 Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	Unified Patent Court Implementation – unitary patent	
Lead Department/Agency	Department for Business, Innovation and Skills (Intellectual Patent Office)	
Stage	Final	
IA number	BISIPO005	
Origin	European	
Expected date of implementation	6 April 2015 (SNR 9)	
Date submitted to RPC	23 October 2014	
RPC opinion date and reference	3 December 2014	RPC14-BIS-2062(2)
Departmental assessment		
One-in, Two-out status	Out of Scope	
Estimate of the equivalent annual net cost to business (EANCB)	Not quantified	
RPC overall assessment	GREEN	
RPC comments		
<p>The IA is fit for purpose. The Department has been unable to monetise the costs and benefits of the proposal but has provided a reasonable assessment, given the limited evidence available. The proposal is out of scope of One-in, Two-out because it implements EU regulation, going no further than minimum requirements.</p>		
Background (extracted from IA)		
What is the problem under consideration? Why is government intervention necessary?		
<p><i>The current system for obtaining and enforcing European patents is fragmented. All European patents granted by the European Patent Office (EPO) are currently implemented as 'bundles' of national patents in each country, each only enforceable within national territories. The Unitary Patent will be a single patent right effective across all participating states. Currently, patenting across Europe is costly, with many administrative burdens including high translation costs. The aim is to provide an alternative for those that want protection across a greater number of European countries with lower administrative costs.</i></p>		
What are the policy objectives and the intended effects?		
<p><i>The Government's objective is to ensure consistency of UK law with the unitary patent and translation regulations so as to ensure that businesses do not face uncertainty. Inventors will be able to apply to the European Patent Office for one patent for up to 25 member states, using one application and one language regime, and then defend that patent in one common court system. UK firms looking for protection across much of Europe will benefit from the combination of the Unitary Patent and the UPC. The UK will benefit from being part of this single market.</i></p>		

Comments on the robustness of the OITO assessment

The Department says that the proposal will “*implement an international agreement and enable the associated EU regulations establishing the Unitary Patent to come into force*” (page 18). The proposal does not implement the agreement or EU regulations early, or go beyond minimum requirements. It is, therefore, out of scope of ‘One-in, Two-out’, in accordance with paragraph 1.9.8 ii the Better Regulation Framework Manual (July 2103).

The Department has explained (see below) why it has not been able to monetise the overall costs and benefits of the proposal. It has therefore not been possible to provide an EANCB figure for balanced reporting of out of scope EU measures in the Statement of New Regulation.

Comments on the robustness of the small & micro-business assessment (SaMBA)

The proposal is not of domestic origin and a SaMBA is, therefore, not required. However, the Department has provided an assessment of the impact on small and micro-businesses. The Department explains that, when setting renewal fees for the unitary patent, the situation of small and micro businesses will be taken into account. There will also be guidance available on the introduction of the UP, which should be particularly helpful to small and micro-businesses.

Quality of the analysis and evidence presented in the IA

Background. The following two EU Regulations were adopted in December 2012:

i) EU 1257/2012 “*implementing enhanced cooperation in the area of the creation of Unitary Patent protection*” (the unitary patent regulation). This established the Unitary Patent (UP).

ii) EU 1260/2012 “*implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangement*” (the translations regulation). This established the language regime for the UP.

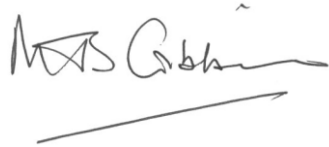
Separately, the UK Government and 24 other EU member states signed an intergovernmental agreement in February 2013 establishing a unified patent court for the settlement of disputes relating to UPs and European patents. That proposal is the subject of a separate IA (RPC14-BIS-2065). The entry into force of the UPC agreement will trigger implementation of the unitary patent and translations regulations. The proposal makes changes to the Patents Act (1977) to bring these EU regulations into UK law.

Costs and benefits. The Department explains why it is unable to monetise fully the costs and benefits. This is mainly because the level of fees is yet to be finalised by the participating states. The Department also does not have a clear picture at this stage to suggest how many patent owners are likely to take up UPs. The Department has, therefore, estimated potential savings using scenario analysis, with costs and benefits presented on a ‘per patent’ basis. The Department has used IPO-commissioned research, as well as other relevant evidence, to assess the costs and benefits of the proposal.

The Department explains that use of the UP is entirely optional and that there should, therefore, be no additional net cost to business from choosing to use it. Under the language arrangements for the UP, translation requirements are reduced. The Department estimates the savings in translation per patent as between £300 and £19,440, depending upon in how many countries protection is being sought. There are also likely to be savings in renewal fees and administration for businesses that typically seek protection across much of the EU.

Overall, given the information constraints, the Department provides a reasonable assessment of the costs and benefits to business.

Signed

A handwritten signature in black ink, appearing to read 'Michael Gibbons', with a long horizontal stroke underneath.

Michael Gibbons, Chairman