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**Intervention of Professor Alain Pompidou,
President of the European Patent Office,
at the public hearing
on future patent policy in Europe**

Brussels, 12 July 2006

Check Against Delivery

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1. I should like first of all to thank our hosts today, the Commission's Directorate-General Internal Market and Services, represented by the Chairperson Mrs Minor, Mr Stoll and Commissioner McCreevy.

2. The European Patent Office welcomes the Commission's initiative: the consultation process has brought

- renewed attention to projects which have been suffering from the deadlock of recent years and
- new momentum to the arduous endeavour of reforming the patent system in Europe.

3. The Office has replied to the Commission's questionnaire. The reply is available online and will not be read out at this juncture.

4. My main message today is that

we owe all innovative businesses in Europe a strong patent system

– because a strong patent system fosters innovation, which in turn nurtures economic growth, and

– because the key to our future lies in an economy based not on raw materials but on the knowledge, ingenuity and creativity of our peoples.

5. What do I mean when I refer to "innovative businesses"? Who are they?

One yardstick is that most of them file patent applications. At the European Patent Office, of the 34 200 applicants who filed in 2005,

nine out of ten were "small applicants" – chiefly SMEs – filing between one and five applications per year.

6. In which fields of technology do these "small applicants" file their applications?

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Of the applications filed in 2005 by "small applicants"

- only 11% related to Information and Communication Technologies (the "ICT" sector)
- nine applications out of ten related to general fields of technology such as electronics, automation, human necessities, chemistry or optics.

7. With these figures in mind, I wish to make the following point:

The overwhelming majority of the European patent system's users are smaller applicants filing between one and five applications per year in, shall we say, "uncontroversial" fields of technology – with very few exceptions, these are not the applications which hit the headlines.

The patent system in Europe must be designed to support not only the larger applicants but also this "silent majority" of dynamic smaller companies

- which have few but valuable patents often underpinning their very existence,
- which will be the driving forces behind economic growth in Europe in the coming decades.

8. I said at the start that "*we owe all innovative businesses in Europe a strong patent system*". What do I mean by "a strong patent system"?

9. First of all, the proper functioning – and steady improvement – of the patent granting process must be guaranteed.

The European Patent Office has focussed even more on quality in recent times. To that effect a comprehensive quality management system has been established which provides for an independent control of the work done by EPO examiners through the EPO's internal audit.

10. Secondly, patent protection must be affordable – in particular we should avoid unnecessary costs such as translation costs.

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- The first breakthrough was achieved in 1973 when the three-language regime of the European Patent Convention was agreed: that solution
 - made daily work at the EPO feasible at all and
 - made the publication of all applications at 18 months a formidable vehicle for the dissemination – worldwide – of technological information, in three languages – English, German or French.
- For the post-grant phase, Europe must now move away from the requirement for full translation of all patents in all languages.
- And this second breakthrough is within reach: if the London Agreement enters into force, post-grant translation costs will be slashed, not least for the benefit of the "silent majority" I referred to a moment ago – those who have the potential to file more but refrain from doing so on account of prohibitive costs.

11. Thirdly, legal security must be improved: an efficient, European court system must be established so that patent proprietors, their competitors, potential licensees or future infringers will all know that, if it comes to a dispute involving one of the 750 000 European patents granted to date by the EPO, one common court will rule.

We must put an end

- to parallel litigation involving the same European patent, and thus
- to the high costs, cross-border issues, forum shopping and legal uncertainty – due to diverging national decisions and long delays – which today distort the rules of the game.

Ladies and Gentlemen, the draft European Patent Litigation Agreement must be submitted to an intergovernmental conference as soon as possible.

12. If we succeed in making progress on these issues, we will pave the way for the Community patent, which will be an essential complement to the European patent.

Because, whatever we do,

- the European patent will remain a bundle of patents, validated in selected countries only, and

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- the London Agreement and the EPLA are optional agreements; that at least gives them a fair chance of entering into force at all, but it also means that not all member states will participate.

The Community patent, by contrast, will be a unitary title covering the entire European Union, and this is of vital importance for

- the founding principle of the internal market – the free movement of goods – and for
- creating a level playing field for competition in Europe.

But the future Community patent must offer decisively better added value than the present system of patent protection in Europe. There is no purpose to be served by creating a Community patent system which itself will obviously have to be improved later on.

13. We must gather experience now – with the London Agreement – to be able to convince in the future that all innovative businesses in Europe – not only big companies but also the silent majority of "smaller applicants" – can live and thrive with limited post-grant translation.

We must test the effectiveness of a supranational EPLA court, staffed by specialised judges dealing with infringement and revocation actions involving private parties, under common European rules of procedure.

14. To conclude, I should like to emphasise in the strongest possible terms that the EPO is keen to co-operate with the Community institutions, and in particular with the Commission and the European Parliament, to develop a strong patent system for Europe. It is no easy task to reform patent law in Europe, but we have common goals:

- to remedy as far as possible and as soon as possible the shortcomings of our worthy old European patent,
- to prepare the way for the future Community patent system.

Thank you.