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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	AOB for the meeting of the Competitiveness Council of 22 May 2025: The need to continue discussions on the Commission's proposal for a Regulation of the European Parliament and of the Council on standard essential patents and amending Regulation (EU) 2017/1001 <i>- Information from Czechia, France, Germany, Italy, Latvia, Slovakia and Spain</i>

Delegations will find attached a note from Czechia, France, Germany, Italy, Latvia, Slovakia and Spain distributed with a view to the meeting of the Competitiveness Council on 22 May 2025 (Any Other Business item).

On 12 February 2025, the Commission communicated its intention to withdraw the Proposal for a regulation of the European Parliament and of the Council on standard essential patents and amending Regulation (EU) 2017/1001. According to the Commission's assessment an agreement is not foreseeable.

For the reasons set out in a joint position paper of Austria, Czechia, Germany, Hungary, Italy, Latvia, Slovakia, Spain and Portugal (WK 4148/2025 REV 2), as well as expressed in a joint letter of the Deputy Permanent Representatives of Slovakia, Germany, Spain, Italy and Czechia of April 4, 2025 to the Head of Cabinet of the Commission President we do not agree with this assessment. In its letter to the President and the Executive Vice-President of February 19, 2025, the European Parliament comes to the same conclusion.

We remain committed to the goal of promoting transparency and predictability with regard to SEP and improving the SEP licensing system. Innovation is the main driver and success enabler of the twin transition. It is for the benefit of EU industry and users of the European patent system to facilitate negotiations on SEP licensing agreements. Clearly, a transparent and fair legal framework for accessing SEP is essential for the competitiveness of the European manufacturers. Furthermore, in light of the rising share of non-European patent holders and their vertical integration, we must ensure that European value chains are resilient in the changing geopolitical environment, and that European actors are not driven out of them due to the absence of level playing field vis-à-vis their global competitors.

Continuing the discussions on the SEP regulation proposal is the most effective path to address the numerous issues with SEP licensing.

We reaffirm our ambition to continue the legislative process with the co-legislators to develop a balanced regulatory framework for the licensing of SEP that can be widely accepted by both licensees and licensors while minimizing further bureaucracy and additional costs.

For these reasons, we call upon the Commission to “withdraw the withdrawal notice” and instead present a further developed proposal that constructively addresses the concerns expressed by the Member States so far. We call upon other delegations to support this view.