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NOTE

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Subject: Assemblies of the Member States of WIPO, 50th Series of Meetings
(Geneva, 1 October - 9 October 2012)
- Final statements 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 50th Assemblies of the Member States of WIPO.

Assemblies of the Member States of WIPO

50th Series of Meetings

Geneva, 1 October to 9 October 2012

Opening Statement (Item 5)

Mr Chairman,

On behalf of the European Union and its Member States, we would like to thank you and the two Vice-Chairs for your continued efforts and dedication. We also thank the WIPO Secretariat for their work and diligence in preparing the numerous comprehensive documents for these Assemblies and for their efforts made throughout the year. Additional thanks and gratitude are due, for the successful Diplomatic Conference establishing a treaty on Audiovisual Performance Protection, the Beijing Treaty on Audiovisual Performances, to both the Director General and Secretariat, and also to China for its excellent hosting which enabled an excellent result.

The European Union and its Member States attach great importance to the creation, maintenance and improvement of a balanced and effective international IP system. IP is key to enabling sustainable innovation, creativity, growth and jobs, as well as creating a secure environment for investment in scientific and industrial research and for fostering innovative products and services. WIPO needs to concentrate on the delivery of such an IP system.

For these reasons, we reiterate our support for WIPO in its mission to promote innovation and creativity for the economic, social and cultural development of all countries through a balanced and effective international IP system. We would like to assure Member States and WIPO of our continuing support for the pursuance of WIPO's global goals and look forward to making progress on all of the issues on the agenda.

As regards the on-going work on WIPO's Development Agenda, the European Union and its Member States would like to reaffirm their support and commitment to the appropriate implementation of the recommendations of the Development Agenda. However, we have some concerns regarding the overloaded agenda, and the sheer number of technical assistance and other projects currently being undertaken in the Committee on Development and IP. Quantity does not equal quality. We hope that future meetings of the CDIP will include a period of collective reflection and evaluation of the current situation, with the aim of ensuring that WIPO's development activities are conducted on the basis of transparency, good governance, and best practice.

The European Union and its Member States are encouraged by the progress made by the SCCR in the negotiations on an international instrument on limitations and exceptions for the benefit of persons with a visual impairment and are committed to finalise the work on this matter. We attach great importance to the negotiations relating to the protection of Broadcasting Organizations and are encouraged by the latest progress in our discussions. Finally we will continue to engage constructively on the discussions on other limitations and exceptions where our clear aim is to foster an exchange of ideas and principles that all WIPO Member States could take into account when implementing limitations and exceptions in their national legislation. The European Union and its Member States would like to highlight at this point the need to start our reflection as to the SCCR work plan for 2013 – 2014. There are a number of issues we believe are of importance for all where WIPO could play a leading role.

On the subject of the proceedings of the Standing Committee on Trademarks, Industrial Designs and Geographical Indications, the European Union and its Member States welcome the advancement of the work on the draft provisions on industrial design law and practice harmonising and simplifying design registration formalities and procedures. We believe that sufficient time for reflection and discussion has elapsed, and great progress has been made. While minor issues remain outstanding, it is clear that only with the impetus of timetable will they be resolved. We therefore believe that it is feasible and desirable to convene a diplomatic conference for the adoption of a design law treaty in the 2012-2013 biennium. We acknowledge the linked requests from developing and least developed countries for technical assistance and assistance with capacity building to enable its implementation. We look forward to receiving specific proposals so as to enable a constructive dialogue.

The European Union and its Member States recognise the importance of the work carried out by the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. We express our satisfaction with the progress of work made during the last three sessions of the Committee. Experts from the European Union and its Member States made concrete suggestions and comments on the proposed texts during these meetings. The European Union and its Member States remain committed to continuing the negotiations on TCEs, TK and GRs within the current mandate of this Committee with the understanding that any international instrument or instruments agreed upon should be flexible, sufficiently clear and non-binding. Accordingly, we look forward to establishing a reasonable and pragmatic work program for the next year.

The European Union and its Member States are disappointed with the result of the 18th session of the SCP, held May of this year. Unfortunately, it is not clear that the planned 19th session of the SCP in December will have a different result from that of the 18th session. Accordingly, and with considerable regret, the European Union and its Member States would like to suggest that the 19th session of the SCP be postponed pending the result of informal consultations to establish a route forward. We are hopeful that this will prove successful. The European Union and its Member States remain committed to further international harmonization of patent law through the work of this Committee.

As regards proceedings of the Patent Cooperation Treaty (PCT) Working Group, the European Union and its Member States welcome the outcomes of the fifth session of the PCT Working Group, and hope that these can be built upon to further improve and streamline the procedure under, and operation of, the PCT system. We continue to believe that the emphasis of the Working Group should be directed towards enabling the PCT system to function more effectively, so that it can deliver results which meet the needs of applicants, Offices and third parties in all Contracting States, within the existing legal framework of the Treaty provisions and without limiting the freedom of Contracting States to prescribe, interpret and apply substantive conditions of patentability. The European Union and its Member States wish to emphasize their strong support for the valuable work of the PCT Working Group in these efforts to improve the PCT system and are convinced that all its users will benefit from high quality of international work.

The European Union and its Member States place great value on the work of the WIPO Advisory Committee on Enforcement and therefore we look forward to the eighth session of the Committee. Intensified efforts of the Committee to build a shared understanding of the effects and impact of IPR infringements will enable Member States to adopt effective prevention and enforcement strategies. In view of the extent and scale of counterfeiting and piracy in the world, it should be possible in the Committee to have fruitful exchanges of information and views between delegations so as to combat more effectively this phenomenon which concerns us all.

Finally the EU and its Member States support Group B's suggestion to better inform and involve business on the work WIPO does. We would be pleased to participate in further discussion of the detail, on the format for such involvement.

Mr Chairman, the European Union and its Member States are convinced that we can achieve positive and balanced results concerning all issues during these Assemblies and call upon all WIPO Member States to approach this meeting with a similar positive attitude.

Thank you, Mr Chairman

Item 24

Report on the outcome of the Diplomatic Conference on the protection of Audiovisual Performances

Mr Chairman,

The European Union and its Member States commend the agreement achieved during the Diplomatic Conference on the Beijing Treaty on the Protection of Audiovisual Performances.

We would like to thank again the People's Republic of China for its hospitality and for its very efficient organisation of the diplomatic conference, as well as WIPO Member States for their hard and constructive work. Our gratitude also goes to the Director General Mr Francis Gurry and to the WIPO secretariat for their tireless efforts before and during the diplomatic conference.

The Beijing Treaty is a very important step with regard to the international copyright framework. More than fifteen years after the 1996 Internet Treaties it closes a gap in the international protection of copyright by finally recognising the valuable contribution played by actors, dancers and other performers around the globe.

Now that we finally have the Treaty, we should not forget that a final step is needed before audiovisual performers can finally start reaping its long waited benefits: the completion of the ratification processes required for the Treaty to enter into force. The European Union and its Member States look forward to engaging in this process in a smooth and timely manner and encourage all WIPO members, in the respect of their national procedures, to do likewise.

Item 25

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

Mr Chairman,

Development is one of the most important challenges facing the International Community and Intellectual Property plays an important role in this context, facilitating innovation, growth and jobs. The European Union and its Member States continue to be committed to further progress in this field in order to implement the recommendations of the Development Agenda in an appropriate, and consensus-driven, manner. We would like to thank the WIPO Secretariat for its valuable contribution to the work of the Committee.

However, the CDIP currently faces an overloaded agenda and proceeds in an ad-hoc fashion at a time when WIPO's technical assistance activities are criticised on the same basis. The EU and its Member States have concerns regarding the sheer number of technical assistance and other projects currently being undertaken in the CDIP. Quantity does not equal quality. We therefore hope that future meetings of the CDIP will include a period of collective reflection and evaluation of the current situation, with the aim of ensuring that WIPO's development activities are conducted on the basis of transparency, good governance, and best practice.

Finally, we will continue to carry out this work in a positive and constructive manner.

Thank you very much for your attention

Item 26

Report on the work of the Standing Committee on Copyright and Related Rights (SCCR)

Mr Chairman,

The European Union and its Member States would like to thank the Chairman and WIPO Secretariat for their efforts over the past year in trying to move forward all the issues being dealt with in the Standing Committee on Copyright and Related Rights (SCCR).

The issues on the agenda of this series of meetings are important to the European Union and its Member States and we do look forward to making progress on all of them.

The European Union and its Member States have been actively involved in the discussions on a possible international instrument on exceptions and limitations for the visually impaired during the past two sessions of the SCCR and at the intersessional work that took place during the first part of this year. We believe considerable progress was made and remain committed to successfully concluding the negotiations on this matter. Our objective is clear; we want to ensure that visually impaired persons anywhere in the world have significantly improved access to books. We believe this goal is common for all WIPO Member States. In order to reach it we all have to stay on course and target the specific problems we have set ourselves to address. In that respect it would be regretful if attempts to widen the scope of the current discussions would endanger the swift and successful achievement of our objective: a meaningful, effective and balanced instrument that can be endorsed by and implemented in all WIPO Member States.

Concerning limitations and exceptions in favour of libraries, archives, educational and research institutions, the European Union and its Member States believe that the current international copyright framework enables Member States of WIPO to grant these institutions sufficient legal space to fulfil their roles both in the analogue and digital world. Therefore, the European Union and its Member States are ready to work with all WIPO Member States so that these limitations and exceptions function in the best possible way in the framework of the existing international treaties and conventions.

The European Union and its Member States have been actively involved in the discussions on the possible treaty for the protection of broadcasting organisations. As this treaty remains a high priority for us we welcome the progress made at the SCCR held in July 2012 and look forward to continuing the discussions on the possible treaty in the future Committee meetings. We are committed to work towards a treaty that would update the international protection granted to broadcasting organisations, and which, at the same time, would respect the rights of right holders in works and other protected subject matter carried by broadcast signals.

Mr Chairman, the European Union and its Member States remain committed to contributing to the work of the SCCR in a constructive manner.

Thank you very much for your attention.

Item 27

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

Mr Chairman,

The European Union and its Member States recognize the importance of the work carried out by the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC).

We welcome the steps made by this Committee along the path to completing the mandate adopted by the General Assembly in 2011. We would like to extend our words of gratitude and recognition to the facilitators through whose efforts the number of options and objectives has been reduced. We have made good progress on traditional cultural expressions, traditional knowledge, and genetic resources, and look forward to completing the mandate set by the General Assembly in 2011.

We would however like to reiterate our understanding that such an international instrument or instruments to be created should be flexible, sufficiently clear and non-binding. In this respect, we would like to remind Members that no decision has been reached on the nature of the instruments to be adopted. Once the IGC achieves solid, clear and consolidated texts, and only then, it will have to decide on the nature of the contemplated instruments.

As the work undertaken by the IGC is far from being mature, we regret that no discussion on future work could be held in advance of this General Assembly. We thank the IGC Chair for efficiently conducting informal consultations on the margin of this meeting to allow the elaboration of a work program for 2013, in the framework of the current IGC mandate.

The EU and its MS can go along with this proposed work program. For obvious financial reasons and also bearing in mind the necessity to more efficiently manage WIPO meetings, we would prefer to avoid in the future agreeing to extended sessions of work. As a compromise and also in view of having sufficient time to take stock of the substantive discussions of the committee and discuss future work, we can agree to having an extension of three days for the session planned in July 2013. It is our understanding that there would be a general endeavour to wrap up in 2 days and that one day at least should be dedicated to discuss future work.

The European Union and its Member States remain committed to contributing constructively to the work of the IGC, in order to reach the goals set under its mandate.

Thank you very much for your attention.

Item 28(i)
Standing Committee on the Law of Patents (SCP)

Mr Chairman,

The European Union and its Member States are disappointed with the result of the 18th session of the SCP, held in May of this year.

During SCP 18 the European Union and its Member States showed great commitment, and participated actively in discussions of the topics established within the balanced work program, namely “Quality of Patents, including Opposition Systems”, “Client-Patent Attorney Privilege”, “Exceptions and Limitations to Patent Rights”, “Transfer of Technology”, and “Patents and Public Health”. The EU and its Member States also participated actively, not just in the substance of discussions, but in consultations on future work, and tried hard, showing flexibility, to move forward with a balanced work program. The failure of the SCP to agree future work, is therefore disappointing to the EU and its Member States.

Unfortunately, it is not clear that the planned 19th session of the SCP in December will have a different result from that of the 18th session. Accordingly, and with considerable regret, the European Union and its Member States would like to suggest that the 19th session of the SCP be postponed until the first half of 2013 to allow informal discussions to establish a way forward. We are hopeful that this will prove successful.

The European Union and its Member States remain committed to further international harmonization of patent law through the work of this Committee.

Thank you very much for your attention.

Item 28(ii)
**Standing Committee on the Law of Trademarks, Industrial Designs
and Geographical Indications (SCT)**

Mr Chairman,

The European Union and its Member States would like first of all to reaffirm their strong commitment to the important work of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT).

The European Union and its Member States would like, in particular, 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, and the recent WIPO study which suggested that such a course of action would be of benefit to offices and applicants in member states spanning the spectrum of development.

Accordingly, 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. We therefore believe that it is feasible and desirable to convene a diplomatic conference for the adoption of a design law treaty in the 2012-2013 biennium. We acknowledge the linked requests from developing and least developed countries for technical assistance and capacity building to enable its implementation. We look forward to receiving specific proposals so as to enable a constructive dialogue.

We would like to support the proposal just made by CEBS inviting the GA to recommend to the DG the convening of a Diplomatic Conference on the Design Law Treaty in the 4th quarter of 2013, as well as the steps to be taken in preparation for that conference.

Thank you.

Item 28(iv)

Advisory Committee on Enforcement (ACE)

Mr Chairman,

The European Union and its Member States would like to thank the WIPO Secretariat for preparing and producing various documents for the eighth session of the Advisory Committee on Enforcement (ACE) and for its extensive activities of technical and legal assistance over the past year.

Sustained creativity, inventiveness, creation and innovation are of crucial importance to the economic well-being of every country. Intellectual property rights (IPRs) are key business assets, for companies in developed and developing countries alike. They help to ensure that innovators and creators everywhere are incentivised to invest and create, and as such it is important that effective measures are in place to protect these rights. In this context the regulation on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with certain tasks related to the protection of intellectual property rights, including the assembling of public and private sector representatives as a European Observatory on IPR infringements was adopted in April 2012. In the European Union this Observatory will serve as a platform to exchange experiences and information and to share best practices on enforcement.

It is widely recognised that organised infringements of intellectual property rights, in particular counterfeiting and piracy, have become a serious threat to many business sectors, to consumers and governments all over the world and is now a global phenomenon. Making use of legitimate developments in communication, technology, and transportation, counterfeiters and pirates use intricate supply chains to manufacture, distribute, and sell fake and counterfeited goods throughout the world. In doing so, they deprive creators of their appropriate rewards, undermine competitiveness, threaten the health and safety of consumers, destroy jobs and block much needed revenue to public finances.

There is an urgent need to support the enforcement of intellectual property rights through better statistics and exchange of information about the scope, scale, and impact of counterfeiting and piracy. We need to improve cooperation through more effective cross border exchanges of information, best practices in enforcement, and capacity building, where strengthening of mechanisms is needed, and to raise public awareness about the growing risks to health and safety.

The European Union and its Member States place great value on the work of the WIPO Advisory Committee on Enforcement and therefore, urge the Committee to intensify its efforts to build a shared understanding of the effects and impact of IPR infringements, so that effective prevention and enforcement strategies can be adopted.

Thank you very much for your attention.
