



STRATEGIC RENEWAL

DOMAIN "GOVERNANCE"

1. DESCRIPTION OF THE DOMAIN

Governance deals essentially with decision making processes. Who does what, who decides, which rules and values apply, how are conflicts resolved and which structures are in place? Seen in this way, Governance is therefore not a direct part of strategic renewal as such, but rather is a way to enable the renewal.

With such a broad description, the Domain Governance needs to restrict itself carefully to those projects which will directly enable the strategic renewal. The projects which have the greatest, and most urgent, priority are targeted towards those areas which, if not changed, will seriously hamper any (or all) of the seven more action orientated domains.

Governance has been part of strategic renewal from the outset. It was one of very first priorities in April 2006 and has resulted in the establishment of Terms of Reference for the MAC, an internal code of conduct for MAC members, detailed task descriptions for most MAC members and resolving the detailed delegation of authority in nine key areas.

Governance is also a high priority for the Administrative Council of the EPO who have designated 2008 to have a wide ranging debate on the subject. This Organisational priority comes hot on the heels of the Gower's Report (UK), the PIETA Report (FR) and a continuing dissatisfaction with European (read EU) decision making in the patent field. The Office is expected to prepare and facilitate this debate with the Council itself taking the lead.

2. IDENTIFIED PROJECTS

Within the domain Governance, the following projects have been identified so far:

- Conflict resolution (previously known as routes of appeal)
- Single social partner (the MAC decided to move this item to the Governance Domain in it's June meeting).
- Governance of the European Patent Organisation
- Review of the Financial Regulations
- Cost Output Management
- Review of Control System
- Review of EPO contract methodology
- Independence of DG3 (will be a priority in the event of a Diplomatic Conference)
- (External) Audit Committee
- RFPSS governance in co-operation with Board
- Making RFPSS IFRS complaint (DG4 lead, project continues regardless)

3. PROPOSED PRIORITY PROJECTS

3.1. PROJECT 1 - CONFLICT RESOLUTION

- The project conflict resolution reviews the architecture for resolving conflicts in the Office. It therefore seeks to establish more efficient and more effective ways at dealing with conflicts within an increasingly litigious culture.

- Reasons for priority

The failure of Circular 286 and the ineffective existing mechanisms to resolve conflicts, especially conflicts on individual performance, make this an absolute priority area. The status quo favours formal conflict resolution over informal reconciliation - a situation that is fast becoming unsustainable. In addition, the status quo is capable of generating absurdly complex procedures lasting 5-10 years on performance assessment reports. A new conflict resolution architecture should enable the domains Performance Management and the New Deal at Work to be more successful.

- Proposed milestones

By the end of 2007, a first version of a new overall conflict resolution architecture should be available. Reflections on this new architecture have already started. Its creation shall formally involve the Central Staff Committee or their representatives.

This will then allow the first milestone to be submitted to the GAC, namely the replacement of Circular 286 including a number of associated measures. The goal is to have a first GAC discussion in 2007. It is expected to conclude this milestone in early 2008.

The second milestone, reform of the Internal Appeals Committee (and procedure), including the Council Internal Appeals Committee (and procedure), will take place in the course of 2008.

3.2. PROJECT 2 - SINGLE SOCIAL PARTNER

- This project aims to establish a new set of relations with a single social partner. This social partner would have a legal personality and thereby the right of appeal in specific circumstances. The current, preferred single social partner is SUEPO. The project would set up a negotiating mandate for a team of EPO managers and would initially invite SUEPO to negotiations.

- Reasons for priority

The Office currently has 15 social partners (5 SUEPO's, 5 staff committees and 5 advisory committees). The basic legal structure for dealing with these different partners is site-based and of a purely consultative nature. There is no negotiation and no right of appeal for any of the social partners as such. Almost no social partner, (SUEPO, The Hague appears to be an exception), has its own legal personality. The current situation is increasingly, and inherently, dysfunctional. The status quo encourages social partners to focus on form over substance, conflict over negotiation and appeal over reconciliation. It is inconceivable that the EPO can create long-term, robust external partnerships (for example with NPO's) without having a functioning internal social partner relationship.

- Proposed milestones

By September 2007 the MAC should agree on a proposed negotiation mandate for a group of EPO managers.

By the year end, the Office management will make an appraisal whether the current preferred route of SUEPO as a social partner is a realistic, and shared, outcome. (It requires two parties to establish a partnership and earlier attempts in late 2006 were unsuccessful).

3.3. PROJECT 3 - GOVERNANCE OF THE EUROPEAN PATENT ORGANISATION

- Project:

In accordance with the 2008 target for a general debate on EPO governance at Council level, the Office management will prepare this issue. The Office will be in a facilitating and enabling mode, the lead is with the Council itself.

- Reasons for priority

The EPO scenarios, the Gower's report, the PIETA report, a constant stream of criticism from various policy institutions, commentators and interested parties - all these lead to an imperative review of the Organisation's decision making processes in the field of patent policy.

- Proposed milestones

By December 2007, the Office should have elaborated a framework plan for the conduct of the 2008 Governance Debate. This framework plan will then be discussed with delegations in early 2008 such that the debate proper can be launched at the March 2008 Administrative Council.

4. PROPOSED COMPOSITION OF THE PROJECT TEAMS

General remark: The Governance Domain covers a wide range of interests. Typically, the Domain will organise brainstorming sessions among stakeholders before elaborating a Project Initiation Document. In this way, project teams will be kept to a bare minimum whilst ensuring maximum participation on the issues that really matter. The Domain Steering Committee currently has representatives from each DG.

4.1. CONFLICT RESOLUTION

Project team

- PD 0.1
- PD 5.3
- PD 4.7

Stakeholders

PD 4.3; VP4 and 5; all DGs; CSC; units and staff directly involved in current conflict resolution set-up..

4.2. SOCIAL PARTNER

Project team

- PD 5.3

Stakeholders

PD 4.3 and PD 4.7; VP4 and 5; CSC; SUEPO.

The management negotiation team will be decided by the MAC in September.

4.3. GOVERNANCE OF THE EUROPEAN PATENT ORGANISATION

Project team

- PD 0.1
- PD 5.3
- PD 0.6

Stakeholders

President; Council; MAC; Pension and Social Security Reserve Fund. PD 5.1, PD 5.2 and those units involved in EPN. (In general stakeholders will vary depending on which aspect of Organisational Governance is under review).