

Opinion of the Economic and Social Committee on the ' Green Paper: The protection of utility models in the Single Market'

Official Journal C 174 , 17/06/1996 P. 0006

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(96/C 174/03)

On 27 July 1995 the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the 'Green Paper: The protection of utility models in the Single Market`.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 8 March 1996. The Rapporteur was Mr Bernabei.

At its 334th Plenary Session (meeting of 27 March 1996), the Economic and Social Committee adopted the following Opinion by 84 votes to two, with two abstentions.

Summary of the recommendations of the Economic and Social Committee on the 'Green Paper: The protection of utility models in the Single Market`

The Committee:

- a) considering that the Treaty commits the Community and the Member States to ensuring that the conditions necessary for the competitiveness of the Community's industry exist and in particular to fostering better exploitation of the industrial potential of policies of innovation, research and technological development (Article 130 of the Treaty);
- b) given the importance in this context of activating any instrument which can increase the competitiveness of Europe in terms of RTD and contribute to reversing the recent trend for Europe's competitive position to deteriorate in relation to that of the main partners/competitors (USA and Japan);
- c) given that, as pointed out repeatedly by the Committee, industrial and intellectual property rights are one of the instruments for encouraging innovation and the patent protection occupies a central place among those rights;
- d) considering that the importance of the role of industrial and intellectual property rights in developing world trade has been underlined by the inclusion of relevant standards in the agreements which gave rise to the World Trade Organization (agreement on trade-related aspects of intellectual property rights, including trade in counterfeit goods - TRIPS);
- e) considering, moreover, that the SMEs play a strategically important role in the field of innovation and rapid response to market needs;
- f) considering, therefore, that the Commission study on possible harmonization of non-patent systems for protection of technical innovations is undoubtedly timely and follows a widespread tradition in the majority of the EU's Member States;

g) considering that the legal basis for the approximation of national laws on utility models should be sought in Article 100a and the aforementioned Article 130 of the Treaty;

h) considering, moreover, that the Commission Green Paper, while containing data and arguments of great interest, has a number of important lacunae or at any rate problematic points;

recommends:

1. a further precautionary analysis of protection systems complementary to the patent, to be described as 'utility models' (UM), together with a more complete integration of available assessment data; special regard to be paid in this connection to weaknesses in the EU patent system, which is still seriously incomplete and disparate compared to its main competitors, the USA and Japan;
2. a guarantee, in case of future proposals for harmonizing the various national UM complementary protection systems, not only of measures for the harmonization of substantive laws, but also for procedures and timescales for obtaining and enforcing UMs;
3. the greatest attention to the need to provide firms - particularly SMEs - and research workers with a cheap, quick and easy assessment and enforcement method, i.e. one which excludes substances and processes from eligibility for protection;
4. a consistent, comprehensive approach to the whole range of instruments for the protection of industrial and intellectual property; any future harmonization measures for the UM should also take account of harmonization already carried out or planned for analogous protection rights;
5. a guarantee of eligibility for UMs for innovations which satisfy the following requirements: a) 'absolute novelty'; b) 'possibility of application in the industrial field'; c) 'inventive step' (Art. 56 of the Convention on the European Patent) or which have a practical industrial advantage over the previous state of the art;
6. assurance that the scope of protection must emerge clearly from a limited number of 'claims' and that the search for earlier 'state of the art' be optional in general, and compulsory for those wishing to enforce UM rights vis-à-vis a third party;
7. investigation into the feasibility of active assistance and advice in respect of national UM deposit and registration procedures being provided for firms - particularly SMEs - by a central Community or European agency; and investigation of the scope for application of computer digital language to the European patent system;
8. deferral of any measures for mutual recognition until substantive and interpretative harmonization has taken place;
9. a feasibility study on creation of a Community UM covering the whole of Europe, but only when the above-mentioned harmonization and mutual recognition are in place, and following a thorough examination of the uniformity of practical implementation, and of the ways in which digital language might be exploited in the European patent system.

1. Introduction - Summary of the Commission document

1.1. The Green Paper on utility models is part of the Community's action to harmonize industrial property rights and/or create Community-wide protection schemes. (For the latter see the draft Directive and Regulation on designs and models, COM(93) 344 final and COM(93) 342 final.)

1.2. The Green Paper has three parts: the first introductory, the second on the need for action at Community level, and a third which discusses measures to ensure the harmonization of national laws and the possible creation of a Community-wide protection system.

1.3. The Green Paper uses the concept of a 'utility model', a registered right which confers exclusive protection for technical inventions; the utility model resembles a patent in that the invention must possess novelty and display a measure of inventive achievement - it must involve an 'inventive step'. Unlike patents, utility models are granted without a prior search to establish novelty and inventive step.

1.4. Utility model protection systems, or something comparable, exist in twelve of the fifteen Member States; they can be classified by their characteristics as follows:

1.4.1. A first group whose requirements are the same as those for a patent, being differentiated only by a shorter period of validity or other characteristics (French certificat d'utilité, the Belgian brevet de courte durée, and the Dutch zesjarige octrooi).

1.4.2. A second group which (in simplified terms) allows protection to be extended to minor inventions, with a requirement that an invention be embodied in three-dimensional form (Finnish, Greek, Italian, Portuguese and Spanish systems).

1.4.3. A third group, such as the German Gebrauchsmuster, which (again in simplified terms) comprise a protection system for minor inventions, and also include those which cannot be embodied in three-dimensional form but exclude process inventions.

1.5. On the basis of the available statistics (no figures are available for France and Belgium) the Green Paper notes that the number of applications for utility model protection is particularly high in Germany, Italy and Spain.

1.6. The Green paper analyzes the views of industrial property experts and economic operators on the utility model form of protection in the light of studies commissioned from the IFO Institute, which involved consultation of French, German, Spanish and British patent experts, and industrial companies and independent inventors based in France, Germany, the UK, Italy and Spain.

1.7. The virtues of the utility model include quick and simple registration procedures (particularly important for small-to-medium firms) and lower costs than for a patent.

1.8. According to the Green Paper there is a fairly large demand by firms for this type of protection.

1.9. It is stated that the type of protection offered by the utility model is appropriate to trends in technological development, which is ever-increasingly characterized by a growing number of relatively short-lived 'minor inventions' and ever-shorter production cycles.

1.10. According to the Green Paper, the interest shown in the utility model system by businesses and inventors, the significant differences between the various national systems, and the barriers to the free circulation of goods and the development of undistorted competition make Community-level action necessary.

1.11. The document examines the various options for Community action, particularly:

1.11.1. The harmonization of existing national protection schemes and the institution of such schemes in the countries where none is currently available (effectively Luxembourg, the UK and Sweden).

1.11.2. Once harmonization has been achieved, mutual recognition of rights between the Member States.

1.11.3. The creation by a regulation of a Community protection system which would not replace national systems but, as Community law, would rank above them.

1.11.4. The combination of various possibilities, in particular (as in the case of brands, designs and models) harmonization of national protection systems through a directive and creation of a uniform protection system through a regulation.

1.12. Finally, the Green Paper examines possible specific characteristics for a Community utility model, which would have to include:

1.12.1. A lower level of inventiveness than that required for a patent;

1.12.2. no requirement for the invention to have a three-dimensional form;

1.12.3. requirements for novelty and industrial applicability;

1.12.4. an optional search procedure regarding the 'state of the art', in order to increase the certainty of the legal position.

The Community utility model would serve as a complement to patent protection for technical inventions, and would be registered without a search to establish novelty and inventiveness.

2. The situation in the EU's main partners/competitors: the USA

2.1. The question of whether a system of protection of technical innovations is needed to complement the patent system must be seen as part of the strategy of research and technological development policies of the European Union.

2.2. As is well known, the Delors White Paper identifies as one of the EU's weak points in relation to its main competitors - the United States and Japan - its comparatively much more limited capacity to translate scientific and technical achievements rapidly into industrial and commercial successes.

2.2.1. The White Paper also stresses the particularly important role of the SMEs - whether high-technology or manufacturing - as a potential source of economic growth, pointing out how in the United States a significant proportion of emerging technologies were developed in the first place by small undertakings, which were better able to anticipate market requirements and react speedily (White Paper on 'Growth, Competitiveness, Employment', Chapter 4, point 4.3, (a)(i), second paragraph).

2.3. It should also be noted that analysis of the global technological and industrial indicators shows that Europe's competitive position in relation to the United States and Japan has deteriorated over the years.

2.3.1. The European Union, despite having developed a single market for goods, persons, capital and services, is very far from forming a true unified market in the field of research and technological innovation (see ESC Opinion on coordination of research and technological development, CES 570/95 fin. App., points 5.1 et seq.).

2.4. It therefore seems necessary to consider whether the main factors behind the competitive advantage of the United States and Japan in relation to Europe include the ways in which technical innovations are protected, with particular reference to protection systems which complement patents (utility models).

2.5. Looking first and foremost at the United States, there is no doubt that the fact that the US has formed an integrated market for some time, especially in linguistic/cultural terms, gives innovative firms the opportunity to monitor the overall reaction of the market to an innovatory product much more rapidly than occurs in Europe.

2.5.1. There is also no doubt that the strengthening of institutional mechanisms carried out in recent years, and particularly the setting-up of the National Science and Technology Council (NSTC) and the Office of Science and Technology Policy, under the direct control of the White House, have been an important stimulus to innovation.

2.6. The American patent system is one of the largest in the world, with more than 191 000 patent applications received in 1993 and more than 98 000 patents granted in the same year ().

2.6.1. In numerical terms it is exceeded only by Japan, with about 380 000 applications received and 88 000 patents granted in 1993.

2.6.2. It is also well known that the 'patent culture' is widespread in American entrepreneurial and professional circles.

2.7. It does not seem, moreover, that consideration has been or is being given in the United States to complementing the system of protecting innovations through patents with a system of the 'utility model' type; on the contrary, professional circles have repeatedly come out against the creation of such a system, regarding it not only as unnecessary, but even as dangerous to the maintenance of a high level of patent protection, and stressed the difficulty of basing such a system on an inventiveness requirement lower than that for patents, which would be difficult to define and apply.

2.8. Thus the United States' experience would not militate in favour of creating utility-model protection alongside protection through patents, but, if anything, would underline the need to make the patent system more efficient by reducing its known drawbacks, such as the length of time taken to examine applications and grant patents, and the cost.

3. The situation in the EU's main partners/competitors: Japan

3.1. It is known that Japan is characterized by a highly cooperative model of society, with a high level of cohesion and 'osmosis' among the various actors in economic life, and with extensive planning of research at government level (Council of Science and Technology - CST - which has launched a basic plan for scientific and technological research in the medium to long-term, based on a list of 187 RTD objectives for the next 10 years).

3.2. The importance of the patent institute in Japan is shown by the figures quoted above.

3.2.1. As regards the utility model, the opinion of Japanese professional circles is that this institution, which has been in existence for many years and was reformed in 1994, has made a great contribution to the development of Japanese industry.

3.2.2. In 1993 more than 77 000 applications for utility models were lodged in Japan, and more than 53 000 registrations of models were granted (cf. OMPI statistics above) ().

3.3. The Japanese conceptual approach to such a system for protecting technical innovations, complementing that of patents, is essentially that:

3.3.1. A protection system complementing that of patents and for a shorter duration (six years instead of twenty) is justified in that protection by patent of 'minor' inventions could constitute 'over-protection' to the public's disadvantage.

3.3.2. Protection by utility model should cover inventions for which the protection can be defined and implemented fairly easily - i.e. innovative solutions incorporated in three-dimensional objects, for which an infringement can in general be easily identified (by checking the products available on the market), whereas identifying an infringement of innovations relating to substances and processes is much more difficult (involving for example access to laboratories and establishments run by suspected counterfeiters).

3.4. On reflection, the Japanese predilection for the utility model and the marked disfavour with which the Americans view it are less diametrically opposed than may appear at first sight, given that the Japanese system provides for a utility model covering a field of inventions more restricted than that of patents, is characterized by its 'three-dimensional' quality and is not therefore a duplicate of the patent system at a lower level.

4. Problems and aims of a European system for stimulation and protection of technical innovations

4.1. In the Committee's view, priority should be given to actions to increase the competitiveness of the European system, and in particular to increase its capacity to translate scientific and technological achievements rapidly into industrial and commercial successes.

4.2. As the Committee recently stressed, 'The Commission's plan to seek to establish favourable legal conditions for industrial and intellectual property, above all in the field of patents, trademarks, plans, models and designations of origin, deserves support. The instruments for the protection of intellectual and commercial property almost all already exist: the Munich Patent Agreement, the Patent Cooperation Treaty, the EC Regulation on Trademarks, the EC Regulation on the Community design system (being prepared), various Directives on copyright (computer programmes, leasing and lending rights, term of protection) ` ().

4.3. The institutes of industrial and intellectual property are regarded as a standard instrument for stimulating innovation and technical/industrial development, guaranteeing the inventor/innovator exclusive rights limited in time, in return for the communication and revelation of his inventive/innovative idea, which thus becomes part of the fund of shared knowledge, constituting - as long as the exclusive rights last - a stimulus to the finding of new and better solutions and subsequently (once the exclusive rights expire) a solution available to all.

4.4. The world-wide importance of the institutes of industrial and intellectual property in encouraging the development of innovation is confirmed by the prestige which the patent as an institution enjoys in the industrial culture of the United States, and by the frenetic patenting activity typical of Japanese firms.

4.4.1. Further confirmation of the importance of such institutes was recently provided by their inclusion in the agreements giving rise to the World Trade Organization (WTO) (Agreement on Trade Related Aspects of Intellectual Property Rights, including Trade in Counterfeit Goods - TRIPS).

4.5. The experience of the United States and Japan, as described above, shows how the development of innovation and rapid transition to the phase of industrial application of research results can be explained above all by the range of incisive instruments available to those systems, and probably also by the homogeneous and effective system of protection of industrial property.

4.5.1. Thus the main difference between Europe on the one hand, and the United States and Japan on the other, is that those two countries have a 'complete` patent system operating in an essentially uniform manner in the respective territories of their countries, whereas in the European Union the patent system is neither complete nor homogeneous.

4.6. The European patent system is incomplete because, as is well known, the EPO carries out a centralized examination of patent applications, but grants patents with a value of 'national` patents (moreover, the supra-national system, involving the 'Community patent`, is not yet operating and will probably not come into being because of excessive costs); but the European system is also disparate, since, while the national laws have been significantly harmonized as regards basic law, considerable disparities remain as regards the procedure for granting a legal enforcement of patents.

4.6.1. For example:

- patents in the Federal Republic of Germany are granted subject to examination of novelty and inventive step;

- in France they are granted without such an examination, but with a compulsory search for precedents (Avis documentaire);

- in Italy they are granted without any real examination of novelty, inventive step or precedents.

4.6.2. The operational diversity of the various national systems is even greater when one considers modalities, duration and cost of the legal procedures for enforcing patents, which differ, sometimes

enormously, from one country to another.

4.6.3. In the light of the above, one may wonder whether it should be a priority to harmonize one category (utility models) which is complementary to another in practice still profoundly diverse, category (patents).

4.7. In this context, the harmonization in the EU of 'utility models' - i.e. protection systems which complement the patent - is desirable, particularly with a view to providing a user-friendly instrument for SMEs, taking account of the experiences and traditions of European firms, and above all of their priority needs; in this connection it should be pointed out that the industrial sector for which the utility model is by far most important is that of mechanical engineering ().

4.7.1. At the same time, however, it would be entirely illusory to think that this harmonization alone would overcome the lack of completeness and homogeneity in the main system for protecting innovations - the patent system.

4.8. To be effective, this harmonization must, in general:

4.8.1. allow for the protection of relatively 'simple' innovations (subject to the proviso that a simple innovation is not always or necessarily a 'minor' innovation);

4.8.2. make it possible to obtain protection in a short space of time and through simplified procedures (the period of about two months currently required for obtaining a utility model in Germany should become the European standard);

4.8.3. involve limited costs;

4.8.4. facilitate enforcement of the rights against third parties involved in counterfeiting;

4.8.5. correspondingly facilitate the assessment of the effective scope of someone else's utility model by an honest competitor who does not wish to be involved in counterfeiting.

5. Some critical aspects of the Green Paper

5.1. Although it deals with this complex and difficult subject in a full and stimulating way, the Green Paper has certain weaknesses which will be covered in the points below.

5.2. Firstly, it does not appear to give adequate consideration to the incompleteness of the EU patent system, mentioned above, and thus runs the risk of proposing a protection system which, while complementing a patent system which is not yet complete or fully harmonized, would inevitably suffer from the same weaknesses.

5.2.1. By the same token, it does not take sufficient account of the harmonization of national utility models in relation to other analogous protection rights (for example, protection of functional designs as 'unregistered design rights' provided for in United Kingdom legislation).

5.3. Secondly, the comparison of the various national systems for the protection of technical innovation would have benefited from a more detailed analysis of certain aspects, i.e.:

5.3.1. Given the depth of debate it warrants, there is not enough discussion of all the implications of the fact that some of the national systems, which the Green Paper lumps together under the label of 'utility model', are actually none other than patent systems 'without examination' (of novelty or inventive step), and thus essentially 'registration' (rather than merit assessment) patents, albeit of shorter duration than normal patents (e.g. in Belgium, the Netherlands and France).

5.3.2. The fact that some of the countries of the EU have provided, alongside the normal patent, other protection documents (called in practice 'short-term patents', or in France 'certificats d'utilité'), for which

the requirements for eligibility for protection are the same as for patents, but which are granted with no examination of novelty or inventive step (and no search for precedents), is a phenomenon which - rather than showing the need for different protection to complement the patent - seems to stress the central importance of patents as an institution, but at the same time the difficulties they represent in terms of high cost and lengthy procedures.

5.3.3. In other words, the lesson which must perhaps be drawn from the existence of these 'short-term' national patents is that the priority need in Europe is to make patent protection more efficient (more rapid and less costly), rather than create complementary protection (utility model) at the Community level.

5.4. Thirdly, in proposing a utility model based on a lower level of inventiveness than that required for obtaining a patent, the Green Paper underestimates the difficulty and complexity of defining different levels of inventiveness, above all in the light of a European standard (Article 56 of the Convention on the European Patent), on the basis of which:

- either, according to a specialist, the innovation follows obviously from the state of the art, in which case there is no invention;
- or the innovation does not obviously follow from the state of the art, in which case there is invention.

Thus there is in principle no possibility of distinguishing different 'levels' of inventiveness.

5.4.1. If a utility model can only be granted for an 'inventive step', then the only practical solution would seem to be to accept the same definition of an inventive step as that used for the invention patent.

5.4.2. It would seem, however, that the utility model should have some specific features which distinguish it from the patent. This could be achieved by stipulating, as an alternative to the inventive step requirement, a 'demonstration of practical/industrial advantage'; this would benefit inventions likely to have a rapid, practical application. The aim would be to enhance the ability to translate scientific progress and technology into industrial and commercial successes; in this area (cf. point 2.2 above) the European Union is lagging behind its partners/competitors, the USA and Japan. The Commission should work out a way of formulating this requirement which could provide the best guarantee of legal certainty both for the applicant and for the third parties concerned.

5.5. It must also be borne in mind that the Green Paper is based on studies and surveys which, to the Commission's credit, are certainly wide-ranging and interesting, but probably not as totally reliable as their authors appear to claim.

5.5.1. Indeed, the questionnaires drawn up by the IFO, Institut fuer Wirtschaftsforschung, in Munich, were sent exclusively to firms and individuals who had already lodged utility model applications, and therefore could not record the opinion of those industrial sectors (particularly the chemical and pharmaceutical industries) which are known to make little or no use of utility model protection.

5.5.2. It should also be pointed out that no question in the questionnaire was designed to ascertain 'the other side of the coin', i.e. whether and to what extent the existence of utility model protection could constitute a barrier or difficulty for competitors in the normal activity of improving their products.

5.6. Even the questions raised in the Green Paper, although much broader and more well-constructed than those sent by the IFO institute mentioned above, still fail to ask explicitly for the opinion of the addressees on:

5.6.1. The experiences and assessments as to the possibility of effective legal enforcement of 'non-examined' protection instruments such as utility models;

5.6.2. The experiences and assessments of these protection instruments seen from the viewpoint not of the holders but of the opposite side, i.e. the competitors, in carrying out their activities of normal

improvement and updating of products.

5.7. One of the main reasons given in the Green Paper for the urgent need to harmonize utility models is the alleged distortions to the free movement of goods and to competition within the EU.

This distorting effect, referred to many times in the Green Paper, is not, however, backed up by any empirical data in that document.

6. Conclusions

6.1. The Committee believes that the Commission must flesh out the collection of assessment criteria available thus far, particularly regarding the shortcomings highlighted in points 5.5 and 5.6.

6.2. The Committee feels that when considering the possible harmonization of protection systems ('utility models'), greater account must be taken of the shortcomings of the patent system, and in particular the fact that the EU patent system is still seriously incomplete and disparate, and undoubtedly represents an 'Achilles heel' for Europe in relation to its main competitors, the USA and Japan.

6.3. The Committee particularly believes that, in proposing measures for harmonizing protection systems to complement the patent (utility model):

- harmonization of substantive law should be ensured first and foremost;
- harmonization of procedures and timescales should also be ensured;
- a repetition of what has happened for patents should be avoided: although substantive patent law has been harmonized, there are wide differences from one Member State to another as regards procedures, timescales and costs for obtaining and enforcing patents;
- the measures proposed should guarantee the establishment of a practicable, simple system which is cheaper to operate than the current procedure of applying for a patent.

6.4. Proposals for such harmonization measures, should take account of the priority requirements of SMEs (an instrument which is easy for them to assess and use): in this connection it should be laid down that eligibility for protection through a utility model does not apply to chemical substances and processes: this exclusion could be achieved, for instance, by laying down - following the practice of various EU countries - that eligibility for utility models be confined to 'three-dimensional' objects.

6.5. The Committee also believes that proposals for such harmonization measures, must take account of harmonization already carried out or planned for analogous protection rights, particularly industrial designs.

6.6. The Committee would emphasize the need for steps to harmonize national legislation to provide that utility models can be granted for developments which satisfy three requirements: that they are new, that they are likely to have a commercial/industrial application, that they are the result of an 'inventive step', as defined in Article 56 of the Convention on the European Patent or, alternatively, that they are a practical or a commercial/industrial advance over the previous state of the art.

6.7. In particular:

6.7.1. on the first of the above three requirements, the 'novelty' must be understood as 'absolute novelty', i.e. unlimited in time or space, in view of the increasing globalization of the market;

6.7.2. on the second of the above three requirements, the possibility of application in the industrial field must be understood in the broadest sense, and include agriculture;

6.7.3. the third of the three requirements must refer to:

- either the 'inventive step' stipulation applied to inventor patents (cf. Art. 56 of the Convention on the European Patent), or
- a stipulation peculiar to utility models - conceptually different from that of the above-mentioned 'inventive step', and oriented towards rewarding innovations whose authors demonstrate, by giving proof of a practical or commercial/industrial advantage, that they can be rapidly applied practically and industrially.

6.8. The Committee does feel, however, that the Commission should abandon the idea of laying down as a requirement for UM protection, a mere 'inventive step' which is less than that required for a patent. On the one hand, this would create great uncertainties of interpretation and implementation, particularly at the enforcement stage, with negative consequences above all for SMEs; and on the other, it would fail to encourage innovations which, whilst not resulting from an inventive step as such, are likely to find a rapid practical and commercial/industrial application.

6.9. In order to ensure legal certainty and ease of assessment of others' utility models, it is important to lay down that the scope of protection by the utility model must emerge clearly from the 'claims', which should be limited in number (e.g. not more than three or five).

6.10. Still with a view to legal certainty, provision should be made for an optional search in general, and a compulsory search for anyone wishing to enforce UM rights vis-à-vis a third party.

6.11. The plan for harmonization of national rights could, following effective harmonization, provide for a later stage of mutual recognition of national rights; here it would be necessary to examine inter alia whether and to what extent it is possible to avoid diverging interpretations by national courts of harmonized national rights.

6.12. In the light of discussions on its recent Green Paper on Innovation, the Commission should look into the feasibility of giving a central agency, such as the Office for Harmonization in the Internal Market - Trade Marks, Designs and Models (Alicante), an active role of advice and support for enterprises, particularly SMEs, in the national (harmonized) procedures for deposit and registration of utility models (including the necessary translations) at no cost for general assistance and at controlled rates for more specific services.

6.12.1. The Commission could also look into ways in which digital language could be applied to the patent system, in the light of the outcome of similar applications for public tenders (cf. the CALS system, TED-SIMAP system, etc.).

6.13. The Committee believes that it is only at a later stage that consideration should be given to creation of a Community EU-wide model which does not burden users with prohibitive costs out of line with those faced by the main global competitors; consideration of such a step should come after the harmonization and mutual recognition referred to above, and follow the establishment of uniform practical implementation, and the applicability of computer digital language.

Done at Brussels, 27 March 1996.

The President

of the Economic and Social Committee

Carlos FERRER

() Cf. OMPI - Industrial property statistics, Geneva, April 1995.

() In the same year applications for utility models in Germany amounted to some 20 000, and registration was granted for some 16 000.

() OJ No C 39, 12. 2. 1996.

() Green Paper on the protection of utility models in the Single Market, p. 16.