Council of the European Union

Brussels, 8 October 2025
(OR. en)

13354/25

PI 172

NOTE

From:	Presidency
To:	Delegations
No. prev. doc.:	11939/1/25 REV 1; 14571/1/24 REV 1
Subject:	23rd Session of the WIPO Working Group on the Legal Development of the Madrid System for the International Registration of Marks (Geneva, 22–26 September 2025) – Final EU/Member States statements

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

ANNEX I

Working Group on the Legal Development of the Madrid System for the International Registration of Marks
23rd Session

(WIPO, Geneva, 22–26 September 2025)

Agenda item 4

Amendments to the Regulations

(MM/LD/WG/23/2, MM/LD/WG/23/3 and MM/LD/WG/22/4)

a) Proposed Amendments to the Regulations Under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks Introducing a Requirement to Issue a National or Regional Certificate

Chair,

1. The EU and its Member States would like to congratulate you and your Vice-Chair on your election. We are looking forward to working under your guidance during this session.

2. We would like to thank the Secretariat for presenting the proposed amendments in document MM/LD/WG/23/2. After close consideration we remain unconvinced of the benefit of introducing an obligation to issue regional certificates. From the perspective of legal certainty, what matters is the status of protection at the relevant point in time. After the acceptance of an international application, there may be invalidations ongoing or completed but not yet notified to WIPO, as well as other actions in member states of the Protocol that could affect the scope of protection. Such developments would not be reflected in the certificate.

3. Likewise, there are also other considerations that seem relevant to this matter, as the implementation of such a requirement would have legal, technical and financial implications for IP offices. From the technical point of view, this change would entail technical modifications requiring careful assessment. The implementation effort is expected to be substantial, both in terms of resources and time. Regarding the legal perspective, this amendment would require an in-depth analysis of the current legislative framework to

determine under which conditions IP offices could issue such certificates or documents. Amendments at national and regional level might appear necessary.

4. Chair, we are therefore not in a position to support the proposed amendments at this stage.

Thank you.

b) Other Proposed Amendments to the Regulations Under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks

Chair,

The EU and its Member States would like to thank the Secretariat for presenting the proposed amendments. We are not in a position to support these amendments at the moment as we are still assessing the proposal. Notably, regarding the date of grant of protection and the start date of use requirement, we would welcome clarifications from the Secretariat, on the exact meaning of the reference to a 'date as from which the use requirement starts', taking into consideration that different practices exist among member states as regards use requirements.

Thank you.

c) Continued Discussions on the Proposal by the Delegation of the Republic of Moldova

Chair,

We would like to thank the delegation of the Republic of Moldova for the presentation of its proposal. Last year, we had an in-depth discussion about the different options proposed, with explanations from the Secretariat and the Moldovan delegation, which we highly appreciated. The European Union and its Member States are in a position to support Option A of the proposal, modifying Rule 8(2), together with the transitional provision that would be included in Rule 40(9).

Thank you.

Agenda item 5

Proposal by the Delegation of the United Kingdom

(MM/LD/WG/23/4)

Chair,

1. The EU and its Member States would like to thank the delegation of the United Kingdom for its comprehensive proposal. We would like to note that this statement has been prepared in light of the original version of the proposal, without the possibility to take into account the amendments announced by the UK delegation at yesterday's session.

2. Regarding proposals in Part A, we would like to share some concerns.

3. In our view, the centralisation of the replacement procedure would present the International Bureau with great challenges. Replacement requires meticulous comparison of the lists of goods and services registered in the national and the international register. Most national registers are not kept in one of the Madrid languages. In these cases, it is very demanding to make sure, that the replacement does not lead to an unacceptable broadening of the scope of protection of the earlier trade mark right. We are concerned that the International Bureau might not have the capacity for a reliable processing of this task.

4. When it comes to the allowance of a "partial" renewal, this would require considerable, long-lasting and cost-intensive changes in the IT-systems of some of the European IP offices. They were created in reliance on Article 7 of the Madrid Protocol which states that the "renewal may not bring about any change in the international registration in its latest form." Compared to these considerable expenses, the advantages of a "partial" renewal for the users appear to be minor, as they can achieve the same goal in the established manner with a single additional request.

5. Regarding the proposals in Part B of the document, we think they deserve further consideration on their different elements and we are open to engaging in further discussions.

Thank you.

Agenda item 6

Dependency

(MM/LD/WG/23/5, MM/LD/WG/23/6, MM/LD/WG/20/5, MM/LD/WG/21/8 Rev.2, MM/LD/WG/22/5 Rev. and MM/LD/WG/22/14)

Chair,

1. The European Union and its Member States thank the WIPO Secretariat for preparing the documents in support of this agenda point. In particular, regarding the Report on the intersessional informal consultations, we welcome the identification of the four possible elements of convergence. We appreciate the constructive approach taken to identify areas where progress might be possible while respecting the fundamental principles of the Madrid System.

2. The EU and its Member States continue to support these fundamental principles, including the principle of dependency, which remains a cornerstone ensuring the system's integrity and balance between the rights of trademark holders and third parties.

3. The EU and its Member States remain strongly committed to the principle of dependency and, while our preference is to maintain the current framework, we are prepared to accept a reduction of the dependency period from five to three years and can show openness to convening a Diplomatic Conference for this specific purpose, should consensus emerge.

4. While we acknowledge the aim to provide more fair and predictable protection, we have significant concerns with limiting the grounds for cancellation to bad faith only, as this would create an unacceptable imbalance to the detriment of legitimate third-party interests. The possible consequences of removal of each ground for cancellation needs to be carefully assessed on an individual basis.

5. We also consider that the automatic effect of dependency should be maintained, as it is a fundamental feature that ensures coherence of the system and prevents abuse. Requiring third-party requests for cancellation would put an undue burden on third parties and create potential enforcement gaps. Consequently, the EU and its Member States consider it essential to establish a common basis for harmonising the modalities of the dependency principle to prevent forum shopping practices that would undermine the predictability of the Madrid system and legal certainty for users.

6. We would like to thank the United States and the proponents for preparing and presenting the revised proposal contained in document MM/LD/WG/23/13. As we have not had sufficient time to study this document and also for the reasons mentioned previously, we are not in a position to support the proposal at this stage.

7. When it comes to the proposal for an Alternative Dispute Resolution (ADR) mechanism within the Madrid System, the EU and its Member States view the proposal with concern.

8. Introducing the ADR mechanism would not solve the recurrent problems some member states and users have with dependency. Therefore, we fear that opening the discussion on the ADR mechanism probably would not end but further prolong the discussion on dependency.

9. Discussing the ADR mechanism would add another time-consuming topic to the working group's agenda. Years of difficult discussions about the definition of Bad Faith and the procedural rules of the ADR mechanism in detail are to be expected.

10. We also wonder whether the ADR mechanism would offer any real added value to the majority of users of the Madrid system. In light of these critical aspects, the EU and its Member States cannot - at this stage - support the presented proposal on the introduction of an ADR mechanism.

11. Chair, we remain interested to hear the opinions of other participants of the Working Group. The EU and its Member States look forward to further discussions on this issue.

Thank you.

Agenda item 7

Languages

(MM/LD/WG/23/7, MM/LD/WG/23/8, MM/LD/WG/23/9, MM/LD/WG/23/10, MM/LD/WG/23/11, MM/LD/WG/22/13 Rev., MM/LD/WG/23/12, MM/LD/WG/16/7, MM/LD/WG/16/9 Rev., MM/LD/WG/17/10, MM/LD/WG/21/7, MM/LD/WG/22/6 Rev., MM/LD/WG/22/10, MM/LD/WG/22/11 and MM/LD/WG/22/12**)**

Chair,

1. The European Union and its Member States would like to thank the WIPO Secretariat for preparing the documents in support of this agenda point. The documents provide valuable information, requiring careful consideration and they offer a solid basis for further dialogue on the possible introduction of new languages. Building on this basis, we reaffirm EU support for multilingualism and reiterate our openness towards the proposal of the 'International Registration Language Option' (MM/LD/WG/22/13), presented by the delegations of Germany, Portugal, Japan, Brazil, Cabo Verde, Mozambique, and Sao Tome and Principe. We understand the rationale behind introducing new languages into the Madrid System, on the condition that it represents an advantage and not a burden to the users of the system.

2. However, we believe that further information and analysis are needed before a decision on the introduction of any new language can be taken.

3. Firstly, the updated statistics (MM/LD/WG/23/7) for the years 2019 to 2023 are an important instrument when considering the introduction of new languages in the system based on user-oriented criteria. We can see that the order of the languages related to the number of Madrid international applications, Madrid designations, direct applications filed abroad, and Madrid market share remains largely unchanged.

4. We would also like to thank the Secretariat for providing the cost estimates for the possible enhancement of the terminology database (MM/LD/WG/23/8). The enhancement of such a database is key when considering the introduction of any new language in the system in whatever form. As the data of the terminology database will be integrated in the new Unified

Goods & Services Database, it is also relevant to us to fully understand the process and details for the introduction of such database.

5. In this regard, we thank the Secretariat for providing the detailed explanation of the Unified Goods & Services Database (MM/LD/WG/23/9). We see as positive the steps given to simplify the system by unifying all databases, as well as to enhance transparency by making available to the public all the classification and translations information used in the Madrid System. However, as stated on previous occasions, we consider that the database should only be made public if it can ensure a high-quality standard to avoid legal uncertainty in case of infringements. As the publication of the database presents significant technical challenges, we would appreciate information on how the Secretariat plans to address these issues. We would also like to ask the Secretariat for an estimated timeline for the development of this new database. Moreover, we have some additional questions regarding this new database, related to the layered approach, or the coexistence with the Terminology Database, that we will share with the Secretariat in writing (see Annex II). We would like to emphasise that integrating the terms and translations from the high quality, carefully maintained European database for goods and services into the WIPO database would be an important step forward. We are convinced that this would drastically reduce the number of objections to applications originating from European countries.

6. On what refers to the technical assessment of the possible implementation of the International Registration Language Option, we thank the Secretariat for the explanation about the required system updates (MM/LD/WG/23/12). It is particularly interesting to note that the Madrid IT Platform project is ongoing and that the recommendation, in this regard, is to incorporate any new Madrid System languages directly into this new ICT business solution. Would the Secretariat have an estimation about when this new system will be in place as well as an estimation of the time that would be required to update all other IT systems needed? If the new languages are incorporated directly into the new Madrid IT Platform and not before that new Platform is in operation, how would that reflect in the cost estimate (per new language) in paragraph 9 of the technical assessment?

7. Lastly, the EU and its Member States continue to support the Introduction of a Differentiated Translation Practice (MM/LD/WG/23/10). We note the complications with recording subsequent designations, given that these might necessitate post-editing of earlier recordings and republication in the WIPO Gazette. We would appreciate receiving updated information

about this. We also encourage the Secretariat to continue improving WIPO's machine-translation capabilities and welcome any information in this regard.

8. In general, as already mentioned, it seems to us that more information is needed on different fronts before deciding on the introduction of any new language in the system. In this regard, we see that the enhancement of the Terminology Database is key before proceeding with the introduction of any new language. However, the future of this database is linked to its integration in the new Unified Goods and Services Database, for which more information is required. Lastly, we note that the implementation of the Differentiated Translation Practice is currently ongoing. The results of this exercise will be especially interesting in terms of accuracy of machine translation given that it would also be applied to any new language entering the system.

9. In any case, should new languages be introduced, we reiterate our support for objective and user-oriented criteria, proposed by WIPO and agreed by this Working Group, for determining which languages should be included. Against this background, the EU and its Member States are open to continuing discussions on the 'International Registration Language Option' (MM/LD/WG/22/13) and stand ready to continue discussions about the introduction of new languages into the Madrid System and how to best proceed with such introduction, while ensuring that any implemented option maintains the trilingual regime established based on multilingualism, which should remain essential for communications exchanged between the International Bureau and designated Contracting Parties as well as for the publication into the International Register.

10. Chair, we reiterate our view that the maintenance of a good functioning of the Madrid System services should remain a key priority, and you can count in this respect on the support of the EU and its Member States.

Thank you.

ANNEX II

Questions on the Unified Goods & Services Database shared in writing with WIPO Secretariat

- It is stated in document MM/LD/WG/23/9 (paragraph 13) that "the data from the Nice Classification, the MGS, and the WIPO operationally acceptable, irregular or refused indications will be organized in a layered approach, like a pyramid. Indications higher up in the pyramid are the preferred ones, meaning they are more likely to be accepted in a trademark application". In this respect, will the source of the data in the Unified Goods & Services Database be indicated when consulted the database on a given term? How will this layered approach be reflected?
- It is also stated in the same document (paragraph 25) that the "data from the internal Terminology Database will be integrated in the Unified Goods & Services Database, but it will continue as an independent database for translation purposes". Could the Secretariat further develop this point? Will the Terminology Database continue existing independently? In the affirmative, what is the reasoning/need for this?