Basic information

2005/0273(CNS) CNS - Consultation procedure Decision	Procedure completed
Industrial property: international registration of industrial designs, accession to the Geneva Act of the Hague Agreement, adopted in Geneva on 2 July 1999 **Subject** 3.50.16 Industrial property, European patent, Community patent, design and pattern	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	ROCARD Michel (PSE)	30/01/2006

Committee for opinion	Rapporteur for opinion	Appointed
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Environment	2773	2006-12-18

European Commission

Commission DG	Commissioner
Financial Stability, Financial Services and Capital Markets Union	MCCREEVY Charlie

Key events

Date	Event	Reference	Summary
22/12/2005	Legislative proposal published	COM(2005)0687	Summary
14/03/2006	Committee referral announced in Parliament		
04/05/2006	Vote in committee		Summary
05/05/2006	Committee report tabled for plenary, 1st reading/single reading	A6-0166/2006	
17/05/2006	Decision by Parliament	T6-0208/2006	Summary

17/05/2006	Results of vote in Parliament		
18/12/2006	Act adopted by Council after consultation of Parliament		
18/12/2006	End of procedure in Parliament		
29/12/2006	Final act published in Official Journal		

Technical information

Procedure reference	2005/0273(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Decision
Legal basis	EC Treaty (after Amsterdam) EC 300-p2/3-a1 EC Treaty (after Amsterdam) EC 308
Stage reached in procedure	Procedure completed
Committee dossier	JURI/6/32920

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE370.117	30/03/2006	
Committee report tabled for plenary, 1st reading/single reading		A6-0166/2006	05/05/2006	
Text adopted by Parliament, 1st reading/single reading		T6-0208/2006	17/05/2006	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2005)0687	22/12/2005	Summary
Document attached to the procedure	SEC(2005)1748	22/12/2005	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0955/2006	05/07/2006	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act
Decision 2006/0954 OJ L 386 29.12.2006, p. 0028 Summary

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

2005/0273(CNS) - 22/12/2005 - Legislative proposal

PURPOSE : to approve the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs.

PROPOSED ACT : Council Regulation.

CONTENT : the Community Designs Regulation (Regulation 6/2002/EC) establishes the Community design system, which provides for the acquisition of protection for designs with unitary effect for the whole territory of the Community. According to the Regulation, a design may be protected either by an unregistered Community design, if the design is made available to the public in the manner provided for in the Regulation, or by a registered Community design, if registered under the procedure provided for in the Regulation.

The Community Designs Regulation entrusts the Office for the Harmonization in the Internal Market (Trade Marks and Designs), (“the Office”)to handle the administration of the Community design. On 23 December 2003, the 1999 Act of the Hague Agreement concerning the international registration of industrial designs, adopted in Geneva on 2 July 1999 (“the Geneva Act”) entered into force. The Geneva Act allows designers to obtain design protection in a number of countries through a single international deposit. Thus, under the Geneva Act, a single international application filed with the International Bureau of the World Intellectual Property Organization (WIPO) replaces a whole series of applications which, otherwise, should have been effected with different national or regional Offices.

One of the main innovations of the Geneva Act is that intergovernmental organizations which have a regional office for the purpose of registering designs with effect in the territory in which the constituting treaty of the organization applies, may accede. This innovation was introduced into the Geneva Act with the specific intention of allowing the Community to adhere to the international registration system after the entry into force of the Community design system.

The objective of this proposal is to establish a link between the Community design system and the international registration system established under the Geneva Act. This link will enable designers to file a single international application at the International Bureau of WIPO designating, amongst other Contracting Parties, the EC in order to obtain protection under the Community design system.

A second proposal contains the measures which are necessary to give effect to the accession of the Community to the Geneva Act. (Please see CNS /2005/0274). The adoption of the Geneva Act in 1999 had a twofold objective, namely:

- to make the Hague System more attractive for applicants and to extend the system to new members; to that end, the 1999 Act has introduced a number of features into the Hague system with a view to facilitating the accession to the Hague Union of countries which administer design examination systems (such as USA and Japan);

- to provide for the establishment of a linkbetween the international registration system and regional systems by providing that intergovernmental organizations may become a party to the Act.

The second objective opens the door for the accession of the EC to the Hague System. The territory of the EU would then be regarded as a single country for the purposes of the Geneva Act, with the Community design rules as the relevant domestic legislation. The OHIM would become the Office responsible for the substantive examination of international applications in which the Community has been designated.

The Community design system and the international registration system as established by the Hague Agreement can be considered as being complementary. The Community design system provides for a complete and unified regional designs registration system which covers the whole territory of the EU. The Hague Agreement constitutes a treaty centralizing the procedures for obtaining protection of designs in the territory of the designated Contracting Parties.

The Geneva Act system became fully operational on 1 April 2004.

The proposal describes the procedure for the accession of the EC to the Geneva Act, and states that the Community will deposit the instrument of accession.

The Commission proposes that declarations to the Director-General of WIPO be made on the following matters:

- The EC should exclude the filing of an application through the Office in order to avoid useless duplication of work. Direct filing at WIPO is also to be preferred in order to avoid confusion by applicants between applications for registering Community designs and applications for international registrations. Such confusion would be all the more problematic in case of payment of the basic fee for an international application, which has to be paid in any event directly to the International Bureau and which is payable at the time of filing. If applicants would erroneously pay the fee to OHIM, this Office would have to return the fee. It is significant that at present WIPO does not receive applications filed through national offices even from those Contracting Parties who would permit such a procedure.

- The Geneva Act provides that the prescribed fees shall include a standard designation fee that has to be paid for each designated Contracting Party. In addition, any Contracting Party that is an intergovernmental organisation may declare that, for each application and for each renewal of an international registration in which it is designated, the standard designation fee is replaced by an individual designation fee, whose amount shall be indicated in the declaration and can be changed in further declarations. The fixed amount may not be higher than the equivalent of the amount which the Contracting Party would be entitled to receive for a national application and renewal, that amount being diminished by the savings resulting from the international procedure. The designation fee shall be transferred by the International Bureau to the respective Contracting Party.

In terms of income, the choice between the standard designation fee and the individual designation fee will have budgetary consequences for the Office. The EC should therefore take advantage of this option and determine its own individual designation fee.

Such determination will have to be made on the basis of a number of elements. Fees will have to be sufficient to cover the costs incurred by the procedures relating to designs the protection of which is requested in the EU. This means not only the costs relating to examination of such designs in OHIM but also other procedures like invalidities and appeals. Such determination has not yet been made as a prior financial analysis is required. To undertake such an analysis, the major conditions of the accession to the Hague Agreement will have to be examined in detail. The Commission also needs to have a better idea as to the possible number of invalidities and appeals international designations could generate and thus the level of work involved for the OHIM.

- The Geneva Act obliges each Contracting Party to notify the Director-General of the International Bureau of the maximum duration of protection provided by its law. The Community Design Regulation provides for the maximum duration of protection of 25 years. The EC will notify the Director-General accordingly.

FINANCIAL IMPLICATIONS :

Period of application: indefinite period.

Overall financial impact of human resources and other administrative expenditure: EUR 0.324 million

(EUR 0.054 million each year over a period of six years beginning in 2006.)

Number of staff: 0.5 per annum.

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

2005/0273(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 6/2002/EC and 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/2005/0274.*

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.

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

2005/0273(CNS) - 18/12/2006 - Final act

PURPOSE: to approve the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs, adopted in Geneva on 2 July 1999.

LEGISLATIVE ACT: Council Decision 2006/954/EC approving the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs, adopted in Geneva on 2 July 1999.

CONTENT: The Geneva Act of the Hague Agreement concerning the international registration of industrial designs, adopted in Geneva on 2 July 1999, entered into force on 23 December 2003 and became fully operational on 1 April 2004. The Geneva Act allows designers to obtain design protection in a number of countries through a single international registration. Thus, under the Geneva Act, a single international application filed with the International Bureau of the World Intellectual Property Organization (WIPO) replaces a whole series of applications which, otherwise, should have been effected with different national or regional Offices.

This Decision aims to establish a link between the Community design system and the international registration system under the Geneva Act. This link will enable designers to file a single international application to the International Bureau of the WIPO designating, among other contracting parties, the European Community in order to obtain protection for their Community designs.

The Commission will represent the Community at future meetings in the Assembly of the Hague Union, held under the auspices of the World Intellectual Property Organisation, and will negotiate and give its agreement, on behalf of the Community, on all matters lying within the competence of the Assembly.

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

2005/0273(CNS) - 17/05/2006 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Michel **ROCARD** (PES, FR) approving the Commission’s proposal.