Basic information

2005/0274(CNS) CNS - Consultation procedure Regulation	Procedure completed
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 Amending Regulation (EC) No 6/2002 1993/0463(CNS) **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)0689	Summary
16/02/2006	Committee referral announced in Parliament		
04/05/2006	Vote in committee		Summary
05/05/2006	Committee report tabled for plenary, 1st reading/single reading	A6-0167/2006	
17/05/2006	Decision by Parliament	T6-0209/2006	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	2005/0274(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation (EC) No 6/2002 1993/0463(CNS)
Legal basis	EC Treaty (after Amsterdam) EC 308
Stage reached in procedure	Procedure completed
Committee dossier	JURI/6/32918

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE370.118	31/03/2006	
Amendments tabled in committee		PE372.168	24/04/2006	
Committee report tabled for plenary, 1st reading/single reading		A6-0167/2006	05/05/2006	
Text adopted by Parliament, 1st reading/single reading		T6-0209/2006	17/05/2006	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2005)0689	22/12/2005	Summary
Document attached to the procedure	SEC(2005)1749	22/12/2005	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Regulation 2006/1891
OJ L 386 29.12.2006, p. 0014 Summary

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) - 18/12/2006 - Final act

PURPOSE: to adopt measures which are necessary 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.

LEGISLATIVE ACT: Council Regulation 1891/2006/EC amending Regulations 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.

CONTENT: the Council adopted a decision approving the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs (see CNS/2005/0273), and a regulation in order to give effect to the accession.

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 organisations 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.

This present Regulation sets out the measures necessary to give effect to the accession of the Community to the Geneva Act. These measures shall be incorporated in the Community Design Regulation through amendment of existing provisions and addition of a new Title XIa on "International Registration of Designs".

This Regulation shall enter into force on the date on which the Geneva Act enters into force with respect to the European Community.

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.

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 - Legislative proposal

PURPOSE : to amend Regulations 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.

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.

In order to prepare for the accession of the Community to the Geneva Act, the Commission has elaborated two proposals, which are jointly presented to the Council. The first Commission proposal relates to the accession of the Community to the Geneva Act. (CNS/2005/0273).

This second proposal contains the measures which are necessary to give effect to the accession of the Community to the Geneva Act.

It is proposed that the measures giving effect to the accession of the Community to the Geneva Act be incorporated in the Community Design Regulation through the amendment of existing provisions and addition of a new Title XIa on “International Registration of Designs”.

In principle, the substantive provisions applying to the international registration designating the Community are the same as the provisions which apply to Community designs. Thus, international registrations designating the European Community and Community designs shall both be subject to the same law relating to designs (Title II), both shall be objects of property (Title III), may be subject to an application for a declaration of invalidity (Title VI), an appeal shall lie from the decision of the Invalidity Division (Title VII), and the jurisdiction and procedures in legal actions relating to Community designs shall be the same for international registrations designating the European Community as for Community designs (Title IX).

For these reasons, the new Title XIa contains many cross-references to other Articles of the Regulation.

The inclusion of this new title in the Regulation facilitates access to all the provisions which apply to a design protected for the entire territory of the European Community, be it through the registration of the design as a Community design or be it through an international registration of the design designating the European Community under the Geneva Act. By means of the proposed structure, implementing measures, such as laid down in Commission Regulations 2245/2002/EC, 2246/2002/ECand 216/96/ECwill apply in principle mutatis mutandis. Where necessary, the Commission will amend them, for instance regarding the examination as to the grounds for refusal referred to in Article 106 of the proposal.

The Geneva Act forms part of the Hague System, which is based on the Hague Agreement Concerning the International Registration of Industrial Designs. The system of international registration of designs arose from a need for simplicity and economy. In effect, it enables design owners originating from a Contracting State to obtain protection of their designs with a minimum of formality and expense.

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 Agreement, 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 European Union. The Hague Agreement constitutes a treaty centralizing the procedures for obtaining protection of designs in the territory of the designated Contracting Parties.

The Commission’s proposal sets out the details of each amendment to the Regulation.

On the question of filing, it should be noted that the Commission proposes that the Community, in its instrument of accession, declares that international applications may not be filed through its Office, but filed directly at the International Bureau. This is in order to avoid confusion by applicants between applications for registering Community designs and applications for international registrations. (Please refer further to CNS/2005 /0273).

On the matter of designation fees, the Commission proposes that the Community, in its instrument of accession, declares that the prescribed designation fees referred to in the Geneva Act in relation to the application and the renewal are replaced by individual designation fees. These fees are payable to the International Bureau and shall be transferred by the International Bureau to OHIM. Since the accession of the Community to the Geneva Act will create a new source of revenues for the Office, Regulation 40/94/EC should be amended accordingly.

OHIM will need to adapt its internal procedures and working methods in order to deal with the international applications at the International Bureau of WIPO in which the European Community is designated in order to obtain protection under the Community design system.

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, 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) - 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.