COUNCIL OF THE EUROPEAN UNION

Brussels, 29 October 2002

13212/02

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NOTE
from: General Secretariat of the Council
to: Permanent Representatives Committee (Part 1)
Subject: Implementation of Directive 2001/29/EC on copyright and related rights in the information society
- Statement by the Commission

1. At the meeting of the Working Party on Intellectual Property (Copyright) on 11 October 2002, the Commission representative announced the intention of the Commission to make a statement to the Permanent Representatives Committee (Part 1) on the above subject, drawing attention to the deadline for transposition of Directive 2001/29/EC and to the link between the transposition of this Directive and the ratification by the European Community and its Member States of the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. The Working Party took note of this intention and of the statement, which is set out in the Annex.

2. The Permanent Representatives Committee (Part 1) is invited to take note of this statement.
STATEMENT


The Commission wishes to recall that, pursuant to Article 13 of Directive 2001/29/EC\(^1\) on Copyright and Related Rights in the Information Society, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 22 December 2002. In the event of delays on the part of Member States in relation to the implementation deadline of 22 December 2002, there could be a detrimental effect on the international obligations, and the influence of the European Community in the area of intellectual property.

The WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), which were adopted on 20 December 1996 under the auspices of the World Intellectual Property Organization (WIPO), entered into force on 6 March and 20 May 2002 respectively. Under Articles 17 (3) WCT and 26 (3) WPPT, the European Community may become party to these Treaties. By virtue of Council Decision 2000/278/EC\(^2\), the Council agreed to ratify both Treaties by the European Community and to deposit the ratification instruments of the European Community simultaneously with those of its Member States. The Commission is of the view that the European Community and its Member States should adhere to the WCT and the WPPT as soon as possible so as to attend their first ordinary Assembly in September 2003 as Contracting Parties. This would be particularly desirable given that 6 of the 10 candidate countries that are likely to join the European Union on 1 January 2004 have already ratified the WCT and the WPPT.

Directive 2001/29/EC implements the major obligations arising under the WCT and WPPT. Timely implementation of the Directive is, therefore, a pre-condition for the ratification of the WCT and the WPPT by the European Community and its Member States. Pursuant to Declaration 1 attached to Council Decision 2000/278/EC, the Council and the Member States will periodically ascertain the stage reached in the procedures for ratifying the WCT and the WPPT in the Member States with a view to ensuring that the instruments of conclusion or ratification of the Community and of its Member States are deposited simultaneously. If there is a serious delay, the Council and the Member States will consider what action is to be taken.

If, as seems to be likely, not all Member States were to meet the deadline of 22 December 2002 for the implementation of Directive 2001/29/EC, the consequences will have to be considered carefully. The Commission would like to invite all Member States to do their best to implement Directive 2001/29/EC without delay and to undertake the necessary steps to prepare for the ratification of the WCT and the WPPT as soon as possible. It invites the Council to re-assess the situation in early 2003.

\(^1\) OJ, L167/10 of 22 June 2001
\(^2\) OJ, L89/6 of 11 April 2000