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DRAFT submission paper on
The Practical Consequences
of the London Agreement (on the
application of Article 65 EPC)

SUBJECT: Discussion Paper

PURPOSE: Discussion

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EXECUTIVE SUMMARY

On 10 October 2007, the French Senate, the second chamber of French Parliament passed the bill for the London Agreement on Article 65 EPC. It is therefore likely that the London Agreement will enter into force 2008. The present paper refers to the "Practical Consequences of the London Agreement". It can serve as an information paper for informing FICPI members which can then use this paper for further disseminating this information.

The major practical consequences of the London Agreement can be summarised as follows :

1. The London Agreement will reduce costs of the patentee for validating European patents
2. The London Agreement will not facilitate or improve (European) companies' access to the European patent system
3. The reduction of validation costs by the London Agreement will lead to an enhanced filing of the companies which already make use of the European patent system
4. The reduction of validation costs by the London Agreement will lead to an enhanced validation of European patents, especially of non-residents of US, JP, KR and CN
5. The London Agreement will lead to a significantly reduced risk for the patentee with respect to translation costs
6. The London Agreement will lead to an improved position for the patentee when enforcing the patent, because he can adapt and shape the translation of the European patent (within the originally granted wording of the claim) to the infringement issue
7. The London Agreement will lead to a shift in the balance of the European patent system or to a weakening of the enforceability of the European patent
8. The London Agreement will have an impact on the technological dependency from foreign countries
9. The London Agreement could lead to higher national maintenance fees (annuities) to compensate the loss of income of NPOs due to the discontinuation of publication of translation of European patents validated in that Member State
10. The London Agreement could lead to an artificial splitting of the Common Market of the European Union, because not all EU Member States will join the London Agreement
11. The London Agreement will lead to constitutional problems in many EPC Member Countries
12. The London Agreement could lead to a significant reduction in local patent knowledge in many Member States of the London Agreement, both at the NPOs and as far as local patent attorneys are concerned
13. The London Agreement could lead to further criticism against the patent system in Europe.