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Europe Reaches Agreement on System for Patents

By JAMES KANTER

BRUSSELS — It took only four decades of wrangling.

On Tuesday, the European Parliament adopted a uniform patent system for Europe. If the plan goes into effect as expected by early 2014, it would try to remedy the country-by-country approach whose time and costs have long been an impediment to innovation across the European Union.

Achieving the new unified system could conceivably provide encouragement for another, far more ambitious project that European leaders will be grappling with at their summit meeting this week: a uniform system of banking regulation and supervision for the euro area. But the long, tortuous route to the patent agreement might also serve as a cautionary tale.

The banking union has already bogged down in national battles that some experts warn could drag out the process for years — particularly if changes to the bloc's treaties are needed to give the central bank new and wide-ranging supervisory powers, or to set up a joint financial backstop to ensure the orderly winding down of failing banks.

"What's clear is that the E.U. continues to operate on a hopelessly optimistic time scale," Mats Persson, the director of the research group Open Europe, wrote in a briefing note on Tuesday. Mr. Persson was referring to the time it would take to set up a "proper safety net" for Europe's banks, including a bank resolution fund.

In the case of the patent system, decades of discussions resulted in an unsatisfactory compromise, according to Bruno van Pottelsberghe, the dean of the Solvay Brussels School of Economics and Management. The new system will "still be a mess" and "we should not expect any of a change in Europe's innovative performance," Mr. van Pottelsberghe said.

Meeting in Strasbourg on Tuesday, the European Parliament voted 484 to 164 to pass the key plank of the new patent system. Nation-by-nation vetting of the new system will formally start in February, when governments are expected to sign a treaty creating special patent courts.

The system would supplement the current patchwork of patent rules in the European Union; under the current system, a ruling in one of the union's 27 countries has no automatic bearing on another. The patchwork approach has made protecting inventions and innovations in Europe 15 times more expensive than in the United States, harming competitiveness, according to the European Commission, the executive arm of the European Union.

The cost of patent protection should initially drop to around 6,500 euros, or $8,400, from about 36,000 euros, or $46,500, the commission said. That change is largely because the new so-called unitary patents granted by the European Patent Office in Munich would no longer need to be validated in all of the countries where protection is sought. Nor would they need to be translated into all local languages. Instead, English, German or French would suffice.

Benoît Battistelli, the president of the European Patent Office, said the decision on Tuesday would "equip the European economy with a truly supranational patent system."

Yet the long, tangled history of working toward a common patent — repeatedly shelved after bumping up against national interests and with squabbling over languages — is a timely reminder of how much easier it is to make commitments to a unified Europe than to put unity into practice.

In the case of the banking rules, also known as banking union, European governments still must overcome differences over the system's most fundamental element: a single banking supervisor operating under the aegis of the European Central Bank.

European finance ministers are expected to work through the night on Wednesday in Brussels debating whether a new supervisor would oversee all 6,000 lenders in the euro area. France, Germany, Sweden, Hungary and Britain are among countries with concerns about the plan. The timing for an agreement "is likely to slip, as member states remain far apart on a number of key substantive issues," Mujtaba Rahman, an analyst for the Eurasia Group, wrote in a briefing note on Tuesday.

On Thursday, the finance ministers will give way to the European Union's 27 leaders, gathering for their year-end summit meeting. When the leaders met in June, their joint decisions were cast as the starting point for tighter economic and monetary union in Europe. A central pillar of that agreement was a banking union, which would end the so-called doom loop in which frail banks endanger national finances and cause countries to need bailouts.

But with borrowing costs in Spain and Italy having fallen to moderate levels after a late-summer pledge by the European Central Bank to buy the bonds of troubled countries, the urgency to institute sweeping reforms has waned. And although the euro area is in recession and the scale of debt in countries like Greece and Spain still could lead to a wider crisis, leaders on Thursday are expected to reiterate aims and goals, rather than take practical steps.

To be sure, the banking union has a weightier and more urgent mission than the single patent. But even the new patent system has been cobbled together by compromises that critics say will undermine it.

One major problem, according to Mr. van Pottelsberghe, the economics school dean, is that national patent offices will continue operating in tandem with the new system by granting their own patents. “That’s catastrophic,” he said, because it increases the chances that firms will impede the market with patent challenges.

Concrete efforts to create a European patent began in earnest in the mid-1970s. But repeated disputes over the expense of translations into all of the official European languages killed those initiatives. A breakthrough came in March 2011, when 25 members of the bloc went ahead under a specialized procedure that allows like-minded nations to move forward.

Spain and Italy, upset that their languages will not be given prominence, have sued to overturn that decision at the European Court of Justice, the bloc’s highest tribunal. But in a preliminary opinion issued on Tuesday, the court’s advocate general rejected the Spanish and Italian claims that the specialized procedure was misused. The court should issue a final decision next year.

There are also concerns about the new system of patent courts.

Graham Taylor, the chief executive of OpenForum Europe, an industry group that includes Google, Oracle and I.B.M., said that the plans for the new court system, split among Paris, London and Munich, were especially troubling. “While the new rules may reduce the cost of filing patents, our concern is how to appeal against bad patents,” Mr. Taylor said.

As the banking union is only likely to apply to countries that use the euro, those that do not are unlikely to support the effort.

Britain has no plans to join the single currency but wants to protect its banking sector from rulings it disagrees with. Then there are member states like Hungary, which will eventually join the single currency but remain out for now. Some of those countries say they fear their banks will be at a competitive disadvantage in the interim.

Also in the case of banking union, members still must overcome differences over which institutions should oversee the new system, and even where they should be located.

Germany, in particular, says it is concerned about placing the new banking supervisor within the European Central Bank. German officials are especially wary that the central bank's record on monetary policy could be compromised if, for example, it were to adjust interest rates to ease the conditions for banks falling under its supervision.

One possibility under discussion is allowing the single bank supervisor to be based in another city besides Frankfurt, where the E.C.B. has its headquarters.