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European Union

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Subject:	Appointment by the Council of a member of a Board of Appeal of the Office for Harmonization in the Internal Market (trade marks and designs)

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

7413/99
RESTREINT
PI 20

NOTE

from: General Secretariat of the Council

to : Permanent Representative Committee (Part 1)

No. prev. doc.: 7412/99 PI 19 RESTREINT

Subject: Appointment by the Council of a member of a Board of Appeal of the Office for Harmonization in the Internal Market (trade marks and designs)

1. Introduction

Article 131(1) of Council Regulation (EC) No. 40/94 on the Community trade mark¹ states that "the members, including the chairmen, of the Boards of Appeal shall be appointed, in accordance with the procedure laid down in Article 120, for the appointment of the President of the Office, for a term of five years (...)". Article 120(1) states that "the President of the Office shall be appointed by the Council from a list of at most three candidates, which shall be prepared by the Administrative Board. (...)."

On 23 October 1995 the Council appointed the chairmen and members of three Boards of Appeal in accordance with the above procedure.²

Following the resignation of a member of a Board of Appeal, the Chairman of the Administrative Board of the Office informed the Council by letter of 14 April 1999³ of the decision of the Administrative Board to propose a single candidate to fill this vacancy.

¹ OJ L 11, 14.1.1994.

² OJ C 314, 25.11.1995, p. 3, 4, 5.

³ 7412/99 PI 19 RESTREINT.

2. Procedure

Under Article 148(1) (future Article 205(1)) of the Treaty⁴ a simple majority is required for such appointments and any procedural decision relating to them.

Since the Administrative Board of the Office has proposed a single candidate, and since the Council's choice is limited to the candidate(s) submitted by the Administrative Board, the Permanent Representatives Committee could recommend the Council to appoint Mr. Walter PEETERS as member of a Board of Appeal of the Office.

3. Start of term of office

It is suggested that the Council leave the date on which the term of office of Mr. PEETERS starts to be set by the Administrative Board, as was the case when the chairmen and members of the Boards of Appeals were appointed in October 1995.

4. Publication of the Council Decision

It is suggested that the Council Decision appointing Mr. PEETERS be published in the Official Journal of the European Communities, as was the case when the chairmen and members of the Boards of Appeal were appointed in October 1995.

5. Conclusions

The Permanent Representatives Committee is invited to recommend that the Council decide at one of its forthcoming meetings:

- to adopt the draft decision set out in the Annex, after finalisation by the Legal/Linguistic experts, appointing Mr. PEETERS a member of a Board of Appeal of the Office for Harmonization in the Internal Market (trade marks and designs);
- to publish that decision in the Official Journal of the European Communities.

⁴ "Save as otherwise provided in this Treaty, the Council shall act by a majority of its members".

DRAFT

**COUNCIL DECISION
of**

appointing a member of a Board of Appeal of the
Office for Harmonization in the Internal Market (trade marks and designs)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No. 40/94 of 20 December 1993 on the Community trade mark⁵, and in particular Articles 120 and 131 thereof,

Having regard to the candidature presented by the Administrative Board of the Office for Harmonization in the Internal Market (trade marks and designs) on 14 April 1999,

⁵ OJ No. L 11, 14.1.1994, p. 1. Regulation as amended by Regulation (EC) No. 3288/94 (OJ No. L 349, 31.12.1994, p. 83).

HAS DECIDED AS FOLLOWS:

Article 1

Mr. Walter PEETERS, born in Turnhout (Belgium) on 14 July 1944, is hereby appointed a member of a Board of Appeal of the Office for Harmonization in the Internal Market (trade marks and designs) for a period of five years.

Article 2

The date on which the five-year period referred to in Article 1 will commence shall be determined by the Administrative Board of the Office for Harmonization in the Internal Market (trade marks and designs).

Done at

For the Council
The President
