



Council of the
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NOTE

From:	Presidency
To:	Delegations
No. prev. doc.:	14848/23 REV1
Subject:	21st Session of the WIPO Working Group on the Legal Development of the Madrid System for the International Registration of Marks (WIPO, Geneva, 13–17 November 2023) - Final EU/Member States statements

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

**Working Group on the Legal Development of the Madrid System
for the International Registration of Marks**

21st Session

(WIPO, Geneva, 13-17 November 2023)

**Statement of the delegation of Spain,
on behalf of the European Union and its Member States
in support of Ukraine**

Chair,

1. The European Union and its Member States expresses solidarity with Ukraine and supports the sovereignty and the territorial integrity of Ukraine within its internationally recognised borders.
2. We demand on Russia to immediately stop its invasion of Ukraine and cease all violations of international law. Russia must instantly and completely withdraw its troops from the whole territory of Ukraine and fully respect Ukraine's territorial integrity, sovereignty and independence within its internationally recognised borders.
3. We therefore welcome the decision of the 64th series of meetings of the Assemblies of the Member States of WIPO to continue these activities, hoping for prompt and efficient recovery process of the Ukrainian IP ecosystem.

Thank you.

Agenda item 5

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

(MM/LD/WG/21/3)

Chair,

1. The European Union and its Member States would like to thank the WIPO Secretariat for preparing document MM/LD/WG/21/3. We welcome the proposed amendments to the Regulations under the Madrid Protocol, in particular the amendment concerning the procedure for calculating the amounts of individual fees, as it would be beneficial for users of the Madrid System.
2. Accordingly, we endorse the proposals presented in the Annex of the working document containing suggestions for amending Rules 32 and 35 of the Regulations.

Thank you.

Agenda item 6
Dependency (MM/LD/WG/21/4)

Chair,

1. The European Union and its Member States would like to thank the WIPO Secretariat for preparing document MM/LD/WG/21/4 on dependency, and the Delegations of Australia, Chile, the Republic of Korea and the United States of America for submitting their proposal contained in document MM/LD/WG/21/8.
2. We are not able to support the proposal in its current form, as it would compromise the consistency of the Madrid system. International agreements in the field of industrial property protection generally only allow opt-out-declarations in very specific and exceptional cases, primarily if national law prohibits or does not provide for the corresponding legal concept. The current proposal on the other hand would make one of the cornerstones of the Madrid system optional for Contracting Parties. It would result in considerable legal uncertainty if some Contracting Parties abandoned the basic requirement, while others retained it, but possibly with different periods of dependency. The resulting designations, depending on which Contracting Party they originate from, would either be completely unchecked but independent, or pre-checked but dependent and thus subject to central attack.
3. We reiterate however, that it is crucial to strike a fair balance between the rights of trademark holders and those of third parties. Therefore, we continue to support the reduction of the dependency period from five to three years.
4. 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 8

The Possible Convening of a Diplomatic Conference to Amend Article 6 of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks

(MM/LD/WG/20/5)

Chair,

1. The European Union and its Member States would like to thank the Secretariat for preparing document MM/LD/WG/20/5 regarding the possible convening of a diplomatic conference to amend Article 6 of the Protocol in order to address the issue of dependency.
2. We reiterate our support for this solution and endorse a recommendation to the Madrid Union Assembly to convene a Diplomatic Conference, with the aim to reduce the dependency period from five to three years.
3. As regards the composition of the Diplomatic Conference as addressed in point 19 of the document, it is our view that “Member Delegations” of the Conference should be Contracting Parties of the Madrid Union.
4. As we can agree to make a recommendation on convening a Diplomatic Conference, we would also like to request the Secretariat to prepare a revised version of the Protocol, including final and administrative provisions, to be discussed by the Working Group at its next session.
5. Finally, as to other possible amendments to the Protocol going beyond Article 6, we support the identification of the Secretariat of Articles 3(2), 3(3)(ii), 3(5), 4*bis*(1), 5(2)(c)(ii), 5(3) and 5*ter*(2) as relevant articles that would benefit from an update or where some modernisation would be appropriate.

Thank you.

Agenda item 10
An Updated Road Map for the Evolution of the Madrid System

(MM/LD/WG/21/6)

Chair,

1. The EU and its Member States would like to thank the Secretariat for preparing an updated Road Map for the Evolution of the Madrid System in document MM/LD/WG/21/6.
2. As regards the legal framework of the Madrid system, we agree that the list of issues identified by the International Bureau are indeed those where concrete improvements are possible to achieve, though perhaps to varying degrees.
3. We support and commend the proposals aimed at further improvements to be achieved by the International Bureau relating to better customer service and digitalisation. We also agree that major harmonisation regarding the examination of classifications is desirable.

Thank you.

Agenda item 11
Report on Technical Consultations Held on the Possible Introduction of New Languages and
Proposal for a Possible Way Forward
(MM/LD/WG/21/7)

Chair,

1. The European Union and its Member States would like to thank the WIPO Secretariat for preparing the Report on Technical Consultations Held on the Possible Introduction of New Languages and Proposal for a Possible Way Forward. We also thank the Secretariat for all the efforts made to address the issues raised by delegations at the last session, in particular for holding technical consultations during the past year with the view to proposing a possible way forward.
2. We appreciate that resulting from all such efforts, document MM/LD/WG/21/7 contains highly relevant new information to assess.
3. We have studied with great interest the elements identified by the Secretariat that have emerged from technical consultations and can facilitate further discussions and steps on this highly complex issue.
4. We acknowledge the rationale behind introducing new languages into the Madrid System. However, we are currently unable to support the introduction of new languages due to the potential negative impact on costs and efficiency. This could be disadvantageous for all participants in the Madrid System. Nevertheless, if new languages are to be introduced, we appreciate the proposed objective and user-oriented criteria outlined in the report for determining which languages should be included. [In this context, we would like to ask the Secretariat to further clarify the criterion of "Madrid market share" and the corresponding figures.]

5. We appreciate the Secretariat's efforts to facilitate the submission of trademark applications, we have questions and concerns regarding the publication and enhancement of the internal WIPO terminology database. Specifically, we are concerned about the quality standards and associated costs. The enhancement of the database should not be limited to certain languages and should minimize the burden on the WIPO budget. Moreover, the database should only be made public if it can ensure a high-quality standard to avoid legal uncertainty in case of infringements. Additionally, the publication of the database presents significant technical challenges. We would appreciate information on how the Secretariat plans to address these issues. Finally, we also propose that the existing classification databases be better interlinked, expanded and reliably translated into more languages.
6. We consider that the establishment of specific milestones, that would act as pre-conditions for the possible introduction of new languages, can be an adequate way to advance on the process. The technical elements proposed by the Secretariat in its report certainly deserve to be examined and considered. In this context, we recognise that the Secretariat embraces a rapid evolution of AI-based technologies, in particular with respect to machine translation. However, we believe it is premature to decide on specific milestones at this moment.
7. Chair, we reiterate our view that the maintenance of a good functioning of the Madrid system services is key. The EU and its Member States stand ready to continue discussions about the introduction of new languages into the Madrid System on the basis of this new working document prepared by the Secretariat.

Thank you.
