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"I/A" ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	14997/14 PI 122
Subject:	Draft Council Conclusions on IPR enforcement - Adoption

On 2 July 2014, the Commission presented its Communication entitled "Towards a renewed consensus on the enforcement of Intellectual Property rights : An EU Action Plan".¹

In response to this Communication, the Working Party on Intellectual Property examined on 16 and 31 October 2014 a set of draft Council conclusions tabled by the Presidency. Following these discussions, a unanimous agreement has been reached on the text contained in the Annex to this Note.

Subject to confirmation by the Permanent Representatives Committee, the Council is therefore invited to adopt these conclusions under the "A" items of one of its future sessions.

¹ 11533/14 PI 91 JUSTCIV 197 UD 178

Draft
Council Conclusions on IPR enforcement

THE COUNCIL OF THE EUROPEAN UNION:

1. RECALLING:

- its conclusions of 30 and 31 May 2012 on the Digital Single Market and Governance of the Single Market² ;
- its resolution of 1 March 2010 on the enforcement of intellectual property rights in the internal market³ ;
- its resolution of 25 September 2008 on a comprehensive European anti-counterfeiting and anti-piracy plan⁴;
- the Communication from the Commission of 1 July 2014 « Towards a renewed consensus on the enforcement of Intellectual Property rights : An EU Action Plan »⁵ ;
- the Communication from the Commission of 24 May 2011 « A Single Market for Intellectual Property Rights – Boosting creativity and innovation to provide economic growth, high quality jobs and first class products and services in Europe »⁶ ;
- the Communication from the Commission of 11 September 2009 « Enhancing the enforcement of intellectual property rights in the internal market »⁷ ;

² 9958/1/12 REV 1

³ OJ C 56, 6.3.2010, p. 1.

⁴ OJ C 253, 4.10.2008, p. 1.

⁵ 11533/14

⁶ 10667/11

⁷ 13286/09

- the Report from the Commission of 22 December 2010 « Application of Directive 2004/48/EC of the European Parliament and the Council of 29 April 2004 on the enforcement of intellectual property rights »⁸ and its Accompanying staff working document⁹ ;
 - the document from the Commission of July 2013 « Synthesis of the responses on the public consultation on the civil enforcement of intellectual property rights »¹⁰
2. STRESSES its commitment in the fight against intellectual property rights (hereafter referred to as "IPR") infringements while safeguarding the fundamental rights of all parties concerned by IPR enforcement ;
 3. RECOGNISES that tackling IPR infringement effectively is complex, particularly in the online environment;
 4. WELCOMES the Commission's Communication « Towards a renewed consensus on the enforcement of Intellectual Property rights : An EU Action Plan » and takes note of its focus on commercial scale infringements and the « Follow the money » strategy ;
 5. SHARES the Commission's view that improved collaboration between Member States and the Commission and sharing good practices will increase the efficiency of IPR enforcement in the EU and WELCOMES the Commission's initiative to set up an expert group on the enforcement of Intellectual Property Rights;

⁸ 5140/11

⁹ 5140/11 ADD 1

¹⁰ http://ec.europa.eu/internal_market/consultations/docs/2012/intellectual-property-rights/summary-of-responses_en.pdf

6. ENCOURAGES the Commission, where appropriate with the support of the EU Observatory on the infringement of IPR and in close consultation and cooperation with the Member States and all stakeholders, including rightholders, intermediaries and civil society, to deliver the actions contained within the EU Action Plan, giving emphasis to the "Follow the money" approach, due diligence, enhanced cooperation and assistance to SMEs in enforcing their IPR;
7. STRESSES the importance of accessibility and cost-efficiency of judicial systems, in particular for SMEs ;
8. RECOGNISES the importance of developing new competitive business models enlarging the legal offer of cultural and creative content and at the same time preventing and combating piracy as necessary means for fostering economic growth, employment and cultural diversity;
9. RECALLS that several other aspects of IPR enforcement not contained in the Action Plan were identified as raising questions on the basis of the consultation process carried out by the Commission from 2012 to 2014 and as a follow-up to the adoption of the Commission's report on the application of Directive 2004/48/EC, including the use of tools available to identify IPR infringers; the role of intermediaries in assisting the fight against IPR infringement; and the allocation of damages in IPR disputes ;
10. ENCOURAGES the Commission to consider all possible options to address these matters.
