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**NOTE**

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from: General Secretariat of the Council  
to: Working Party on Intellectual Property (Patents)

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No. prev doc.: 11417/09 PI 62  
No. Cion prop.: 10786/00 PI 49

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Subject: Revised proposal for a Council Regulation on the Community Patent  
- Proposals by the Romanian delegation

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Delegations will find in Annex, for information, proposals submitted by the Romanian delegation on the latest proposal for a Council Regulation on the Community Patent as contained in 11417/09.

The Romanian delegation endorses the Presidency revised document 11417/09 PI 62 considering that it took essentially into account the results of the previous debates and proposals, including those made by RO delegation.

It represents in this very moment an articulated and coherent document which can be considered as a solid basis for the conclusion of the draft Agreement on the Community Patent.

At the same time, some of the most sensitive problems under discussion are the criteria establishing the level of the annual fees and especially those to be used for the distribution key to the MS.

In this respect, the RO delegation proposes a certain flexibility in the introduction of some supplementary criteria to be taken into account by the Select Committee.

The premise for this proposal is that in the time horizon necessary for the implementation of the Community Patent, both the economic development as well as the patenting activity might have different trends in the future compared with the actual stage, at least in some MS.

Consequently, the RO delegation proposes the insertion in the annex, containing the recitals, of the document 11417/09 PI 62 of the following criteria:

- art. 5c (last phrase)- “.....taking into account all relevant factors which might affect the level of the annual fees and the distribution key thereof, and in particular economic development....”;
- art. 5d- “ allow for harmonious coexistence between national, European and Community patents”; to be mentioned that this proposal was provided for in document 9455/08, and the RO delegation considers appropriate its reinsertion;
- art. 5e- “forecasted trends in the economic activity, technological innovation and patenting activity”.