



Questionnaire regarding cross-border aspects of client/ patent attorney privilege (CAP)

Introductory remark:

The structure of the questionnaire and its wording has been chosen to allow for maximum flexibility for each delegation while conducting the survey according to the specific legal and commercial framework of that country on one hand and to provide for useful answers on the other hand. The objective of the survey is a complete set of answers to the questions below. Each delegation is free to decide which stakeholders should be questioned (e.g. users of the system i.e. industry; IP professionals: lawyers, patent attorneys etc.; courts; administration branches etc.) and/or which questions should be submitted to which group of stakeholders.

A General aspects

1. In your opinion, is there a need to protect communications between IP professionals (non-lawyer/lawyer) and clients in cases having cross-border aspects?
Notably:

- Please explain why/ why not.
- Please define the kind of communication that should be covered by that protection.

2. Have you been confronted with situations where the client attorney privilege was an issue?
Notably:

- Please describe the circumstances (countries/sender and recipient of communication/kind of communication etc. involved).
- Please describe the reasons, why the issue arose.
- Please describe the solution of the issue.
- If yes, how often in the last 5 years?
- How many times since you started practising (if applicable)?

3. Is your interaction with your clients (e.g. communication, decision making process) influenced by the differences in national approaches to client attorney privilege issues?
4. In connection with the cross-border client attorney privilege, what do you think is essential to be regulated by a multilateral agreement?
5. In your opinion, what are possible reasons against adopting a multilateral agreement?

B Specific aspects on the proposed multilateral agreement

1. What professionals should be covered by the agreement?

- By what criteria should the professionals be identified?
- What definition should be used to ensure that the professionals covered are defined sufficiently clearly?
- How should the different terminology in different jurisdictions be taken into account?



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2. What advice should be covered by the agreement?
 - What definition should be used to ensure that the advice covered is defined sufficiently clearly?
3. Should there be a provision in the agreement that stipulates a certain flexibility for the participating countries?