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NOTE

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Subject: Implementation of the unitary patent
- Information on the latest state of play

Status reports on the implementation of the patent package have been presented at several competitiveness council meetings over the past months (December 2013, May 2014, September 2014, May 2015) .by the Chairmen of the implementing committees (Select Committee of the Administrative Committee of the European Patent Organisation and Preparatory Committee of the Unified patent Court)

The discussions are now entering in a critical phase:

- An attractive (i.e. relatively low) rate of the renewal fees were provisionally agreed at the June meeting of the Select Committee. Subsequent discussions will take place on 13 and 14 October in Munich that Committee to agree the distribution key that determines how the resulting revenues will be shared out across the participating Member States (the EPO which will grant and administrate the unitary patent will retain 50%).
- In July, Italy formally asked the Commission to join the enhanced cooperation in the area of the unitary patent protection. The decision of the Commission will be taken before the early October Competitiveness Council authorising Italy to take part in the negotiations of the afore-mentioned October Select Committee meeting.
- The work of the preparatory committee on the Unified patent Court is progressing well and a draft protocol for the setting up of the Court is ready for signature by the participating member States (certain Ministers will be signing this draft protocol on the day of the Council meeting). In principle the works of this committee could be finalised by mid-2016.
- The ratification of the UPC Agreement is also progressing. Eight participating Member States have now ratified the Unified Patent Court Agreement. The patent package will enter into force when thirteen participating Member States (including DE, FR and UK) will have ratified the UPC Agreement.

Objective

The Commission wishes to:

- Formally welcome Italy into the enhanced cooperation in the area of the unitary patent protection.
- Encourage Ministers to advise their services to adopt a position of solidarity in the forthcoming Select committee discussion on the distribution of fees such that that Committee can draw its works to a successful completion.
- Urge Ministers to step up the political commitment to draw all preparatory works on the unitary patent Court to a conclusion as soon as possible.
- Urge Ministers, who have not already done so, to launch their national ratification processes this autumn such that the unitary patent can become rapidly a reality.

The Competitiveness Council meeting could offer an exchange of views with the participating Member States on these issues.