



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 21 January 2008**

**5560/08**

**LIMITE**

**PE-QE 36**

**PUBLIC**

**PRELIMINARY DRAFT REPLY TO WRITTEN QUESTION  
E-6649/07 put by Marco Cappato (ALDE)**

---

from : General Secretariat of the Council  
to : Permanent Representations of the Member States  
Subject : " Patent quality debate "

---

1. Delegations will find attached:
  - the text of the above Written Question;
  - a preliminary draft reply prepared by the General Secretariat.
  
2. If no comments have been received from delegations **by 12.00 on 8 February 2008**, this preliminary draft reply will be submitted to the Permanent Representatives Committee (Part 1) and to the Council for approval.

Any comments received will be examined by the Working Party on General Affairs.

WRITTEN QUESTION E-6649/07  
by Marco Cappato (ALDE)  
to the Council

Subject: Patent quality debate

The 'Putting knowledge into practice' report (INI/2006/2274) adopted by Parliament in May 2007 'calls on the Commission and the Member States to propose, in the context of the new Community patent, a procedure for eliminating trivial patents and sleeping patents'. And a resolution on European Future Patent Policy of 12 October 2006 (P6\_TA(2006)0416) sets a clear agenda for upcoming talks about a patent judiciary: 'that the proposed text [for a European Patent Court] needs significant improvements, which address concerns about democratic control, judicial independence and litigation costs,' and demands 'that all legislative proposals should be accompanied by an in-depth impact analysis related to patent quality, governance of the patent system, judicial independence and litigation costs.'

1. Is the Council aware of any criteria and instruments to measure patent quality beyond the general dogmatic requirements regarding inventive step and novelty?
2. What steps is the Council attempting to take in order to address the demands of Parliament in the current discussion on an EU-EPLA and a Community Patent?

## **REPLY**

**to Written Question E-6649/07**

**put by Marco Cappato (ALDE)**

1. The Council fully shares the European Parliament's wish for a high-quality Community patent system. Work is still going on in this field within the Council's preparatory bodies, and the Council has not yet finalised its thinking as to what criteria and instruments would be appropriate for such quality measurement. In this context, the Council wishes to remind the Honourable Member of the Council's commitment to re-consult the European Parliament once a text concerning the Community patent has reached a sufficient degree of maturity within the Council.
2. The Council assures the Honourable Member that, in its discussions regarding the establishment of an EU patent system, it has always taken and will continue to take duly into account the views expressed by the European Parliament, as set out in particular in the 2006 resolution and the 2007 report referred to by the Honourable Member in his written question.

---