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SUBJECT: Roadmap on sustainable financing and fee reform

SUBMITTED BY: President of the European Patent Office

ADDRESSEES: Administrative Council (for information)

SUMMARY

This document outlines the roadmap developed by the Office following the debate in the March Administrative Council on sustainable financing and fee reform.

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I. STRATEGIC/OPERATIONAL

1. Strategic.

II. RECOMMENDATION

2. The Council is recommended to take note of this document.

III. MAJORITY NEEDED

3. Not applicable.

IV. CONTEXT

4. The Office launched a debate on sustainable financing and fee reform at the 117th meeting the Administrative Council in March 2009 (CA/72/09 and its eight addenda documents). This debate, and the supporting documents, emerged from the process of Strategic Renewal launched jointly in May 2007 by both the current and previous Presidents.

5. The Office has taken careful note of the many detailed contributions made by delegations and observers during the debate. It has also taken careful note of the summary made by the Chairman of the Council (CA/64/09) and of the written contributions made by a number of delegations. Finally, the Office has taken careful note of the opinions expressed at the subsequent 96th meeting of the Budget and Finance Committee in May 2009 as well as opinions expressed in the Board 28 of the Council.

6. The Office is encouraged by the positive contributions and feedback received. It understands that there is a need for the Office to pursue this strategic agenda item with both vigour and purpose. To that end the Office has decided to submit a roadmap outlining the various initiatives that are ongoing or which will now be launched.

7. This 'roadmap' document outlines the main initiatives that are focused on supporting the Organisation's strategy on sustainable finance and fee reform. It is not intended to be a detailed guidebook with cost-benefit calculations and the like, nor is it intended to be an exhaustive list of all EPO initiatives and activities for the coming years.

8. Instead, the main purpose of this document is to give a simple and global overview of what the main actions are and in which general timeframe - short-term, medium-term or long-term - they may be delivered.

V. ARGUMENTS

9. The roadmap to support the strategy on sustainable financing and fee reform is divided into three time lines. Short term are those actions that can be expected to be delivered in the 2009/2010 time period. Medium term are those actions that can be expected to be delivered in the 2011/2012 time period. Long term are those actions that can be expected to be delivered from 2013 onwards.
10. It is important to recognise that the Office is not approaching sustainable financing and fee reform for the very first time. Many initiatives have already been launched, or are in the process of implementation, that directly improve the existing situation. These activities have come from a collection of initiatives from the Future Workload study prepared by the Board 28 (CA/144/07), from line management and from the Strategic Renewal process launched in May 2007.
11. Evidence of the success of these initiatives has been particularly visible in the 2008 accounts which show, against expectations for the first time, a positive operating result. Success is also visible in the 2008 unit costs which are now below 2006 levels.
12. Looking forward, the strategy behind sustainable financing and fee reform has three main elements. The first priority is to contain, or further reduce, unit costs through continuing expenditure control, efficiency improvements and increased output. The second priority is to fund and/or control the various defined benefit obligations related to the social security schemes of the Organisation. The third priority is to introduce a measure of fee reform without changing the overall envelope to be paid by the applicant.

A. SHORT-TERM MEASURES

13. With positive efficiency and performance improvements having been delivered in 2008, the Office's attention is now focused on delivering a number of key measures for 2009 and 2010.
 - Implementation of 2009 budget. The target is a minimum improvement of €50 million in the IFRS Operating Result outcome compared to budget. Finalisation and implementation of the 2010 budget. The target here is to return to a positive IFRS Operating Result during 2010 implementation.
 - In 2009, to assist delegations in their further understanding of the issues, a series of regional workshops will be organised by the Office. The Office will also present to the BFC and Council first results of a modelling exercise on

the current sustainability of the EPO finances. Finally the Office will present initial analysis of the potential for improving procedural efficiency along the lines of proposals from at least one Member State.

- 2010, delivery of an economic analysis on long-term fee policy options.
- Motivated staff deliver results and with this in mind, there will be a report to the October 2009 Council meeting on social partnership. This is a precondition for constructive progress on the development of the future Human Resource strategy.
- Continuing focus on performance, efficiency and effectiveness.
- 2009/10. An accommodation plan outlining the Office's future accommodation needs.
- 2009. A major series of actuarial studies dealing with the defined benefit obligations of the Office will be submitted to the RFPSS Supervisory Board, Budget and Finance Committee and Council. These studies will form the basis for determining contribution rates to ensure continued sustainable financing of funded obligations (pensions, long term care and health care). They will also form the basis for actions aimed at the sustainable financing of currently unfunded obligations from positive IFRS Operational Results.
- 2010. Further engagement with key stakeholders concerning the long term development of the fee system - how much, what for and when will be the key questions to be answered.

B. MEDIUM TERM MEASURES

14. Medium term measures for 2011-2012 are as follows.

- Delivery of existing Strategic Renewal programs and development, where appropriate, of new programs. The Strategic Renewal program 'Raising the Bar' sees a number of projects fully implemented in 2010 for full benefit delivery in 2011. The 'Single Patent Process' program, currently in development, will deliver a number of concrete projects in the medium term.
- Implementation of a sustainable financing for all defined benefit obligations. The 2009 actuarial studies will have given rise to a number of policy options that will have been, hopefully, discussed and agreed in the context of a new social partnership. Implementation is in the 2011-2012 timeframe - Council decisions may be earlier in specific cases.

- Remuneration review. Part of the Strategic Renewal Human Resource strategy. Delivery of a full review of the salary method (the current method expires in 2014) and opportunities for performance related pay. This review is intended to take place in the context of a new social partnership. It will specifically look at all aspects of performance related pay in (inter-)national civil services and, if available, in national patent offices with a view to adopting best practice.
- Further improvements, at the least containment, of unit costs delivered by an appropriate balance of increased output and tight expenditure control.
- Delivery of an economic analysis giving SMEs easier access to the patent system in Europe and policy options for doing so.
- Agreement at Council level on the degree of fee reform required and/or desired.
- 1 April 2012 is the target date for implementing the first major step in fee reform. This will include the development of a method for delivery of an indexed, minimum guaranteed amount of national renewal fees to the EPO thereby giving the Organisation a more sustainable and predictable income from this source. The decision will be required in 2011.

15. It should be noted that some of these measures will require preparatory work already in 2009 and 2010. What is indicated here is the time period for implementation.

C. LONG TERM MEASURES

16. Long term measures for 2012 and beyond are as follows.

- Further delivery of Strategic Renewal programs. The long term Human Resource strategic program and the Single Patent Process programs are the most notable examples.
- Introduction of the ten foundation projects from IP5. These ten foundation projects have already been identified by the five major patent offices and planning is expected to emerge in 2009. The projects are far reaching and ambitious programs aimed to establish a new era of global co-operation in the patenting field.

- Step by step implementation of a new fee structure within the current overall envelope paid by the applicant. It is hoped that the Council will have been able to agree on the right fee structure for Europe that contains a coherent policy mix of incentives and fee levels supporting the Organisation on a financially sustainable basis.
- Ongoing improvements, at the least containment, of unit costs delivered by an appropriate balance of increased output and tight expenditure control.
- Implementation of the remuneration review.
- Ongoing sustainable delivery of positive operating and financial results leading in turn to a sustainable funding, or reduction, of defined benefit obligations.

17. As with the medium term measures, it should be noted that some of these measures will require preparatory work from 2009-2012. What is indicated here is the time period for implementation.

VI. FINANCIAL IMPLICATIONS

18. The purpose of this document is to give a roadmap for sustainable financing and fee reform. Detailed financial implications will be assessed project by project.

VII. LEGAL BASIS

19. The roadmap presented involves the EPC, its implementing rules and all elements of the CODEX. Article 10 EPC applies.

VIII. DOCUMENTS CITED

20. CA/72/09 plus addenda. CA/64/09 (point 12.1.). CA/144/07.