Promoting innovation through patents. Green Paper

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OBJECTIVE: the Commission's Green Paper pursues three objectives: - to provide a full picture of the situation as regards the protection of innovation by the patent system in the European Union; - to examine whether new Community measures are necessary and/or whether existing arrangements need to be adjusted; - to consider what these new measures could involve and which form they could take. SUBSTANCE: the patent occupies a central position among the various means available for the protection of innovation. However, in the Commission's view, the EU's current patent system presents three major drawbacks: it has become complex (with the existence side-by-side of the national patent, the European patent and the Community patent), it is costly, and it does not provide uniform protection in all Member States. With this in mind, the Green Paper asks whether, and to what extent, the parties concerned would be prepared to use a Community patent system established by a regulation based on Article 235 of the EC Treaty rather than by an intergovernmental agreement such as the 1975 Luxembourg Convention or the Agreement relating to Community Patents signed in 1989 (which were not ratified by all Member States and never entered into force). Such an arrangement would provide users with an accessible, legally reliable system at a reasonable cost. A number of further technical questions must be considered in connection with the future of the Community patent. First of all there is the matter of the further harmonization needed at Community level in respect of certain aspects of patent law, such as the impact of the information society and electronic commerce on inventions relating to software. Employees' inventions, the use of patent agents and recognition of professional qualifications are among the other aspects of patent law raised in the Green Paper, which also poses the question of the need for Community harmonization in these areas. Finally, the Green Paper looks at how the system of fees for patents could be brought into line with the services provided without discouraging the protection of innovation. The consultation process is due to end in November 1997 with the organization, under the Luxembourg Presidency, of a hearing involving the interested parties in order to examine in more detail the most important points which have emerged from discussions.