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**NOTE**

From:	General Secretariat of the Council
To:	Delegations
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Subject:	WIPO Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) Third Special Session – Preparation of the Basic Proposal for the Diplomatic Conference to conclude and adopt a Design Law Treaty (DLT) (Geneva, 2-6 October 2023) - Final EU/Member States statements

Delegations will find attached the final EU/Member States statements delivered at the above-mentioned WIPO meeting.

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

**Third Special Session – Preparation of the Basic Proposal for the Diplomatic Conference to  
conclude and adopt a Design Law Treaty (DLT)**

**(Geneva, 2-6 October 2023)**

**Opening Statement**

Chair,

1. On behalf of the European Union and its Member States, let me first thank you and your Vice-Chairs for your efforts to facilitate work regarding the Design Law Treaty. We would also like to thank the Secretariat for preparing this Special Session.
2. As regards potential outcomes of the negotiations, we would like to reiterate our view that harmonizing and simplifying design registration formalities is highly beneficial for all users, in particular for small and medium enterprises (SMEs), in developed and developing countries alike. We have studied the text that is going to be the basis of the discussions, and we are convinced it is appropriate to create the foundations for a flexible, dynamic and forward-looking framework for industrial design formalities and procedures. We note however, that since the draft text of the DLT was last substantially discussed in this Committee, the EU is currently undertaking a comprehensive reform of its design legislation, and we will therefore put forward some proposals during this Special Session to accommodate the amendments.
3. The EU and its Member States remain committed to engaging constructively during this Session, as well as in the Preparatory Committee meeting, and in the Diplomatic Conference that is ahead of us.

Thank you.

## Agenda item 6

### Industrial Design Law and Practice – Draft Articles

Chair,

The European Union and its Member States would like to make the following remarks:

#### Article 1bis

The EU and its Member States support the current wording of Article 1bis in the Basic Proposal, as it is in line with the objective of the DLT to harmonize and simplify design registration formalities, without affecting provisions of substantive law.

#### Article 3(1)(a)(ix)

The EU and its Member States would like to recall that the aim of the DLT is to harmonise the rules pertaining to filing industrial design applications in order to make design protection more easily accessible to applicants. There have been no substantive discussions in this Committee recently on how the proposed disclosure requirement would streamline design procedures. We therefore remain open to hearing from proponents as to how this proposal would simplify industrial design procedures for the benefit of all applicants.

#### Article 5(1)(b)

The EU and its Member States would like to emphasize that the purpose of setting filing date requirements is to enable IP offices to know “who” filed “what”. This principle of legal certainty is fundamental to all IP procedures, as it is also affirmed in Note 5.01 attached to this Article. However, the current draft text allows Contracting States to provide that anonymous applications receive a filing date, even if the holder is not specified. We therefore propose the following amendment to Article 5(1)(b):

*“A Contracting Party may accord as the filing date of an application the date on which the Office receives, together with a sufficiently clear representation of the industrial design **and indications allowing the identity of the applicant to be established**, some only, rather than all, of the other indications and elements referred to in subparagraph (a), or receives them in a language other than a language admitted by the Office.”*

## **Article 17(2)**

The EU and its Member States prefer to keep the option open for Contracting Parties to require the recording of a license in the cases referred to Article 17(2), we therefore propose deleting the word “not” in square brackets.

## **Article 22(3)(b)**

The last sentence of Article 22(3)(b) foresees that the fee reduction system proposed for individual and SME applicants should only apply to nationals and residents of developing countries or least developed countries. The EU and its Member States prefer that this fee reduction possibility be open to all natural person or SME applicants equally, we therefore propose to delete the last sentence in brackets.

Thank you.

## **Agenda Item 9**

### **Closing of the Session**

Thank you Mr Chairman,

The European Union and its Member States would also like to extend their sincere gratitude to you and to your Vice Chairs for skillfully guiding our discussions during this session.

We would also like to thank the Secretariat for its valuable contributions to our work during the session.

The EU and its Member States welcome the progress we have achieved during this week in narrowing the gaps in the draft DLT. Much work remains on our horizon, as we prepare for the upcoming Diplomatic Conference. And the EU and its Member States remain committed to continue discussions in an open and constructive manner.

We look forward to discussions relating to the Diplomatic Conference and the Preparatory Committee next week, and we wish everyone a relaxing evening.

Thank you Chairman.

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