

INTELLECTUAL PROPERTY RIGHTS

ISSUE

The EC is developing a regime for the protection of intellectual property, granting certain proprietary rights to the creators of knowledge-based goods.

BACKGROUND

Intellectual property rights (IPR) include trademarks, geographical indication, patents, copyright, neighbouring rights, performing rights, industrial designs and trade secrets. Rights are granted to innovators so that they may prevent others from exploiting the benefits of their labour. Presently, these rights are obtained/protected through national laws of the Member States, and thus subject to territorial limitation. The result is a lengthy, expensive process of applying for protection in each jurisdiction, subsequently producing different rights throughout the EC. These distinct national rights serve as obstructions that are inconsistent with the completion of the single market.

EC POSITION

The Community approach is to maintain an appropriate balance between IPR and the free flow of goods/know-how. On the one hand, the EC is attempting to bring IPR in line with the objectives of the single market through harmonization and creation of EC-wide rules. There are proposals to create a Community Patent (CP) and a Community Trademark (CTM) whereby protection throughout the EC can be obtained on a single application. Similarly, national trademark laws have been harmonized to achieve uniformity in the conditions for obtaining trademarks and subsequent protection. Furthermore, so as not to constrain the practice of licensing technology, the EC has adopted a regulation outlining the conditions for which bloc exemptions are available for patent licensing agreements.

At the same time, the EC wishes to ensure that IPR are sufficiently protected so as to encourage continued investment in research and innovation. To this end, the Community has adopted measures concerning counterfeit goods and the protection of computer chips. Protection of biotechnology patents and copyright protection for computer software have also been proposed.

CANADIAN POSITION

Canada encourages EC initiatives to enhance uniformity and simplify the application process for protecting intellectual property. The proposed CP and CTM should serve to improve access for Canadian interests. Furthermore, to the extent that Canada offers reciprocal protection to EC interests, Canadians will be subject to non-discriminatory treatment. However, rights owners may prevent competing imports of products embodying their intellectual property coming from outside the EC.