



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from:	General Secretariat
to:	Delegations
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Subject:	28th Session of the WIPO Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) (Geneva, 10 - 14 December 2012) - Final statements made by the EU and its Member States

Delegations will find in the Annex, for information, the final statements made by the EU and its Member States at the above mentioned WIPO meeting.

SCT 28 (December10-14)

EU opening statement

On behalf of the European Union and its Member States, this delegation would like to convey to you our sincere gratitude for your continued chairmanship of this Committee. We further wish to thank the WIPO Secretariat for its excellent work in preparing working documents for this meeting and, in particular, for the working documents SCT/28/2 and SCT/28/3 on industrial design law and practice - draft articles and draft regulations. We would further like to thank the Secretariat for preparing document SCT/28/4, the Overview of Provisions Regarding Technical Assistance and Capacity Building in Treaties administered by WIPO.

The EU and its MS look forward to an efficient and productive session this week. The focus of our discussions on the draft Design Law Treaty should allow us to make good progress along the roadmap adopted by the General Assembly with a view to bringing this matter in 2013 to a Diplomatic Conference. The EU and its MS stand ready to discuss in an open and constructive manner how to include appropriate provisions regarding technical assistance and capacity-building for developing countries and LDCs in the implementation of the future Design Law Treaty.

We are confident M. Chair that under your wise guidance we'll make substantial progress this week. I thank you.

SCT 28 (December 10-14, 2012)
EU statement on the impact study (item 4)

The EU and its MS could agree as a compromise to extend the deadline for answers to the questionnaire and to have the secretariat reflect these additional answers in the current study, with the understanding that the questionnaire, the ToRs and the structure of the study would not be modified. We can also accept to have the secretariat prepare a separate document on the relationship between the Hague system and the DLT for information in view of the next session.

It is our understanding that this would be without prejudice to the work on draft articles and regulations of the future treaty and should not delay the perspective of concluding the DLT. We also note that this practice of re-opening a study should remain exceptional.

**EU intervention on the African group proposal on technical assistance
(item 4)**

We thank the African group for its suggested provisions on technical assistance. The EU and its MS would like to note that some of the provisions therein go beyond the scope of the future treaty on formalities specifically Article A and Article E. Also, some of the proposed provisions go beyond the existing practice and precedents, by setting up a compulsory system of Technical Assistance not fully in line with demand-driven technical assistance as per Cluster A of the Development Agenda. Also, no linkage is made with the effective implementation of the treaty, a link which is clearly enunciated in the decision of the General Assembly.

The EU and its MS reiterate their preference to work on the basis of a draft resolution in line with the existing precedents for this kind of treaty. We think such TA should be sought by those MS who have already adhered to the treaty so as to allow them to properly implement it and benefit from it. The Assembly, as provided for in Article 22, could review at regular intervals this TA and agreements could be passed to provide and finance this TA.

**STANDING COMMITTEE ON THE LAW OF TRADEMARKS, INDUSTRIAL DESIGNS
AND GEOGRAPHICAL INDICATIONS**

**28th Session
(Geneva, December 10-14th, 2012)**

**Draft Statement by the EU and its Member States on
Industrial Design Law and Practice – Overview of Technical Assistance and Capacity
Building Provisions in WIPO-administered treaties (SCT/28/4),**

Mr. Chairman,

1. On behalf of the European Union and its Member States, we would like to thank the Secretariat for preparing document SCT/28/4, the Overview of Technical Assistance and Capacity Building Provisions in WIPO administered treaties.
2. The EU and its Member States fully respect and acknowledge the needs of developing, and least developed countries with respect to Technical Assistance in implementing a future Design Law Formalities treaty, such that users of the global designs system might benefit no matter where they are located. The EU and its MS have a long tradition of providing comprehensive Technical Assistance to and cooperating with DCs and LDCs in relation to IP rights.
3. In addressing Technical Assistance this Committee should build upon best practice, and lessons learnt from the implementation of technical assistance measures in other areas of WIPO's work. We should also take into account Cluster A of the Development Agenda which recommends that WIPO Technical Assistance be demand-driven; in this regard design delivery mechanisms and evaluation processes of technical assistance programs should be country specific. Last but not least, we should ensure that technical assistance is focused and relevant to the implementation of the Treaty. We note that much of what would be needed to implement a future treaty is already present in existing design registration systems.

4. The EU and its MS see some merit in the precedent of the Resolution supplementary to the Singapore Treaty as described in document SCT/28/4. The subject matter of the draft Design Law Formalities Treaty is very close in nature to the Singapore Treaty on the Law of Trademarks, so that it would make sense to draw inspiration from this precedent.
5. Regarding the content of such a Resolution the EU and its Member states would suggest that:
- (i) The beneficiaries should be those developing countries who have signed or ratified this treaty, while the providers should be WIPO and the contracting parties to the treaty.
 - (ii) In line with the decision taken at the 2012 GA, the technical assistance should aim at an effective implementation of the treaty and enabling DCs and LDCs to fully benefit from it.
 - (iii) The technical assistance should be at the request of the beneficiary countries and take into account their level of technological and economic development.
 - (iv) The technical assistance should be funded through agreements of WIPO with international financing organizations, and intergovernmental organizations, particularly the United Nations, and the Specialized Agencies connected with the United Nations concerned with technical assistance, in addition to the Governments of the States receiving the technical assistance.
 - (v) The Assembly of the Treaty could review at regular intervals such technical assistance.
6. The EU and its MS have tabled a draft resolution supplementing the treaty, containing these elements that could serve as a basis for our discussions.

Thank you

**STANDING COMMITTEE ON THE LAW OF TRADEMARKS, INDUSTRIAL DESIGNS
AND GEOGRAPHICAL INDICATIONS**

28th Session

(Geneva, December 10-14th, 2012)

**Statement by the EU and its Member States on
Industrial Design Law and Practice - Draft Articles (SCT/28/2),
Industrial Design Law and Practice – Draft Regulations (SCT/28/3)**

Mr. Chairman,

1. The European Union and its Member States would like to reiterate that they recognise and stress the great importance and added value of harmonising and simplifying design registration formalities and procedures. We appreciate the substantial and valuable work of the Committee in addressing these issues. It would be a further accomplishment of this Committee to build on the promising work of the last six years and add another achievement to its record. For these reasons, the European Union and its Member States reiterate their support in bringing this matter in 2013 to a Diplomatic Conference. Whilst not committing delegations to the provisions of a treaty until they are ready and able, such a step will send a positive message of intent to the users of all of the design registration systems.
2. With regards working documents SCT/28/2 and SCT/28/3, The European Union and its Member States wish to express its support: we consider these new documents to represent a further promising step in the right direction. We recognise that these draft provisions not only adequately respond to the ultimate goal of approximating and simplifying industrial design formalities and procedures, but are also appropriate to establishing a dynamic and flexible framework for the subsequent development of design law able to keep up with future technological, socio-economic and cultural changes.

3. The European Union and its Member States look forward to advancing discussions on the draft articles and draft regulations in the constructive spirit that characterised the preceding sessions of this Committee, and are hopeful that this Committee during this week will be able to reach consensus on convening a diplomatic conference for the adoption of a treaty on industrial design registration formalities and procedures in 2013.

Thank you Mr. Chairman.
