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Harmonization of Intellectual Property Rights within and beyond the European Union: The Acquis Communautaire in the Framework of the European Neighbourhood Policy

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Aim of the EU Neighbourhood Policy (ENP) is to ‘achieve the closest possible political association and the greatest possible degree of economic integration’ that can be achieved between the EU and non-EU Member States (Romano Prodi, 2002). To this end, the EU and its neighbours need to ‘builds on common interests and on values – democracy, the rule of law, respect for human rights, and social cohesion’. This Working Paper examines the approximation of the laws protecting Intellectual Property Rights (IPRs) within and beyond the EU boundaries. To this end, the paper discusses the bilateral agreements in which EU Neighbouring Countries (NCs) commit to approximation to European IP law, and examines the evaluations made by EU authorities. The level of approximation of four NCs is assessed as case studies: Egypt, Israel, Moldova and Ukraine. The review of the ENP relating to IPRs in general, and of the focus countries in particular, suggests that the level of protection in NCs varies greatly, with some similarities which can be detected within the policy sub-groups (Eastern European, Southern Mediterranean, and Black Sea countries). The Paper identifies the strengths and pitfalls of the ENP with respect to IPRs, and concludes that harmonization alone cannot lower the barriers to trade if it is not paralleled by substantial improvement in the coordination of judicial procedures and enforcement mechanisms. It also suggests that barriers of trade cannot be significantly lowered if mechanisms to extend the principle of Community exhaustion of IPRs to (at least some) NCs are not envisaged.