

STANDING COMMITTEE ON TRADEMARKS,
INDUSTRIAL DESIGNS AND GEOGRAPHICAL INDICATIONS (SCT)

Development Agenda Group (DAG) Statement

Thank you Mr. Chairman,

I am taking the floor on behalf of the Development Agenda Group (DAG).

At this session, delegations are faced with the important task of deciding on how the SCT should conduct its future work on industrial designs. On the table are text-based discussions regarding formalities and procedures associated with industrial designs.

First things first. Let me try to recall how we got here.

At its 22nd session, held as recently as June 2009, the SCT started discussing "Possible Areas of Convergence in Industrial Design Law and Practice". It was then explained to delegations, in document SCT/22/6, that the identification of areas of convergence and areas in which convergence could not be identified would be "(quote) without prejudice to possible future work of the SCT on that subject (end of quote)". At that same meeting, the Secretariat was requested to prepare a revised working document on possible areas of convergence, highlighting the potential benefits that users and industrial design administrations could derive from convergence among Member States.

Discussions on possible areas of convergence continued at the 23rd session of the SCT on the basis of document SCT/23/5, the text of which explained, as requested, how users and industrial designs offices might benefit from harmonized procedures and how these streamlined procedures might contribute to facilitating international protection of industrial designs. Delegations then agreed to continue the work of the SCT on possible convergences.

As a result, discussions among delegations were pursued at the last session of the SCT, held in November 2010. During the debate, a few delegations proposed that a Diplomatic Conference be convened in order to discuss the approval of a Treaty on this matter. The proposal failed, however, to reach agreement among the broader membership of the Committee.

Mr. Chairman,

Our participation in these text-based discussions at this session shall in no way imply accepting in advance any of the provisions **or prejudging the outcome of these discussions in favour of legally binding instruments and norm setting**. It must be understood simply as a constructive engagement with the exercise with a view to possibly attaining concrete results in the normative agenda of WIPO that may meet Members' interests and demands.

The DAG is well aware that a number of delegations are of the view that the SCT work on industrial designs will sooner or latter lead to a treaty. We are also aware that some want it sooner rather than latter. Taking into account the proposal by our distinguished colleagues and considering that one possible outcome of the process could be the start of negotiations for a treaty, as opposed to the current text-based discussions, we expect discussions in this Session to be inclusive, ~~and essentially~~ member-driven **and take into account different levels of development and a balance between costs and benefits, as mandated by the Development Agenda recommendation 15 on norm-setting.**

The Development Agenda Group wishes to underline that any norm-setting process in this Committee should follow the guidelines mandated by the Development Agenda. In particular, it wishes to recall Development Agenda recommendation 22 stating that *"WIPO's norm-setting activities should be supportive of the development goals agreed within the United Nations system, including those contained in the Millennium Declaration. The WIPO Secretariat, without prejudice to the outcome of Member States considerations, should address in its working documents for norm setting activities, as appropriate and as directed by Member States, issues such as: (a) safeguarding national implementation of intellectual property rules (c) potential flexibilities, exceptions and limitations for Member States and (e) the possibility of additional special provions for developing countries and LDCs."*

Thank you