



**COUNCIL OF
THE EUROPEAN UNION**

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PI 110

NOTE

from: General Secretariat
to: Delegations

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Subject: 27th Session of the WIPO Standing Committee on the Law of Trademarks,
Industrial Designs and Geographical Indications (SCT)
(Geneva, 18 - 21 September 2012)
- Final statements by the European Union and its Member States

Delegations will find in the Annex, for information, the statements made at the above-mentioned WIPO meeting on behalf of the European Union and its Member States.

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

27th Session

(Geneva, September 18 to 21, 2012)

EU Statement on Industrial Design Law and Practice

Mr. Chairman,

1. The EU and its MS do not see much merit in «keeping open» the study for it means delaying further the perspective of concluding our work on the Treaty on Industrial design registration formalities and procedures. The EU and its MS have observed the discussions on the draft Articles and Regulation with interest. We believe that the text is very close to agreement, but without a specific impetus we will not make progress.
2. As stated earlier in this week, we look forward to convening in the near future a Diplomatic Conference to adopt this Treaty. We therefore would like this session to set a clear timetable for this Committee's future work on industrial designs.

Thank you, Mr Chairman.

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

27th Session (Geneva, September 18 to 21, 2012)

Statement by the EU and its Member States on

Industrial Design Law and Practice - Draft Articles (SCT/27/2),

Industrial Design Law and Practice – Draft Regulations (SCT/27/3),

Study on the Potential Impact of the Work of the SCT on Industrial Design Law and Practice

(SCT/27/4)

Mr. Chairman,

1. On behalf of the European Union and its Member States, this delegation would like to convey to you our sincere congratulations on your election and that of the Vice Chair. 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/27/2 and SCT/27/3 on industrial design law and practice - draft articles and draft regulations. We would further like to thank the Secretariat and WIPO Chief Economist, for the excellent work in preparing document SCT/27/4, the study on the potential impact of the draft Rules and Articles.
2. 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 to a Diplomatic Conference in the near future. 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.

3. With regards working documents SCT/27/2 and SCT/27/3, 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.

4. The European Union and its Member States wish also to express its support for document SCT/27/4, the study on the potential impact of the draft Rules and Articles. We believe this study clearly addresses the questions set out in its terms of reference and demonstrates the positive benefits respondents, from all countries, believed the changes proposed in the draft Articles and Regulations would bring. It is of particular note that:
 - Applicants in all countries considered that almost all of the proposed changes would bring benefits in terms of "ease of registering", "time to register", and "cost of registering" [Annex II].
 - IP Offices in all countries, but particularly those in middle and low income countries expected a design law formalities treaty to bring improvements in terms of "level of innovation" and the "use of IP" [see A3, Annex I]; furthermore,

The study suggests that a Design Law Formalities Treaty is something which would be in everybody's interest, and an area where we can work together to quickly agree. The study also shows that there are considerable flexibilities for Parties when implementing the Treaty.

5. 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 will be able to reach consensus on the idea of convening a diplomatic conference for the adoption of a treaty on industrial design registration formalities and procedures in the near future.

Thank you Mr. Chairman.

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

27th Session

(Geneva, September 18 to 21, 2012)

Statement by the EU and its Member States on

**Proposal by the delegations of Jamaica and Barbados, SCT/27/6, and the proposal by the
delegation of Jamaica, SCT/27/7**

(Proposal by Jamaica on the Protection of Country Names)

Mr. Chairman,

1. On behalf of the EU and its Member States, we wish to thank the delegations of Jamaica and Barbados for their proposals concerning future work on the protection of Names of States.
2. The EU and its Member States take note of the interest of Jamaica in continuing work in this area and carrying out a study into the current legislative provisions and practices, in national or regional legislations, relating to the protection and use of Names of States, as well the experience and best practices related to the implementation of such provisions.
3. We have reviewed the report by the delegation of Jamaica on its national branding initiatives, as summarized in document SCT/27/5, the three phase proposal for a work program set out in document SCT/27/6 and the details of phase one of that work program set out in SCT/27/7. We have reservations about the scope, cost, and feasibility, of the proposed work program, for example:
 - a) Phase 1, part 1, of the proposal involves an empirical review of legitimate and illegitimate use of country names. It is unclear what is meant by "legitimate" and "illegitimate" use, and by what specific criteria this should be judged and by whom.

- b) Phase 1, part 1, of the proposal also involves a search of each SCT Member State's trade mark registry for the names of all the other SCT Member States, and analysis of the trade marks found. Such an undertaking would involve the identification and analysis of a great many marks, and it is not clear how much it might cost.
 - c) Phase 1, part 2, of the proposal involves a study into the current legislative provisions and practices in national or regional legislations, including any existing or impending legislations, judicial decisions, and judicial reviews. This would seem extremely wide ranging task, and it is not clear what resources might be entailed in carrying it out.
4. Accordingly, the EU and its MS are unable to support work on the protection of Names of States in the form set out in the proposals by the delegation of Jamaica and Barbados. We would like to recall that this item has been on the Committee's agenda since 2009. Over the years a great amount of work has been conducted by the Committee on the subject and several documents have been prepared by the Secretariat, as summarized in document SCT/27/5. In spite of all these efforts we still have no indication that names of states are not being respected and protected by national offices when registering new trademarks. However we recognize the great importance attached to the issue of names of states by the delegations of Jamaica and Barbados, and in this spirit we are prepared to discuss further.
5. Finally, we reiterate that the EU and its Member States believe that this committee should presently focus its efforts on finalising its work in the area of industrial designs with a view of convening a Diplomatic Conference for the adoption of a treaty on industrial design registration formalities and procedures in the near future.

Thank you Mr. Chairman.