

PUBLIC CONSULTATION ON THE PROTECTION OF BUSINESS AND RESEARCH KNOW-HOW

Consultation period: 12 weeks

Main target group: general public, researchers, SME's, trade associations and unions

Estimated time needed to complete the questionnaire: 15 minutes

Reason for consultation: Gather views regarding redress against the misappropriation of confidential business information used by companies and research bodies in the EU.

Intended use of survey results: Analysis of the effectiveness, in particular in a cross-border environment, of the current legislative protection of confidential business information

Know-how, to know a specific way how to do something, lies at the heart of any business activity, no matter what size, and is the aim of research. Your favourite baker knows best how to prepare your favourite croissants or pastry. Premium brands electronic companies seem to have specific know-how on how to design and manufacture electronic devices. Scientists find new ways how to treat diseases etc.

Intellectual property rights (IPRs) such as patents, trademarks, designs, geographical indications or copyright provide legal protection for inventors, authors, producers etc. of innovative ideas or concepts. IPRs provide their owners with the exclusive rights for a given period of time. Some of these rights have to be formally registered before they can be claimed. That is the case, for example, of patents. Through a patent, inventors receive exclusive rights in return for disclosing the invention, thus making the knowledge available to the public. Others, such as copyrights, are granted 'automatically' by law. An author, for example, is granted the right to prevent others from publishing, copying, performing her or his work without her or his explicit agreement.

However, the above-mentioned IPRs are only available under certain conditions and, in others, might be too costly to manage for the rights holder. That is why companies, and researchers, often protect their intellectual property/know-how by keeping them secret. Those who choose to rely on confidentiality are granted some legal protection against misappropriation (e.g. industrial espionage, theft, breach of contract) of such confidential business information (often referred to as 'trade secrets') if they can demonstrate that they made an effort to keep the relevant information secret. However, contrary to the IPRs mentioned above, since the relevant information is kept secret, this legal protection does not grant any exclusive right in itself: competitors or other people are free to make (e.g. through parallel discovery or reverse engineering) the same or a similar, potentially even better, innovation on their own and to commercialise it in parallel to the original 'trade secret'.

If a trade secret/confidential business information has been misappropriated, the company or researcher will have to, in a first stage, take the suspect to court and seek a decision stopping the continuation of the misappropriation and eventually seeking redress for any damage it has suffered. In a second stage if the misappropriated information is knowingly used by a competitor, the company or researcher will seek redress to prevent such unfair competition and to obtain compensation for damages.

The protection of confidential business information as a trade secret is, for many businesses, often the only or the most effective way to protect their intellectual property. Such protection would allow innovators to reap the benefits from their innovations, at least for some time, and hence to earn sufficient return on their investment in innovation. In particular, it appears that trade secrets/confidential business information are often regarded as key protecting tools by small and mid-sized companies (SMEs) and researchers in (non-profit) research institutes, who use trade secrets both to replace as well as to complement IPRs.

Concerns regarding the effectiveness of the protection of trade secrets in the Internal Market are already being voiced.

The differences between national laws of Member States are claimed to be such as to make it difficult to ensure that the right protective measures are being applied in cross-border business. The protection would not represent a sufficiently strong deterrent against theft of such confidential business information. Therefore, this could dissuade the sharing of confidential business information across borders with business partners who could offer valuable possibilities to develop new market possibilities for innovative products.

In view of these concerns, the European Commission has decided to analyse the current situation in the Union in more detail and to collect views with regard to the protection of business and research know-how in the Union. This consultation is primarily targeted

at the general public, citizens, SME's, business associations/trade unions and the research community, but it is also addressed to any party (legal or natural person) involved with the protection of confidential business information.

The Questionnaire

This questionnaire consists of three parts.

Part I comprises questions on the general notion of the misappropriation of 'trade secrets/confidential business information', existing protection against it and possible further action at EU level.

Part II is more specifically addressed to those who have experience with 'trade secrets/confidential business information'.

Part III asks questions on the respondent's status.

This should help the European Commission to analyse which parts of the economy are faced with what kind of problems or have certain views in order to be able to better target any potential measure the Commission might decide to take on the basis of the responses. A free-text box at the end of the questionnaire provides you with the opportunity to mention any other aspect relevant to the subject of the questionnaire which, in your view, has not been properly addressed so far.

Questions marked with an asterisk * require an answer to be given.

I. Questions to General Public

I.1. In your view, of what importance are 'trade secrets/confidential business information' for (check all relevant boxes):

	Low	Medium	High	No opinion
Research and development *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Exploitation of innovation, i.e. turning an invention into a marketable product *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Innovative and competitive performance of SMEs *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Innovative and competitive performance of large companies which operate internationally *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Growth and jobs in the EU economy in general *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

1.3. Do you consider 'trade secrets/confidential business information' an important tool for business and research bodies in the EU in order to protect their valuable information (check only one box)?

*

- No
- Yes, as complement to IPRs
- Yes, as an alternative to IPRs
- Yes, as both complement and alternative for IPRs
- No opinion

1.4. Do you consider the legal protection against the misappropriation of 'trade secret/confidential business information' (check all relevant boxes):

* For example, if you needed to litigate against a misappropriator in another Member State or you wanted to have a domestic judgment on the misappropriation of trade secrets recognised and enforced in another Member State.

** For example, if your trade secrets had been misappropriated in a non-EU country and you wanted to prevent the misappropriator from taking advantage of this within the EU, e.g. by selling the good that resulted from the misappropriation.

	Weak	Appropriate	Excessive	No opinion
At national level *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In a cross-border context in the EU* *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In a cross-border context globally** *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

 *1.5. If in question 1.4 you consider the current legal protection against the misappropriation of 'trade secrets'/confidential business information at national level as weak, in which countries do you see weaknesses and which are those weaknesses (you can select more than one Member State)?* (between 1 and 27 answers)*

- | | | | |
|---|---|---|---|
| <input type="checkbox"/> AT – Österreich | <input type="checkbox"/> BE – Belgique / België | <input type="checkbox"/> BG – България | <input type="checkbox"/> CY – Κύπρος |
| <input type="checkbox"/> CZ – Česká republika | <input type="checkbox"/> DE – Deutschland | <input type="checkbox"/> DK – Danmark | <input type="checkbox"/> EE – Eesti |
| <input type="checkbox"/> EL – Ελλάδα | <input type="checkbox"/> ES – España | <input type="checkbox"/> FI – Suomi / Finland | <input type="checkbox"/> FR – France |
| <input type="checkbox"/> HU – Magyarország | <input type="checkbox"/> IE – Éire / Ireland | <input type="checkbox"/> IT – Italia | <input type="checkbox"/> LT – Lietuva |
| <input type="checkbox"/> LU – Luxembourg | <input type="checkbox"/> LV – Latvija | <input type="checkbox"/> MT – Malta | <input type="checkbox"/> NL – Nederland |
| <input type="checkbox"/> PL – Polska | <input type="checkbox"/> PT – Portugal | <input type="checkbox"/> RO – România | <input type="checkbox"/> SE – Sverige |
| <input type="checkbox"/> SK – Slovensko | <input type="checkbox"/> SI – Slovenija | <input type="checkbox"/> UK – United Kingdom | |

 I.5.AT - Österreich (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)

 I.5.AT.1. Other (please specify) * (maximum 200 characters)

 I.5.BE - Belgique / België (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)

 I.5.BE.1. Other (please specify) * (maximum 200 characters)

 I.5.BG – България (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)

 I.5.BG.1. Other (please specify) * (maximum 200 characters)

 I.5.CY – Κύπρος (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)



I.5.CY.1. Other (please specify) * (maximum 200 characters)



I.5.CZ - Česká republika (check all relevant boxes)

*

(at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)



I.5.CZ.1. Other (please specify) * (maximum 200 characters)

 I.5.DE - Deutschland (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)

 I.5.DE.1. Other (please specify) * (maximum 200 characters)

 I.5.DK - Danmark (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)

 I.5.DK.1. Other (please specify) * (maximum 200 characters)

 I.5.EE - Eesti (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)

 I.5.EE.1. Other (please specify) * (maximum 200 characters)

 I.5.EL – Ελλάδα (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)

 I.5.EL.1. Other (please specify) * (maximum 200 characters)

 I.5.ES - España (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)

 I.5.ES.1. Other (please specify) * (maximum 200 characters)

 I.5.FI - Suomi / Finland (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)



I.5.FI.1. Other (please specify) * (maximum 200 characters)



I.5.FR - France (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)



I.5.FR.1. Other (please specify) * (maximum 200 characters)

 I.5.HU - Magyarország (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)

 I.5.HU.1. Other (please specify) * (maximum 200 characters)

 I.5.IE - Éire/Ireland (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)

 I.5.IE.1. Other (please specify) * (maximum 200 characters)

 I.5.IT - Italia (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)

 I.5.IT.1. Other (please specify) * (maximum 200 characters)

 I.5.LT - Lietuva (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)

 I.5.LT.1. Other (please specify) * (maximum 200 characters)

 I.5.LU - Luxembourg (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)

 I.5.LU.1. Other (please specify) * (maximum 200 characters)

 I.5.LV - Latvija (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)



I.5.LV.1. Other (please specify) * (maximum 200 characters)



I.5.MT - Malta (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)



I.5.MT.1. Other (please specify) * (maximum 200 characters)

 I.5.NL - Nederland (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)

 I.5.NL.1. Other (please specify) * (maximum 200 characters)

 I.5.PL- Polska (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)

 I.5.PL.1. Other (please specify) * (maximum 200 characters)

 I.5.PT- Portugal (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)

 I.5.PT.1. Other (please specify) * (maximum 200 characters)

 I.5.RO- România (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)

 I.5.SE- Sverige (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)

 I.5.RO.1. Other (please specify) * (maximum 200 characters)

 I.5.SE.1. Other (please specify) * (maximum 200 characters)

 I.5.SI- Slovenija (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)



I.5.SI.1. Other (please specify) * (maximum 200 characters)



I.5.SK- Slovensko (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)



I.5.SK.1. Other (please specify) * (maximum 200 characters)

 I.5.UK- United Kingdom (check all relevant boxes) * (at least 1 answers)

- Insufficient scope of protection (e.g. a third party is not always prevented from using the misappropriated trade secret)
- Legal action too expensive
- Trade secrets misappropriation is not punishable as a criminal offence.
- Criminal penalties and sanctions too low to serve as deterrent
- No fair compensation granted for the prejudice suffered
- Legal action would require disclosure of confidential information (e.g. hearings before judges may be public)
- Other (please specify)

 I.5.UK.1. Other (please specify) * (maximum 200 characters)

 I.6. *Cross-border context: if in question I.4 you consider the current legal protection against the misappropriation of 'trade secrets/confidential business information' when doing business across borders as weak, where do you see weaknesses (check all relevant boxes)?*

* (at least 1 answers)

- Differences in the scope of protection in the EU Member States (e.g. different measures and thus level of protection may be obtained for objectively similar misappropriation facts)
- Cost of litigation or of getting a judgment recognised and enforced in other EU Member States
- Insufficient knowledge about the legal regime in other EU Member States makes it difficult to optimise protective measures (e.g. confidentiality clauses in contracts)
- Goods produced in a non-EU country using misappropriated confidential business information of an EU company are not barred from entering into the EU
- Other (please specify)

 1.6.1. Other (please specify) * (maximum 300 characters)

1.7. What is the impact of having different/divergent national rules on the protection of trade secrets against misappropriation when doing business across borders in the EU (check all relevant boxes)? * (at least 1 answers)

- higher business risk in the Member States with weaker protection
- increased expenditure in preventive measures to protect information
- increased costs in adapting licensing models to different/divergent national rules
- less incentive to undertake research and development activities in a cross-border context
- reduced cross-border business activity as trust in legal protection in other Member States diminish
- other (please specify)
- no negative impact
- no opinion

 1.7.1. Other (please specify) * (maximum 300 characters)

1.8. There is no EU legislation specifically addressing the misappropriation of trade secrets and national rules on this issue differ. Do you think that the legal protection against the misappropriation of 'trade secrets/confidential business information' should specifically be addressed at EU level (check only one box)? *

- No, no action at EU level required
- Yes (please specify)
- No opinion



1.8.1. EU Action *

- A European body could provide easily accessible, reliable and accurate information on the differences in national legislation: e.g. via a dedicated website.
- The European Commission should adopt a recommendation inviting Member States to improve their respective national laws.
- There should be EU legislation establishing a comparable level of protection across the EU on the misappropriation of trade secrets.
- There should be uniform EU legislation on the misappropriation of trade secrets.
- Other (please specify)



1.8.1.1. Other (please specify) * (maximum 300 characters)

1.9. If you think that there should be EU legislation or a Commission recommendation addressing the misappropriation of trade secrets what should be its content (check all relevant boxes)?

	Yes	No	No opinion
Prohibition of acts of misappropriation of trade secrets/confidential business information and definition of such acts *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Empower courts to order the stop of the unlawful use of the misappropriated trade secrets/confidential business information in the whole of the EU *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Empower courts to order all customs authorities in the EU to stop at the EU borders imports of products manufactured in a non-EU country using misappropriated trade secrets/confidential business information *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Rules on the calculation of damages including all relevant factors (lost sales, unjustified profits by the defendant, royalties, etc.) *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Uniform contractual rules on non-compete and/or non-disclosure clauses between the trade secret owner and employees *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Rules on criminal penalties and/or fines for individuals and organisations responsible for misappropriation of trade secrets/confidential business information *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Rules ensuring that the confidentiality of the trade secrets/confidential business information is kept during court proceedings and hearings, so that the trade secret/confidential business information is not lost or further disclosed in the course of legal actions *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other (please specify)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

 1.9.1. Other (please specify) * (maximum 300 characters)

1.10. In your view, what would be the likely effects/impacts of EU level legislation (check all relevant boxes)? * (at most 2 answers)

- | | |
|--|--|
| <input type="checkbox"/> Positive effects/impacts (please specify) | <input type="checkbox"/> Negative effects/impacts (please specify) |
| <input type="checkbox"/> No perceived positive effects | <input type="checkbox"/> No perceived negative impacts |
| <input type="checkbox"/> No opinion | |

 1.10.1. Positive effects/impacts (check all relevant boxes) * (at least 1 answers)

- Better protection against the misappropriation of trade secrets/confidential business information
- Companies/researchers would have to spend less for company-specific protective measures
- Companies/researchers could better rely on effective cross-border law enforcement and costs would be lower when litigating in other EU Member States
- A better legal protection of the results of innovative activities would trigger more investment in R&D and innovation
- Safer business environment would create better opportunities for different players to cooperate in R&D and innovation projects ("network/collaborative innovation" as opposed to "in-house innovation")
- Greater expected returns from sharing, licensing or transferring know-how
- Better conditions for SMEs to raise funding or venture capital
- Other (please specify)

 1.10.1.1. Other (please specify) * (maximum 300 characters)

 I.10.2. Negative effects/impacts (check all relevant boxes) * (at least 1 answers)

- risk of endangering the existing balance between labour, civil and criminal law at national level
- waste of resources in duplicative research ('re-inventing the wheel' if know-how is kept secret);
- incremental innovation more difficult (harder to build on others' innovation)
- more court cases where companies try to raise market barriers for competitors
- risk of abusive behaviour by competitors
- less labour mobility
- Other (please specify)

 I.10.2.1. Other (please specify) * (maximum 300 characters)

I.11. Do you think that legislation against the misappropriation of trade secrets/confidential business information at EU level would improve the functioning of the internal market for intellectual property (check only one box)? *

- No, because (please specify) Yes, because (please specify) No opinion

 I.11.1. No, because (check all relevant boxes) * (at least 1 answers)

- research cooperation and transfer of know-how across borders in the EU will not increase much as other factors hamper such activities much more and would not be solved.
- EU companies and research institutes are not very interested in research cooperation and transfer of know-how across borders in the EU.
- other EU IPR laws provide already a sufficient framework for the exchange of intellectual property. Companies would not rely on the protection against trade secrets misappropriation in a cross-border context.
- it would only incentivise companies to control and protect their intellectual property even more.
- Other (please specify)

 I.11.1.1. Other (please specify) * (maximum 300 characters)

 I.11.2. Yes, because (check all relevant boxes) * (at least 1 answers)

- greater legal certainty and easier enforcement would encourage the exchange of intellectual property across borders in the EU.
- better coordination and/or harmonisation across EU Member States would help in deterring misappropriation from non-EU countries and make intra-EU cooperation more interesting.
- Other (please specify)

 I.11.2.1. Other (please specify) * (maximum 300 characters)

II. Questions specific to 'users' of trade secrets/confidential business information

II.1. Do you hold trade secrets/confidential business information in your company/entity (check only one box)? *

- No
- Yes, but of little importance for the company/entity
- Yes, of crucial importance for the company/entity
- No opinion

II.2. Do you make an effort to protect trade secrets/confidential business information in your company/entity (check only one box)? *

- No
- Little
- Considerable
- No opinion

II.3. Did you ever enter into technology/know-how transfer agreements?

*
(at most 3 answers)

- No
- Yes, with companies/entities in the same EU Member State
- Yes, with companies/entities in another EU Member State
- Yes, with companies/entities in non-EU countries
- No opinion

II.4. Have/has important trade secrets/confidential business information been stolen from your company/entity (check only one box)?

*

- No
- Yes, once or twice
- Yes, more frequently
- No opinion

 II.5. If yes, do you know by whom? (check all relevant boxes) * (at least 1 answers)

- Employee
- Former employee
- Competitor
- Supplier/Customer
- Other
- Don't know
- No opinion



II.6. Did you take any legal action? If yes, was it successful in stopping the misappropriation and providing sufficient redress to make up the economic damage? ^{*} (at least 1 answers)

- No action taken
- Action taken, but case not successful
- Action taken, but judgement insufficient to compensate for damage
- Action taken, judgement sufficient to compensate for damage
- No opinion
- Other (please specify)



II.6.1. Other (please specify)

^{*}

(maximum 300 characters)

II.7. Do you use any other form of IPR (check all relevant boxes)? ^{*} (at least 1 answers)

- No
- Patents
- Design rights
- Trademarks
- Copyrights
- Geographical indications
- No opinion

II.8. When you do not use IPRs, what is the reason (check all relevant boxes)?

- a: Not available
- b: Too expensive
- c: Don't know exactly how they work
- d: Don't believe in their effectiveness
- e: Other
- f: No opinion

	a	b	c	d	e	f
Patents* (between 1 and 4 answers)	<input type="checkbox"/>					
Design rights* (between 1 and 4 answers)	<input type="checkbox"/>					
Trade marks* (between 1 and 4 answers)	<input type="checkbox"/>					
Copyright* (between 1 and 4 answers)	<input type="checkbox"/>					
Geographical indications* (between 1 and 4 answers)	<input type="checkbox"/>					

III. Questions regarding your status as respondent

III.1. EU Member State or other country where you are located or to which you referred in your replies above.

*

- | | | | |
|---|--|--|--|
| <input type="radio"/> AT – Österreich | <input type="radio"/> BE – Belgique / België | <input type="radio"/> BG – България | <input type="radio"/> CY – Κύπρος |
| <input type="radio"/> CZ – Česká republika | <input type="radio"/> DE – Deutschland | <input type="radio"/> DK – Danmark | <input type="radio"/> EE – Eesti |
| <input type="radio"/> EL – Ελλάδα | <input type="radio"/> ES – España | <input type="radio"/> FI – Suomi / Finland | <input type="radio"/> FR – France |
| <input type="radio"/> HU – Magyarország | <input type="radio"/> IE – Éire / Ireland | <input type="radio"/> IT – Italia | <input type="radio"/> LT – Lietuva |
| <input type="radio"/> LU – Luxembourg | <input type="radio"/> LV – Latvija | <input type="radio"/> MT – Malta | <input type="radio"/> NL – Nederland |
| <input type="radio"/> PL – Polska | <input type="radio"/> PT – Portugal | <input type="radio"/> RO – România | <input type="radio"/> SE – Sverige |
| <input type="radio"/> SK – Slovensko | <input type="radio"/> SI – Slovenija | <input type="radio"/> UK – United Kingdom | <input type="radio"/> EU-wide organisation |
| <input type="radio"/> Other (please indicate) | | | |



III.1.1. Other (please indicate)* (maximum 100 characters)

III.2. In what quality are you replying (check only one box)?*

- | | |
|---|--|
| <input type="radio"/> Private citizen | <input type="radio"/> Liberal profession |
| <input type="radio"/> Research (non-profit) | <input type="radio"/> Research (for profit) |
| <input type="radio"/> Company | <input type="radio"/> Business association |
| <input type="radio"/> Trade union | <input type="radio"/> Public authority |
| <input type="radio"/> NGO | <input type="radio"/> Other (please specify) |



III.2.1. Other (please specify)

III.3. Business sector (check only one box):* (at most 3 answers)

- | | | |
|--|--------------------------------------|-----------------------------------|
| <input type="checkbox"/> Industry | <input type="checkbox"/> Agriculture | <input type="checkbox"/> Services |
| <input type="checkbox"/> Not applicable (e.g. private citizen) | | |

 III.4. Company size (check only one box): *

 Please use the EU definition: E.g. your company is a micro-company if it has less than ten employees and a turnover below € 2m or a balance sheet total below € 2m. This means either the turnover or the balance sheet can be above the threshold, but not both of them.

Company category	Employees	Turnover	or	Balance sheet total
Medium-sized	< 250	≤ € 50 m		≤ € 43 m
Small	< 50	≤ € 10 m		≤ € 10 m
Micro	< 10	≤ € 2 m		≤ € 2 m

Large

Mid-size

Small

Micro

III.5 Cross-border activities (check all relevant boxes) *

None

Procurement from or sales into other MS of the EU

Facilities in other MS of the EU

Procurement from or sales outside the EU

Facilities outside the EU

Procurement from or sales in and outside the EU

Facilities in and outside the EU

III.6. Is your organisation registered in the Interest Representative Register? If not, you have the opportunity to register **here** before you submit your contribution. *

 Responses from organisations non registered will be published separately from the registered ones.

Yes

No

 III.6.1. Please specify the Register ID number in the Interest Representative Register. *

III.7. Organisation *

III.8. Can the Commission contact you if further details on the information you submitted are required? *

Yes

No

 III.8.1. Your name, organisation and e-mail address: * (maximum 300 characters)

III.9. Do you object to publication of the personal data on the grounds that such publication would harm your legitimate interests?

 Your response will be published without the contact details: address and e-mail address.

I object

IV. For all respondents

Any additional information you consider relevant (max. 3000 characters): (maximum 3000 characters)

Useful links

Trade Secrets/Confidential Business Information:

http://ec.europa.eu/internal_market/iprenforcement/trade_secrets/index_en.htm