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**From:** Presidency

**To:** MERTENS Group

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**Subject:** Proposal for a Regulation of the Council and the European Parliament implementing enhanced cooperation in the area of the creation of unitary patent protection and proposal for a Council Regulation implementing enhanced cooperation in the area of unitary patent protection with regard to the applicable translation arrangements  
- Presidency compromise proposals

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Following the discussions at the Mertens group on 10 May 2011, delegations will find in Annex a set of compromise proposals drawn up by the Presidency for discussion at the Mertens group meeting on 19 May 2011.

**Draft Regulation implementing enhanced cooperation in the area of the creation of unitary patent protection (COM(2011) 215)**

**RECITALS**

**Recital 7**

The creation of unitary patent protection should be achieved by giving unitary effect to European patents in the post-grant phase by virtue of this Regulation and in respect of the participating Member States. The main feature of European patents with unitary effect should be their unitary character, i.e. providing uniform protection and having equal effect in all participating Member States. Consequently, a European patent with unitary effect should only be limited, licensed, transferred, revoked or lapse in respect of all the participating Member States. To ensure the uniform substantive scope of protection conferred by unitary patent protection, only European patents that have been granted for all the participating Member States with the same set of claims should benefit from unitary effect. However, to ensure legal certainty in the event of a limitation or revocation on the ground of lack of novelty pursuant to Article 54(3) EPC, the limitation or revocation of a European patent with unitary effect should take effect only in respect of the participating Member State(s) designated in the earlier European patent application as published. Finally, the unitary effect attributed to a European patent should have an accessory nature and should cease to exist or be limited to the extent that the basic European patent has been revoked or limited.

**Recital 7**

The creation of unitary patent protection should be achieved by giving unitary effect to European patents in the post-grant phase by virtue of this Regulation and in respect of the participating Member States. The main feature of European patents with unitary effect should be their unitary character, i.e. providing uniform protection and having equal effect in all participating Member States. Consequently, a European patent with unitary effect should only be limited, ~~[deleted]~~ transferred, revoked or lapse in respect of all the participating Member States. **A European patent with unitary effect may be licensed in respect of the whole or part of the territories of the participating Member States.** To ensure the uniform substantive scope of protection conferred by unitary patent protection, only European patents that have been granted for all the participating Member States with the same set of claims should benefit from unitary effect. ~~[deleted]~~ Finally, the unitary effect attributed to a European patent should have an accessory nature and should cease to exist or be limited to the extent that the basic European patent has been revoked or limited.

<p><b>Recital 15</b></p> <p>The participating Member States should give the European Patent Office certain administrative tasks relating to European patents with unitary effect, in particular as regards administration of requests for unitary effect, the registration of unitary effect and of any limitation, licence, transfer, revocation or lapse of European patents with unitary effect, the collection and redistribution of renewal fees, the publication of translations for information purposes during a transitional period and the administration of a compensation scheme of translation costs for applicants filing European patent applications in a language other than one of the official languages of the European Patent Office. The participating Member States should ensure that requests for unitary effect are filed with the European Patent Office within one month of the date of the publication of the mention of the grant in the European Patent Bulletin and that they are submitted in the language of the proceedings before the European Patent Office together with the translation prescribed for, during a transitional period, by Council Regulation.../... [translation arrangements].</p>	<p><b>Recital 15</b></p> <p>The participating Member States should give the European Patent Office certain administrative tasks relating to European patents with unitary effect, in particular as regards administration of requests for unitary effect, the registration of unitary effect and of any limitation, licence, transfer, revocation or lapse of European patents with unitary effect, the collection and redistribution of renewal fees, the publication of translations for information purposes during a transitional period and the administration of a compensation scheme of translation costs for applicants filing European patent applications in a language other than one of the official languages of the European Patent Office.</p> <p><b>[Moved to new Recital 15a]</b></p>
	<p><b><u>New Recital 15a</u></b></p> <p><b><u>In the framework of the Select Committee,</u></b> the participating Member States <b><u>should set the conditions of entrusting the European Patent Office to carry out the tasks entrusted to it by the participating Member States, ensure</u></b> that requests for unitary effect are filed with the European Patent Office within one month of the date of the publication of the mention of the grant in the European Patent Bulletin and <b><u>ensure</u></b> that they are submitted in the language of the proceedings before the European Patent Office together with the translation prescribed for, during a transitional period, by Council Regulation.../... [translation arrangements]. <b><u>In the framework of the Select Committee, the participating</u></b></p>

	<p><b><u>Member States should also set the level of the renewal fees and the share of the distribution of the renewal fees in accordance with the criteria set out in this Regulation.</u></b></p>
<p><b>Recital 16</b></p> <p>Patent proprietors should pay one common annual renewal fee for European patents with unitary effect. Renewal fees should be progressive throughout the term of the patent protection and, together with the fees to be paid to the European Patent Organisation during the pre-grant stage, should cover all costs associated with the grant of the European patent and the administration of the unitary patent protection. The level of the renewal fees should be fixed with the aim of facilitating innovation and fostering the competitiveness of European businesses. It should also reflect the size of the market covered by the patent and be similar to the level of the national renewal fees for an average European patent taking effect in the participating Member States at the time where the level of the renewal fees is first fixed by the Commission.</p>	<p><b>Recital 16</b></p> <p>Patent proprietors should pay one common annual renewal fee for European patents with unitary effect. Renewal fees should be progressive throughout the term of the patent protection and, together with the fees to be paid to the European Patent Organisation during the pre-grant stage, should cover all costs associated with the grant of the European patent and the administration of the unitary patent protection. The level of the renewal fees should be fixed with the aim of facilitating innovation and fostering the competitiveness of European businesses. It should also reflect the size of the market covered by the patent and be similar to the level of the national renewal fees for an average European patent taking effect in the participating Member States at the time where the level of the renewal fees is first fixed[<del>deleted</del>].</p>
<p><b>Recital 18</b></p> <p>Renewal fees should be paid to the European Patent Organisation. 50 percent thereof minus expenses incurred by the European Patent Office in carrying out tasks in relation to the unitary patent protection shall be distributed among the participating Member States, which should be used for patent-related purposes. The share of distribution should be set on the basis of fair, equitable and relevant criteria namely the level of patent activity and the size of the market. The distribution should provide compensation for having an official language other than one of the official languages of the European Patent Office, having a disproportionately low level of patenting activity and having acquired membership of the European Patent Organisation relatively recently.</p>	<p><b>Recital 18</b></p> <p>Renewal fees should be paid to the European Patent Organisation. [<del>deleted</del>] <b><u>The European Patent Office shall retain an amount to cover the expenses generated at the</u></b> European Patent Office in carrying out tasks in relation to the unitary patent protection. <b><u>The remaining amount</u></b> shall be distributed among the participating Member States, which should be used for patent-related purposes. The share of distribution should be set on the basis of fair, equitable and relevant criteria namely the level of patent activity and the size of the market <b><u>and should guarantee a minimum amount to be redistributed to each participating Member State.</u></b> The distribution should provide compensation for having an official language other than one of the official languages of the European Patent Office, having a disproportionately low level</p>

	of patenting activity <b><u>established on the basis of the European Innovation Scoreboard (EIS)</u></b> and having acquired membership of the European Patent Organisation relatively recently.
<p><b>Recital 19</b></p> <p>In order to ensure the appropriate level and distribution of renewal fees in compliance with the principles set out in this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the level of the renewal fees for European patents with unitary effect and the distribution of such fees between the European Patent Organisation and the participating Member States. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.</p>	<p><b>Recital 19</b></p> <p><b>Deleted.</b></p>
	<p><b><u>New Recital 21a</u></b></p> <p><b><u>The jurisdiction for European patents with unitary effect should be established and governed by an instrument setting up a unified patent litigation system.</u></b></p>
<b>ARTICLES</b>	
<p><b>Article 3</b> <b>European patent with unitary effect</b></p> <p>1. European patents granted with an identical scope of protection in respect of all participating Member States shall benefit from unitary effect in the participating Member States provided that their unitary effect has been registered in the Register for unitary patent protection referred to in Article 12(1)(b).</p> <p>European patents that were granted with different sets of claims for different participating Member States shall not benefit</p>	<p><b>Article 3</b> <b>European patent with unitary effect</b></p> <p>1. European patents granted with an identical scope of protection in respect of all participating Member States shall benefit from unitary effect in the participating Member States provided that their unitary effect has been registered in the Register for unitary patent protection referred to in Article 12(1)(b).</p> <p>European patents that were granted with different sets of claims for different participating Member States shall not benefit</p>

<p>from unitary effect.</p> <p>2. A European patent with unitary effect shall have a unitary character. It shall provide uniform protection and shall have equal effect in all participating Member States.</p> <p>Without prejudice to Article 5, a European patent with unitary effect may only be limited, licensed, transferred, revoked or lapse in respect of all the participating Member States.</p> <p>3. The unitary effect of a European patent shall be deemed not to have arisen to the extent that the European patent has been revoked or limited.</p>	<p>from unitary effect.</p> <p>2. A European patent with unitary effect shall have a unitary character. It shall provide uniform protection and shall have equal effect in all participating Member States.</p> <p><i>[deleted]</i> A European patent with unitary effect may only be limited, <i>[deleted]</i> transferred, revoked or lapse in respect of all the participating Member States.</p> <p><b><u>A European patent with unitary effect may be licensed in respect of the whole or part of the territories of the participating Member States.</u></b></p> <p>3. The unitary effect of a European patent shall be deemed not to have arisen to the extent that the European patent has been revoked or limited.</p>
<p><b>Article 5</b> <b>Prior rights</b></p> <p>In the event of a limitation or a revocation on the ground of lack of novelty pursuant to Article 54(3) of the EPC, the limitation or revocation of a European patent with unitary effect shall take effect only in respect of the participating Member State(s) designated in the earlier European patent application as published.</p>	<p><b>Article 5</b> <b>Prior rights</b></p> <p><i>Deleted.</i></p>
	<p><b><u>New Article 5a</u></b> <b><u>Law applicable to a European patent with unitary effect</u></b></p> <p><b><u>A European patent with unitary effect shall be governed by:</u></b> <b><u>(a) this Regulation and Regulation .../... implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements;</u></b> <b><u>(b) in matters not covered by (a), the EPC;</u></b> <b><u>(c) in matters not covered by (a) or (b), national law including rules of private international law, determined in accordance with Article 10.</u></b></p>

<p><b>Article 12</b> <b>Implementation by the participating Member States</b></p> <p>1. The participating Member States shall give, within the meaning of Article 143 of the EPC, the European Patent Office the following tasks to be carried out in conformity with the internal rules of the European Patent Office:</p> <p>(a) the administration of requests for unitary effect by proprietors of European patents;</p> <p>(b) the inclusion and administration of a Register for unitary patent protection registering unitary effect as well as any limitation, license, transfer, revocation or lapse of a European patent with unitary effect, within the European Patent Register;</p> <p>(c) receiving and registering statements on licensing referred to in Article 11, their withdrawal and licensing commitments undertaken in international standardisation bodies;</p> <p>(d) the publication of the translations referred to in Article 6 of Council Regulation .../... [translation arrangements] during the transitional period referred to in that Article;</p> <p>(e) the collection and administration of renewal fees for European patents with unitary effect, in respect of the years following the year in which the Register referred to in point b) mentions their grant; the collection and administration of additional fees paid in cases of late payment of renewal fees within six months of the due date, as well as the distribution of a part of the collected renewal fees to the participating Member States; and</p> <p>(f) the administration of a compensation scheme of translation costs for applicants filing European patent applications in one of the official languages of the Union that is not an official language of the European Patent Office.</p> <p>For the purposes of point a), the participating Member States shall ensure that requests by the patent proprietor for unitary effect for a European patent are filed in the language of the proceedings as defined in Article 14(3) of the EPC no later than one month after the</p>	<p><b>Article 12</b> <b>Implementation by the participating Member States</b></p> <p>1. The participating Member States shall give, within the meaning of Article 143 of the EPC, the European Patent Office the following tasks to be carried out in conformity with the internal rules of the European Patent Office:</p> <p>(a) the administration of requests for unitary effect by proprietors of European patents;</p> <p>(b) the inclusion and administration of a Register for unitary patent protection registering unitary effect as well as any limitation, license, transfer, revocation or lapse of a European patent with unitary effect, within the European Patent Register;</p> <p>(c) receiving and registering statements on licensing referred to in Article 11, their withdrawal and licensing commitments undertaken in international standardisation bodies;</p> <p>(d) the publication of the translations referred to in Article 6 of Council Regulation .../... [translation arrangements] during the transitional period referred to in that Article;</p> <p>(e) the collection and administration of renewal fees for European patents with unitary effect, in respect of the years following the year in which the Register referred to in point b) mentions their grant; the collection and administration of additional fees paid in cases of late payment of renewal fees within six months of the due date, as well as the distribution of a part of the collected renewal fees to the participating Member States; and</p> <p>(f) the administration of a compensation scheme of translation costs for applicants filing European patent applications in one of the official languages of the Union that is not an official language of the European Patent Office.</p> <p><b>[Moved to new Article 12a]</b></p>
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<p>mention of the grant is published in the European Patent Bulletin.</p> <p>For the purposes of point b), the participating Member States shall ensure that the unitary effect is indicated in the Register for unitary patent protection, where a request for unitary effect has been filed and, during the transitional period provided for in Article 6 of Council Regulation .../... [translation arrangements], has been submitted together with the translations referred to in that Article; and that the European Patent Office is informed of limitations and revocations of European patents with unitary effect.</p> <p>2. In their capacity as Contracting States to the EPC, the participating Member States shall ensure the governance and supervision of the activities related to the tasks referred to in paragraph 1 by the European Patent Office. To that end they shall set up a Select Committee of the Administrative Council of the European Patent Organisation within the meaning of Article 145 of the EPC.</p> <p>3. The participating Member States shall ensure effective legal protection before a national court against the decisions of the European Patent Office in carrying out the tasks referred to in paragraph 1.</p>	<p>2. The participating Member States shall ensure effective legal protection before <b>the competent</b> court against the decisions of the European Patent Office in carrying out the tasks referred to in paragraph 1.</p>
	<p><b><u>New Article 12a</u></b> <b><u>Select Committee</u></b></p> <p>1. In their capacity as Contracting States to the EPC, the participating Member States shall ensure the governance and supervision of the activities related to the tasks referred to in Article 12 by the European Patent Office. To that end they shall set up a Select Committee of the Administrative Council of the European Patent Organisation within the meaning of Article 145 of the EPC.</p> <p>2. The participating Member States in the framework of the Select Committee shall:</p> <p><b><u>(a) set the conditions of entrusting the European Patent Office to carry out the tasks referred to in Article 12(1);</u></b></p>



	<p><b><u>(b) ensure</u></b> that requests by the patent proprietor for unitary effect for a European patent are filed in the language of the proceedings as defined in Article 14(3) of the EPC no later than one month after the mention of the grant is published in the European Patent Bulletin;</p> <p><b><u>(c) ensure</u></b> that the unitary effect is indicated in the Register for unitary patent protection, where a request for unitary effect has been filed and, during the transitional period provided for in Article 6 of Council Regulation .../... [translation arrangements], has been submitted together with the translations referred to in that Article; and that the European Patent Office is informed of limitations and revocations of European patents with unitary effect;</p> <p><b><u>(d) set the level of the renewal fees in accordance with Article 15; and</u></b></p> <p><b><u>(e) set the share of distribution of the renewal fees in accordance with Article 16.</u></b></p>
<p><b>Article 15</b> <b>Level of renewal fees</b></p> <p>1. Renewal fees for European patents with unitary effect shall be</p> <p>(a) progressive throughout the term of the unitary patent protection, and</p> <p>(b) sufficient not only to cover all costs associated with the grant of the European patent and the administration of the unitary patent protection but also,</p> <p>(c) sufficient together with the fees to be paid to the European Patent Organisation during the pre-grant stage, to ensure a balanced budget of the European Patent Organisation.</p> <p>2. The level of the renewal fees shall be fixed with the aim of</p> <p>(a) facilitating innovation and fostering the competitiveness of European businesses,</p> <p>(b) reflecting the size of the market covered by the patent and</p> <p>(c) being similar to the level of the national renewal fees for an average European patent taking effect in the participating Member States at the time where the level of the renewal fees is first fixed by the Commission.</p>	<p><b>Article 15</b> <b>Level of renewal fees</b></p> <p>1. Renewal fees for European patents with unitary effect shall be</p> <p>(a) progressive throughout the term of the unitary patent protection, and</p> <p>(b) sufficient not only to cover all costs associated with the grant of the European patent and the administration of the unitary patent protection but also,</p> <p>(c) sufficient together with the fees to be paid to the European Patent Organisation during the pre-grant stage, to ensure a balanced budget of the European Patent Organisation.</p> <p>2. The level of the renewal fees shall be fixed with the aim of</p> <p>(a) facilitating innovation and fostering the competitiveness of European businesses,</p> <p>(b) reflecting the size of the market covered by the patent and</p> <p>(c) being similar to the level of the national renewal fees for an average European patent taking effect in the participating Member States at the time where the level of the renewal fees is first fixed[<del>deleted</del>].</p>

<p>3. In order to reach these objectives set out in this Chapter, the Commission shall set the level of renewal fees at a level that</p> <p>(a) is equivalent to the level of renewal fee to be paid for the average geographical coverage of current European patents,</p> <p>(b) reflects the renewal rate of current European patents, and</p> <p>(c) the number of requests for unitary protection.</p> <p>4. The Commission shall be empowered to adopt delegated acts in accordance with paragraphs 1-3 and Article 17 concerning the fixing of the level of the renewal fees for European patents with unitary effect.</p>	<p>3. In order to reach these objectives set out in this Chapter, [<del>deleted</del>] the level of renewal fees <b>shall be set</b> at a level that</p> <p>(a) is equivalent to the level of renewal fee to be paid for the average geographical coverage of current European patents,</p> <p>(b) reflects the renewal rate of current European patents, and</p> <p>(c) the number of requests for unitary protection.</p> <p><b>Deleted.</b></p>
<p><b>Article 16</b> <b>Distribution</b></p> <p>1. The part of the collected renewal fees to be distributed to the participating Member States referred to in Article 12(1)(e) shall be 50 percent of the renewal fees referred to in Article 14 paid for European patents with unitary effect minus the costs associated with the administration of the unitary patent protection referred to in Article 12.</p> <p>2. In order to reach these objectives set out in this Chapter, the Commission shall set the share of distribution of renewal fees referred to in paragraph 1 among the participating Member States on the basis of the following fair, equitable and relevant criteria:</p> <p>(a) the number of patent applications,</p> <p>(b) the size of the market expressed in the number of population,</p> <p>(c) provision of compensation to Member States for having an official language other than one of the official languages of the European Patent Office, having a disproportionately low level of patenting activity and having acquired membership of the European Patent Organisation relatively recently.</p> <p>3. The participating Member States shall use the amount allocated to them in accordance with paragraph 1 to patent-related purposes.</p>	<p><b>Article 16</b> <b>Distribution</b></p> <p>1. <b><u>The European Patent Office shall retain 50 percent of the renewal fees referred to in Article 14 paid for European patents with unitary effect. The remaining amount shall be distributed to the participating Member States in accordance with the share of distribution of the renewal fees set in accordance with Article 12a(2)(d).</u></b></p> <p>2. In order to reach these objectives set out in this Chapter, [<del>deleted</del>] the share of distribution of renewal fees referred to in paragraph 1 among the participating Member States <b>shall be set</b> on the basis of the following fair, equitable and relevant criteria:</p> <p>(a) the number of patent applications,</p> <p>(b) the size of the market expressed in the number of population,</p> <p>(c) provision of compensation to Member States for having an official language other than one of the official languages of the European Patent Office, having a disproportionately low level of patenting activity and having acquired membership of the European Patent Organisation relatively recently.</p> <p><b><u>Deleted. [Principle preserved in Recital 18]</u></b></p>

<p>4. The Commission shall be empowered to adopt delegated acts in accordance with paragraphs 1-3 and Article 17 concerning the setting of the distribution of renewal fees between the participating Member States.</p>	<p><b>Deleted.</b></p>
<p><b>Article 17</b> <b>Exercise of the delegation</b></p> <p>1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.</p> <p>2. The delegation of power referred to in Articles 15 and 16 shall be conferred for an indeterminate period of time from the [date of entry into force of this Regulation].</p> <p>3. The delegation of powers referred to in Articles 15 and 16 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.</p> <p>4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</p> <p>5. A delegated act adopted pursuant to Articles 15 and 16 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.</p>	<p><b>Article 17</b> <b>Exercise of the delegation</b></p> <p><b>Deleted.</b></p>
<p><b>Article 22</b> <b>Entry into force and application</b></p> <p>1. This Regulation shall enter into force on</p>	<p><b>Article 22</b> <b>Entry into force and application</b></p> <p>1. This Regulation shall enter into force on</p>

<p>the twentieth day following that of its publication in the Official Journal of the European Union.</p> <p>2. It shall apply from [<i>a specific date will be set and it will coincide with the date of application of Council Regulation .../... on the implementation of enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements</i>].</p> <p>3. The participating Member States shall ensure that the rules referred to in Articles 4(2) and 12 are in place prior to or on the date set in paragraph 2.</p> <p>4. Unitary patent protection may be requested for any European patent granted on or after the date set out in paragraph 2.</p>	<p>the twentieth day following that of its publication in the Official Journal of the European Union.</p> <p>2. It shall apply from [<i>a specific date will be set and it will coincide with the date of application of Council Regulation .../... on the implementation of enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements</i>] <b><u>or the date of the entry into force of the instrument creating a unified patent litigation system and the setting up of such a system, whichever is the later.</u></b></p> <p>3. The participating Member States shall ensure that the rules referred to in Articles 4(2) and 12 are in place prior to or on the date set in paragraph 2.</p> <p>4. Unitary patent protection may be requested for any European patent granted on or after the date set out in paragraph 2.</p>
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**Draft Council Regulation implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements (COM(2011) 216)**

**RECITALS**

**Recital 11**

During a transitional period, before a system of high quality machine translations into all official languages of the Union becomes available, a request for unitary effect as referred to in Article 12 of Regulation xx/xx [substantive provisions] shall be accompanied by a full translation of the specification of the patent into English where the language of the proceedings before the European Patent Office is French or German, or into any official language of the participating Member States that is an official language of the Union where the language of the proceedings before the European Patent Office is English. Those arrangements would ensure that during a transitional period all European patents with unitary effect are made available in English which is the language customary in the field of international technological research and publications. Furthermore, they would ensure that with respect to European patents with unitary effect translations would be published in other official languages of the participating Member States. Such translations should not be carried out by automated means and their high quality should contribute to the training of translation engines by the European Patent Office. They would also enhance the dissemination of patent information. The transitional period should terminate as soon as high quality machine translations into all official language of the Union are available, subject to an objective evaluation of the quality. The quality of machine translations should be regularly and objectively evaluated by an independent expert committee established by the participating Member States in the framework of the European Patent Organisation and composed of the representatives of the European Patent Office and the users of the European patent system. Given the technological development, the

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During a transitional period, before a system of high quality machine translations into all official languages of the Union becomes available, a request for unitary effect as referred to in Article 12 of Regulation xx/xx [substantive provisions] shall be accompanied by a full translation of the specification of the patent into English where the language of the proceedings before the European Patent Office is French or German, or into any official language of the ~~Member~~ Member States that is an official language of the Union where the language of the proceedings before the European Patent Office is English. Those arrangements would ensure that during a transitional period all European patents with unitary effect are made available in English which is the language customary in the field of international technological research and publications. Furthermore, they would ensure that with respect to European patents with unitary effect translations would be published in other official languages of the participating Member States. Such translations should not be carried out by automated means and their high quality should contribute to the training of translation engines by the European Patent Office. They would also enhance the dissemination of patent information. The transitional period should terminate as soon as high quality machine translations into all official language of the Union are available, subject to an objective evaluation of the quality. The quality of machine translations should be regularly and objectively evaluated by an independent expert committee established by the participating Member States in the framework of the European Patent Organisation and composed of the representatives of the European Patent Office and the users of the European patent system. Given the technological development, the

<p>maximum period for the development of high quality machine translations cannot be considered to exceed 12 years. Consequently, the transitional period should lapse 12 years from the date of application of this Regulation, unless it has been decided to terminate that period earlier.</p>	<p>maximum period for the development of high quality machine translations cannot be considered to exceed 12 years. Consequently, the transitional period should lapse 12 years from the date of application of this Regulation, unless it has been decided to terminate that period earlier.</p>
<b>ARTICLES</b>	
<p><b>Article 6</b> <b>Transitional measures</b></p> <p>1. During a transitional period starting on the date of application of this Regulation in accordance with Article 7(2) of this Regulation, a request for unitary effect as referred to in Article 12 of Regulation xx/xx [substantive provisions] shall be submitted together with the following:</p> <p>(a) where the language of the proceedings is French or German, a full translation of the specification of the European patent into English; or</p> <p>(b) where the language of the proceedings is English, a full translation of the specification of the European patent into any official language of the participating Member States that is an official language of the Union.</p> <p>2. In accordance with Article 12 of Regulation xx/xx [substantive provisions], the participating Member States, shall give, within the meaning of Article 143 of the EPC, the European Patent Office the task of publishing the translations referred to in paragraph 1 as soon as possible after the date on which a request for unitary effect as referred to in Article 12 of Regulation xx/xx [substantive provisions] is filed. The text of such translations shall have no legal value and be for information purposes only.</p> <p>3. Every two years from the sixth year calculated from the date of application of this Regulation, an objective evaluation of the availability of high quality machine translations of patent applications and specifications into all official languages of the Union as developed by the European Patent Office shall be carried out by an independent expert committee. This expert committee shall be established by the</p>	<p><b>Article 6</b> <b>Transitional measures</b></p> <p>1. During a transitional period starting on the date of application of this Regulation in accordance with Article 7(2) of this Regulation, a request for unitary effect as referred to in Article 12 of Regulation xx/xx [substantive provisions] shall be submitted together with the following:</p> <p>(a) where the language of the proceedings is French or German, a full translation of the specification of the European patent into English; or</p> <p>(b) where the language of the proceedings is English, a full translation of the specification of the European patent into any official language of the <b><u>deleted</u></b> Member States that is an official language of the Union.</p> <p>2. In accordance with Article 12 of Regulation xx/xx [substantive provisions], the participating Member States, shall give, within the meaning of Article 143 of the EPC, the European Patent Office the task of publishing the translations referred to in paragraph 1 as soon as possible after the date on which a request for unitary effect as referred to in Article 12 of Regulation xx/xx [substantive provisions] is filed. The text of such translations shall have no legal value and be for information purposes only.</p> <p>3. Every two years from the sixth year calculated from the date of application of this Regulation, an objective evaluation of the availability of high quality machine translations of patent applications and specifications into all official languages of the Union as developed by the European Patent Office shall be carried out by an independent expert committee. This expert committee shall be established by the</p>

<p>participating Member States in the framework of the European Patent Organisation and shall be composed of representatives of the European Patent Office and of the non-governmental organisations representing users of the European patent system invited by the Administrative Council of the European Patent Organisation as observers in accordance with Article 30(3) of the EPC.</p> <p>4. On the basis of the evaluation referred to in paragraph 3, every two years the Commission shall present a report to the Council and, if appropriate, make proposals for terminating the transitional period.</p> <p>5. If the transitional period is not terminated on the basis of a proposal of the Commission, it shall lapse 12 years from the date of application of this Regulation.</p>	<p>participating Member States in the framework of the European Patent Organisation and shall be composed of representatives of the European Patent Office and of the non-governmental organisations representing users of the European patent system invited by the Administrative Council of the European Patent Organisation as observers in accordance with Article 30(3) of the EPC.</p> <p>4. On the basis of the evaluation referred to in paragraph 3, every two years the Commission shall present a report to the Council and, if appropriate, make proposals for terminating the transitional period.</p> <p>5. If the transitional period is not terminated on the basis of a proposal of the Commission, it shall lapse 12 years from the date of application of this Regulation.</p>
<p><b>Article 7</b> <b>Entry into force</b></p> <p>1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.</p> <p>2. It shall apply from [<i>a specific date will be set and it will coincide with the date of application of Regulation xx/xx on the implementation of enhanced cooperation in the area of the creation of unitary patent protection</i>].</p>	<p><b>Article 7</b> <b>Entry into force</b></p> <p>1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.</p> <p>2. It shall apply from [<i>a specific date will be set and it will coincide with the date of application of Regulation xx/xx on the implementation of enhanced cooperation in the area of the creation of unitary patent protection</i>] <b><u>or the date of the entry into force of the instrument creating a unified patent litigation system and the setting up of such a system, whichever is the later.</u></b></p>

