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SUBJECT: Executive summary of the Hohenkammer workshop between the members of the Administrative Council, other European Policy Makers and members of the EPO

DRAWN UP BY: President of the European Patent Office

ADDRESSEES: Administrative Council (for information)

SUMMARY

The Hohenkammer workshop was the first off-site meeting between the members of the Administrative Council, other European Policy Makers and members of the EPO (management and scenarios team). The aim of that workshop was to collectively use the information of the work currently being undertaken on the EPO Scenarios project to reflect on how the future of patenting and intellectual property might evolve over the next 15-20 years, at both European and global level. Many interesting issues were raised and the document highlights some of the more pertinent ones.

This information together with the more detailed schedule of issues contained in the workshop report will be fed into the scenarios work.

On 18 April 40 delegates from various contracting states of the European Patent Organisation and 15 representatives from the EPO met at Hohenkammer, outside Munich, to examine the work currently being undertaken on the EPO Scenarios project. The aim was to collectively use this information to reflect on how the future of patenting and intellectual property might evolve over the next 15-20 years, at both European and global levels.

The first task undertaken by the participants was to reflect jointly on the open-ended exploratory interviews that they received in advance of the workshop. Whilst some were very positive, there were also some negative comments. Interestingly, as the workshop progressed, more participants appeared to take the external views on board. Initial comments included:

- People speak, but do not understand the system
- More opinions required - the choice of interviewees considered to be too restricted to parties directly involved in IP
- Lack of objective data (rather opinions)
- The analysis of the problems seem quite profound, yet the solutions offered ill-thought & shallow

One aspect that became evident is how much the perceptions of the world surrounding IP varied amongst the participants. Whilst some were considering issues for the first time, others felt there was little new, or that the focus was too long-term to have much relevance. However, the process of collaborative engagement outside the more partisan confines of the AC chamber was a clear first, and will no doubt prove to be a bench mark for future strategic deliberations.

Issues flagged by the participants in response to the interviews included:

a) Future of the system:

Views ranged from denial, i.e. that possible threats were an 'incorrect perception' in one group to agreement that system would undoubtedly change in another. It was felt that the patent system was likely to be used as a 'surrogate' or lightning rod for other issues not directly related to IPR. The different means of raising budgets within the patent offices was raised, as well as problems and misuse of the system.

b) Role of Europe:

There were no recorded positive views regarding the future of Europe. Issues such as decreasing role on the world stage, growing acquis, aging population, market fragmentation due to lack of harmonisation and the need for legal certainty within European industry were aired. It was suggested that if Europe were not so innovative in the future, it might shift its point of view regarding IP to one more characteristic of developing countries. There was also mention of the 600,000 European scientists working in the United States, a tribute to the success of its system.

c) Language:

The 'language paradox' was raised: i.e. countries such as Japan have big language problems (e.g. Chinese and Korean prior art) and are prepared to address them, whilst Europe, with the most obvious language issues of all fails to recognise or address them. Comments on the language issue included 'problem insurmountable' and 'too early to be thinking of this'.

d) Role of the National Patent Offices:

At present, there appears to be no clear future role for the NPOs, along with concerns that a downgrading of their role would not be politically realisable, nor desirable as it would be to the detriment of domestic industry and SMEs, hamper the formulation of national policy formation and dilute its public information role.

e) The role of the public:

There were many comments on the inability of society to understand the complexity of the system. One group held the belief that the power of pressure groups was overestimated: 'decisions on the future of IP would be taken on sound judgement rather than single interest groups'. Technology has enabled individuals to identify their needs, so creating new tensions within kaleidoscopic society.

f) The need for IP education of the public:

Public education was a strong theme. An EU approach to promote the positive aspects of IP was considered necessary, and 'incorrect claims should be countered'.

g) Enforcement:

There was much concern regarding the ability to enforce quickly as failure could result in the adoption of alternative models of protection. It was felt that the justice system has to be 'flexible, fast and adequate for IPR'.

h) Theological views, perspectives of young people and cooperation with the private sector are missing.

In addition to the issues raised above, several interesting dilemmas were identified by the workshop. These too will be incorporated into the scenarios:

- Increasing tensions between the speed and scale of change (characterised by the unregulated marketplace) and the intractable structures of governance
- Increasing tensions between globalising interests and efficiency (capacity, time and money wasted) and national needs/government intervention (R&D expenditure, tax and competition policy)
- The geo-political differences regarding adaptability: The pragmatism of emerging countries and their willingness to adapt to a changing environment, unlike Europe
- Human psychology in the face of turbulence and change: Denial, anger, bargaining often precede acceptance in the face of uncertainty, so that responses such as increasingly rigid controls rather than adaptive mechanisms are implemented.

Obviously, many additional issues and details impacting the four scenarios were raised. This information will be fed into the mini workshops where the scenario builders will further develop the scenarios.

An invitation was made to all Hohenkammer participants to remain involved in the scenarios project, and there has been some interest to date. Should anyone who did not attend the workshop require further information or a copy of the Hohenkammer Workshop Report, please contact Karin Terzic, Project Assistant for the EPO Scenarios Project[kterzic@epo.org].