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SUBJECT: Collective reward for EPO staff

SUBMITTED BY: President of the European Patent Office

ADDRESSEES: 1. Budget and Finance Committee (for opinion)
2. Administrative Council (for decision)
3. Supervisory Board of the RFPSS (for information)

SUMMARY

The President proposes to pay a collective reward for EPO staff in 2012. In view of the IFRS operating result for 2011, it is proposed that EUR 27 656 000 be allocated, to be paid out to staff who were in active service in 2011 as a collective reward. An identical amount would be set aside for each staff member, adjusted to the actual number of days worked during the year by each staff member.

Additionally, it is proposed that a further EUR 27 656 000 be transferred to the Reserve Funds for Pensions and Social Security (RFPSS), while the amount remaining out of the 2011 IFRS operational result would remain within the Office as cash reserve.

Note: This document is being published prior to the meeting of the General Advisory Committee (GAC). The GAC is to be consulted at its next meeting, scheduled for 30 and 31 October 2012. The President will inform the Council of the opinion of the GAC and of any action taken following this opinion.

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PART I

I. STRATEGIC/OPERATIONAL

1. Operational

II. RECOMMENDATION

2. The Administrative Council is requested to approve the payment of a collective reward for EPO staff in 2012.
3. In view of the IFRS operating result for 2011, it is proposed to allocate an amount of EUR 27 656 000 for the collective reward to be paid to staff who were in active service in 2011. For that purpose, the Administrative Council is invited to approve the draft decision presented in Part II of this document.
4. Additionally, it is proposed that a further amount of EUR 27 656 000 be transferred to the RFPSS. The Administrative Council is hereby invited to approve the draft decision presented in Part II of this document.

III. MAJORITY NEEDED

5. Three-quarters of the votes.

IV. CONTEXT

6. The HR Roadmap approved by the Administrative Council last year (CA/110/11) included the intention to introduce a collective reward at the EPO, and various options were discussed in-depth.
7. In recent years, the EPO has regularly obtained IFRS operational surpluses. In 2009 and 2010 the surpluses, corresponding respectively to 2008 and 2009, were transferred to the RFPSS to cover future liabilities, in particular those resulting from the partial compensation on pensions.
8. In the course of the year 2011, the EPO achieved an IFRS operating result amounting to EUR 89 231 639.57 as reported in the audited IFRS Financial Statements (CA/60/12).

9. On this basis, the President has decided that it would be appropriate to propose to allocate a part of the 2011 IFRS operating result to pay a collective reward for EPO staff in 2012, another part for a cash transfer to the RFPSS and leave the remaining part in the cash reserve for future important investments.

V. ARGUMENTS

10. The positive IFRS operating result accumulated by the Office during a year is to a great extent the result of the work and efforts of its staff. Therefore, it is proposed that part of the 2011 yearly positive operating result could be shared with staff in the form of a collective reward.
11. In proposing the payment of this collective reward, the overall operational and financial situation of the EPO, the contributions of all staff members to the Office activities, and the progress made in the social dialogue have, *inter alia*, been taken into account.
12. In view of the IFRS operating result in 2011, it is proposed that an amount of EUR 27 656 000 be paid out to staff as a collective reward in 2012. As a basis for the calculation, a net amount of EUR 4 000 after the deduction of internal tax will be set aside for each full-time staff member. This amount would correspond to full presence at work in 2011. The final amount paid out would be dependent on the staff member's contribution in terms of actual presence at work.
13. For part-time staff this amount of EUR 4 000, which is taken as basis for the calculation, will be reduced according to the percentage of time worked.
14. Reduced presence at work in 2011 due to absences other than part-time work will result in a correspondingly reduced individual reward.
15. Annual or home leave taken in 2011 will not be considered as absences. Flexitime and compensation hours will not impact the calculation of presence at work. Any other form of leave or absence will be deducted from the basic amount of EUR 4000, proportionally *pro rata temporis*.
16. This reward is neither a salary nor a recurrent form of payment and does not give rise to any pension rights or any other social security benefit. No pension or social security contributions will be levied.

17. A further amount of EUR 27 656 000 would be transferred to the RFPSS, and the rest of the accumulated operational surplus would remain within the Office as cash reserve.

VI. FINANCIAL IMPLICATIONS

18. The allocation of an amount of EUR 27 656 000 for the collective reward in 2012 corresponds to 31 % of the 2011 IFRS operating result of EUR 89 231 639.57 obtained in 2011 as reported in the audited IFRS Financial Statements (CA/60/12).
19. The actual transfer of an amount of EUR 27 656 000 from the Office to the RFPSS would have no impact on the Organisation's revenue and equity.
20. The remaining part of the IFRS operating result for 2011 would remain within the Office as cash reserve.

VII. LEGAL BASIS

21. Articles 10(2)(c) and 33(2)(b) EPC
22. Article 3(1) of the Regulations for the Reserve Funds for Pensions and Social Security of the European Patent Organisation
23. Article 3 of the Regulation on Internal Tax for the benefit of the European Patent Organisation

VIII. DOCUMENTS CITED

CA/60/12, CA/110/11

IX. RECOMMENDATION FOR PUBLICATION

Yes.

PART II

Draft

DECISION OF THE ADMINISTRATIVE COUNCIL
of [date of decision]
on payment of a collective reward to staff of the
European Patent Office in active service during 2011

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention and in particular Articles 10(2)(c) and 33(2)(b) thereof,

Having regard to the Protocol on Privileges and Immunities of the European Patent Organisation and in particular Article 16 thereof,

Having regard to the Regulation on Internal Tax for the benefit of the European Patent Organisation and in particular Article 3 thereof,

Having regard to the Regulations for the Reserve Funds for Pensions and Social Security of the European Patent Organisation and in particular Article 3(1) thereof,

Having regard to the opinion of the Budget and Finance Committee,

On a proposal from the President of the European Patent Office, submitted after consulting the General Advisory Committee,

HAS DECIDED AS FOLLOWS:

Article 1

Permanent or contract employees of the European Patent Office who were in active service during 2011 shall be paid a collective reward as defined below.

Article 2

An amount of EUR 27 656 000 shall be allocated for the collective reward. For each staff member, regardless of grade or function, an identical amount shall be set aside, the actual payment to be made being dependent on each individual staff member's presence at work in 2011, as detailed in Article 3.

Article 3

As a basis for the calculation, a net amount of EUR 4 000 after the deduction of internal tax shall be set aside for each full-time staff member. This amount would correspond to full presence at work in 2011.

For part-time staff this amount of EUR 4 000, which is taken as basis for the calculation, shall be reduced according to the percentage of time worked.

Reduced presence at work in 2011 due to absences other than part-time work shall result in a correspondingly reduced individual reward.

Annual or home leave taken in 2011 shall not be considered as absences in the terms of this article. Flexitime and compensation hours shall not impact the calculation. Any other form of leave or absence shall be deducted from the basic amount of EUR 4 000, proportionally *pro rata temooris*.

The amount paid to staff shall be net, after deduction of the internal tax provided for in Article 16 of the Protocol on Privileges and Immunities and Article 3 of the Regulation on Internal Tax.

Article 4

This reward is a *una tantum* emolument which does not constitute an element of salary and does not grant entitlement to any reward in this or any other form in the future. No pension or social security contributions shall be deducted from the individual reward paid.

Article 5

If a beneficiary under Article 1 dies prior to payment of the individual reward, it shall be paid to his surviving spouse or, if there is no such spouse, to his dependants. If there is neither a surviving spouse nor any dependants, no payment shall be made.

Article 6

An amount of EUR 27 656 000 shall be transferred to the Reserve Funds for Pensions and Social Security.

Article 7

This decision shall enter into force on [date of decision].

Done at Munich, [date of decision]

For the Administrative Council
The Chairman

Jesper KONGSTAD