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Delegations will find in Annex a working document prepared by the Commission services for discussion at the meeting of the Intellectual Property (Patents) Working Party on 8 October 2008.

EXPLANATORY NOTE

Distribution of Annual Renewal Fees from the Community Patent

In the working document titled "Towards the Community Patent" of 28 April 2008 (doc. 8928/08), the Slovenian Presidency addressed the question of distribution of fees proposing several routes for reflection which were quantified in a table annexed to doc. 8928/08 for illustrative purposes only (this table is also reproduced in Annex III to this Working document). Since a number of delegations in the Council Working Party asked for more detailed analysis, the current document seeks to pursue these routes in greater depth.

I. Context

In the context of the adoption of the Common political approach of 3 March 2003 for the Community patent, the Competitiveness Council studied the question of the distribution of renewal fees for Community patents. Regarding this question, this approach comprised several different elements:

- 1) The renewal fees for a Community patent should not exceed the level of the corresponding renewal fees paid for an average European patent. In this way, the renewal fees for a Community patent offering protection over all the EU territory would be lower than for a current European patent with protection in less than a quarter of Member States.
- 2) The fees for Community patents would be payable to the European Patent Office (EPO), which would be responsible for granting the Community patent. The EPO would keep 50% of the renewal fees. Together with other fees for the Community patent, these fees would cover its costs for processing the Community patent.
- 3) The remaining 50% of renewal fees would be distributed to national patent offices of EU Member States. A distribution key would define the distribution of these fees.
- 4) The distribution key would be based on a basket of fair, equitable and relevant criteria. Such criteria should reflect patent activities and the size of the market. They should also apply a balancing factor to be applied in favour of those Member States who currently have a disproportionately low level of patent activities.

In applying these elements, the Slovenian Presidency proposed a distribution key based on a mix of different economic criteria such as market size (population), and the evolution of patent activity in Member States. It was proposed to distribute the 50% renewal fee income corresponding to Member States' share as follows:

- About 11% on the basis of criteria related to language.
- About 6% on the basis of criteria related to promotion of innovation.
- About 83% on the basis of criteria related to the relative share of the EU Member State's renewal fees from the European patent.

Working document 8928/08 also presented a table showing a possible distribution key for illustrative purposes only in order to demonstrate how the application of the envisaged criteria would work in the present situation. It was mentioned that the application of the criteria would lead to a different picture and different percentages patenting activity evolved over time.

II. Elements for reflection in relation to setting the level of fees for the Community patent

1) Objectives

Before outlining in more detail different hypotheses for determining the level of fees for a future Community patent, we should recall some of the key objectives of the Community patent that need to be taken into consideration in a fee-setting exercise:

- to facilitate the protection of innovation for European companies:

The creation of a Community patent will only be attractive for European business and facilitate innovation if there are clear advantages, particularly of a financial nature, compared to current options available for patents in Europe (European and national patents). The level of fees should therefore allow for the Community patent to be accessible to businesses, particularly SMEs, at affordable costs which are comparatively lower than is currently the case.

- to foster competitiveness of European businesses, including SMEs, in the global economy:

The competitiveness of European companies is currently hampered by the significant cost differences for patent protection between Europe and the US and Japan. For example, a European patent protected for 10 years is between two and five times more expensive than the equivalent US patent (for protection in between three and thirteen states)¹. The lower costs which US companies face in their home market compared to their European counterparts have a knock-on effect, giving them competitive advantage in the global context so they can more easily seek patent protection and penetrate other markets. The patent system in Europe needs to provide for costs which are attractive compared to the costs in the US and Japan for the first filing of new patent applications by European innovative companies to establish a firm platform in the domestic market.

- to guarantee the functioning and financial security of the EPO:

The Community patent will effectively be a European patent designating the European Union, granted using the human and technical resources of the EPO. The EPO must therefore be remunerated for the work it performs. Thus costs of the EPO related to the delivery of a Community patent should not be higher than that of a European patent and they should be covered by the fees. The fees collected by the EPO should be sufficient and allow, along with revenue from other fees for the Community patent, to achieve a balanced budget for the European Patent Organisation (article 40 EPC). The level of fees for the Community patent also needs to be adequate to guarantee the long-term financial stability of the EPO. Fees should be determined at a level which will make the Community patent an attractive option for businesses and contribute towards the EPO achieving a balanced budget overall. A regular review of the level of renewal fees should therefore take place, with a procedure to enable fee levels to be adjusted if necessary to maintain the financial security of the EPO.

¹ Dominique Guellec and Bruno van Pottelsberge de la Potterie, *The Economics of the European Patent System*, Oxford University Press, 2007 page 197

- to allow for harmonious co-existence between national, European and Community patents:
A Community patent will allow a company to protect its invention in the entire territory of the EU. The cost must also be representative of the widespread geographical coverage in order to avoid an artificially high demand for protection at a Community level. The Community patent will be part of a system which includes the current European patent and national patents. The level of renewal fees should therefore maintain a differential between the cost of protection for the entire EU territory and cost for protection in several Member States. In this way, the Community patent, European patent and national patents will co-exist in the long term and meet the different objectives for which they were created.

2. Hypotheses

In light of the above objectives, the setting of annual renewal fees for a Community patent should take account of different factors, primarily: the average geographical coverage of current European patents, the renewal rate, and the predicted number of applications for Community patents.

2.1 average geographical coverage:

The starting point for reflection should be the average geographical coverage of a European patent. In 2003, the Council estimated that the renewal fees for a Community patent should be equivalent to the fees paid for an average European patent, i.e. one which, at that time, was considered to cover 8 Member States.

At recent meetings of the Council Working Party (Patents) discussing the Community patent, some delegations have suggested that this basis has now changed given that 12 countries have joined the EU since 2003, and have mentioned that this figure should be revised to a higher number of Member States. By contrast, discussions with users have revealed that currently an average European patent does not cover more than 5 to 6 Member States.

In order to examine these different perspectives more closely, this section outlines several scenarios. These represent the scenarios of a Community patent corresponding to a European patent being validated in different numbers of Member States as follows:

- hypothesis (1): 6 Member States
- hypothesis (2) 8 Member States
- hypothesis (3) 10 Member States
- hypothesis (4) 13 Member States

In addition, to evaluate the total renewal fees to be paid by the proprietor of a Community patent between the 3rd and 20th year in the above hypotheses, one of two methods could be used:

- either to add the total fees for the 6, 8, 10 or 13 Member States with the most validations² for granted European patents (method A)
- or to establish an average renewal fee for all 27 Member States and multiply by 6, 8, 10 or 13 as appropriate (method B).

Since the total cost of renewal fees for the 3rd to 20th year varies from 30 302 € and 78 331 € in the four hypotheses (see Annex II), there are important differences depending on the calculation method used and the number of Member States covered (see details in Annex I):

	Total fees - method A -	Total fees - method B -
Hypothesis (1)	30 302 €	36 153 €
Hypothesis (2)	39 346 €	48 204 €
Hypothesis (3)	58 421 €	60 254 €
Hypothesis (4)	74 912 €	78 331 €

This table indicates that the objectives set, including costs corresponding to the equivalent to the fees paid for a average European patent could best be achieved by a simulation based around hypothesis (1) method B and hypothesis (2) method B.

The table in Annex I also includes an example of renewal fees which could be paid by the Community patent proprietor (see row COMPAT) from the 3rd to 20th year based on a classic progression in levels over the lifetime of the patent, compared to the current renewal fees in Member States. This shows that the total amount of renewal fees paid for a Community Patent for 20 years would be 46 100 €.

2.2 Renewal rates and number of applications for a Community patent

a) Renewal rates

The overall amount of renewal fees will furthermore depend on the overall number of applications for a Community patent and the renewal rate. Based on current practice, the number of patents maintained in force decreases over time, the result being that between the third and twentieth year, 80 to 90% of patents granted will gradually be abandoned. In addition, the renewal rates vary between Member States. For example, in Germany, a higher proportion of patents are kept in force than France, the UK or other Member States (see Annex II), with Germany often being the final country where a patent is maintained.

² From the EPO 2007 Annual Report, the designation rates for Member States for granted European patents are as follows: 1 – DE (98.6%), 2 – FR (93.8%), 3 – UK (93%), 4- IT (76.8%), 5- ES (64.8%), 6 – NL (64.1%), 7. SE (62.3%), 8 – BE (59.7%), 9 – AT (59.3%), 10 - DK (58.2%), 11 – FI (58.1%), 12 – IE (58.0%), 13 – PT (57.4%). As these figures only represent the designations of a European patent at the time of grant and not the actual validations of patents in these Member States, they can only give an approximation of the Member States likely to have the most validations of European patents.

There are a number of factors which could explain the different renewal rates in Member States, e.g. market size, population, origin of the patent proprietor etc. It is therefore difficult based on current practice with European patents to forecast the renewal rate for the future Community patent. However it could be assumed that a company, having been granted a Community patent for the whole of the EU, would keep the patent in force in a proportion corresponding to those Member States where there are currently higher renewal rates for the European patent.

In order to evaluate the consequences of the different hypotheses outlined above in 2.1, the revenue from renewal fees for the Community patent is demonstrated below, for illustrative purposes only, for three Member States (Germany, UK and Spain³) using the present renewal rates (Annex II).

b) Number of applications for a Community patent

The number of applications for a Community patent will depend to a certain extent on how attractive a unitary patent title will be to users. One would expect lower costs and less complexity in administration to result in more applications for the Community patent although price elasticity is difficult to assess. Given that nearly 55 000 European patents were granted by the EPO in 2007, hypotheses could be envisaged with 10 000, 20 000 or 30 000 Community patents. These numbers for Community patents could respectively replace equivalent numbers of granted European patents. In any event, it is likely that the take-up of this new route of Community protection would rise progressively over time and that national patents, European patents and Community patent will co-exist. For this reason, assumptions concerning the number of Community patents which will be granted are hypothetical at this stage.

2.3 Overall distribution of renewal fees for Community patent with an average life cycle

The calculation of total renewal fees to keep a Community patent in force and their 50/50 distribution between the EPO and the national patent offices depends on several factors:

- the number of Community patents;
- the annual renewal fees;
- the renewal rate for Community patents during the 20 years of protection;
- average time to grant a Community patent by the EPO.

This final element determines the moment when the distribution of 50% of Community patent renewal fee income from the EPO begins. In accordance with Article 86.2 EPC, the renewal fees for a European patent for each designated state must be paid in the year following the publication of mention of grant of the patent in the EP Bulletin.

Currently, a European patent is published on average 43.7 months after the filing date for the application⁴, i.e. in its fourth year. This time is shorter than the average for 2006 of 44.3 months. If this situation were to continue after the Community patent came into effect, the distribution of annual fees between the EPO and national patent offices would only occur from the 5th year onwards.

³ These countries have been chosen for illustrative purposes since they represent the differences among those countries with a higher maintenance rate.

⁴ EPO Annual Report 2007

Considering these factors (different renewal rates, different hypotheses for the number of Community patents granted, distribution of fees from the 5th year), based on a sum of renewal fees for a Community patent of 46 100 €, the total fees distributed to Member States could amount to between 55 million € and 262 million € (see summary table below with the details of calculations in Annex II).

Renewal rate for COMPAT corresponding to current rate	Total of COMPAT fees which could be distributed to Member States (€ millions) for a Community Patent granted in the 4 th year		
	Hyp = 10 000 COMPAT granted	Hyp = 20 000 COMPAT granted	Hyp = 30 000 COMPAT granted
DE	87.1	174.1	261.2
UK	75.6	151.3	226.9
ES	55.5	111.0	166.5

Finally, the table below illustrates the result of the different hypotheses and the distribution between Member States of assumed total amounts between 50 and 250 million € using the distribution key in document 8928/08 from the Slovenian Presidency. It is useful to recall that the total sum paid to the EPO by EU Member States was, on average, about 300 million € per year (cf. EPO document CA/169/07).

Member State	Percentage from distribution key (for illustrative purposes only)	Hypothetical amounts of fees from the Community patent which could be redistributed using the distribution key (thousand €) (for illustrative purposes only)				
Austria	5,7%	2 845	5 689	8 534	11 379	14 223
Belgium	2,7%	1 329	2 657	3 986	5 315	6 644
Bulgaria	0,8%	392	785	1 177	1 570	1 962
Cyprus	0,6%	290	581	871	1 162	1 452
Czech Republic	0,8%	402	805	1 207	1 609	2 011
Denmark	2,6%	1 289	2 578	3 867	5 156	6 445
Estonia	0,7%	327	653	980	1 306	1 633
Finland	1,4%	705	1 410	2 115	2 820	3 525
France	11,0%	5 514	11 028	16 543	22 057	27 571
Germany	26,3%	13 164	26 327	39 491	52 655	65 819
Greece	1,5%	741	1 482	2 223	2 965	3 706
Hungary	0,9%	428	856	1 283	1 711	2 139
Ireland	1,4%	679	1 358	2 037	2 716	3 395
Italy	9,1%	4 545	9 090	13 635	18 180	22 724
Latvia	0,6%	283	566	849	1 132	1 415
Lithuania	0,7%	334	667	1 001	1 335	1 668
Luxemburg	0,5%	267	535	802	1 069	1 336
Malta	0,5%	244	489	733	977	1 222
Netherlands	7,4%	3 689	7 378	11 067	14 756	18 445
Poland	1,6%	776	1 553	2 329	3 105	3 882
Portugal	1,7%	840	1 680	2 520	3 360	4 200
Romania	1,2%	605	1 209	1 814	2 419	3 024
Slovakia	0,7%	361	722	1 083	1 443	1 804
Slovenia	0,4%	223	445	668	890	1 113
Spain	6,1%	3 047	6 094	9 141	12 188	15 235
Sweden	3,5%	1 752	3 504	5 256	7 008	8 760
UK	9,8%	4 924	9 848	14 772	19 696	24 620
Total UE 27	100%	50 000	100 000	150 000	200 000	250 000

ANNEX I : Calculation of fees

(Source : CA/50/08 p. 395)

	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th	13th	14th	15th	16th	17th	18th	19th	20th	
DE	70	70	90	130	180	240	290	350	470	620	760	910	1.060	1.230	1.410	1.590	1.760	1.940	
FR	36	36	36	72	92	130	170	210	250	290	330	380	430	490	550	620	690	760	
GB	0	0	62	86	111	136	160	185	210	234	259	284	308	333	370	407	444	494	
IT	0	0	60	90	120	170	200	230	310	410	530	600	650	650	650	650	650	650	
ES	22	28	53	78	103	129	154	179	217	255	292	330	368	420	469	520	570	620	
NL	0	40	100	160	220	280	340	400	500	600	700	800	900	1.000	1.100	1.200	1.300	1.400	
(A1)⁵	128	174	401	616	826	1.085	1.314	1.554	1.957	2.409	2.871	3.304	2.656	1.893	2.039	2.197	2.354	2.524	30.302
SE	37	74	95	116	143	169	201	238	238	285	301	322	349	375	402	428	455	476	
BE	35	50	65	85	100	125	145	170	195	220	250	290	330	370	410	455	500	545	
(A2)⁶	200	298	561	817	1.069	1.379	1.660	1.962	2.390	2.914	3.422	3.916	3.335	2.638	2.851	3.080	3.309	3.545	39.346
AT	70	150	150	150	270	270	270	500	500	500	850	850	850	1.400	1.400	1.400	1.400	1.400	
DK	67	148	168	188	215	242	276	309	343	376	410	444	484	524	565	605	645	686	
(A3)⁷	337	596	879	1.155	1.554	1.891	2.206	2.771	3.233	3.790	4.682	5.210	4.669	4.562	4.816	5.085	5.354	5.631	58.421
FI	150	125	140	165	200	235	265	300	350	400	450	500	535	585	645	705	755	805	
IE	60	90	114	134	150	176	194	220	242	265	285	311	335	356	382	408	438	468	
PT	42	51	62	82	96	111	134	167	196	223	268	312	357	401	446	490	535	580	
(A4)⁸	589	862	1.195	1.536	2.000	2.413	2.799	3.458	4.021	4.678	5.685	6.333	5.896	5.904	6.289	6.688	7.082	7.484	74.912
Total 27 MS	1.550	1.960	2.778	3.323	4.048	4.728	5.492	6.546	7.557	8.615	10.038	11.091	12.145	14.050	15.254	16.475	17.832	19.205	
Average	57	73	103	123	150	175	203	242	280	319	372	411	450	520	565	610	660	711	
(B1)⁹	344	436	617	738	900	1.051	1.220	1.455	1.679	1.914	2.231	2.465	2.699	3.122	3.390	3.661	3.963	4.268	36.153
(B2)¹⁰	459	581	823	985	1.199	1.401	1.627	1.940	2.239	2.553	2.974	3.286	3.599	4.163	4.520	4.881	5.284	5.690	48.204
(B3)¹¹	574	726	1.029	1.231	1.499	1.751	2.034	2.424	2.799	3.191	3.718	4.108	4.498	5.204	5.650	6.102	6.604	7.113	60.254
(B4)¹²	746	944	1.338	1.600	1.949	2.276	2.644	3.152	3.639	4.148	4.833	5.340	5.848	6.765	7.345	7.932	8.586	9.247	78.331
Annual renewal fees paid to the EPO before grant of a European patent application																			
EPO	400	500	600	700	800	900	1.000	1.100	1.200	1.350	1.350	1.350	1.350	1.350	1.350	1.350	1.350	1.350	19.350
Hypothesis of renewal fees for a Community patent																			
COMPAT	400	500	600	700	800	900	1.000	1.100	1.300	1.600	2.000	2.500	3.200	4.000	4.800	5.900	6.800	8.000	46.100

⁵ Total fees for the 6 most-designated Member States

⁶ Total fees for the 8 most-designated Member States

⁷ Total fees for the 10 most-designated Member States

⁸ Total fees for the 13 most-designated Member States

⁹ Fees corresponding to 6 times the average renewal fee for an EU Member State

¹⁰ Fees corresponding to 8 times the average renewal fee for an EU Member State

¹¹ Fees corresponding to 10 times the average renewal fee for an EU Member State

¹² Fees corresponding to 13 times the average renewal fee for an EU Member State

ANNEX II : Renewal rates of granted patents

	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th	13th	14th	15th	16th	17th	18th	19th	20th	Total
COMPAT (hypothesis)	400	500	600	700	800	900	1.00 0	1.10 0	1.30 0	1.60 0	2.00 0	2.50 0	3.20 0	4.00 0	4.80 0	5.90 0	6.80 0	8.00 0	46.10 0

Percentage of patents kept in force after grant (in the period from 3 to 20 years)																		
STATES	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th	13th	14th	15th	16th	17th	18th	19th	20th
DE	100	99	98	95	91	86	80	73	66	60	54	48	42	37	32	27	23	18
FR	100	98	96	91	86	80	73	66	60	54	49	43	39	34	29	25	21	18
UK	100	99	95	90	84	78	71	65	58	52	48	41	36	31	27	22	19	16
IT*	100	99	96	94	92	91	89	88	87	85	84	83	82	81	81	82	83	83
ES	98	93	85	76	68	60	54	47	42	37	32	28	25	21	18	16	14	13
NL	97	91	83	75	67	60	54	48	42	37	33	29	25	22	19	16	13	11
SE	98	91	80	70	61	53	46	40	35	31	27	23	20	17	15	12	11	9
BE	99	93	83	72	63	55	48	43	37	32	28	24	21	18	16	13	12	11

(Source : CA/F 5/07 pp. 29-57)

Total fees collected by year under the 3 hypotheses (10 000, 20 000 or 30 000 COMPAT) using current DE maintenance rates																				
COMPAT	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th	13th	14th	15th	16th	17th	18th	19th	20th	Total ¹³ in M€	With50 % for NPO
10.000	10.00 0	9.900	9.800	9.500	9.100	8.600	8.000	7.300	6.600	6.000	5.400	4.800	4.200	3.700	3.20 0	2.70 0	2.30 0	1.80 0		
M€	4	4,95	5,88	6,65	7,28	7,74	8	8,03	8,58	9,6	10,8	12	13,44	14,8	15,3 6	15,9 3	15,6 4	14,4	174,1	87,1
20.000	20.00 0	19.80 0	19.60 0	19.00 0	18.20 0	17.20 0	16.00 0	14.60 0	13.20 0	12.00 0	10.80 0	9.600	8.400	7.400	6.40 0	5.40 0	4.60 0	3.60 0		
M€	8	9,9	11,76	13,3	14,56	15,48	16	16,06	17,16	19,2	21,6	24	26,88	29,6	30,7 2	31,8 6	31,2 8	28,8	348,3	174,1
30.000	30.00 0	29.70 0	29.40 0	28.50 0	27.30 0	25.80 0	24.00 0	21.90 0	19.80 0	18.00 0	16.20 0	14.40 0	12.60 0	11.10 0	9.60 0	8.10 0	6.90 0	5.40 0		
M€	12	14,85	17,64	19,95	21,84	23,22	24	24,09	25,74	28,8	32,4	36	40,32	44,4	46,0 8	47,7 9	46,9 2	43,2	522,4	261,2

¹³ These totals correspond to the sum of fees from the 5th to 20th year inclusive; the fees for the 3rd and 4th year before grant of the COMPAT will remain in the EPO budget

Total fees collected by year under the 3 hypotheses (10 000, 20 000 or 30 000 COMPAT) using current GB maintenance rates																			Total ¹⁴ in M€	With50% for NPO
COMPAT	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th	13th	14th	15th	16th	17th	18th	19th	20th		
10.000	10.000	9.900	9.500	9.000	8.400	7.800	7.100	6.500	5.800	5.200	4.800	4.100	3.600	3.100	2.700	2.200	1.900	1.600		
M€	4	4,95	5,7	6,3	6,72	7,02	7,1	7,15	7,54	8,32	9,6	10,25	11,52	12,4	12,96	12,98	12,92	12,8	151,3	75,6
20.000	20.000	19.800	19.000	18.000	16.800	15.600	14.200	13.000	11.600	10.400	9.600	8.200	7.200	6.200	5.400	4.400	3.800	3.200		
M€	8	9,9	11,4	12,6	13,44	14,04	14,2	14,3	15,08	16,64	19,2	20,5	23,04	24,8	25,92	25,96	25,84	25,6	302,6	151,3
30.000	30.000	29.700	28.500	27.000	25.200	23.400	21.300	19.500	17.400	15.600	14.400	12.300	10.800	9.300	8.100	6.600	5.700	4.800		
M€	12	14,85	17,1	18,9	20,16	21,06	21,3	21,45	22,62	24,96	28,8	30,75	34,56	37,2	38,88	38,94	38,76	38,4	453,8	226,9

Total fees collected by year under the 3 hypotheses (10 000, 20 000 or 30 000 COMPAT) using current ES maintenance rates																			Total ¹⁵ in M€	With50% for NPO
COMPAT	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th	13th	14th	15th	16th	17th	18th	19th	20th		
10.000	9.800	9.300	8.500	7.600	6.800	6.000	5.400	4.700	4.200	3.700	3.200	2.800	2.500	2.100	1.800	1.600	1.400	1.300		
M€	3,92	4,65	5,1	5,32	5,44	5,4	5,4	5,17	5,46	5,92	6,4	7	8	8,4	8,64	9,44	9,52	10,4	111,0	55,5
20.000	19.600	18.600	17.000	15.200	13.600	12.000	10.800	9.400	8.400	7.400	6.400	5.600	5.000	4.200	3.600	3.200	2.800	2.600		
M€	7,84	9,3	10,2	10,64	10,88	10,8	10,8	10,34	10,92	11,84	12,8	14	16	16,8	17,28	18,88	19,04	20,8	222,0	111,0
30.000	29.400	27.900	25.500	22.800	20.400	18.000	16.200	14.100	12.600	11.100	9.600	8.400	7.500	6.300	5.400	4.800	4.200	3.900		
M€	11,76	13,95	15,3	15,96	16,32	16,2	16,2	15,51	16,38	17,76	19,2	21	24	25,2	25,92	28,32	28,56	31,2	333,0	166,5

¹⁴ These totals correspond to the sum of fees from the 5th to 20th year inclusive; the fees for the 3rd and 4th year before grant of the COMPAT will remain in the EPO budget

¹⁵ These totals correspond to the sum of fees from the 5th to 20th year inclusive; the fees for the 3rd and 4th year before grant of the COMPAT will remain in the EPO budget

ANNEX III

For illustrative purposes - in permanent evolution - based on different level of national fees and seniority of contracting parties to the EPO

Country	Population in million ⁶	UE27 Dist. key		Language Criteria (1)				Promotion innovation 1st Criterion (2)					Promotion innovation 2nd Criterion (3)					Base Criterion (4)		Total (1+2+3+4)			
		Average on 7 years (2005 -2006 + 2008-2012)	% (without weighting)	EPO Official Language	for non-off. EPO language - Lump sum distribution	% of Renewal Fees	for non-off. EPO language - % pop distrib.	% of each MS with non-official EPO languages	1st filings 2005/2006 ⁴	1st filings/POP (mio)	Ranking	Ranking Reverse %	% of Renewal Fees (10*3 €)	%	EPO Granted Patent 2006 ⁵	EPO Granted Patents/POP (mio)	Ranking	Ranking Reverse %	% of Renewal Fees (10*3 €)	%	MS share of the Remaining part of the Renewal Fees (10*3 €)	Remaining % of the MS share of Renewal Fees	Total 10*3 €
Germany	82,3	94.616	31,6%	Yes	0	0%	0	47.855	581	1	0,3%	24	0,3%	14.274	173,4	1	0,26%	24	0,3%	78.881	26,3%	78.929	26,3%
France	63,4	39.200	13,1%	Yes	0	0%	0	15.395	243	8	2,1%	190	2,1%	4.498	71,0	8	2,12%	190	2,1%	32.681	10,9%	33.062	11,0%
UK	60,9	34.898	11,6%	Yes	0	0%	0	15.825	260	7	1,9%	167	1,9%	2.254	37,0	11	2,91%	262	2,9%	29.094	9,7%	29.523	9,8%
Italy	59,1	25.751	8,6%	No	450	0,15%	4.807	9.862	167	12	3,2%	286	3,2%	2.317	39,2	10	2,65%	238	2,6%	21.469	7,2%	27.249	9,1%
Netherlands	16,4	24.083	8,0%	No	450	0,15%	1.329	5.577	341	6	1,6%	143	1,6%	1.919	117,4	5	1,32%	119	1,3%	20.078	6,7%	22.119	7,4%
Austria	8,3	20.173	6,7%	Yes	0	0%	0	3.171	383	3	0,8%	71	0,8%	656	79,1	7	1,85%	167	1,9%	16.818	5,6%	17.056	5,7%
Spain	44,5	16.211	5,4%	No	450	0,15%	3.615	3.479	78	14	3,7%	333	3,7%	361	8,1	15	3,97%	357	4,0%	13.515	4,5%	18.270	6,1%
Sweden	9,1	10.914	3,6%	No	450	0,15%	741	3.241	356	5	1,3%	119	1,3%	1.501	164,8	4	1,06%	95	1,1%	9.099	3,0%	10.503	3,5%
Denmark	5,4	7.914	2,6%	No	450	0,15%	442	1.979	364	4	1,1%	95	1,1%	507	93,2	6	1,59%	143	1,6%	6.598	2,2%	7.728	2,6%
Belgium	10,6	7.357	2,5%	No	450	0,15%	860	1.338	126	13	3,4%	309	3,4%	561	53,0	9	2,38%	214	2,4%	6.134	2,0%	7.967	2,7%
Ireland	4,3	4.228	1,4%	Yes	0	0%	0	706	164	11	2,9%	262	2,9%	121	28,1	12	3,17%	286	3,2%	3.525	1,2%	4.072	1,4%
Finland	5,3	3.903	1,3%	No	450	0,15%	428	2.110	400	2	0,5%	48	0,5%	885	167,9	2	0,53%	48	0,5%	3.254	1,1%	4.227	1,4%
Portugal	10,6	3.156	1,1%	No	450	0,15%	861	172	16	27	7,1%	642	7,1%	19	1,8	19	5,03%	452	5,0%	2.631	0,9%	5.036	1,7%
Greece	11,2	2.674	0,9%	No	450	0,15%	908	631	56	19	5,0%	452	5,0%	30	2,7	17	4,50%	404	4,5%	2.229	0,7%	4.444	1,5%
Luxemburg	0,5	1.581	0,5%	Yes	0	0%	0	85	181	9	2,4%	214	2,4%	67	142,6	3	0,79%	71	0,8%	1.318	0,4%	1.604	0,5%
Hungary	10,1	671	0,2%	No	450	0,15%	818	714	71	15	4,0%	357	4,0%	35	3,5	16	4,23%	381	4,2%	559	0,2%	2.565	0,9%
Cyprus	0,8	503	0,2%	No	450	0,15%	63	31	40	21	5,6%	500	5,6%	15	19,5	13	3,44%	309	3,4%	419	0,1%	1.741	0,6%
Estonia	1,3	365	0,1%	No	450	0,15%	109	24	18	26	6,9%	619	6,9%	2	1,5	20	5,29%	476	5,3%	304	0,1%	1.957	0,7%
Czech Republic	10,3	323	0,1%	No	450	0,15%	836	597	58	18	4,8%	428	4,8%	21	2,0	18	4,76%	428	4,8%	269	0,1%	2.411	0,8%
Romania	21,6	309	0,1%	No	450	0,15%	1.753	941	44	22	5,8%	523	5,8%	0	0,0	27	7,14%	642	7,1%	258	0,1%	3.626	1,2%
Slovakia	5,4	245	0,1%	No	450	0,15%	438	156	29	24	6,3%	571	6,3%	8	1,5	21	5,56%	500	5,6%	204	0,1%	2.163	0,7%
Bulgaria	7,7	223	0,1%	No	450	0,15%	624	268	35	23	6,1%	547	6,1%	4	0,5	23	6,08%	547	6,1%	186	0,1%	2.354	0,8%
Slovenia	2,0	179	0,1%	No	450	0,15%	163	371	185	10	2,6%	238	2,6%	21	10,4	14	3,70%	333	3,7%	149	0,0%	1.333	0,4%
Lithuania	3,4	76	0,0%	No	450	0,15%	275	71	21	25	6,6%	595	6,6%	0	0,0	26	6,88%	619	6,9%	63	0,0%	2.001	0,7%
Latvia	2,3	74	0,0%	No	450	0,15%	185	117	51	20	5,3%	476	5,3%	2	0,9	22	5,82%	523	5,8%	62	0,0%	1.696	0,6%
Poland	38,1	157	0,1%	No	450	0,15%	3.099	2.286	60	17	4,5%	404	4,5%	17	0,4	24	6,35%	571	6,3%	131	0,0%	4.655	1,6%
Malta	0,4	9	0,0%	No	450	0,15%	33	26	65	16	4,2%	381	4,2%	0	0,0	25	6,61%	595	6,6%	8	0,0%	1.465	0,5%
Total UE27	495,0	299.793	100%		9.443	3,2%	22.425	117.028				8.994	3,0%	30.095				8.994	3,0%	249.937	83,4%	299.755	100%

EPO data: ¹ CA/169/07 (p.6); ² CA/50/07 (p.403); ³ CA/124/06 (p.14); ⁴ CA/71/08 (p.3); ⁵ EPO Annual Report 2006 (p.95); ⁶ Eurostat 2007

Criteria for distribution hypothesis (Adjusted every X years)

(1) **Incentive criteria to facilitate and contribute to the access of companies regarding the use of EPO official languages**

Around 11 % of the total income from renewal fees (to be directed to MS) will be distributed to each MS the national language being not an EPO official language (EN, FR, DE)

(2)/(3)

Criteria to stimulate protection and promotion of innovation (national & european level)

2x3 % of income from the renewal fees (to be directed to MS) will be distributed in accordance with a reverse proportionality criteria of Patent applications/106 hab by all MS
The reverse proportionality was established in accordance with a decreasing ordination of MS having into consideration the number of Nationale and European patent applications
by million of inhabitants. The relative position of each MS was converted by a percentual scale.

(4)

Base criteria

The remaining part (around 83%) will be directed to MS in accordance with a fixed percentage (but different from MS to MS) calculated based in the current income received (50% of total)
