Enforcement of intellectual property rights

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The committee adopted the report by Janelly FOURTOU (EPP-ED, F) amending the proposal under the 1st reading of the codecision procedure : - the term 'intellectual property' should be replaced by 'intellectual and industrial property' so that the scope of the directive will also cover such areas as trademarks; - the scope of the directive should be widened in the area of civil and administrative measures: i.e. it should not be restricted to cases where intellectual property rights are infringed for commercial purposes or where an infringement causes significant harm to the right holder; - Member States should ensure that the judicial authorities take due account of the specific characteristics of each individual case, such as the intentional or unintentional nature of the infringement, when choosing penalties. Moreover, penalties should be "appropriate to the infringement" and proportionate; - where goods infringing an intellectual property right have been purchased in good faith, recall of such goods may only be enforced if it is not wholly disproportionate; - measures for enforcing intellectual property rights must be in line with rules on competition law; - to speed up procedures, provision should be made to allow for a reasonable sampling of a large number of seized goods as evidence for presuming, until proved otherwise, that all of the seizure has been counterfeited or pirated; - Member States should be able to require Internet service providers to "inform the competent authorities without delay of presumed illegal activities" and to hand over, where requested, relevant information making it possible to identify the users of those services; - the Commission should consider measures to counter the problem of "look-alike products" which do not infringe any intellectual or industrial property rights but mislead consumers and could possibly endanger public health; - the committee introduced a new article stipulating that Member States should encourage "awareness campaigns" to educate the public about the risks and problems associated with piracy and counterfeiting and about the rights and obligations linked to on-line content usage and infringement; - a European data-base, providing information on the description and location of counterfeited material, should be set up and made accessible to the public; - it should be made mandatory for standardised identification codes to be included on all optical discs containing, or capable of containing, elements protected by intellectual property rights; - patents should be excluded from the scope of the directive in view of their special nature.