishment at the advice given here and elsewhere to those countries which wished to amend Article 166: the content and tone of such advice were not usual at a Diplomatic Conference. The Yugoslav delegation furthermore considered that the criticism made of the patent system at present in force in Yugoslavia was the result of mistaken assumptions. It would be advising its Government to request official confirmation of the point of view put forward by one organisation. Yugoslavia had been one of the founder members of the Paris Union and in fact had a protection system identical to that of many other European countries.

1087. The Turkish delegation confirmed the point of view previously put forward by the Greek delegation. The Spanish delegation suggested that the German proposal be dealt with at the same time but the Greek delegation repeated its view on the procedure to be followed. This was that only after the proposal for a two-fold system of reservations had been dealt with might it be appropriate to link the German proposal (M/116) to the second point of the joint proposal submitted by Greece and Turkey (paragraph 3 of M/99).

1088. The Chairman suggested that any vote on the individual parts of the proposal should be preceded by a vote on the whole.

1089. Whilst agreeing to a vote on the proposal as a whole, the German delegation pointed out that it would have been able to accept certain provisions contained in proposals already submitted, in particular the principle of progressive integration embodied in paragraph 3 of the Portuguese proposal. However, each proposal should be considered as a balanced whole which might be destroyed by voting Article by Article. However, once agreement had been reached on a proposal, the provisions proposed by certain delegations should be re-examined.

1090. The Greek delegation clarified one procedural matter. If a proposal was voted upon as a whole it would be impossible to take certain provisions from it but it should remain possible to add other parts of provisions to the text in question even if these were drawn from a proposal which had been rejected as a whole.

1091. The United Kingdom delegation suggested that the joint proposal by Greece and Turkey be voted on as a whole since certain provisions could always be taken over from it in the form of an amendment to the German proposal to be dealt with subsequently.

1092. The Greek delegation pointed out that the first provision in the proposal which it had submitted jointly with Turkey, for two periods for reservations, was not contained in the German proposal. The principle of this provision could therefore be taken over in the form of an amendment after the proposal had been voted upon.

1093. The Committee rejected the joint proposal submitted by the Greek and Turkish delegations by 11 to 8, with 1 abstention.

E. Proposal by the Federal Republic of Germany

(a) discussions on the original proposal

1094. The delegation of the Federal Republic of Germany submitted its proposal (M/116) which was an overall