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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	13193/24
No. Cion doc.:	10873/24 + ADD 1
Subject:	COUNCIL DECISION authorising the opening of negotiations, on behalf of the European Union, within the World Intellectual Property Organization for the Design Law Treaty - Adoption

I. INTRODUCTION

1. On 21 July 2022, the General Assembly of the World Intellectual Property Organization (WIPO) decided to convene a Diplomatic Conference to conclude and adopt a Design Law Treaty (hereafter also referred to as the “DLT”).
2. The Diplomatic Conference will be held from 11 to 22 November 2024 in Riyadh, Saudi Arabia. In preparation of the Diplomatic Conference, a cross-regional technical meeting on the DLT will be held from 30 September to 2 October 2024 in Paracas, Peru.

3. The objective of the DLT is to harmonise procedural aspects and formalities of industrial design applications to make the international registration of designs easier and more predictable for the benefit of creative industries and industrial designers. The draft DLT does not contain provisions on substantive matters (such as eligibility of designs for protection, scope of protection of designs, etc.), with the exception of the harmonisation of the duration of the grace period for filing an application after disclosure of the industrial design.
4. On 6 June 2024, the European Commission submitted to the Council a Recommendation for a Council Decision authorising the opening of negotiations on the Design Law Treaty (document 10873/24 + ADD 1). The preliminary assessment of the Commission is that matters falling within the scope of the Design Law Treaty should be regarded as falling under the exclusive external competence of the Union.

II. WORK WITHIN THE COUNCIL PREPARATORY BODIES

5. The draft negotiating mandate was discussed by the Working Party on Intellectual Property at five meetings from June to September 2024.
6. In those discussions, delegations shared the preliminary assessment of the Commission that the aim and content of the draft DLT fall under the Union's exclusive external competence and repeatedly emphasised that ensuring the EU's right to vote in the Assembly to be established under the DLT with a number of votes equal to the number of its Member States is of utmost importance and necessary to safeguard the EU's interests.
7. At its meeting on 24 July 2024, the Permanent Representatives Committee provided guidance for the further work on the important issue of voting rights. On 18 September 2024, the Committee reached agreement regarding the most important red-line positions that the EU should defend in the negotiations and approved the compromise text of the Council Decision and negotiating directives as set out in document 13193/24.

III. CONCLUSION

8. In light of the above, the Permanent Representatives Committee is invited to:
- confirm its agreement on the text of the draft Council Decision set out in 13205/24, revised by the Council's legal/linguistic experts, and the negotiating directives set out in its addendum (13205/24 ADD 1);
 - suggest that the Council decide, as an 'A' item at a forthcoming meeting, to adopt the Decision and its addendum set out in 13205/24 + ADD 1; and
 - should there be no Council meeting with quorum by 26 September 2024, decide, in accordance with the first subparagraph of Article 12(1) of the Council's Rules of Procedure and Article 1 of Council Decision (EU) 2020/430, that, in view of the urgency of the matter, the Council uses the written procedure for the adoption of the abovementioned Council Decision, set out in 13205/24 + ADD 1.
9. The Council Decision will be published in the Official Journal of the European Union in accordance with Article 17(2)(b) of the Council's Rules of Procedure.
10. The European Parliament will be informed in accordance with Article 218(10) TFEU. The Decision and negotiating directives will be transmitted to the EP.
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