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Delegations will find in the Annex, for information, the statements delivered on behalf of the EU and its Member States at the above mentioned WIPO meeting.

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**Fifty-Eight Series of Meetings of the Assemblies of the Member States of WIPO**

**(Geneva, September 24 – October 2, 2018)**

**General / Opening Statement**

**Item 5**

Chairman,

1. On behalf of the European Union and its Member States I would like to thank you for the considerable and excellent preparation of this General Assembly and assure you of our complete trust in your leadership abilities and constructive approach, which will surely contribute to a positive outcome of this session. We would also like to thank the WIPO Secretariat for its preparation work.
2. As the World Intellectual Property Organisation is the central hub for global IP infrastructure, we would like to once more emphasize that one of WIPO's core missions remains the servicing of the PCT, Madrid, Hague and Lisbon systems. The importance of those WIPO administered treaties is clearly highlighted by the ever increasing number of accessions to those treaties and the rising workload. In addition to that the PCT and Madrid Union continue to be the main contributors to WIPO's budget. Therefore further resources should be allocated to promoting and strengthening these core rights systems on an equal basis. For that, we consider the developing of an internationally balanced system of protection of all categories of intellectual property rights as an absolute core issue for future work. Besides that, WIPO is also a unique forum for the discussion of global intellectual property policy items, exchange of best practices and last but not least, norm-setting.

3. With regard to the membership to IP treaties administered by WIPO we are pleased to confirm, that the EU will formally deposit its instrument of accession to the Marrakesh Treaty with WIPO in the context of this General Assembly. Furthermore, discussions on legal acts allowing the accession of the European Union to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications have recently been started in Brussels.
4. Turning to the normative work of WIPO, the EU and its Member States would like to reiterate that in our opinion, the basic text of the DLT has been stable since 2014 and ripe for the convening of a diplomatic conference for the adoption of the Treaty. Considering the benefits of harmonising and simplifying design registration procedures for users and WIPO Members across the spectrum of development, the continued delay in its adoption is unfortunate. We are hopeful that the Chair of the General Assembly will treat the DLT as a matter of priority and we look forward to participating in any informal discussions on this matter.

As regards the first of the well-known outstanding issues, we remain convinced that the inclusion of a disclosure requirement in the Treaty would work against our common aim of simplifying and harmonising current design registration procedures. Furthermore, regardless of all the complex and extensive negotiations in the WIPO IGC it is not appropriate for the DLT to contain such a requirement. In the light of ongoing discussions in the IGC, we invite the proponents to reconsider their proposal for a disclosure requirement in the DLT.

The EU and its Member States trust that the distinguished Chair of the General Assembly will find the right approach to handle the DLT issue and stand ready to participate actively and open mindedly in all discussions and consultations to find solutions to overcome the deadlock and lead us to the convening of a Diplomatic Conference.

5. Another area of the normative agenda where we would like to see progress is the Treaty on the Protection of Broadcasting Organizations, which continues to be discussed in the Standing Committee on Copyright and Related Rights (SCCR). The EU and its Member States continue to place great importance to these discussions and hold the view, that the result should be a meaningful and inclusive treaty, which efficiently responds to the current but also possible future needs of broadcasting organizations taking into account latest technologic developments.
6. The EU and its Member States recognise the unique importance of the work carried out by the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC).

In the first year of the biennium 2018/2019 the IGC held two thematic sessions dedicated to Genetic Resources, in accordance with its current mandate and adopted Work Program.

As regards substantive progress made on the topic of Genetic Resources under the current mandate, it is with disappointment that the EU and its Member states recall that a REV.2 document could not be produced that was considered acceptable for all IGC participants as a basis for future work on Genetic Resources. Against this background, we believe it was important to have discussions on possible recommendations to this General Assembly at the last IGC session. We are hopeful that the recommendations adopted by consensus have helped to maintain a constructive spirit of cooperation in the work of the committee. We support the text of the recommendations as submitted to the General Assembly. We look forward to listening to the report by the IGC Chair on recent progress made on the topic of GRs.

As regards further work in the second half of the current mandate of the IGC, we welcome that there was general support at the last IGC session for the REV.2 document as a basis for further work. We look forward to participating in the ad hoc Expert Group on TK/TCEs established at IGC 37, as well as in the next IGC session on the same topic.

7. Regarding the work of other WIPO Committees and Working Groups we would like to turn to the sessions of the Standing Committee on the Law of Patent (SCP) where we note with satisfaction the constructive and fact-based discussions which served to enhance mutual understanding of differences in the national patent systems as well as to provide ideas for cooperation. The agreement reached on future work of the Committee guarantees a seamless continuation of the work in the SCP. We hope that fact-finding and future discussions will help to analyse existing differences in the patent systems which pose obstacles for trade and development with the goal to eventually remove them at a later stage.
8. As regards the on-going work in relation to WIPO's Development Agenda in the CDIP, the EU and its Member States would like to reaffirm their support and commitment to the appropriate implementation of the recommendations of the Development Agenda and to express their appreciation for the amount of work already performed by the Committee as well as the wide range of activities carried out by WIPO and its staff in this regard. We also like to once more deposit our full support of the Sustainable Development Goals adopted by the UN Summit and to encourage WIPO to continue to support its member states especially in reaching the goals most relevant to the Organization's mandate by providing technical assistance and via capacity building projects addressing the needs of beneficiaries.
9. The EU and its Member States note with appreciation that significant progress has been achieved in the discussions in the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) in the period under review and that fruitful discussions have been held in all key areas of its work.
10. In closing the EU and its Member States like to reiterate our commitment to engage constructively and open mindedness in all discussions during these General Assemblies. We hope that the cooperative spirit shown in the deliberations in the Committees which helped to create a positive working atmosphere will also prevail in the days to come and help us to achieve progress and maintain the global relevance of WIPO in IP matters.

Thank you.

## **Report on the Standing Committee on Copyright and Related Rights (SCCR)**

### **Item 14**

(WO/GA/50/3)

Chairman,

1. The EU and its Member States would like to thank the Chairman of the Standing Committee on Copyright and Related Rights (SCCR) for his efforts in facilitating engagement and progress in the work of the Committee. We would like to also thank the WIPO Secretariat for all the preparatory work done over the course of the year.
2. The EU and its Member States continue to be an active participant in the discussions on the Treaty for the Protection of Broadcasting Organizations. In our view, this topic and discussions are of great importance and should ultimately result in a meaningful treaty which efficiently responds to the current but also future needs of broadcasting organizations. We thank the Chairman for further consolidating the document on definitions, object of protection, rights to be granted and other issues.
3. The EU and its Member States are supportive of the recommendation to the General Assembly on this topic. We would suggest that in order to ensure progress on this important and long-standing issue, a list of outstanding issues should be established, together with a clear plan on future work on the treaty in the SCCR. Hopefully, this will allow the Committee to progress towards consensus and maturity of the text that would lead us to the convening of a diplomatic conference in the future.

4. The European Union and its Member States remain furthermore committed to pursue fruitful discussions on exceptions and limitations. We congratulate the Chairman on the adoption of the action plans for the work under these respective agenda items. We are convinced that the action plans will serve as a good basis for deepening our understanding of challenges faced by libraries, archives museums as well as educational and research institutions and persons with other disabilities and serve as a useful tool and framework for future work. Our view is based on the understanding, as expressed consistently by the EU and its Member States, that the intention of the action plans is not to undertake any normative work. As the recent reports of this Committee will show, there is clearly no consensus to this end. A meaningful outcome of the work under these agenda items could therefore in our view be guidance to Member States regarding best practices, taking advantage also of the flexibility of the international copyright legal framework to adopt, maintain or update national exceptions that adequately respond to local needs and traditions.
5. The EU and its Member States would like to reiterate that some of the agenda items of the SCCR have by now been discussed for a substantial period of time without a tangible outcome, whereas at the same time there have been proposals to reflect upon the future agenda of the Committee. Against this background, the EU and its Member States, along with many other delegations, would be in favour of including the topic of the Author's Resale Right (droit de suite) on the permanent agenda of the SCCR. In any event, and when reflecting upon the future agenda, our view is that issues of common interest need to be identified in a concrete manner and the objective of our discussions agreed at the start so as to ensure the best chances for success.
6. During last year's General Assembly, we announced that two legislative proposals aiming at ensuring compliance of EU legislation with the obligations in the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.

We are pleased to inform you that these legislative proposals will become applicable as of 12 October of this year and for this reason the EU will formally deposit its instrument of accession to the Marrakesh Treaty with WIPO in the context of this General Assembly.

Thank you.

## **Report on the Standing Committee on the Law of Patents (SCP)**

### **Agenda Item 15**

(WO/GA/50/4)

Mr. Chairman,

1. I am speaking on behalf the European Union and its Member States. On the outset we would like to thank the Chair of the SCP for his very good and efficient chairing of the past two sessions. We also thank the secretariat for preparing the report for the General Assembly.
2. We note with appreciation that very constructive, realistic and objective deliberations have led to considerable progress in regard to all of the five topics, which have been discussed according to the mandate of the SCP. The sharing sessions proved to be a valuable tool which gave deeper insight by learning about the situation in various Member states.
3. Especially we like to emphasize the work on the quality of patents including opposition and nullity. Patents of high quality can guarantee the proper balance between the interest of inventors and innovative industry and those of other stakeholders. We will continue to contribute to this work, which consists inter alia of future work on the inventive step along the lines of the proposal made by Spain, and ensuring the quality of the patent grant process as set out in the proposal by the Czech Republic, Kenya, Mexico, Singapore and the United Kingdom. Apart from the mere technical quality of patents we continue to believe that the SCP should also serve as a venue for discussions about the existing differences of patent law systems and substantive patent law in the future.
4. With respect to patents and health, we welcome a fact-based discussion, notably in the area of increased transparency and facilitated licensing of health-related patents. Any further work in this area should be balanced and should take the various factors of relevance to patents and health into account. Such discussions however need to be limited to the mandate of the SCP and WIPO, and other factors of access to medicines than patent protection should be left to other more appropriate fora.

5. With interest we attended the sharing session on the confidentiality of communications between clients and their patent advisors and we are looking forward to continuing discussing this topic in the coming session. Also the information exchange regarding patent provisions supporting technology transfer have been of high interest for us.
6. Regarding the topic “exception to patent rights regarding acts for obtaining regulatory approval from authorities” we note with satisfaction that a very constructive discussion based on an excellent and objective document prepared by the secretariat took place.
7. While the European Union and its Member States regard all topics on the agenda as equally important, we would like to point at the special importance to enhance international cooperation and improving the technical knowledge on patentability requirements. Ensuring a more efficient, effective and higher quality patent system in all Member States is a valuable tool to remove trade obstacles in a more united world, and will contribute to economic prosperity.
8. Finally, we are very pleased that the Committee has been able to agree on a balanced program for future work.
9. Summarizing, the European Union and its Member States are looking forward to continuing our contributions to the work in the SPC and we hope it will bear even more results in the future.

Thank you, Mr. Chairman.

**Report on the Standing Committee on the Law of Trademarks, Industrial Designs and  
Geographical Indications (SCT)**

**Item 16**

(WO/GA/50/5)

Chair,

1. The EU and its Member States welcome the significant progress made by the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) during its last two sessions. We note with appreciation that the SCT has recently held fruitful discussions in all key areas of its work. We are hopeful that in the end, step-by-step progress in accordance with the committee's recently agreed work plan on geographical indications can also lead to clear and tangible results within the SCT mandate and framework that have a positive impact on stakeholders. We would like to reiterate that the SCT should not aim to interpret or revise provisions of the Lisbon Agreement or the Geneva Act. Any further revision of the Geneva Act is the exclusive prerogative of the Members of the Lisbon Union.
2. With regard to trademarks, the Committee has been discussing the protection of country names against registration and use as trademarks. At the 38<sup>th</sup> session of the SCT the EU and its Member States noted calls for further work on this issue and expressed openness to paving the way for greater transparency of national practices. In order to further explore the implications of diverging solutions currently in place and to mutually explain the various rationales, we proposed organising an information session dedicated to the protection of country names both in the physical and digital environment, including the domain name system. Following helpful contributions by other delegations, by the SCT Chair and by the Secretariat to define the focus of that information session on office practices, a fruitful exchange took place in the form of a moderated roundtable at the 39<sup>th</sup> SCT session. We also contributed to an initial discussion of a new compromise proposal by 12 countries, commending the spirit of consensus reflected in that proposal and seeking clarification as to its possible implementation and application in practice. We remain open to participate in continued discussions on this interesting proposal. We also noted that another new proposal was tabled shortly before the same SCT session and we look forward to providing our comments at the next session of the committee.

3. We appreciate the valuable updates regarding trademark-related aspects of the domain name system as well as trademarks and international non-proprietary names for pharmaceutical substances (INNs) that have been shared in the SCT.
4. In relation to industrial designs, the issue of the Design Law Treaty and the convening of a diplomatic conference thereof, has long been on the table but has reached a deadlock of a political nature. We reiterate our position that the DLT should not be discussed in the SCT. Rather, this General Assembly should decide on the convening of a diplomatic conference for the adoption of the Treaty on the basis of a draft text that can lead to consensus.
5. An issue discussed more successfully in the area of industrial designs has been Graphical User Interface, icon and type face/type font designs (GUIs). An information session was organised to general satisfaction at the 38<sup>th</sup> session of the SCT. We commented on a revised analysis of current practices prepared for that session and noted that there seem to be considerable differences in relation to additional or special requirements for the representation and eligible subject matter for protection of GUIs appearing temporarily. We also observed that jurisdictions do not demonstrate a uniform tendency as to the scope of protection of GUIs, in particular on whether protection is granted regardless of the product in question. Building on such work, the 39<sup>th</sup> session the SCT made another important achievement when it agreed on the focus of future work concerning GUIs. After looking into proposals for future work, the committee prioritised further work on the tie between the product and the design and on how that affects the scope of protection. As we strongly recommended a focus on GUIs which are already well-established and subject to design registration, we welcome that the SCT will now look closer into the requirement for a link between GUIs and the product and explore office practices on the representation of animated designs. We also noted with approval the decision that issues related to “new age” designs on the horizon could be tackled in a later stage.

6. As to geographical indications (GIs), the EU and its Member States welcomed that at its 38<sup>th</sup> session the SCT achieved consensus on a future work programme on Geographical Indications. We believe that the work programme emerged from a particularly constructive spirit shown by all delegations and was a significant milestone in the work of the committee. We actively contributed to the compilation of both Questionnaires on GIs and at the 39<sup>th</sup> SCT session we endeavoured, alongside other delegations, to help the Secretariat in its efforts to creatively merge the proposed list of questions to a manageable length. We commended that as a result of such efforts, the SCT succeeded in cutting down the number of questions significantly and tailored the questionnaire into a more transparent format. This was a leap forward and allowed the committee to follow through in accordance with its work plan within its mandate and framework. In preparation for the upcoming session of the SCT in November this year, the EU and its Member States have submitted responses to the majority of questions in both Questionnaires on GIs. We look forward to studying and discussing the document to be prepared by the Secretariat compiling the responses to both Questionnaires, for consideration by the SCT at its next session.
7. Highly appreciative of such positive tendencies, the EU and its Member States remain actively engaged in continuing work in all three key areas of the SCT.

Thank you.

**Matters concerning the convening of a Diplomatic Conference for the Adoption of a Design  
Law Treaty**

**Item 17**

(WO/GA/50/6)

Mr. Chairman,

1. The European Union and its Member States would like to thank the facilitator Ms. Maria Ines Rodriguez for her efforts.
2. Despite our willingness to engage in discussions on the facilitator's text, we have to note with regret that again this year, no positive decision to convene a diplomatic conference on the adoption of a Design Law Treaty could be achieved.
3. We have therefore lent our support to the decision that the General Assembly will continue to consider this item at its next session in 2019.

Thank you.

**Report on the Committee on Development and Intellectual Property (CDIP)**

**and Review of the Implementation of the Development Agenda Recommendations**

**Agenda Item 18**

(WO/GA/50/7)

Mr. Chairman,

1. In regard to the agenda item under consideration the EU and its Member States on the outset like to reiterate their continued commitment and support to the work carried out by the Committee on Development and Intellectual Property (CDIP) based on the mandate agreed in 2008 which inter alia request the Committee to develop a work program for the implementation of the 45 adopted Development Agenda Recommendations and to discuss IP- and development-related issues as agreed by the Committee or by the General Assembly - such as the UN Sustainable Development Goals (SDGs).
2. Referring to the Summaries of the Chair concerning the twentieth and twenty-first session of the CDIP which constitute the reports to this Assembly as well as to the Director General's Report on the Implementation of the Development Agenda in 2017 we note with appreciation that considerable further progress has been achieved to mainstream the Development Agenda and also the SDGs across all of WIPO's strategic goals. In particular we like to express our appreciation of the wide range of technical assistance and capacity building activities performed which were demand-driven and addressed to the specific needs of beneficiaries. In this regard we also like to highlight the important and ever-increasing role of the WIPO Academy in development activities since its establishment 20 years ago.
3. The EU and its Member States would like to once more deposit their commitment to achieve the UN Sustainable Development Goals and their conviction of the important role WIPO has played and should continue to play in supporting its Member States to reach the SDGs - especially focusing on the SDGs most relevant to the Organization's mandate and mission.

4. We look forward to the start of discussions under the new agenda item “Intellectual Property and Development”, notably on the topics “Women and Intellectual Property” and “IP and Development in the Digital environment” at the next two sessions of the CDIP.
5. In conclusion, we like to acknowledge the vast amount of work already performed as well as still in front of the CDIP and remain committed to contributing to further progress in all areas relevant to the Committee, bearing in mind the objective of WIPO, as set out in its establishing Convention, to promote the protection of intellectual property throughout the world through cooperation among States.

Thank you.

**Report on the Intergovernmental Committee on Intellectual Property and Genetic Resources,  
Traditional Knowledge and Folklore (IGC)**

**Item 19**

(WO/GA/50/8 Prov.)

Chair,

1. The EU and its Member States recognise the unique importance of the work carried out by the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC). We acknowledge and commend the commitment of IGC Chair Mr Ian Goss, IGC Vice-Chairs Mr Jukka Liedes and Mr Faizal Chery Sidharta, facilitators Mr Paul Kuruk and Ms Lilyclair Belamy and friend of the Chair Ms Margo Bagley, to promote progress in the IGC through their hard and excellent work. We would also like to thank the WIPO Secretariat, in particular Mr Wend Wendland and Ms Fei Jiao, for all their precious support in preparing and administering IGC sessions.
2. In the first year of the biennium 2018/2019 the IGC held two thematic sessions dedicated to Genetic Resources, in accordance with its current mandate and adopted Work Program. At IGC 35, the Chair introduced a changing methodology. For the first time and as pilot, small contact groups were established to discuss key issues. As expressly made possible in the IGC's Work Program, another new element in IGC methodology has been the establishment of an *ad hoc* Expert Group on Genetic Resources before IGC 36, followed by the establishment at the last IGC session of an *ad hoc* Expert Group on Traditional Knowledge and Traditional Cultural Expressions before the upcoming IGC 38. While recognising the potential of discussions in such smaller formats to bridge gaps, we reiterate that transparency and inclusiveness are key concerns for us. We also find it crucial that amidst best and good faith efforts to find compromise, revised texts do not lose touch with realistically achievable outcomes that can be supported by sound and factual consensus.

3. As regards substantive progress made on the topic of Genetic Resources under the current mandate, it is with disappointment that the EU and its Member states recall that a REV.2 document could not be produced that was considered acceptable for all IGC participants as a basis for future work on Genetic Resources. Against this background, we believe it was important to have discussions on possible recommendations to this General Assembly at the last IGC session. We are hopeful that the recommendations adopted by consensus have helped to maintain a constructive spirit of cooperation in the work of the committee. We thank the ICG Chair for his report on recent progress made on the topic of GRs.
4. As regards further work in the second half of the current mandate of the IGC, we are prepared to continue discussing Traditional Knowledge and Traditional Cultural Expressions with a focus on addressing unresolved and cross-cutting issues and considering options for a draft legal instrument(s). We welcomed that there was general support at the last IGC session for the REV.2 document as a basis for further work. We look forward to participating in the *ad hoc* Expert Group on TK/TCEs established at IGC 37, as well as in the next IGC session on the same topic.
5. Chair, the EU and its Member States appreciate that the current IGC mandate places the evidence based approach at the heart of its methodology. We look forward to using the various possibilities provided for in the mandate in that context. In particular, we recall that we have recently re-submitted slightly updated versions of two proposals for the IGC to consider. These are the proposal for a study relating to TK and the proposal for a study relating to TCEs. We remain convinced that such studies could contribute to ongoing discussions with practical examples and concrete national experiences relevant in the context of various outstanding issues where gaps remain to exist.
6. In view of all these considerations, the EU and its Member States remain engaged in continuing negotiations in the IGC on all three topics addressed by its mandate.

Thank you.

## **Report on the Advisory Committee on Enforcement (ACE)**

### **Agenda Item 20**

(WO/GA/50/9)

Chairman,

1. The European Union and its Member States welcome the important and useful discussions of the WIPO Advisory Committee on Enforcement. We strongly support the work of this Committee, which allows building common approach to stop IP infringements based on national and regional experiences.
2. During the thirteenth session of ACE in September we welcomed the well-balanced work programme for the Advisory Committee on Enforcement and recognised the value of best practice exchange enabled by introduction of the state-centric agenda point in the current work programme – thus complementing the past issue-centric discussions in a useful manner. We were pleased to discuss arrangements to address online IP infringements, and in particular, exchange experiences on working with intermediaries to tackle intellectual property rights infringement
3. The European Union and its Member States are confident that fruitful collaboration will continue between delegations in order to combat IPR infringements more effectively and to ensure that a fair balance is kept between incentives to innovate and access to innovation.
4. With regard to future work in the ACE, the EU and its Member States would welcome discussion, under the current work programme, on the measures that support SMEs in their efforts to combat counterfeiting and piracy.
5. The EU and its Member States believe that WIPO, as a multilateral hub for all IP related issues, has an important role to play in coordinating enforcement activities across the Member States to ensure the long-term integrity of global IP systems.

Thank you.

## **Closing Statement**

### **Agenda Item 30**

Chairman,

1. The European Union and its Member States would like to thank the Chair and Vice-Chairs of this General Assembly for their great efforts, as well as the Chairs, Vice-Chairs and facilitators of the Committees, the Director General, the Deputy Directors General and the Secretariat, for their untiring dedication and professionalism in reconciling the various different positions during these Assemblies. We would also like to thank the Secretariat for the preparation of documents and meetings, as well as the interpreters for their hard work and outstanding performance.
2. We note with appreciation that the efforts of Mr. Daren TANG as facilitator in the Informals of the Broadcasting Treaty have led to the positive decision of the General Assembly to direct the SCCR to make best efforts to achieve consensus on the remaining outstanding issues in future meetings of the Committee. We would like to reiterate our continued commitment and great interest in these discussions and remain hopeful, that they will result in a meaningful and inclusive treaty, efficiently responding to both, the current and also possible future needs of broadcasting organisations.
3. With regard to agenda item 17 we would like to thank the facilitator Ms. Maria Ines Rodriguez for her efforts. Nevertheless we have to note with regret that again this year, no positive decision to convene a diplomatic conference on the adoption of a Design Law Treaty could be achieved and that the matter remains on the agenda for the General Assembly in 2019.
4. Turning to the GA decision in regard to future work of the IGC we very much welcome that the GA positively considered the recommendations agreed by consensus in the Committee, which call upon the IGC to expedite its work in accordance with its mandate for the biennium 2018/2019. The EU and its Member States will remain engaged in continuing discussions on all 3 topics addressed by the IGC's mandate.

5. In closing the EU and its Member States would like to reiterate our continued high commitment to WIPO's goals and work and to express the hope that the cooperative spirit shown in all WIPO Bodies and Committees will prevail and help to find constructive solutions also to topics which could not be positively finalized at this meeting.
  6. Thank you.
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