



29 January 2007

Mr Grégoire Bisson  
Deputy Director  
Sector of Trademarks, Industrial Designs  
and Geographical Indications International  
Registrations Division International  
Registration Systems Legal Section 34,  
WIPO  
Chemin des Colombettes, P.O. Box 18,  
CH-1211 Geneva 20 Switzerland

Dear Mr Bisson,

BUSINESSEUROPE has consistently supported the Madrid System for the international registration for trademarks. We have broadly endorsed both the Madrid Agreement and the Madrid Protocol that form the Madrid System for providing cost-effective and efficient solutions to fully meet the needs of trademark owners.

In this context, BUSINESSEUROPE has been following closely the discussions within the WIPO Ad hoc Working Group on the legal developments in the Madrid System regarding the review of the safeguard clause envisaged by Article 9sexies of the Madrid Protocol.

Article 9sexies foresees that where, with regard to a given international application or international registration, the country of origin is party to both the Madrid Protocol and the Madrid Agreement, it is the provisions of the Agreement that remain applicable in the relations between States bound by both treaties.

BUSINESSEUROPE has in the past already emphasised that the Madrid Agreement as it stands is a very adequate instrument and it should continue to be in force between those countries which at present adhere to the Madrid Agreement, even if they also adhere to the Protocol. This principle is encapsulated in Article 9sexies and is a cornerstone of the Protocol.

The WIPO Secretariat has proposed five different options that could be envisaged regarding the future of Article 9sexies and will be discussed during the next meeting of the Ad hoc Working Group.

BUSINESSEUROPE is concerned that among those options the proposed repeal of the safeguard clause would lead to a situation where for more than 99% of the cases the Protocol would have to be relied upon, while today more than 50% of the cases are dealt with by the Agreement.



This could lead to the disappearance of the Agreement in practice, which would be a highly undesirable result.

The business community has consistently voiced the advantages of the Madrid Agreement for users regarding in particular the straightforward fee system compared especially to the higher fees of the Protocol.

In view of the above remarks, from among the proposed options regarding the future of the safeguard clause BUSINESSEUROPE would like to express its support for maintaining the safeguard close as at present or restricting the scope of the safeguard clause to cover only certain features of the international procedure (in particular, the refusal period and the fee system).

You will find at the attached annex more detailed arguments regarding our position.

We thank you in advance for taking into account our position in your deliberations and we remain at your disposal to discuss it further.

We would appreciate it if you could distribute this letter to participants in the meeting of the Ad hoc Working Group.

Yours sincerely,

P.P.

Jérôme P. Chauvin  
Director, Legal Affairs Department

Encl.