OUTCOME OF PROCEEDINGS

of: Working Party on Intellectual Property
on: 3 June 2003
No. Cion prop.: 6777/03 PI 19 CULT 17 CODEC 204
Subject: Proposal for a Directive of the European Parliament and of the Council on measures and procedures to ensure the enforcement of intellectual property rights

Following a presentation by the Commission representative of the proposed Directive, the Working Party had a first exchange of general views and examined Articles 1 to 6. The results of the discussion on Articles 1 to 6 are set out in 11107/03 ADD 1.

Several delegations welcomed the proposed Directive and indicated their strong wish for rapid progress.

As internal consultations in some Member States had not yet been concluded, a number of delegations entered a general scrutiny reservation.

For IT, the proposed Directive should go beyond what is already provided by TRIPS. In particular, it should contain:

- rules on the emergency seizure of the alleged infringer's assets, irrespective of the Member State in which the latter are found;
- provisions on recognition and enforcement of a national court's rulings in all Member States;
- measures adapted to the fight against Internet-based piracy;
- rules on administrative sanctions against infringers.


Twelve delegations (**F, A, UK, ES, S, FIN, D, NL, IRL, P, DK, IT**) were of the view that Article 20 (Criminal law provisions) falls under the third pillar and therefore should be removed from the present Directive. **COM** argued that Article 20 had been inserted in the Directive for the sake of completeness and that it did not aim at harmonising criminal sanctions.

**S** questioned the appropriateness of not differentiating in the Directive between good faith and bad faith infringers.

**ES** expressed the view that the Directive should provide for practical administrative measures alongside the measures provided under Articles 10, 11 and 15.

**P** and **IT** stressed the need for caution in trying to harmonise civil proceedings in Member States, as these are closely linked to the judicial set-up of each Member State.

**IT** voiced concerns about Article 17 (Damages).

Finally, in reply to **HU**, **COM** undertook to present the results of the study "Counting Counterfeits"¹ at the next meeting of the Working Party.

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