



## FÉDÉRATION INTERNATIONALE DES CONSEILS EN PROPRIÉTÉ INDUSTRIELLE

SUBJECT: Comments on the proposals for a world patent and/or a PCT patent  
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PURPOSE: Information

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### EXECUTIVE SUMMARY

Considering recent proposals in the sense of either creating a world patent or providing the international examination under the PCT with some degree of binding effect, from a political point of view it should be appreciated that such proposals:

- presuppose a political, legal and economical integration among countries that is inexistent;
- are in apparent opposition with the policy of the majority of WIPO member states as to fully preserving their sovereignty to grant patents valid in their territories;
- have caused apprehension in some member states to the effect that substantive harmonization is perhaps being pursued only as a necessary precondition for a "world patent" or a "PCT patent" to operate properly, and one can only speculate to which extent this state of affairs has caused the severe obstacles that are now in place for the further discussions on substantive harmonization in WIPO;
- clearly disregard some of the fundamentals of the proposed Development Agenda for WIPO.

In order to attempt to reestablish an atmosphere of cooperation in WIPO towards discussion of substantive harmonization, it is therefore believed that the relevant actors should agree to refrain from proposing any provision in new or existing treaties that will ultimately reduce the sovereign rights of member states to decide on the grant of patents valid in the respective territories.

To this effect, it is suggested that an introductory Chapter on General Provisions and Basic Principles be included in the draft SPLT to the effect that:

Members, desiring to improve harmonization in national patent laws, taking into account the need to promote effective and adequate protection of intellectual property rights, nevertheless recognizing that

each country (or region) has the sole sovereign right to decide on the grant of patents valid in the respective territory, reaffirm the spirit of Article 4bis(1) of the Paris Convention as far as patents applied for in the various countries of the Union shall be independent of patents obtained for the same invention in other countries.

The complete paper also lists subsidiary arguments of practical/legal nature.