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NOTE

from: General Secretariat of the Council
to: Delegations
Subject : Plenary Session of the European Parliament, Strasbourg, 11 December 2012
Joint debate - European patent

The three rapporteurs opened the debate. Mr RAPKAY (S&D, DE)¹, while being critical of the European Council's attitude on this file, considered that the compromise achieved was satisfactory and included the main points for the European Parliament. Mr BALDASSARRE (EPP, IT)² argued that the new system would reduce costs, in particular translation costs, and provide legal certainty. He was pleased that specific measures had been agreed for SMEs. Mr LEHNE (EPP, DE)³ hoped that the European Parliament opinion on the jurisdiction system would be taken into consideration and that the two Member States which were not on board would join the new regime.

On behalf of the Council, Mr LOUCA explained that the Council had endorsed the political agreement on the unitary patent system at its meeting of 10 December. He considered that the legal framework for establishing this system would provide for simple and cost-efficient access to high quality patents valid throughout the EU as well as predictable and efficient judicial enforcement of such patents. He was convinced that the package constituted a legally robust text which retained a pre-eminent role for the ECJ.

¹ Rapporteur on the proposal for a regulation of the European Parliament and of the Council implementing enhanced cooperation in the area of the creation of unitary patent protection

² Rapporteur on the proposal for a Council Regulation implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements

³ Rapporteur on the jurisdictional system for patent disputes

On behalf of the Commission, Mr BARNIER praised the Presidency and the rapporteurs for their collective work to reach a compromise which was the best possible in the interest of EU businesses and competitiveness. He outlined the reduction of costs and of legal proceedings that the new system would bring and added that the door was open for Italian and Spanish companies, hoping that the governments of those countries would decide to join.

Mr MÉSZÁROS (EPP, SK), on behalf of ITRE , also welcomed the compromise, stressing the benefits of the new system for SMEs. Ms REGNER (S&D, AT), on behalf of AFCO, regretted that the European Council had intervened in a dossier on which a compromise had been reached between the co-legislators. She said that the compromise was not the ideal solution but was satisfied that the ECJ would keep its role.

On behalf of the political groups:

- Mr ZWIEFKA (EPP, PL) was happy that this long process was coming to an end and would contribute to innovation in the current context of crisis.
- Mr COFFERATI (S&D, IT) was satisfied at the way the European Parliament had negotiated, putting much more focus on SMEs. However, he stressed that what had happened in the European Council constituted a dangerous precedent.
- Ms WIKSTRÖM (ALDE, SE) considered that it was a historic day after 40 years of discussion and that the unitary patent was one of the tools to enhance growth.
- Ms LICHTENBERGER (Greens/EFA, AT) could not agree with the compromise since the Council had removed key articles from the regulation and because the ECJ had no say in the system.
- Mr KARIM (ECR, UK) thought it was a vital measure for innovators which had been needed for a long time, since Europe had been left behind the US and China.
- Mr MAŠTÁLKA (GUE/NGL, CZ) considered that the compromise constituted progress but thought it would be worthwhile to wait for the ECJ rulings in this area.
- Mr BATTEN (EFD, UK) considered that there was no demand in the UK for this change which would imply costs for SMEs.
- Mr ZIJLSTRA (NI, NL) criticised the complexity, uncertainty and costs of the system as well as the length of the transition period.

In individual interventions, a large majority of speakers (Ms GALLO (EPP, FR), Ms NIEBLER (EPP, DE), Mr KARIŇŠ (EPP, LV), Mr KELLY (EPP, IE), Mr ZVER (EPP, SI), Ms GERINGER DE OEDENBERG (S&D, PL), Ms FLAŠÍKOVÁ BEŇOVÁ (S&D, SK), Mr LUDVIGSSON (S&D, SE), Ms ȚICĂU (S&D, RO), Mr REPO (S&D, FI), Ms THEIN (ALDE, DE), Mr DE BACKER (ALDE, BE), Mr MANDERS (ALDE, NL), Ms RIES (ALDE, BE), Mr TREMOSA I BALCELLS (ALDE, ES), Mr TOŠENOVSKÝ (ECR, CZ), Mr KOŽUŠNÍK (ECR, CZ) welcomed the patent package as an important opportunity for business, whilst some recognised that the compromise was not perfect. A number of speakers regretted that two Member States were not party to the deal and hoped they would join subsequently.

Mr ENGSTRÖM (Greens/EFA, SE) criticised the court system for being an inter-governemental organisation outside the EU and outside the European Parliament's control. Mr ZIOBRO (EFD, PL) was also opposed to the new system. MEPs from the GUE/NGL (Mr HÉNIN (FR), Mr FERREIRA (PT), Mr ANGOURAKIS (EL)) were concerned that it would only serve the interest of the biggest companies to the detriments of SME and workers.

Some Italian (Mr MORGANTI (EFD, IT) and Spanish MEPs (Mr LÓPEZ-ISTÚRIZ WHITE (EPP, ES), Mr MASIP HIDALGO (S&D, ES)) were critical of the decision to proceed with enhanced cooperation, considering that the new system was discriminatory and would fragment the internal market.

On behalf of the Commission, Mr BARNIER replied that the ECJ would keep its role and would interpret the regulations in the last resort. He hoped that the new system could be operational in the spring of 2014. On behalf of the Council, Mr LOUCA concluded that a unified patent system will be a key element in stimulating economic growth and thanked the Parliament for the excellent cooperation on this important dossier.

Mr LEHNE, Mr BALDASSARRE, Mr RAPKAY concluded the debate by calling on MEPs to support the patent package.

On 11 December 2012, the European Parliament approved the report on the proposal for a regulation of the European Parliament and of the Council implementing enhanced cooperation in the area of the creation of unitary patent protection, the report on the proposal for a Council regulation implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements and the report on jurisdictional system for patent disputes
