

Summary Report



Question Q174

Jurisdiction and applicable law in the case of cross-border infringement (infringing acts) of intellectual property rights

- The Executive Committee in Lucerne, which will be held in October 2003, will have to examine the question about choice of jurisdictions and legal conflicts in the case of cross-border infringement of various intellectual property rights.

The decision to put this Question on the work agenda of AIPPI was made during the Executive Committee in Lisbon in June 2002.

And as will be recalled from the Working Guidelines, the selection of this Question resulted from the desire to make the point on the current situation existing in various regions of the world and to propose a harmonization solution for international legal cooperation.

The AIPPI showed an interest in studying this Question since the Reporter General received 39 Reports from the National and Regional Groups.

The Groups: American, Argentinean, Australian, Belgian, Brazilian, British, Bulgarian, Canadian, Chinese, Colombian, Czech, Danish, Dutch, Ecuadorian, Egyptian, Finnish, French, German, Hungarian, Indian, Indonesian, Irish, Italian, Japanese, Korean, Latvian, Malaysian, Mexican, Paraguayan, Philippine, Polish, Portuguese, Romanian, Singaporean, Slovenian, Spanish, Swedish, Swiss, and the Arab Regional Group, have responded to the Working Guidelines.

- The Group Reports vary on numerous points.
And the differences that can be observed seem to be due to both the differences in legislative solutions, to the lack of cross-border litigation in numerous countries and to the different role that industrial property protection can have in the countries according to their stage of economic development.
And these differences also result in the approach that the Groups can have with respect to the same harmonization principle of legal aspects for the protection of intellectual property rights.
In fact, if some Groups call for this harmonization (the Netherlands or France), notwithstanding the differences between national rights, others express the principle according to which the harmonization consists of substantial right, that is, the harmonization of intellectual property rights so as to result in rights having at least a regional scope which should precede any effort of harmonization in the field of international private law or the international legal competence.
It is the search for compromise between these two theses which will actually be the greatest challenge that the Committee Q174 will have to accomplish during the Executive Committee Meeting in Lucerne in October 2003.
- The Group Reports contain very interesting information on the state of the applicable law in their countries.

And it should be noted that the German, Australian, Brazilian, Belgian, Canadian, Spanish, Hungarian, French, Japanese, Dutch, Swiss or Swedish Reports constitute a rich source of information on the current state of the law of these countries.

Thus, the educational work which constitutes the basis of the activities of AIPPI was largely accomplished during the study of Question Q174.

- The Working Guidelines were divided into two parts:
 - the first part was devoted to the study of actual right in different member countries of AIPPI,
 - and the second part was devoted to the search for harmonizing solutions for the future.

The Summary Report will follow this division in the analysis of the National and Regional Group Reports.

I) The state of the applicable law

- 1) The Groups should first respond to the question to ascertain if the National Courts of their countries consider themselves competent to rule on infringements of intellectual property rights committed abroad and what the powers of this competence would then be.

The Group Reports show that there is a great difference on this point.

- a) Certain countries, such as the Czech Republic, Egypt, Mexico and the Philippines believe that their national Judges do not have a territorial competence to rule on acts of infringement of different industrial property rights committed outside of these countries.

And these solutions appear to apply to all of the intellectual property rights.

- b) Other countries adopt a more moderate attitude.

In fact, Australia and Canada indicate that if the competence of national jurisdictions appears to exclude patent infringement acts committed abroad, on the other hand, the Australian or Canadian Judges could be competent to rule on infringement acts of other intellectual property rights committed outside of Australia or Canada.

The Japanese Group makes a distinction between different infringements of intellectual property rights by noting that the very particular question concerns the Internet and "Cyberspace" and that, in this field, the Japanese Judge definitely considers himself competent.

But, on the other hand, with regard to the infringement of other intellectual property rights, the Japanese Judges appear to require a material association with the Japanese territory to admit their competence.

Finally, China and Latvia indicate that this competence appears possible but that there is no case law on this subject.

- c) The situation is special with regard to countries of the European Economic Community, associated by the provisions of the Lugano Convention, which settles the question of international competence.

All the Groups of the European Union as well as Switzerland recognize that their national Judges are competent to rule on infringement acts committed abroad.

But these countries all point out the system of a supranational rule (Brussels Convention extended to the countries of the European Economic Community by the Lugano Convention) which organizes a regional legal Community.

- d) However, even in the absence of an international agreement, certain countries, such as Argentina, Brazil, Colombia, South Korea and Algeria, indicate that in their countries the Judges would be competent to rule on acts of infringement of intellectual property rights committed outside of these countries.
 - e) It can therefore be noted that only a minority of countries refuse to admit the legal competence for infringement acts committed abroad, but that in the majority of countries whose national Groups have responded to the Working Guidelines, the national Judges consider themselves competent to rule on infringement acts with respect to different intellectual property rights committed outside of their countries.
- 2) And when a national Court deems itself competent to rule on infringement acts committed abroad, it essentially attributes the competence with respect to the domicile of the defendant who must be in the Judge's country.

However, certain countries are familiar with other criteria for competence:

- thus, the nationality of the defendant can justify the competence of the Judge even for acts of infringement committed abroad: this is one of the criteria of competence which exists in Romania, Hungary, but also in France.
- and for countries which require (Hungary or Australia) that there is a material association with the country for which the Judge declares himself competent, i.e. that at least one element of infringement takes place in this country, the competence would be based on the location of the Commission of the act.

This aspect of competence is, moreover, recognized by all the countries of the European Economic Community which are related by the provisions of the Lugano Convention which not only attributes competence according to the principle of domicile of the defendant, but also authorizes it to be placed before the Court of the location where the infringement took place.

- 3) The conflict of jurisdictions is different from the conflict of laws.

The assignment of competence does not determine the choice of law applied to resolve the action, except with respect to the progress of the proceedings which, as noted in all the Group Reports and in accordance with the rule of international private right, will be subject to the law of the Judge.

It is the *lex fori* that will apply for organizing the proceedings.

- a) However, there is a difficulty noted in the Reports with respect to the conflict that can exist between the applicable law to settle the litigation on its merits and the law of the Judge to hearing the matter to apply it to the proceedings.

This conflict concerns evidence of infringement.

In fact, one can wonder if evidence of infringement should be determined according to the law of the procedure, i.e. the Judge's law or according to the law applicable to the determination of infringement on its merits.

In particular, the Swiss, Swedish, Spanish Groups believe that *lex fori*, i.e. the law of the procedure, is going to apply to the system of the evidence of infringement.

Other Groups: Brazil, Argentina, Romania and the United Kingdom believe that the question of the evidence of infringement should be determined according to the law selected by the Judge to settle the litigation on its merits.

Finally, certain Reports stress the complexity of the situation and propose more moderate solutions.

The French Group believes that it is the law at the basis of the litigation which should govern the matter and the burden of proof since it will determine, in particular, the existence of presumptions but that, on the other hand, *lex fori* as the law of the procedure, should govern the admissibility of the types of evidence.

The Belgian and Dutch Reports recognize that these are the two laws - *lex fori* and *fundamental* - which can be applied to the question of evidence.

- It can thus be seen that even in the countries which have a litigious system organized by international Conventions (in particular, the countries of the European Economic Community), there is a very great divergence of opinion with respect to the question of the applicable law to determine the evidence of infringement.

In practice, evidence of acts of infringement of intellectual property rights has a great significance in the implementation of legal actions concerning the infringement of these rights.

b) The Groups in their majority believed that the applicable law for judging the basis of the litigation is the law of the country where the infringement took place.

That is the position of the British, Spanish, French, Danish, Japanese, Latvian, Korean Groups and the Arab Regional Group which make the point on the solutions adopted by the Algerian Courts.

But, certain Groups indicate that in their countries other laws will be chosen to select the applicable law to determine it on its merits.

The Chinese Group indicates that the Chinese Judge would only apply Chinese law to rule on infringement, even for acts committed abroad.

This is also the position of the Colombian and Bulgarian Groups.

Finally, certain countries indicate that if, in principle, the Judge were to apply, to rule on the merits of the case, the law of the location where the act of infringement was committed, i.e. the law of protection, their national law would also have an inclination to apply, for example: the Dutch Group, which seems to have a great deal of experience in cross-border infringement actions recognizes that, in practice, and in particular where the parties do not raise the question of the applicable law, the Judge tends to judge according to his own national law.

The same opinion is expressed by the Finnish Group which remembers that, when the exact contents of the law of the country of the infringement is not precise in the eyes of the Judge, then the Finnish Judge would apply his own national law.

c) The solutions also differ with respect to the burden of proof of the contents of the law of the country where the infringement took place.

In certain countries, this law is going to be researched officially by the Judge hearing the action: this is the case in Switzerland, Belgium, Korea, Romania and Hungary.

In other countries: Australia, France or Canada, the obligation to prove the contents of the foreign law is incumbent upon the parties.

And in Spain also, the burden of proof is, in principle, incumbent upon the parties, the Court can officially obtain information about its contents.

Again, there is great divergence of national practices and the solutions depend on the role given to the Judge in the proceeding.

But it can nevertheless be supposed that a plaintiff in an infringement action relating to facts committed outside of the country of the Judge hearing this action should be able to not only furnish evidence of these acts, but also the legislation according to which these acts would be unlawful.

And if one can imagine that the Judge can play an active role in the search of the contents of the foreign law that might be applicable for assessment of the infringement, the essence of this research should be carried out by the parties who would ensure that the contradictory character of the litigation would be enforced.

- 4) The Groups should also indicate if, in practice, the courts declare sanctions in infringement actions would they be able to have an effect abroad and if there are differences between the interim or final sanctions.

In general, the Group Reports clearly indicate that the courts do not make any distinctions, with respect to the geographic extent of the sanctions, between interim sanctions and final sanctions.

But the Groups do remind that the question of the effect abroad of a judgment is complex.

Since even if the courts can declare sanctions which have an effect abroad, it is still necessary to obtain the exequatur of such a judgement in the countries in which the sanctions are to be carried out.

The judge of the merits of the case who has ruled on infringement does not have the power to guarantee such an exequatur.

Thus, it appears that in the absence of an international ruling, the decisions and, in particular, an injunction can only have a slight impact on the situation of infringers.

- 5) The Groups should also describe the process for executing the foreign decisions rendered with respect to infringement.

The Groups indicate that it is necessary to obtain the exequatur of a foreign decision by a national Judge to be able to execute this decision.

The conditions for obtaining the exequatur are generally quite strict:

- the decision must be final and not subject to appeal,
- the decision should be rendered at the conclusion of a legal proceeding in which the parties were able to assert their rights,
- and the decision should not violate the public rules of order applicable to the country in which the exequatur is requested.

This is the system that exists in the great majority of countries which responded to the Working Guidelines: Korea, Canada, Japan as well as in all the countries of the European Economic Community.

However, the countries of the European Economic Community have the simplified exequatur proceedings for the decisions that were rendered by the courts of these countries.

And the Groups of the EEC countries confirm in their majority that the simplified exequatur does not have any particular difficulties.

- On the other hand, in certain countries which are not part of a regional arrangement relating to legal cooperation with respect to executing judgements, it appears that the execution of decisions setting out specific sanctions with respect to infringement of an intellectual property right would be very difficult, even impossible.

In particular, the Australian Group notes that the Australian judge would refuse to grant the exequatur for a decision pronouncing an injunction measure having effects in Australia.

The same reservations concerning the respect of national sovereignty are made by the Brazilian and Bulgarian Groups.

In particular, the Bulgarian Group emphasizes the requirement for international reciprocity as a condition for executing foreign decisions.

Of course, the question of the exequatur does not only concern decisions rendered in cases of infringement of various intellectual property rights.

But, it seems that the resistances, by reason of the territorial character of these rights, are particularly strong.

Thus, it is a field in which at least a regional arrangement could be justified.

- 6) In cases of cross-border infringement, the Groups should take into account the application of the rules of good administration of justice: delays for rendering decisions or adjournments for *lis pendens* in case there are parallel actions between different countries.

In this case also, differences exist between the countries of the European Economic Community which, by the Lugano Convention, have undertaken to respect the rules of *lis pendens* and relatedness and countries which are not signatories to any international agreement.

The European countries are aware of the obligation to postpone or delay a decision in the case of *lis pendens* or relatedness in international actions.

But, these rules are nevertheless rarely applied as acknowledged in the Reports from the French Group and the Belgian Group.

And for countries which are not associated by international agreements such as the Lugano Convention, the exception of *lis pendens* does not appear to apply.

The Brazilian Group takes into account a specific article of its civil procedure code which provides that there is no *lis pendens* between the proceedings in Brazil and foreign proceedings.

A similar rule appears to exist in Korea and Japan.

- But if one finds this refusal to postpone before a foreign jurisdiction, it seems that the delay in rendering a decision while awaiting the results of an action in another country is more often implemented within the scope of international legal cooperation, even in the absence of an applicable agreement and express provision.

In particular, this is the situation in French courts which have rendered decisions for delays in a decision in legal actions relating to industrial property due to the fact that there are actions pending between the same parties in the United States.

The same solution appears to exist not only in the countries of the European Union, but also in Australia, Bulgaria and in Algeria.

The Brazilian Group and the Egyptian Group, however, indicate that even a delay in a ruling while waiting for the outcome of a foreign proceeding cannot be granted by the national judge.

- It can thus be seen that the exception of *lis pendens* does not appear to be used by the courts within the scope of cross-border infringement actions relating to intellectual property rights.

However, on the other hand, the desire for coordination and to avoid inconsistencies in decisions has sometimes induced the national judges to delay a ruling while awaiting the results of corresponding actions instituted in other countries.

If this rule should be confirmed by AIPPI, not only would it be a big step forward within the scope of international cooperation, but it would also have a quite concrete impact on the behaviour of the proprietors of intellectual property rights who would first take action in infringement in countries well-known for the speed and simplicity of proceedings.

- 7) The Groups should also respond to the question to ascertain whether the exception of public order can be applied in cases of intellectual property rights to set aside the application of a foreign law.

It can be seen from the Group Reports that if, in principle, the exception of international public order can always be invoked by the parties to oppose the application of a foreign law, the actual application of this principle would be quite reduced.

In particular, the Spanish Group doubts the possibility of usefully invoking such an exception and the Swedish Group believes that the exception of international public order should not play a role with respect to the decisions rendered by the jurisdictions of countries which are members of main international agreements such as the Bern Convention and the Paris Convention or the treaties establishing the World Commerce Organization.

But the Dutch Group notes that the exception of public order could be invoked to set aside the application of a law providing punitive damages and interests.

And the Swiss Group supposes that the public order could be opposed to the application of a foreign law providing the expropriation of intellectual property rights without indemnity.

Thus, it can be seen that even if the cases of concrete application of the exception of international public order to set aside a foreign law are rare, the principle of this exception can be applied to actions for cross-border infringement.

- 8) The question of public order has an obvious relation to the question of national sovereignty.

It is due to the principle of national sovereignty that the Group Reports note that, in the case of a discussion on infringement committed abroad, the judge applying the foreign law cannot in any event rule on the validity of rights existing abroad.

Thus, the assessment of the validity of these rights is reserved for the exclusive competence of the judge of the country in which this right was registered.

In the case of an actual right, the assessment of the validity of the rights which resulted in the registration is thus reserved for the courts of the country in which this registration was effected.

The only difference concerns non-registered rights, such as copyright where certain Reports (and in particular the French Report) appear to give a foreign judge the possibility of finding the lack of validity of the right, the country of origin of which is another country.

- 9) Finally, it should be remembered that the Working Guidelines also questioned the Groups regarding the application of criminal proceedings for cross-border infringement.

But, the details of criminal proceedings are such that it is difficult to derive a general solution.

Nevertheless, it can be noted that criminal judges do not deal with the question of conflicts of laws, but apply their national laws.

And the criteria for competence in the case of criminal proceedings are essentially based on the nationality of the accused or the victims of infringement.

However, national solutions are so divergent that it is difficult to envisage proposing a harmonization rule at this stage.

This harmonization can be envisaged all the less since the application of criminal sanctions to infringement of various intellectual property rights itself already presents numerous difficulties which AIPPI had occasion to study within the scope of Question Q169.

II) Proposal for solutions in the future

- 1) The Groups were invited, prior to proposing specific solutions with a view to harmonizing cases of cross-border infringement of various intellectual property rights, to give their general opinion on the advisability of such a harmonization.

Two large trends are taking shape:

- Certain Groups doubt the usefulness of such a harmonization without first effecting a harmonization, at least regional, of various intellectual property rights.

According to this trend, substantial rights should first be harmonized by creating rights having a regional scope before envisaging the harmonization of proceedings and actions.

This opinion is expressed in particular by the following Groups: British, Australian, Mexican, Philippine, Egyptian, Spanish, Bulgarian, Ecuadorian and also Japanese.

- But another idea came from the Reports of other Groups which remind that it is the legal harmonization and practical solutions to the conflict of laws and jurisdictions which can promote harmonization of substantial rights.

This seems to be the opinion of Korea, Switzerland, the Netherlands, France and Denmark.

Thus, a divergence in principle can be seen between two streams of thought within AIPPI.

The solution could be drawn from the European example where, even prior to the creation of harmonized rules with respect to substantial rights were envisaged and well before the coming into force of such rights, the Brussels Convention of 1968 provided quite effective solutions with respect to the organization of cross-border infringement actions.

It can thus be supposed that the search for simple rules with respect to coordinating legal procedures in the event that parallel actions exist bearing on the facts

of infringement of corresponding intellectual property rights can have a favourable impact on the harmonization of such rights.

This is perhaps the path that should be encouraged by AIPPI.

In its Report, the American Group notes the benefits of such a harmonization: an international system of legal actions would make it possible to largely foresee decisions and consequently provide proprietors of intellectual property rights with greater security leading to an economy of means used to ensure the respect of these rights.

- 2) If a harmonization of rules for conflicts of law and conflicts of jurisdiction should be proposed by AIPPI, it then seems that certain objectives of harmonization can be very easily attained.

With respect to the criteria for selecting the competent jurisdiction, the majority of Groups propose that the competence of the Court be determined according to the domicile of the defendant.

That is the position of the Danish, Belgian, Dutch, French, but also Brazilian, Korean and Swiss Groups.

But other countries propose the location of the infringement as an essential criterion for competence.

That is the position of the Argentinean, Latvian, Hungarian and Philippine Groups.

The Canadian Group proposes that the competence be that of the judge of the country in which the right was granted.

A similar position seems to be proposed by the Japanese Group and distinguishes between various types of infringement acts.

In particular, the Japanese Group proposes the country in which the patent was granted as a criterion for selecting the competent jurisdiction with respect to patent infringement.

It can be seen that these criteria are not exclusive and that the plaintiff in an infringement case can be given the possibility of selecting between different standards of competence as the one that is, in particular, provided in the Lugano Convention.

The Committee should then propose a hierarchy of competence criteria, while giving the proprietor of the right which has been infringed the possibility of choosing from these criteria.

- 3) The Groups should also propose criteria for selecting the applicable law.

In this case also, the majority of Groups propose that the applicable law for judging basic infringement be the law of the country in which the infringement took place, i.e. the law governing the protection of the intellectual property right and that the proceeding be determined by the law of the country of the judge (common law).

These are solutions which appear to be applied by the courts of countries that are familiar with cases concerning cross-border infringement and which do not pose any particular difficulties.

- 4) The essential question that arises, with respect to what a foreign court can use as a basis to judge the facts of infringement committed in another country and the principle of application of law of the country of the infringement to make a ruling on the merits, is the question of assessing the validity of intellectual property rights invoked within the scope of the infringement action.

The Groups expressed their position almost unanimously by stating that only the judge of the country which granted the right invoked within the scope of the infringement action should be competent to make a decision on the validity of this right.

This opinion expresses a rule which is traditionally applied in various countries.

But certain Groups observed that harmonization requires a more audacious approach.

The Korean Group suggests that if a harmonized system of cross-border infringement actions were to be adopted at the international level, then the judge hearing an action in cross-border infringement should also have competence to rule on the validity of the rights in question.

The Brazilian Group suggests a distinction between the invalidity *erga omnes* and the invalidity *inter partes*.

If the Brazilian Group believes that a decision rendered on the validity *erga omnes* cannot be pronounced by the judge of the country which issued the right, the Brazilian Group appears to accept that a foreign judge could rule on the validity or invalidity of an intellectual property right if this invalidity had a limited effect on single parties.

This is an important question since it can appear effectively difficult to imagine a harmonization of cross-border infringement actions without giving the judge the possibility of also ruling on the validity of opposed rights within the scope of such infringement actions.

- And if no agreement can be found on this point, then the search by AIPPI for a compromise solution should be directed to an enumeration of legal procedures according to which, if one exempts the invalidity of a foreign patent or trademark was raised before the judge hearing the infringement action, the judge should defer the examination of this question to the court of the country of the trademark or patent and consequently delay a ruling on the application for infringement.

But a system of this type would present certain disadvantages since not only would the procedure be complicated but there is also the likelihood that it would be appreciably prolonged.

And in any hypothesis, it would be necessary to organize the rules of such an adjournment to render it as efficient as possible.

- 5) On the other hand, the Groups appear to be quite prepared to accept, in a possible harmonized system, the rules for the good administration of justice: adjournment or delay to render a decision for *lis pendens* or relatedness would apply.

Only the Groups hostile to the harmonization in the absence of a previous unification of substantial rights, in particular by creating a right of regional scope, oppose an application of the principle of adjournment for relatedness or *lis pendens*.

That is the position of the Australian Group which nevertheless accepts the assumption of delaying the ruling.

And the British Group wishes that the parties have the possibility of revisiting a possible delay when it appears that the main infringement proceeding is not advancing quickly enough.

The question of the coordination of parallel proceedings can be of great practical significance, therefore, it is desirable that AIPPI take a position on this subject and that, even more, a consensus appear to come from the Group Reports.

- 6) The Groups were also queried on the geographic scope of sanctions which could be delivered by the judge within the scope of a harmonized action and on the execution of the decisions.

The Groups in their majority wish the sanctions to be executed in all countries where intellectual property rights exist and that the execution of decisions be facilitated.

Thus, it appears that AIPPI can take a position in favour of such an international solution.

- 7) Finally, the Groups were queried about how to attain the harmonization of cross-border actions.

It appears that the Groups, taking the difficulty that this harmonization presents into consideration, are in favour of first having a regional harmonization.

In particular, this is the wish of the countries of South America.

But it is also the proposal expressed by certain Reports from the European Union which has already been able to benefit from the harmonization of cross-border infringement actions resulting from the application of the provisions from the Brussels Convention.

It is thus probably by multilateral agreements at the regional level that a harmonization of this can be obtained.

The Working Committee will then have to also take a position on this point which appears not to provoke lively debates within AIPPI.

III) Conclusion

The examination of the Group Reports, both with respect to the status of applicable law and with respect to proposals for the future concerning the conflict of jurisdictions and applicable laws in the case of cross-border infringements, show the size of the task which will have to be realized for the Committee Q174 with a view to proposing a Resolution that can be accepted during the Executive Committee Meeting in Lucerne in October 2003.

However, and in spite of differences that exist, certain points appear, on reviewing the Group Reports, to be able to form part of a consensus.

Thus, AIPPI appears to be able to accept that, at least at the regional level and without the necessity for industrial property rights with a regional scope, the courts of different countries are going to acknowledge the competence for ruling on infringement acts committed abroad.

On the other hand, it appears to be possible to base this competence on the criteria of domicile of the defendant or on the location where the infringement act was committed.

Finally, the court that would have to rule, in the hypothesis of a regional collaboration, on infringement acts committed abroad should, to rule on these acts, apply the law of the country in which the infringement act was committed.

This law would apply both with respect to determining the infringement and passing sanctions with a view to redressing the prejudice and ceasing the infringement in future.

And this law should, as the majority of Group Reports seem to indicate, also apply to the question of evidence of infringement.

These appear to be the main points on which a consensus should be found within AIPPI by the Executive Committee in Lucerne, if the Groups do not change their position with respect to the Report which they addressed to the Reporter General.

On the other hand, certain points should still be studied thoroughly by the Commission.

This is particularly true with respect to the question of the power of a judge hearing an infringement action concerning infringement acts committed abroad.

Can a court of this type examine the validity of the right which is invoked within the scope of the infringement action or must it declare itself incompetent on this question?

On the other hand, the Q174 Committee should also respond to the question to ascertain if this harmonization, even at the regional level, should be studied further or if it agrees, prior to organizing the cross-border actions, to first study the creation of industrial property rights having a regional scope.

- Nevertheless, it can be seen that a large movement in favour of harmonization, even of actions, is currently operating in the world.

And an example of this is given by a recent initiative of the European Commission which proposes a Harmonization Guideline of measures and procedures relating to the implementation of intellectual property rights.

The work of AIPPI carried out with the scope of Question Q174 which also deals in part with questions raised by the draft Guidelines, shows the topical nature of the work of AIPPI and will enable AIPPI to also take a position on this important European initiative.