

Declaration

1. At its fifth meeting on 19 and 20 November 2003, the Working Party on Litigation agreed on a draft Agreement on the establishment of a European patent litigation system and a draft Statute of the European Patent Court. It herewith submits the above drafts.
2. The working party has thus adhered to its mandate from the Paris and London intergovernmental conferences held on 24 and 25 June 1999 and 16 and 17 October 2000 respectively. It believes that the drafts' detailed and comprehensive provisions for a unitary European court system with a decentralised court of first instance, a centralised appellate court and a Facultative Advisory Council offer an optimum solution for users of the European patent system. It considers the drafts a suitable basis for an intergovernmental conference to establish a judiciary for the European Patent Organisation, remaining divergences having been reduced as far as possible.
3. The working party is conscious of the fact that the establishment of a litigation system for existing European patents is being paused, in view of the work being done by the European Union to introduce a Community patent with a judicial system of its own. The working party feels that its proposed judicial system for European patents also contains useful pointers towards practical solutions for the ongoing work on a Community patent court system. It will meet again on Wednesday, 8 December 2004. The time until the next meeting of the working party should be used for consultations with a view to resolving potential conflicts between the law of the European Union and the contemplated European Patent litigation system.