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Subject: 56th series of Assemblies of the Member States of WIPO
(Geneva, 3 to 11 October 2016)
- Final EU/Member States' statements

Delegations will find in the Annex, for information, the EU/Member States' statements as delivered at the above mentioned WIPO meeting.

General/ Opening Statement
(Item 5)

Chairman,

The Slovak republic has the honour to deliver the Opening Statement on behalf of the European Union and its Member States.

At the outset, the EU and its Member States would like to thank Ambassador Duque from Colombia for all the work he has done as the Chair of the General Assemblies. His chairmanship and leadership allowed the organisation to make progress on a number of files, in particular on external offices where agreement was reached on guiding principles. Ambassador Duque also oversaw an agreement on a new mandate for the Intergovernmental Committee on Intellectual property and Genetic Resources, Traditional Knowledge and Folklore, much to his credit.

We would like to welcome ambassador Karklins of Latvia as acting chair of the General Assemblies. Ambassador Karklins has a vast experience working in multilateral organisations, and we are confident that with his leadership and experience these Assemblies will be a success. We also welcome the vice chairs.

We would like to thank the WIPO secretariat for preparing the broad range of documents that will be discussed in the following days.

In line with the 2015 General Assembly decision to finalize the basic proposal for the Design Law Treaty, the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) discussed the issue of disclosure requirement as proposed in article 3 of the Design Law Treaty. Although we would like to commend the Chair of the SCT for his tireless efforts and textual proposals, we note with regret that we were not able to conclude these discussions.

The EU and its Member States would like to stress once again that the aim of the Design law Treaty is to simplify and harmonize current design procedures that are used in practice. The text is largely finalized. We remain unconvinced that the proposal on disclosure requirement is relevant for industrial design, and that this proposal assists in aligning and simplifying registration procedures. We would encourage efforts towards finding a compromise during these Assemblies in deciding whether to convene a diplomatic conference for the adoption of a Design Law Treaty at the end of the first half of 2017. If agreement can't be reached, we see no need for further discussions on this topic in the framework of the SCT.

The EU and its Member States welcome that the 24th session of the Standing Committee on Patents (SCP) agreed on future work. The SCP addresses five topics, which reflect regional interests and priorities. Maintaining this delicate balance is of the utmost importance.

As far as the work of the Standing Committee on Copyright and related Rights (SCCR) is concerned, the EU and its Member States reiterate their commitment to progressing towards the conclusion of a treaty on the protection of broadcasting organisations. We look forward to the further engagement by the Committee in order to create the conditions that will lead us towards a successful outcome.

The first two meetings under the new mandate of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) focused on Genetic Resources, and recently we held the first of two meetings in relation to Traditional Knowledge. The EU and its Member States contributed constructively to these sessions, and we are looking forward to the upcoming meeting and seminar on Traditional Knowledge.

The EU and its Member States attach the utmost importance to an effective development and promotion of all areas of Intellectual Property, including Geographical Indications. In particular, the EU and its Member States stress the importance that the Lisbon Union be placed on an equal footing with all other Unions administrated by WIPO.

Thank you.

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

(Item 11)

WO/GA/48/3

Chairman,

The EU and its Member States express their gratitude to the Chairman of the Standing Committee on Copyright and Related Rights (SCCR) for his dedication in facilitating positive engagement and progress in the work of the Committee. We would like to thank the WIPO Secretariat for all the preparatory work done over the course of the year.

We also congratulate Madame Sylvie Forbin on her appointment to the position of Deputy Director General and very much look forward to working with her.

The EU and its Member States have been actively involved in the discussions on the treaty for the protection of broadcasting organisations. These discussions are of great importance to us and we believe that they should ultimately respond to the current and future needs of broadcasting organisations. During the last two Committee meetings, we discussed complex matters that require technical insight. In this regard, we thank the Chairman for preparing the texts on definitions, object of protection and rights to be granted.

We look forward to the further engagement by the Committee in order to create the conditions that will lead us towards a successful outcome. We also hope that, to that aim, a roadmap can be established that leads us to the convening of a diplomatic conference as soon as practically possible. We would expect the General Assembly's decision under this item to reflect this position.

The EU and its Member States continue to be ready to discuss limitations and exceptions for libraries and archives, as well as educational, teaching and research institutions and persons with other disabilities.

In this context, we would also like to reemphasise that we believe that the current international copyright framework already empowers WIPO Member States to introduce, maintain and update limitations and exceptions that can meaningfully respond to their local needs and traditions, while continuing to ensure that copyright is an incentive and a reward to creativity.

We therefore still believe that discussions would be most useful if they focused on how limitations and exceptions can function in the best possible way in the framework of the existing international treaties and our proposed approach remains one where WIPO Member States take responsibility for their own legal frameworks, supported by an exchange of ideas, guidelines and best practices. Work in the Committee should not be dedicated to the normative track with the aim of arriving at a legally binding instrument. Such an outcome is not warranted by the evidence and would not meet with consensus in the Committee.

The EU and its Member States furthermore take note 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. In that context we would in particular support calls from other WIPO members to include the resale right on the agenda of the Committee. In any event, and when reflecting upon this 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 of success.

The European Union continues its work to ensure we have a modern and balanced set of copyright rules in the context of the Digital Single Market. After the legislative steps taken in the last few years in the area of orphan works, collective rights management and the cross border portability of content services, the European Commission adopted on the 14th of September an ambitious legislative package comprising 4 proposals to enhance access to content in the Single Market, modernise exceptions in the area of research, education, heritage and disabilities and set out rules for a better functioning and more transparent market place for all. We would like to highlight that 2 of the 4 legislative proposals in the package aim at ensuring compliance of EU legislation with the obligations in the Marrakesh Treaty and the functioning of exchanges with third countries under this Treaty.

Thank you.

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

(Item 12)

WO/GA/48/4

Chairman,

The EU and its Member States welcome the agreement that was reached on future work at the 24th session of the Standing Committee on the Law of Patents, which enables the committee to continue its exchange of views in relation to patents on the topics:

- Quality of patents, including Opposition Systems
- Client-Attorney Privilege
- Exceptions and Limitations to Patent Rights
- Transfer of Technology, and
- Patents and Public Health.

We feel that the overall package represents a reflection of both regional interests and global priorities, and we believe it is of the utmost importance to maintain this delicate balance.

Although the EU and its Member States regard all topics on this agenda as equally important, we would like to reiterate our interest in enhancing international cooperation and improving the technical knowledge on patentability requirements, thus ensuring a more efficient, effective and higher quality patent system, as well as consideration of international patent harmonisation.

Thank you.

**Matters concerning the convening of a Diplomatic Conference for the Adoption of a Design
Law Treaty
(Item 14)
WO/GA/48/6**

Chairman,

The EU and its Member States would like to thank the Chair of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) for his tireless and ceaseless efforts demonstrated during the SCT sessions, in trying to bring matters forward and deciding to convene a Diplomatic Conference for the adoption of the Design Law Treaty, which would be of benefit to designers across the globe.

The Design Law Treaty aims at harmonising and simplifying design registration procedures for the benefit of users and WIPO members across the spectrum of development.

A long time has passed since the substantive provisions of the Design Law Treaty were stabilized in 2014. Based on that mature text the EU and its Member States supported the convening of a Diplomatic Conference during the General Assemblies of 2014, noting that the only open question at that stage concerned the issue technical assistance and capacity building.

During SCT 34 and 35 the SCT has, in line with the mandate by the 2015 GA, extensively discussed the subsequent proposal for a disclosure requirement to be included in article 3 of the Design Law Treaty. The EU and its Member States remain however unconvinced that the proposal on disclosure requirement is relevant to industrial design, or that it would simplify and harmonize current design registration procedures, our stated aim. On the contrary, the proposal moves the text further away from the objective of simplification and alignment of design registration formalities.

We however acknowledge that disclosure requirement is linked to the patent system. In this regard we would like to stress that the WIPO IGC is the appropriate forum to discuss the underlying issues in relation to disclosure requirement. We believe it is important to recognize the progress made in relation to Genetic Resources in the IGC in this respect.

The EU and its Member States believe that this year's discussions on Genetic Resources have undoubtedly been fruitful and interesting. The EU and its Member States made significant and constructive contributions to these discussions. This included confirmation of a concrete proposal on patent disclosure requirement in relation to genetic resources, which would contain certain safeguards, as a disclosure requirement which discouraged, undermined, or created legal uncertainty in the patent system would not be in anybody's best interest.

We would therefore call on the proponents to withdraw their proposal for a disclosure requirement, which is extraneous to our purpose.

As stated earlier, the two remaining issues have now been discussed extensively and repeatedly in the Committee and we believe this General Assembly has a responsibility to take a decision on these two issues and the future of the DLT. If agreement can't be reached, we see no need for further discussions of the DLT in the framework of the SCT.

We would like to stress once again that, in relation to technical assistance, the EU and its Member States support the effective delivery of technical assistance and capacity building in implementing the DLT. The EU and its Member States remain flexible with regard to the options on the table. Whichever form is agreed should be geared towards the requirements of end users.

Thank you.

Report of the Committee on Development and Intellectual Property (CDIP), Review of the Implementation of the Development Agenda Recommendations, Contributions of the relevant WIPO bodies
(Item 15)

WO/GA/48/7, WO/GA/48/8, WO/GA/48/13

Chairman,

The EU and its Member States would like to express their continued support for the implementation of the Development Agenda Recommendations. The recent report from the Director-General on this matter illustrates that since the adoption of the Development Agenda Recommendations many projects a full range of activities have been initiated, and that the Development Agenda has truly become an integral part of WIPOs activities.

We welcome the efforts made by the DG and his staff to achieve the goals as set out by the Member States of WIPO, and would like to thank the WIPO Secretariat for its valuable contribution to the work of the Committee.

Robust and balanced IP infrastructures underpinned by adequate capacity building measures and coupled with a development-oriented IP culture, can contribute significantly to the attainment of development goals. The activities of the CDIP enhance global ownership of intellectual property, as has been demonstrated by several projects which have been carried out.

It is essential that the importance and relevance of Intellectual Property is included in key international initiatives, as a tool in economic, social and cultural development by encouraging domestic innovation and creativity, investment and technology transfer and the promotion of production models oriented towards sustainable development. We therefore highly value the involvement of the WIPO Secretariat in the UN inter-agency task team on science, technology and innovation for the sustainable development goals; the UNFCCC Technology Mechanism; and the World Summit on Information Society.

The EU 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.

Thank you

Matters concerning the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)
(Item 16)

(WO/GA/48/9 Prov¹)

Chairman,

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 (IGC).

The EU and its Member States believe that this year's discussions on Genetic Resources have undoubtedly been fruitful and interesting. The EU and its Member States made significant and constructive contributions to these discussions. This included confirmation of a concrete proposal on patent disclosure requirement in relation to genetic resources, which would contain certain safeguards, as a disclosure requirement which discouraged, undermined, or created legal uncertainty in the patent system would not be in anybody's best interest.

In relation to Traditional Knowledge, we note that a significant number of issues of fundamental importance need to be resolved. In this regard we would like to recall our proposal for terms of reference for a study of national experiences and domestic legislation and initiatives recently adopted in relation to the protection of Traditional Knowledge in order to provide a solid basis for our discussions. We look forward to the next session of the IGC in November on this subject matter, which will be preceded by a seminar.

Thank you.

¹ To be possibly updated after IGC (19-23 September 2016)

**Report on the Advisory Committee on Enforcement
(Item 18)**

(WO/GA/48/11)

Chairman,

The European Union and its Member States welcome the previous fruitful discussions of the WIPO Advisory Committee on Enforcement.

Intensified efforts of the Committee to build a shared understanding of the impact of IPR infringements are a key driver for effective prevention and enforcement strategies.

During the eleventh session of ACE in September we welcomed a balanced agenda, which included an agenda item on voluntary presentations of respective national IP enforcement frameworks. A high number of contributions were received in relation to the state-centric point, which we believe is indicative of its relevance for WIPO Members. We therefore support the Committee in continuing to place this item on future agendas.

The European Union and its Member States are confident that fruitful collaboration will continue between delegations in order to combat more effectively IPR infringements which affect us all.

Turning to the future, the EU and its Member States believe that WIPO, as a multilateral hub for all IP related issues, has a greater role to play in coordinating enforcement activities across the Member States to ensure the long term integrity of global IP systems.

Thank you.

Geographical Indications and Lisbon System
(item 22)

Chairman,

The EU and its Member States take note that , according to the decisions of the last General Assembly, the Lisbon Union has worked on measures to eliminate its projected 2016/2017 deficit and has also considered the long term financial viability of the Lisbon system. We welcome the progress made in this respect during the meetings of the Working Group which took place in Geneva in June, July and August, and call for new ideas as regard the financial support to the Union while securing full respect of the principles of solidarity and equality of treatment for each area of IP.

In this regard we also underline the importance of a robust and focused promotion of the Lisbon System, including the Geneva Act, underlining the development potential of GI rights with a view to attracting new Contracting Parties.

As regards possible measures to be adopted by the 2016 Assemblies in order to eliminate the projected biennial deficit of the Lisbon Union, as described in the 2016/17 biennium WIPO Program and Budget of the Lisbon Union, the EU and its Member States note the readiness announced by a number of Lisbon Union members during the meeting of the Working Group to make voluntary payments in order to eliminate the projected biennial deficit of the Lisbon Union.

The EU and its Member States stress the importance that the Lisbon Union be placed on an equal footing with all other Unions administrated by WIPO.

Thank you, Chair.

Inaugural Meeting of the Marrakesh Treaty Assembly
(item 24)

Chairman,

At the outset, the EU and its Member States would like to congratulate Minister Calero for his chairmanship of this inaugural meeting of the assembly of the states that have ratified the Marrakesh Treaty.

The EU and its Member States welcome the entry into force of the Marrakesh Treaty on the 30th of September and congratulate the countries that have ratified and implemented the Treaty already. The Marrakesh Treaty will substantially improve the lives of millions of visually impaired people around the world. We are working to ensure that the Treaty is ratified and becomes part of the EU copyright rules as soon as possible. The EU and its Member States can help to improve access to books and other print content for persons with print disabilities and contribute to the fight against the book famine. The proposals to ensure compliance of EU legislation with the obligations in the Treaty and the functioning of exchanges within the internal market and with third countries have already been put forward by the European Commission and are currently being discussed in the **European Council** and the European Parliament. This will pave the way for ratification.

The EU and its Member States are looking forward to concluding this process swiftly and to join the circle of the Marrakesh Treaty parties.

Thank you, Chairman
