Industrial property: international registration of industrial designs, measures to give effect to the accession to the Geneva Act of the Hague Agreement, adopted in Geneva on 2 July 1999

2005/0274(CNS) - 22/12/2005 - Document attached to the procedure

COMMISSION'S IMPACT ASSESSMENT

For further information regarding the context of this issue, please refer to the summary of the Commission's original document – COM(2005)0687 of 22 December 2005.

This document relates to a package of two Commission proposals regarding the Community's accession to the Geneva Act of The Hague Agreement:

- *a proposal for a Council Regulation amending Regulation No 6/2002/EC and No 40/94/EC to give effect to the accession of the European Community to the Geneva Act of The Hague Agreement Concerning the International Registration of Industrial Designs – the subject of this summary – and*

- *a proposal for a Council Decision approving the accession of the Community to the Geneva Act of The Hague Agreement Concerning the International Registration of Designs, adopted in Geneva on 2 July 1999 – please refer to the summary for procedure CNS/2005/0273.*

1- POLICY OPTIONS AND IMPACTS

The Commission considered three policy options.

1.1- Option 1 - the EC adheres to the Geneva Act: The EC would then also become a member of the Hague Union. Within this option, a further reflection could be made on the timing of the accession: now or in the future.

1.2- Option 2 - not to adhere to the Geneva Act and to continue without a link between the EC system and the Hague arrangement. Applicants from the EU and from other Contracting Parties would not benefit from both the advantages of the international registration and of the uniform protection of the Community Design system in one single application.

1.3- Option 3 - the EC should encourage or oblige all Member States to become a party to the Hague System. This route would have as an advantage that the national design systems of the Member States become subject to international registrations. While this would to a certain extent contribute to the described objective of creating a level playing field, it would not make optimal use of the EC system. There would still be no link between the (increasingly important) Community design system and the Hague system, which is one of the main aims of the Geneva Act. This option will therefore not be considered further.

CONCLUSION: The assessment of the options leads to the conclusion that in order to best achieve the outlined objectives, the EC should adhere to the Geneva Act (**Option 1**). The establishment of a link between the Community design system and the international registration system of the Hague Union

would promote a harmonious development of economic activities, will eliminate distortions of competition, will be cost efficient and will increase the level of integration within the internal market. The accession of the EC to the Geneva Act will therefore make the Community design system more attractive. Similar advantages cannot be achieved without accession.

IMPACTS

Impact on companies: From a general point of view, it has been stressed that the accession would benefit companies from EU Member States which are currently contracting parties to the Geneva Act of the Hague Agreement as well as companies from Member States which are not contracting parties. The accession would entail simplified registration procedures and savings in the administration of design portfolios, which would greatly benefit SMEs with limited resources to handle registration proceedings in a variety of countries.

Impact on the design industry: The stakeholders argue that the accession would have a positive impact on the EU design industry, mainly for the following reasons:

- The registration procedure would be simplified as one single application would be sufficient in order to seek protection in several (potentially unlimited) States, there would be no need to appoint a representative in each of the designated States, no translation of the application (filed either in French or in English) would be required and only one set of fees would be paid in one currency (Swiss francs);
- The above described simplification of the procedure would amount to a saving of costs;
- The reduction of costs and simplification of procedure would encourage designers to seek protection outside the EU;
- Competitiveness, as well as research, development and innovation activities, would be boosted as a consequence of a wider protection and of the potential to devote to those activities the money saved thanks to the simplified registration procedures.

Among the main advantages, the foremost is the simplicity of the system, which would contribute to making it easier to seek protection in third countries. The great majority of the stakeholders believe that the accession would not have any negative effect on European designers.

2- FOLLOW-UP

On-going evaluation will be possible through monitoring the volume of international registrations in which the Community design system is designated.