

Appendix to D6

Legal Study **(Legal study)**

Main author(s) or editor(s): Cabinet Technologie Partenaires Conseils (author)
Jean-Luc Millon, SETRA (editor)
Loïc Blaive, SETRA

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1 – Summary of the study

The Rosatte plan aims to establish an effective, quality procurement chain between public authorities and suppliers of commercial charts, as far as the information relative to road safety is concerned. In doing this, it is in full compliance with the Directive INSPIRE which imposes the exchange, sharing, access as well as the use of interoperable geographical data and services of geographical data.

The viability of such a plan assumes that the suppliers of services control the costs to the user of using information held by the public authorities regarding road safety.

Certain legal constraints may in fact affect the financial model of the service plans in particular in terms of:

- Possible fees relative to intellectual property,
- The responsibility of the authorities in case of non-conformity of the information collected and distributed,
- Consequences from the introduction of patented technologies in the context of regulations, and this in the context of the European Community and international legislation.

It is advisable to measure their impact and, to the extent possible, minimize them, which has justified this study that deals with these 3 points:

1 – Intellectual property in the field of information and communication technology has been the subject of a European harmonisation through directives combining both copyright and free circulation of goods together with international agreements and more specifically the Berne Convention on Copyright and the TRIPS (the Agreement of the World Trade Organization on aspects of international property rights which affect business).

This European legislation will permit under certain, not very restrictive, conditions the provision, exchange, sharing, accessing and using:

- of geographical data, codified by public organizations exempt from copyright,
- series of geographical data and the geographical data services using the necessary authorizations of the public organizations as part of the contract licence.
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The study specifies the principal cases of potentially inflationary figures and a legal framework of cost management.

2 – In case of challenge, by a public or private organization, or by a user, of the quality and validity of a series of data issued by a public authority, the interpretation of the European and national texts could involve the liability of that authority.

The study reviews the bases of this risk, which require in any case the European legislation to be specified on the subject.

3 – The introduction of patented technologies in the context of regulations is accepted by the European Union provided the Holder of the patent agrees to grant licences at equitable, reasonable and non-discriminatory conditions specifying in particular the maximum fees before the adoption of that standard. The low price fees favour the promotion of technologies. The study proposes a European scale strategy on the subject.

2 – Problems of the study

2.1 - Context

The Rosatte European plan, “Road safety attributes exchange infrastructure in Europe”, aims to develop a coherent set of technical and organizational recommendations, suitable for implementing in the member countries of the European Union, chains of centralisation of the information on road safety, in the form of a collaborative flow of georeferenced data.

This plan which brings together the public authorities of several countries and the market leaders has the purpose of resolving the basically organizational, technical or legal difficulties concerning the updating of the security attributes in digital cards.

The Rosatte study encourages the implementation of centralised databases which integrate the data issuing from public institutions and private players.

In order to open the market and the interoperability of future applications, it was decided to make the recommended collaborative follow of information converge towards a format of a single exchange, resting on Standard ISO 17572-3. Certain aspects relative to the encoding and decoding process have been the subject of recent patent filing which could curb the promotion of the Rosatte plan.

In the context of the Rosatte plan, the Study Service on the transport, the routes and their arrangements (Setra) is in charge in particular of the coordination of task T6.3 relative to the organisational aspects of the “organisational aspects and expected benefits” item.

2.2 – Purpose of the study

The services requested are the services of consultation in the field of intellectual property rights.

This assignment takes place in several phases according to the special terms and conditions:

- A preparation phase,
- A phase of interviews
- Three phases called Technical Parts:
 - Technical Part N° 1: “Costs and Constraints related to the data” that is to say analysis of the status of the right to intellectual property
 - Technical Part N° 2: “Liability of the contributors”
 - Technical Part N° 3: “Patents of Methods – Framework of Reference”

3 – Analysis Method

The Office uses an in-house method called “Consultant Partners” to meet legal consultations regarding intellectual property:

- Clarifications with the project manager of the subjects of legal consultation and the problems,
- Targeted documentary research, inside and outside the Office,
- Pooling of the results and joint preparation by the team dedicated to the project with possibly support from other participants of the Office or if necessary the partners of the Office,
- Analysis of possible specific points,
- Preparation of targeted mini questionnaires to be completed during interviews permitting adjustments if necessary,
- Realization of interviews preferably by telephone or teleconference to allow for the presence of a representative of the Customer, this approach avoids travel,
- Preparation of the documents to be delivered as the study progresses complying with the format adopted with the customer but with communication per stage of preparation,
- Preparation of the summary in French and English according to a logic format which is identical phrase by phrase.
- Consolidation of the documents produced during the study report,
- Presentation of the report,
- Joint reading of the provisional report before delivery of the final report after possible modifications or corrections due to verification.

4 – Inventory of the legal research relative to the adaptations in France

Legal research concerning the purpose of the object of the study has permitted making a connection between the European legislation and the adaptations into French domestic law. Every directive is cited with the degrees of freedom deemed significant relative to the purpose of the study.

Connections between European Directives and French adaptation relative to the purpose of the study	
EC Directives	Adaptation in France
Directive 96/9/EC of 11 March 1996, concerning the legal protection of databases <u>Degree of freedom of the member states:</u> <ul style="list-style-type: none"> • Possibility by the legislation of the Member State to authorize the title of author of database to a corporation (see Article 4), • Possibility by the legislation of the Member State to limit acts submitted to restrictions by author of databases (see Article 6), • Possibility by the legislation of the Member State to authorize the legitimate users to extract and/or re-use a substantial part of its contents, without authorization of the producer of the base (see Article 9). 	<p>Law N°98-536 of 1 July 1998 providing the adaptation in the code of intellectual property of Directive 96/9/EC of the European Parliament and Council of 11 March 1996, concerning the legal protection of databases</p> <p>With the introduction of measures in the Code of Intellectual property of the French RP:</p> <p>Articles: L112-3, L122-5, L311-1 à L311- 12, L321-2 à L321-9, L331-1 à L331-4, L332-1 à L332-4, L333-1 à L334-1, L335- 1à L335-10, L341-1 à L342-5, L343-1 à L343-4.</p>
Directive 2001/29/EC of 22 May 2001 relative to certain aspects of copyrights and related rights in the information society <u>Degree of freedom of the member states:</u> <ul style="list-style-type: none"> • Possibility by the legislation of the Member State to make provisions for exceptions or limitations to the copyright provided in Article 2 of the cases listed in Article 5.2, • Possibility by the legislation of the Member State to make provisions for exceptions or limitations: <ul style="list-style-type: none"> ○ To the copyright provided in Article 2, ○ To the right of communication of works to the public and the right to make available to the public other protected objects provided in Article 3 ○ In cases listed in Article 5.3, ○ To the right of distribution focused on in Article 4, if application of exceptions or limitations of the copyright by virtue of 2 and 3 Article 5 (se 4 of Article 5), • Possibility by the legislation of the Member State to make provisions for exceptions with regard to the beneficiary of an exception or limitation in some limited cases (see 4 of Article 6). 	<p>Measures already existing in the Code of Intellectual Property with supplement in the context of the adaptation by Law N°2006-961 of 1 August 2006 relative to copyright and related rights in the information society.</p>
Directive 2003/98/EC of the European Parliament and Council of 17 November 2003 concerning the reuse of information of the public sector <u>Degree of freedom of the member states:</u> Possibility by the legislation of the Member State to make provisions for the collective management, obligatory or optional, of droit de suite (resale royalty right) see 2 of Article 6).	<p>Law N°78-753 of 17 July 1978 bearing various measures of improvement in the relations between the administration and the public and various measures of an administrative, social and fiscal nature.</p> <p>Order N° 2005-650 6 June 2005 relative to the freedom of access to administrative documents and the reuse of public information modifying Law 78-17 of 6 January 1978.</p> <p>Decree N° 2005-1755 of 30 December 2005 relative to the freedom of access to administrative documents and the reuse of public information modifying Law N° 78-17 of 17 July 1978.</p> <p>Order N° 2009-483 of 29/04/1009 modifying Order 2005-650 and Law N° 78-753 of 17 July 1978.</p>

<p>Directive 2004/48/EC of 29-04-2004 amended relative to respect for intellectual property rights This directive concerns the measures, procedures and compensations necessary to guarantee respect for intellectual property rights. <u>Degree of freedom of the member states:</u> Possibility by the legislation of the Member State to:</p> <ul style="list-style-type: none"> • To provide for sufficient elements of proof (see 1 of Article 6), • Take measures to protect the identity of the witnesses (see 5 of Article 7), • Make provision for ordering the payment to the injured party of a financial compensation of substitution (see Article 12), • Order the recovery of the profits or payment of damages in case of unintentionally counterfeit activity (see 2 of Article 13), • Make provision for supplemental advertising measures of judicial decisions (see Article 15), • Make provision for other appropriate penalties (see Article 16). 	<p>Law No 2007-1544 of 29 October 2007 of the fight against infringement + rectification. Modified the Code of Intellectual Property - Decree No 2008-624 of 27 June 2008 adopted for the application of Law No 2007-1544 of 29 October 2007 of the fight against infringement and bearing modification to the Code of Intellectual Property.</p>
<p>Directive 2006/115/EC of 12 December 2006 relative to the right to rent and lend and certain related rights of the copy right in the domain of intellectual property:</p> <ul style="list-style-type: none"> • Repeals Directive 92/100/EEC • Modifies Article 11, Paragraph 2 of Directive 2001/20/EC of the European Parliament and the Council with the degrees of freedom of the member states. 	<p>The due date for adaptation of this directive into domestic law by the Member States has not been specified.</p>
<p>Directive 2006/116/EC of 12 December 2006 relative to the duration of protection of the copyright and certain related rights Repeals Directive 93-98 <u>Degree of freedom of the member states:</u> Possibility of a Member State to make specific provisions:</p> <ul style="list-style-type: none"> • On royalties relative to collective works or the designation of a company as owner of the rights, the length of protection is seventy years, • To protect the co-authors of cinematographic or audiovisual works (see 1 of Article 2), • To protect the critical and scientific editions of works: Length of maximal protection of thirty years (see Article 5), • So that member states that have a longer length of protection due to international agreements can continue to be benefit from them (see 3 of Article 7). 	<p>No transposed to date. The due date for adaptation of this directive into domestic law by the Member States has not been specified.</p>
<p>Directive 2007/2/EC of 14 March 2007 INSPIRE established an infrastructure of geographic information in the European Community. <u>Degree of freedom of the member states:</u> Possibility by the legislation of the Member State to:</p> <ul style="list-style-type: none"> • Restrict public access to the series and services of geographic data in the case listed in 1 of Article 13, in particular in the case in which the access would harm international relations, public safety or national defence, and in accordance with strictly interpreted reasons, • Authorize a public authority supplying a consulting service to receive conditional royalties (see 2 of Article 14),, • Provide access to these research services through their own points of access (see 2 of Article 15), • To authorize the public authorities that supply series and services of geographic data to grant user licences and/or to request a payment for these series and services from the public authorities or institutions and bodies of the Community that use them... (see 3 of Article 17), • Match significant needs of national right to the shared use of the series and services of data (see 6 of Article 17), • Limit the sharing of the series and services of geographic data if this is likely to harm the smooth course of justice, public safety, national defence or international relations (see 7 of Article 17). 	<ul style="list-style-type: none"> • Law No 2009-526 of 12 May 2009 of simplification and clarification of the right and easing of the procedures (1) • Order No 2010-1232 of 21 October 2010 bearing various measures of adaptation to the right of the European Union on environmental matters
<p>Regulation (EU) 268/2010 of the Commission of 29 March 2010 containing</p>	<p>Order No 2010-1232 of 21 October</p>

<p>application methods of Directive 2007/2/EC <u>Degree of freedom of the member states:</u> Possibility by the legislation of the Member State to define the conditions under which access to the series and the services of geographic data is restricted if it is likely to harm the successful course of justice, public safety, national defence or international relations. (see 2 of the first article).</p>	<p>2010 bearing various measures of adaptation to the right of the European Union on environmental matters</p>
<p>Regulation (EC) 1205/2008 of the Commission of 3 December 2008 containing methods of application of Directive 2007/2/EC of the European Parliament and Council regarding metadata.</p>	<p>Order No 2010-1232 of 21 October 2010 bearing various measures of adaptation to the right of the European Union on environmental matters</p>
<p>Directive 2009/24/EC of 23 April 2009, concerning the legal protection of computer programmes This directive repeals Directive No 91/250/EC of 14 May 1991 relative to the legal protection of computer programmes <u>Degree of freedom of the member states:</u> Possibility by the legislation of the Member State to:</p> <ul style="list-style-type: none"> • Authorize the legal entity as being the owner of the copyright of the programme (see 1 of Article 2), • Accept the authors of collective works if the legislation of the Member State provides for it (see 1 of Article 2), • Take appropriate measures against persons who perform reprehensible acts exhaustively listed (see 1 of Article 7), • Make provision for the seizure of the means which have the sole purpose of facilitating the unauthorized cancellation or neutralization of any technical device possibly implemented to protect a computer programme”) (see 3 of Article 7). 	<p>Not adapted to date to the supplements or modifications to be made to the existing texts. Law No 94-361 of 10 May 1994 containing implementation of the Directive No 91-250 which was repealed by Directive 2009/24/EC. With the introduction of measures in the Code of Intellectual property of the French RP: Articles: L112-2, L113-9, L121-7, L122-6, L122-5, L122-6-1, L122-6-2, L131-4, L132-34, L335-3, L331-3.</p>
<p>Directive 2010/40/EU of the European Parliament and Council of 7 July 2010 concerning the framework for the deployment of system of intelligent transport in the domain of road transport and interface with other mode of transport <u>Degree of freedom of the member states:</u> Possibility by the legislation of the Member State:</p> <ul style="list-style-type: none"> • To have the right to deploy IT applications and services in their territory (see 1 of Article 5). • To establish additional rules for the supply of IT services over a part or all of their territory insofar as these rules do not create an obstacle to interoperability without prejudice to the procedures anticipated by Directive 98/34/EC (see 5 of Article 6). 	<p>No transposed to date.</p>

This research rests on a three phase approach:

- Identification of the texts falling within the framework of the study,
- Descending legal research going from the European texts to the adapted French texts,
- Ascending legal research going from the adapted French texts to the European texts.

This research depended in particular on the Eur-lex and Légifrance bases:

© Union européenne	http://eur-lex.europa.eu/ ”.
Légifrance	http://www.legifrance.gouv.fr/

5 - Analysis

5.1 – Analysis of the circulation of Rosatte data

5.1.1 – Definitions relative to the geographical data

Several texts of the current European Union legislation provide definitions concerning geographical data:

- Directive 2007/2/EC of 14 March 2007 INSPIRE established an infrastructure of geographic information in the European Community.
- Regulation (EC) 1205/2008 of the Commission of 3 December 2008 containing methods of application of Directive 2007/2/EC of the European Parliament and Council regarding metadata (Text presenting points of interest for the EEE),
- Regulation (EC) 976/2009 of the Commission of 19 October 2009 containing methods of application of Directive 2007/2/EC of the European Parliament and Council regarding network services
- Regulation (EU) 268/2010 of the Commission of 29 March 2010 containing application methods of Directive 2007/2/EC of the European Parliament and Council regarding access by Community organizations and bodies to the geographic data series and services of the Member States under coordinated conditions,

The following definitions and measures were used to review the aspects of intellectual property:

Terms	Definitions	Reference
Geographic Information Infrastructure	of the metadata, the series of geographical information and the geographical data services; the network services and technologies, the agreements on sharing, access and use; and the mechanisms, processes and procedures of coordination and follow-up established, used or made available in conformity with this directive	Article 3 Directive INSPIRE
Geographic Data	Any information referring directly or indirectly to a specific geographic place or zone	
Metadata	The information describing the geographic data series and services and making their search, inventory and use possible	
Geographic data services	The operation which can be carried out with the help of a computer application on the geographic data contained in series of geographical data or on the metadata connected to them	
Geographic data series	An identifiable compilation of geographical data (data base ¹)	Article 5 Directive INSPIRE
Information contained in the metadata	a) The conformity of the geographical data series with the implementation rules provided for in Article 7, Paragraph 1; b) The conditions applicable for access and use of the geographical data series and services and, if necessary, the corresponding fees; c) The quality and the validity of the geographical data series; d) The public authorities responsible for the establishment, the management, the maintenance and the distribution of the geographical data series and services; e) The restrictions on public access and the reasons for these restrictions, in conformity with Article 13.	
Creation and maintenance of the metadata	The metadata describe a series of geographical data, a set of series of geographical data or a geographical data service including the metadata factors or the groups of metadata facts appearing in Part B of the appendix and are created and updated in conformity with the rules listed in Parts C and D of the appendix to the regulation.	Regulation (EC) N° 1205/2008 metadata

¹ Considering 13 data base Directives 96/9/EC: Considering that this directive protects the collection, sometimes called “compilations”, of works, of data or other material which are arranged, stored and accessed through means that include electronic, electromagnetic or electro-optical processes or other similar processes

5.1.2 – Players of the Data Circuit

At the level of the “INSPIRE” texts, the identification of the organizations responsible for establishing, managing, maintaining and distributing series and services of geographical data² are the subject of measures regarding their mention in the metadata. To do this, a list of organization types³ has been defined.

List of Organizations responsible for the establishment, maintenance and distribution of the geographical data series and services		
Ref.	Organisations	Role
6.1	Resource Provider	Party that provides the resource ⁴
6.2	Custodian	Party who accepts responsibility for the data and guaranteed appropriate maintenance of the resource
6.3	Owner	Party to whom the resource belongs
6.4	User	Party who uses the resource
6.5	Distributor	Party who distributes the resource
6.6	Originator	Party who created the resource
6.7	Point of Contact	Party who can be contacted to get information on the resource or to purchase it
6.8	Principal Investigator	Principal party charged with collecting information and conducting research
6.9	Processor	Party who processed the data so that the resource was modified
6.10	Publisher	Party who published the resource
6.11	Author	Party who is the author of the resource

At Rosatte, the principal participants listed in the data circuit at each stage are:

Rosatte Definitions	
Organisations	Role
Author:	Party who created the information
Buyer	Parties who purchased certain rights to the information, either from the author or from a previous buyer
Provider	Party who has modified the information on behalf of a third party, through a contract
Originator	
Data Provider	Party who in the context of the collection phase nurtures the workflow.
Custodian of the database	Party who receives the data collected in order to integrate it into a homogeneous database.
Processor	Party who integrates the road safety attributes into a cartographic frame of reference (“decoding”)

² 9 of Part B Appendix: “Implementation rules relative to the metadata” of Regulation (EC) N° 1205/2008 of 3 December 2008 containing methods of application of Directive 2007/2/EC INSPIRE.

³ See 6 of Part D of the Appendix: “Implementation rules relative to the metadata” of Regulation (EC) N° 1205/2008 of 3 December 2008 containing methods of application of Directive 2007/2/EC INSPIRE as related to the metadata”.

⁴ “Resource”: A resource of information directly or indirectly referred to a specific geographical place or zone (see 1 of Part A, Appendix of Regulation (EC) N° 1205/2008 of 3 December 2008).

The concordances between the INSPIRE terminology and that of Rosatte is as follows:

List of Organizations responsible for the establishment, maintenance and distribution of the geographical data series and services				
Ref.	Organisations	INSPIRE Roles	Rosatte Roles	
6.1	Resource Provider (resourceProvider)	Party that provides the resource ⁵	Data Provider	
6.2	Custodian	Party who accepts responsibility for the data and guaranteed appropriate maintenance of the resource	Custodian of the database	
6.3	Owner	Party to whom the resource belongs		
6.4	User	Party who uses the resource		
6.5	Distributor	Party who distributes the resource		
6.6	Originator	Party who created the resource	Originator	
			Data Provider	Party who in the context of the collection phase nurtures the workflow.
6.7	Point of Contact (pointOfContact)	Party who can be contacted to get information on the resource or to purchase it		
6.8	Principal Investigator (principalInvestigator)	Principal party charged with collecting information and conducting research		
6.9	Processor	Party who processed the data so that the resource was modified	Processor	Party who integrates the road safety attributes into a cartographic frame of reference (“decoding”)
			Provider	Party who has modified the information on behalf of a third party, through a contract
6.10	Publisher	Party who published the resource		
6.11	Author	Party who is the author of the resource	Party who created the information	

5.1.3 – Connections between activity and stages of the Data Circuit

The analysis of the circuit with the technical expertise of the Setra project team enabled the listing of the connections between activity and stages of the Data Circuit

N°	Stage
1	Collection and transmission
2	Consolidation and coding
3	Integration
4	Evaluation
5	Use of the service

⁵ ”Resource”: A resource of information directly or indirectly referred to a specific geographical place or zone (see 1 of Part A, Appendix of Regulation (EC) N° 1205/2008 of 3 December 2008.

Activities	Stages	Comments
Acquisition (collection of the information)	E1	Collection of public data
Post-processing (control, digitisation, structuring, synchronization and/or insertion in database)	E1	optional
Entering into database	E2	
Coding (in standard and classified format)	E2	
Decoding and establishment of the digital card of the security attributes	E3	decoding
Transmission of the data lots	E2 → E3	Added Value Service
	E3 → E4	
	E4 → E5	
Enrichment	E1	possibly
	E2	possibly
	E3	Editors and providers of service enrich the own appreciation
	E4	
Depletion	E1	With the goal of a distribution without right if possible
	E2	
	E3	
	E4	
Marketing of a service	E4	

5.1.4 – Stages of the ROSATTE data circuit

Diagram of Phases 1 and 2 prepared by Setra

The incoming and outgoing facts could be listed per stage:

Stages 1 Collection and transmission				
Players	Event	Added Value Services	Incoming data	Outgoing data
Data provider local community, agent For example by using the IGN cartography => problem of identification of the information of origin	<ul style="list-style-type: none"> Organize the collection of the real information to digital media Position the information collected in the consolidation circuit He can provide this service himself or entrust it to an outside provider If he has it done, he can finance it or not himself	Principal investigator of the data collection	Data sources <ul style="list-style-type: none"> Either issued directly from the actual measurement (i.e. Cross-checking plans, photogrammetrical reports, etc.) Or indirectly through pre-existing documentation (i.e. Road maps...) 	<ul style="list-style-type: none"> Either integrate the source data in its own management system before re-exporting them in compliance with the specifications agreed on with the Custodian of the Database, Or transmit them directly subject to having imposed the same specifications on their Own proven suppliers. Or input them directly via a portal (BALI method) Partial lots of data in conformity with specifications aimed at facilitating their integration into a centralized database
Stages 2 Consolidation and coding				
Players	Event	Added Value Services	Incoming data	Outgoing data
Custodian of the georeferenced database of Road attributes of safety State, unifying authority or even private under contract	<ul style="list-style-type: none"> Organize the consolidation of the information into one database Export the data as needed in a standardized manner Authorized to distribute the contents of the database, and to process the related legal obligations. Possibly entrust this task to a technical provider. Necessary to make a contract with the processor (Stage 3) concerning the use of the geographic reference possibly transmitted partially or in full 	Owner of the consolidated database	Data in accordance with specifications. Partial lots of data in conformity with specifications aimed at facilitating their integration into a centralized database	Export of the E1 Standard Rosatte format (in accordance with AGORA-C) <ul style="list-style-type: none"> Data Metadata With IGN standard

Stages 3 Integration				
Players	Event	Added Value Services	Incoming data	Outgoing data
Processor (private person)	<ul style="list-style-type: none"> Decode the standardized data Integrate the data into a special spatial frame of reference of their choice Thus create an enriched database, which can be used directly by a service provider. Provider often editor of road maps 	Includes the database of road safety attributes, in the larger road bases	Lots of data in standardized format Standard Rosatte format (in accordance with AGORA-C) <ul style="list-style-type: none"> Data Metadata which can be used by any player To create a driving support service	Cartography with attributes (in format useful for the custodian of the service with their own reference possibly impoverished) (more IGN format)
Stages 4 Evaluation				
Players	Event	Added Value Services	Incoming data	Outgoing data
Provider of service to the user (private individual)	Use the attribute cards of security provided by the processor to strongly support a service Added value,	Information in real time on the speed limits. The navigation service loaded is another example of service to the already operational user	Cartography with attributes (in format useful to the custodian of the service)	Information in real time on the speed limits
Stages 5 Use of the service				
Players	Event	Added Value Services	Incoming data	Outgoing data
Road user (private individual)	Benefit from the service whether it is free of charge or with a fee.		Information in real time on the speed limits	Return of the user

5.1.5 – Connections between activities, stages and intellectual property

The analysis covered the most frequent cases by excluding the very rare cases:

Activities	Stages	Task	Elements of intellectual property	
Acquisition (collection)	E1	Acquisition of raw data by the authority involved for transmission by letter, fax, email...following the decision of said authority	Property Right pre-existing before the task	NO
			Pre-existing Property Right transferred by the task	NO
			Property Right created by the task	NO
			Restriction on destination of the results from the task (use, distribution, marketing...)	NO
			Value added benefit	NO
			Added Value Services	NO
		Acquisition by land detail by a topographic or cartographic professional with realization in map form with a geodesic reference in format required by the ordering authority.	Pre-existing Property Right	NO
			Pre-existing Property Right transferred by the task	NO
			Property Right created by the task	YES
			Restriction on destination of the results from the task (use, distribution, marketing...)	YES
			Value added benefit	YES
			Added Value Services	NO
		Acquisition through relative incorporation starting from a frame of reference of the authority involved in order to obtain a cross-checking plan: The object is then located in relation to its immediate environment: This is the road approach in France.	Pre-existing Property Right	YES
			Pre-existing Property Right transferred by the task	YES
			Property Right created by the task	NO
			Restriction on destination of the results from the task (use, distribution, marketing...)	YES
			Value added benefit	YES
			Added Value Services	NO
		Acquisition of an existing document through database without software held by a third party at the authority with enrichment <ul style="list-style-type: none"> With digitalization and/or vectorization Through delivery of a digital file describing an existing document. 	Pre-existing Property Right	YES
			Pre-existing Property Right transferred by the task	YES
			Property Right created by the task	YES
			Restriction on destination of the results from the task (use, distribution, marketing...)	YES
			Value added benefit	YES
			Added Value Services	NO
		Acquisition through database with software	Pre-existing Property Right	YES
			Pre-existing Property Right transferred by the task	YES
			Property Right created by the task	NO
			Restriction on destination of the results from the task (use, distribution, marketing...)	YES
			Value added benefit	YES
			Added Value Services	NO
Post-processing (control and input in database)	E1	The post-processing techniques, and in particular of reinterpretations through cross-checking can provide a strong added value to the descriptive information of digitized objects.	Pre-existing Property Right	YES
			Pre-existing Property Right transferred by the task	YES
			Property Right created by the task	NO
			Restriction on destination of the results from the task (use, distribution, marketing...)	NO
			Value added benefit	YES
			Added Value Services	NO

Activities	Stages	Task	Elements of intellectual property	
Entering into database	E2	The data is inevitably affected both by the concentration process and by the processing which authorize the input into database.	Pre-existing Property Right	YES
			Pre-existing Property Right transferred by the task	YES
			Property Right created by the task	NO
			Restriction on destination of the results from the task (use, distribution, marketing...)	NO
			Value added benefit	YES
			Added Value Services	NO
Coding/Establishment of the standard export file	E2	Put into standard Rosatte format (in accordance with AGORA-C)	Pre-existing Property Right	YES
			Pre-existing Property Right transferred by the task	YES
			Property Right created by the task	NO
			Restriction on destination of the results from the task (use, distribution, marketing...)	NO
			Value added benefit	YES
			Added Value Services	NO
Decoding / Establishment of the digital card of the security attributes	E3		Pre-existing Property Right	YES ⁶
			Pre-existing Property Right transferred by the task	YES
			Property Right created by the task	NO
			Restriction on destination of the results from the task (use, distribution, marketing...)	NO
			Value added benefit	YES
			Added Value Services	NO
Transmission of the data lots	E2→E3, E3→E4, E4→E5	The collaborative flow of Rosatte data presupposes uploading transmission of the lots (series) of data to a unifying database, directly or indirectly	Pre-existing Property Right	YES
			Pre-existing Property Right transferred by the task	YES
			Property Right created by the task	NO
			Restriction on destination of the results from the task (use, distribution, marketing...)	NO
			Value added benefit	YES
			Added Value Services	NO
Enrichment		The aggregation of the series of data into a single georeferenced database.	Pre-existing Property Right	YES
			Pre-existing Property Right transferred by the task	YES
			Property Right created by the task	YES
			Restriction on destination of the results from the task (use, distribution, marketing...)	YES
			Value added benefit	YES
			Added Value Services	NO
Depletion	E1, E2, E3, E4	Centred on the information to reduce any connection of property of data	Pre-existing Property Right	YES
			Pre-existing Property Right transferred by the task	NO
			Property Right created by the task	NO
			Restriction on destination of the results from the task (use, distribution, marketing...)	NO
			Value added benefit	YES
			Added Value Services	NO

⁶ The extractions from the initial reference, entered during coding, must absolutely not be reintegrated during decoding.

5.1.6 – Connections between stages and intellectual property

Stages	Titles	Outgoing data	Elements of intellectual property		
1	Collection and transmission	<ul style="list-style-type: none"> Either integrate them into one's own operating system before re-exporting them Or transmit them directly Or input them directly via a portal (BALI method) Partial series of data in compliance with specifications	Pre-existing Property Right		YES
			Pre-existing Property Right transferred during the phase		YES
			Property Right created during the phase	Raw data	NO
				Metadata	YES
				Documents	YES
			Restriction on destination of the results from the task (use, distribution, marketing...)		NO
2	Consolidation and coding	Export of E 1 in standard Rosatte format (in conformity with AGORA-C) <ul style="list-style-type: none"> Data Metadata With IGN standard	Pre-existing Property Right		YES
			Pre-existing Property Right transferred during the phase	Raw data	NO
				Metadata	YES
				Documents	YES
			Property Right created during the phase	Raw data	NO
				Metadata	YES
				Documents	NO
			Restriction on destination of the results from the task (use, distribution, marketing...)		NO
3	Integration	Cartography with attributes (in format useful for the custodian of the service with their own reference possibly impoverished) (more IGN format)	Pre-existing Property Right		YES
			Pre-existing Property Right transferred during the phase	Raw data	YES
				Metadata	YES
				Documents	NO
			Property Right created during the phase	Raw data	YES
				Metadata	YES
				Documents	NO
			Restriction on destination of the results from the task (use, distribution, marketing...)		NO
4	Evaluation	Information in real time on the speed limits.	Pre-existing Property Right		NO
			Pre-existing Property Right Transferred during the phase	Raw data	NO
				Metadata	NO
				Documents	NO
			Property Right created during the phase	Raw data	NO
				Metadata	NO
				Documents	NO
			Restriction on destination of the results from the task (use, distribution, marketing...)		NO
5	Use of the service	Return of the user	Pre-existing Property Right		NO
			Pre-existing Property Right transferred during the phase	Raw data	NO
				Metadata	NO
				Documents	NO
			Property Right created during the phase	Raw data	NO
				Metadata	NO
				Documents	NO
			Restriction on destination of the results from the task (use, distribution, marketing...)		NO
			Means subject to property right (public or proprietary system of reference)		YES

5.2 – Reports of the interviews

To complete the work carried out by the work group, interviews were conducted.

5.2.1 - Interviews with CERTU

The centre for studies on networks, transport, planning and public buildings (Certu) is charged with conducting studies in the domain of urban networks, transport, planning and public buildings, on behalf of the State or for the benefit of the local communities, public establishments or businesses charged with missions of public service or professions involved.

Certu hosts the geomatic centre of the ministry which participates basically in transversal aspects of geometrics (organization, legal, expertise, reference data and methods) and the standardization of geographical data. The thematic geomatics for the city is mainly developed for the knowledge of the territories.

The objective of the CERTU interview was to know:

- The CERTU recommendations regarding intellectual property concerning geographical data,
- The status of the CERTU prospectives + regarding in particular the ROSATTE safety data,
- The level of information concerning the statistical time limits for updating the data,
- The status of the knowledge on similar problems, in particular in the domain of composite data, and interpretation in terms of intellectual property.

The interview, conducted at the beginning of this study, permitted the verification of the problems of the study,

CERTU's recommendations regarding intellectual property concerning geographical data rest in particular on the guide entitled "Exchange of localized data" distributed by CERTU (see site in appendix). This Legal Guide (Version 2 – Sept. 2007) was prepared by a law firm on behalf of CERTU.

This discussion allowed us to collect information on the policies of French public authorities in particular through the National Council of Geographic Information and the work of the Ministry of Ecology, Sustainable Development and Housing.

5.2.2 – Interviews with ASFA

ASFA, the Association of French Motorway Companies, is a contributor to the Rosatte Project.

The objective of the ASFA interview was to know:

1. The contributor in the information circuit of the safety attributes managed by ASFA
2. The qualification of the outgoing data with regard to intellectual property Data and metadata:
 - Data protected by intellectual property?
 - Commercial and paying data vis-à-vis of third parties for which purposes?
 - Data free of charge for the supervision of/by the concession agreement?
3. The statistical time limits for updating the data depending on the type of information,
4. The ASFA and motorway companies recommendations as regards the data in the context of the ROSATTE project at the level of the participants in the process:

This interview conducted at the end of the study permitted the exchange on the conclusions of this study and the reinforcement of its results.

In particular, the motorway companies, through agreement with the French State, are committed to providing the public data. On the other hand, all the added value data, prepared by these operators, at the level for example of the traffic regulation or information, fall in the category of private information which are subject to payment with or without attribute of intellectual property.

5.3 – Field of Analysis

The review of the documents submitted permits the identification of various fields of intellectual property more or less involved:

- Data (original or not),
- Cartography,
- Metadata,
- Database,
- Geographical reference,
- Reuse of public data,
- Added value service with or without intellectual property right transmitted,
- Standard and patent licence,
- Software/computer programme.

However, the analysis of the Rosatte information circuits leads us to believe that the fields of intellectual property are not pertinent relative to:

- Data (original or not),
- Cartography,
- Metadata,
- Databases.

because of the perimeter of the Rosatte project centred on the safety attributes.

The series of data of safety attributes to not integrate data of a personal nature. Because of this, the legal aspects of this kind of data do not come under this study.

5.4 - Technical Part N° 1: “Costs and constraints related to the data”

The presence or otherwise of data encumbered by intellectual property rights has an impact on the costs and contracts attached to the data, subject of the Rosatte Project.

The framework of the legislations on intellectual property concerning the safety attributes processed by the process of collection, consolidation and coding , included in the ROSATTE study are studied at the level:

- International,
- European,
- National.

5.4.1 – International Agreements

In regard to intellectual property, the Community and national legislations of the member states rest in particular on major international agreements see.⁷⁾ :

- The Berne Convention for the protection of literary and artistic works of 9 September 1886 completed and modified,
- The Paris Convention for the protection of industrial property of 20 March 1883 revised,
- The Rome Convention on the protection of performing artists, producers of phonograms and broadcasting organization (issued in Rome on 26 October 1961; this agreement should not be confused with the Treaty of Rome,
- The WIPO Treaty on copyrights adopted in Geneva on 20 December 1996,
- The WTO Agreement on the aspects of intellectual property rights which concern commerce (TRIPS).

All the member states of the European Union have subscribed to these four international agreements. The European Union only subscribed to the treaties of the WIPO and TRIPS. In fact, only the states can be members of the agreements that concern this study, Berne and Paris. It is because of this that the European Union could not adhere to it.

Main international conventions of interest with regard to the subject of the study				
Country of the European Union	Berne Convention (Copyright)	Paris Convention	WIPO Treaty of	TRIPS (Copyright)
			European Union	European Union
Germany	⊙	⊙	⊙	⊙
Austria	⊙	⊙	⊙	⊙
Belgium	⊙	⊙	⊙	⊙
Bulgaria	⊙	⊙	⊙	⊙
Cyprus	⊙	⊙	⊙	⊙
Denmark	⊙	⊙	⊙	⊙
Spain	⊙	⊙	⊙	⊙
Estonia	⊙	⊙	⊙	⊙
Finland	⊙	⊙	⊙	⊙
France	⊙	⊙	⊙	⊙
Greece	⊙	⊙	⊙	⊙
Hungary	⊙	⊙	⊙	⊙
Ireland	⊙	⊙	⊙	⊙
Italy	⊙	⊙	⊙	⊙
Latvia	⊙	⊙	⊙	⊙
Lithuania	⊙	⊙	⊙	⊙
Luxembourg	⊙	⊙	⊙	⊙
Malta	⊙	⊙	⊙	⊙
Netherlands	⊙	⊙	⊙	⊙
Poland	⊙	⊙	⊙	⊙
Portugal	⊙	⊙	⊙	⊙
Czech Republic	⊙	⊙	⊙	⊙
Romania	⊙	⊙	⊙	⊙
United Kingdom	⊙	⊙	⊙	⊙
Slovakia	⊙	⊙	⊙	⊙
Slovenia	⊙	⊙	⊙	⊙
Sweden	⊙	⊙	⊙	⊙

⁷ In particular quoted in the grounds of Directive 2004/48/: The first three agreements are quoted in the preamble of Directive 2004/48/Directive 2004/48/ that of the European Parliament and Council of 29 April 2004 relative to the compliance of the rights of intellectual property (Text of interest to the EEE).

5.4.1.1 The Berne Convention for the protection of literary and artistic works

The Berne Convention for the Protection of Literary and Artistic works of 9 September 1886 completed and modified, is the foundation of the copyright in the member countries of the European Union. The purpose of this convention is to help the nationals of the signatory States to obtain the international protection of their right to exercise control on the use of their original works and to receive payment in this respect, whether it is:

- Novels, short stories, poems, theatre productions,
- Songs, operas, musical comedies, sonatas,
- Drawings, paintings, sculptures or architectural works.

5.4.1.2 TRIPs

The WTO Agreement on aspects of intellectual property rights affecting business (TRIPs) , negotiated during the Uruguay Round, which was held from 1986 to 1994, introduced for the first time rules relative to intellectual property in the multilateral commercial system in particular with reference to copyright of the Berne Convention. The European Union signed this agreement. This signature introduces from now on the Berne Convention in the process of European Legislative development and this, after the TRIPS went into effect on 1st January 1995.

TRIPs covers the following intellectual property domains:

- Copyrights and related rights,
- Manufacturing or business brands,
- Geographic indications (geographic origin),
- Industrial drawings and models,
- Patents,
- Diagrams of configuration (topography) of integrated circuits,
- Protection of undisclosed information.

The TRIPs pivots with an economic approach on the Berne Convention considered as the basic reference relative to the protection of the copyright in Article 1 to 21 in conformity with the primary measures of the Deed of Paris of 1971.

On the other hand, the rights granted by Article 6bis of the Convention are excluded regarding

- Moral rights (right to claim the authorship of the work and to oppose any attack on this work which could be detrimental to the honour or the reputation of the author),
- The rights derived from it.

Nevertheless, the text refers for example in Article 10 (see extract attached) to computer programmes specifying that “Computer programmes, whether they are written in source code or in object code, will be protected as literary works by virtue of the Berne Convention (1971).”

The text goes farther than the Berne Convention by introducing measures relative to the compilation of data (see Article 10 mentioned in appendix). In fact, this article specifies:

- that compilations of data constitute copyrightable intellectual creations,
- That this protection is different from that of the actual data subject to protection under the copyright of the Berne Convention.

The TRIPs does not apply as is, it requires transposition by every signatory. This transposition concerns equally:

- The Community right for the European Union,
- And/or the domestic right every Member State of the European Union.

However, the TRIPs only applies in the context of transpositions of Community right for the European Union or within every state.

5.4.1.3 The WIPO Treaty on copyrights adopted in Geneva on 20 December 1996.

The WIPO Treaty on copyrights adopted in Geneva on 20 December 1996 constitutes a special arrangement as in Article 20 of the Berne Convention. This Treaty breaks with the Berne Convention to the extent that it grants the authors more extensive rights than those granted by the Berne Convention and it contains other stipulations not contrary to the Berne Convention.

The member parties of the Treaty, of which the European Union, as soon as they sign, have the obligation to conform to the basics of the measures of the Berne Convention.

This Treaty:

- Was signed on 20 December 1996,
- Was ratified on 14 December 2009 by the European Union,
- Went into effect on 4 March 2010.

This treaty contains an article, Article 5, relative to the compilations of data (databases) which stipulates that "The compilations of data or other facts, regardless of the format, which, through the choice or the provision of the subjects, constitute intellectual creations are protected as such. This protection does not extend to the data or facts themselves and it is without prejudice to any existing copyright on the data or the facts contained in the compilation."

This Treaty allows the authors to be able to benefit from a legal protection with regard to:

- Distribution,
- Commercial leasing,
- Communication to the public of their works over a network.

5.4.2 – Analysis of the application of the European legislation concerning copyright

The European legislation which has evolved over time completed by a jurisprudence which makes Community law prevail over international conventions and over the national rights of every member by resting on the Treaty in order to implement a "uniform system of protection of the rights of intellectual property" within the European Union.

The legislation on copyright was coordinated with economic aspects in order:

- To eliminate trade restrictions,
- To implement rules relative to access to justice, the sanctions and solutions in case of offences, all while leaving up to the member states a certain latitude within the context of the Berne Convention.

On this subject, the harmonization is carried out at a minimum as long as there is no disparity between the member states or risks of non compliance of the Treaty of the European Union on the free circulation of goods subject to royalties in the sense of Article 6 of the Berne Convention.

The treaty anticipates the establishment of a domestic market and a specific system to prevent the distortion of competition within the domestic market. The harmonization of the legislative measures of the Member States on the right of intellectual property contributes to the realization of these objectives.

To meet the objectives of the study, the analysis of directives, specific to the copyright domain, progressively brings out connections between the European legislation and the Berne Convention especially following the ratification by the European Union of the WIPO Treaty on copyrights.

5.4.2.1 The European law relative to intellectual property

The copyright in the sense of the Berne Convention establishes a monopoly for its author but also for the owner of the patrimonial rights. This monopoly restricts the free circulation and marketing of creations. These restrictions conflict with the free circulation of goods provided by the Treaty of Rome.

The Court of Justice of the European Union has rules since its creation that the Treaty takes precedence of any international or national text of a Member State. The copyright of the Berne Convention is affected by this case law.

The Treaty of Lisbon went into effect on 1st December 2009 with the creation of the European Union in place of the European Community. The Treaty on the European Union keeps its name and the treaty establishing the European Community becomes the treaty of the running of the European Union. Added to these texts are the Charter of the Fundamental Rights of the European Union proclaimed in Strasbourg on 12 December 2007 by the European Parliament, the Council and the Commission JO C 303 of 14.12.2007, p.1). This text, by virtue of Article 6 of the Treaty on the European Union, offers the same legal value as the treaties. This Charter provides in Article 17-2 that intellectual property is protected.

Directives relative to copyrights harmonise henceforth the European legislative landscape with a certain level of application of the Berne Convention through the WIPO Treaty.

The various directives, subject of legal research (see 4) are integrated in the legislative harmonization process:

- Directive 96/9/EC of 11 March 1996, concerning the legal protection of databases,
- Directive 2001/29/EC of 22 May 2001 relative to certain aspects of copyrights and related rights in the information society,
- Directive 2004/48/EC of 29-04-2004 amended relative to respect for intellectual property rights,
- Directive 2006/115/EC of 12 December 2006 relative to the right to rent and lend and certain related rights of the copy right in the domain of intellectual property,
- Directive 2006/116/EC of 12 December 2006 relative to the duration of protection of the copyright and certain related rights 9repeals Directive 93-98),
- Directive 2009/24/EC of 23 April 2009, concerning the legal protection of computer programmes.

The Court of Justice of the European Union, because of the directives of the past ten years referring to the Berne Convention and the TRIPs, rest if there is not a Community provision relative to intellectual property, on the international agreements to which the directives refer⁸.

⁸ Order of the Court of Justice of the European Union of 11-09-2007 Case C431/05: “48 In these conditions, the questions asked should be answered that, in the current state of the Community rules in the domain of patents, Community law does not oppose Article 33 of the ADPIC agreement being applied directly by a national jurisdiction under the conditions provided by national law.”.

5.4.2.2 The principal directives connected to intellectual property of geographical data.

The INSPIRE directive and the three rules and the related decision⁹ refer to certain elements subject to protection under intellectual property:

- Geographic Data,
- Geographic data series,
- Metadata,
- Information contained in the metadata.

These elements are analysed, in the context of the intellectual property law of the European Union, depending on the problems of the study involved:

- Right of use,
- Right of distribution free of charge,
- Right of marketing (paying distribution).

Nevertheless, this explicit terminology is not completely included in the context of the European legislation coming under the setting of this study. Other rights covering similar aspects are enacted and defined.

5.4.2.2.1 The Database directive

Directive 96/9/EC of the European Parliament and the Council, of 11 March 1996, concerning the legal protection of databases allows a harmonized system of protection to be implemented:

- Copyright for intellectual creation,
- Economic rights for the investments made (financial, human resources, effort and energy) for obtaining, verifying and presenting the contents of a database.

⁹

- Regulation (EC) 1205/2008 bearing methods of application of directive 2007/2/EC as regards metadata,
- Regulation (EU) 268/2010 of 29 March 2010 containing application methods of Directive 2007/2/EC regarding access by Community organizations and bodies to the geographic data series and services of the Member States under coordinated conditions,
- Decision 2009/442/EC of the Commission of 5 June 2009 containing methods of application of Directive 2007/2/EC of the European Parliament and the Council regarding monitoring and reporting [notified with number C(2009) 4199].

Regulation (EC) 976/2009 of the Commission of 19 October 2009 containing methods of application of Directive 2007/2/EC of the European Parliament and Council regarding network services

Directive 96/9/EC of 11 March 1996, concerning the legal protection of databases		
Texts other than Directive 2001/29/CE	ITEM	References of Directive 96/9/EC
Berne Convention Article 6 bis National Law	Moral right	recital 28
Berne Convention	Exceptions to the acts subject to restriction cover the structure of the database	recital 37
Berne Convention	§1 of Article 10 of the convention is not affected by the directive (quote)	Recital 35 of the
Berne Convention	The possibilities of national limitations on Article 6.2 cannot be interpreted with a goal of causing an unjustified prejudice to the legitimate interests of the owner of the right or which attacks the normal use of the database	Article 6-3
	The author of the database has an exclusive right to do or authorize: a) The permanent or temporary reproduction, in all or in part.... b) The translation, adaptation, arrangement and any other transformation... c) Any type of distribution to the public of the base or its copies... d) All communication, exposition or representation to the public... e) Any reproduction, distribution, communication, exposition or representation to the public of the results of acts listed in point b)	Article 5
	The producer of a database can prevent the unauthorized extraction and/or reuse of the contents of a database	Article 7
	The economic rights of the manufacturer can be transferred, ceded or given under contractual licence (right of use)	article 8
	The legitimate user can, without authorization, extract or reuse parts that are not substantial of the contents of the base without harming in an unjustified manner the legitimate interests of the manufacturer	Article 7-5
Directive 91/250/EEC	Legal protection of computer programmes	Recital 2 and Article 2
Directive 92/100/EEC	Rent and loan	Recital 24 and Article 2
Directive 93/98/EEC	Duration of protection	Recital 25 and Article 2

The economic rights of a manufacturer of a database, individual or company, named rights “sui generis”, are designed independently from the copyright of the database, the data included in the base.

This study refers in particular to the following rights:

- For the authors of databases, the right to authorize or to prohibit
 - Reproduction.
 - transformation
 - Distribution,
 - Communication to the public,
- For manufacturers of databases:
 - The right to prohibit extraction¹⁰ and reuse¹¹.
 - The right to transfer, to divest and to grant the licence,

¹⁰ Art 7-2-a “extraction”: The permanent or temporary transfer of all or a substantial part of the contents of a database to another data medium by any means or in any form whatsoever;

¹¹ Art 7-2-b “reuse”: Any form making available to the public all or a substantial part of the contents of the base through distribution of copies, through rent, transmission online or by other forms.

5.4.2.2.2 The directive of harmonization of certain aspects of the copyright

The objective of this directive is to incorporate the principal international obligations arising in particular from the WIPO Copyright Treaty (WCT), adopted in the context of the World Intellectual Property Organization (WIPO) in December 1996, at the Community level.

Directive 2001/29/EC of 22 May 2001 concerns the right of reproduction, the right of communication and the right of distribution of the authors.

Directive 2001/29/EC of 22 May 2001 on harmonization of certain aspects of the copyright and related rights in the information company		
Texts other than Directive 2001/29/EC	ITEM	Reference of Directive 2001/29/EC
WIPO Treaty	Moral right	Recital 19
Berne Convention Article 6 bis		
National Law		
	The exclusive right to authorize or prohibit by the authors the temporary or permanent reproduction	Article 2 of the
	Right to communicate works to the public and right to make available to the public other protected objects	Article 3 of the
	Right of distribution	Article 4 of the
Directive 91/250/EEC	Legal protection of computer programmes	Recital 20 and Article 1 of the
Directive 92/100/EEC	Rent and loan	Recital 20 and Article 1
Directive 93/98/EEC	Duration of protection	Recital 20 and Article 1
Directive 96/9/EC	The legal protection of databases	Recital 20 and Article 1

With this harmonization directive, the authors benefit from an exclusive right

- To reproduce directly or indirectly, temporarily or permanently, their original works and their copies,
- To distribute to the public the original of their works or their copies,
- To communicate to the public their works, including making them available, in a way that every member of the public can have access from the place at the time he chooses personally.

5.4.2.2.3 The INSPIRE Directive

The aspects of intellectual property reviewed in the context of this study require the terminology relative to this legal domain to be identified in the INSPIRE directive.

The elements covered by the INSPIRE Directive have already been identified in 5.1.1 – "Definitions relative to the geographical data" of this study. Among these elements, some could be subject to protection by the European legislative harmonization system and in particular two directives analyzed above, Directive 96/9 and Directive 2001/29/EC:

- Geographic Data,
- Metadata,
- Information contained in the metadata,
- Geographical data series,
- Geographical data services.

These elements are the subject of actions found in INSPIRE

Actions listed in INSPIRE connected to the elements	Reference
Public access to the series and services of geographical data with or without restriction	5 of Article 4 article 13
Collection or circulation	Recital 11 Article 4-5
Necessary information made available (including the data, the codes and the technical classification), the conditions which do not restrict their use for this purpose	Recital 6 Articles 10.1 and 14.1
Use of the data, the series and the services of geographical data without or without fees	art 5-2 Recitals 3, 5, 6, 12, 16 ...
Exchange, sharing	Recital 2
Search and consultation of the series of geographical data	Recital 19
Reproduction and distribution	Recital 23
interoperability	

These different actions:

- If they concern data and metadata which could be protected under copyright law,
- If they concern series of data namely possibly compilations of data which could constitute intellectual creations protectable by copyright or by related rights of the manufacturer of the database.

In this regard, in particular:

- Recital 9 mentions that “this directive should not affect the existence or the ownership of rights of intellectual property by public authorities”.
- Article 2.2 specifies that “this directive does not affect the existence or the ownership of rights of intellectual property by public authorities”.
- Article 4.5 also specifies that “in the case of series of geographical data consistent with the conditions established in Paragraph 1, Point c), but in regard to which a third party holds rights of intellectual property, the public authority cannot act in application of this directive except with the consent of this third party,”
- Article 13-1-e stipulates that “the Member States can restrict public access to the data series and services....should this access damage the following aspects: e) the wrights of intellectual property”.

Thus, the INSPIRE Directive takes fully into account the aspects of intellectual property through different directives reviewed in this report.

This directive is completed by implementation regulations and decisions:

Regulations	Reference of INSPIRE Directive (Directive 2007/2/EC).
Regulation (EC) 1205/2008 bearing methods of application of directive 2007/2/EC as regards metadata	Article 5, Paragraph 2, Point B Article 11, Paragraph 2, Point F
Decision 2009/442/EC of the Commission of 5 June 2009 containing methods of application of Directive 2007/2/EC of the European Parliament and the Council regarding monitoring and reporting [notified with number C(2009) 4199]	Article 19, Paragraph 2 Article 21, Paragraphs 1, 2 and 3
Regulation (EC) 976/2009 of the Commission of 19 October 2009 containing methods of application of Directive 2007/2/EC of the European Parliament and Council regarding network services	Article 16
Regulation (EU) 268/2010 of 29 March 2010 containing application methods of Directive 2007/2/EC regarding access by Community organizations and bodies to the geographic data series and services of the Member States under coordinated conditions	Article 17

5.4.2.2.4 Directive ITS

Directive 2010/40/EU of 7 July 2010 concerning the framework for the deployment of systems of intelligent transport in the domain of road transport and interface with other methods of transport. Text presenting matters of interest for the EEE, was analyzed by SETRA. This analysis emphasizes the principal significant elements mentioned in this directive which concern the Rosatte project.

Items		Reference in Directive
Priority domains	<ul style="list-style-type: none"> I. The optimal use of data relative to the route, traffic and travel, II. The continuity of the ITS management services of traffic and freight, III. The applications of ITS on security and road safety, IV> the link between the vehicle and the transport infrastructures. 	Article 2
Priority action	<ul style="list-style-type: none"> B) availability, throughout the Union, of information services in real time on the traffic, C) the information and procedures for the supply, to the extent possible, of minimum universal information on the traffic relative to road safety free of charge to the users. 	Article 3
Conformity to the specifications	The specifications anticipate, if need be, an evaluation of the conformity, in accordance with Decision No. 768/2008/EC.	Article 6.6 §2
Liability	The questions of liability of the operators regarding the deployment and the use of ITS applications and services listed in the specifications are processed in conformity with the law of the Union, including in particular Directive 85/374/EEC regarding liability due to the products, as well as with the pertinent national legislation.	Article 11
Priority domains and actions	Rosatte is virtually affected by the entire text, with the exception of the questions of parking.	Appendix

This recent directive mentions universal minimum information on the traffic to be provided free of charge, if possible, to users. (see Recital 14 and Article 3-c). Thus this directive, puts in front the universal information on traffic and its accessibility to the user. This directive clearly specifies that the processing and utilization of this data comply with Directive 2003/98/EC of 17 November 2003 concerning the reuse of information of the public sector.

This directive emphasizes the aspects of liability relative to the deployment and utilisation of ITS applications and services.

In this regard, the directive equates, with reference to Directive 85/374/EEC modified relative to the liability due to defective products, the applications and services to products which could in case of defectiveness be considered as defective. As a result, the publisher of geographical applications and/or the manufacturer of geographical databases could find themselves responsible for damage causes due to a defect of their product¹².

5.4.3 - Brief declination in the context of French legislation

¹² Article 1 Directive 85/374/EEC of the Council of 25 July 1985 regarding liability due to defective products

French legislation in the copyright and database domain rests in particular on the European directives, the Berne Convention, the WIPO Treaty, the TRIPs and other international agreements signed by France regarding Intellectual Property which France is a signatory of with the other Member States with or without the European Union as such.

French law relative to data and series of data is in conformity with the European directives. The specific national measures are those which the European legislation reserves for the Member States, the care of lawmaking on the subject and in particular regarding the moral right of the author.

All the French legislation and regulations are collected in a code called “Code of Intellectual Property”.

At the level of the French public organizations, the National Geographic Institute (IGN) manages on behalf of the French State, geographical repositories including the Large Scale Repository (RGE®). In this regard, the IGN grants user paying licences while specifying, in accordance with the general licence terms and conditions¹³, that reusing “professional as well as geophysical data does not conventionally allow “the reconstruction, total or a substantial part, of the IGN data” except by paying a licence to IGN. The IGN has anticipated a warning model¹⁴.

5.4.4 - Application of the rights established, acquired, kept or lost during the Rosatte steps

The circuit of information relative to Rosatte makes certain element emerge that may be subject to protection under intellectual property:

- Geographic Data,
- Metadata,
- Information contained in the metadata,
- Geographical data series,
- Geographical data services.

To use these elements, the parties involved in the Rosatte circuit use proprietary software or free software, geographical repositories (databases)... The use of these resources becomes necessary and every person involved must conform to the laws and obligations listed in the contractual licences pertaining to said resources. These resources are those mainly used by public organizations of geography.

Coding is an activity that as a rule generates formatted and classified data and metadata, excluding the free fields of data or the free texts of metadata. The coding, in theory, makes all form of creativity and thus originality disappear in the sense of the European legislative as reviewed previously.

The complementary review of the large activities, already analyzed in the context of 5.1.5 permits a good identification based on the report relative to the coding that the attributes of property relative to data and metadata concerning security lose any trace of copyright after that coding.

So, attributes of copyright could appear at the level of the activities of:

- Acquisition (collection),
- Post-processing (control and input in database),
- Entering into database.

¹³ The general terms and conditions of the licences are available on the IGN site.

¹⁴ The warning model can be reviewed on the IGN site.

On the other hand, these attributes will disappear at the level of:

- Decoding/Establishment of the standard export file,
- Decoding/ Establishment of the digital card of the security attributes,
- Transmission of the data lots (series).

Nevertheless, attributes of property:

- Could be introduced at the enrichment level,
- Disappear completely in case of depletion, except if someone involved inadvertently enter such attributes to optimize the depletion.

These copyright attributes differ from the aspects of economic property of the geographical databases which follow their own rules. So it is important, in conformity with the European legislation, to make sure to respect the requirements listed in the contractual licences relative to the databases used and the software resources.

With regard to the steps, the copyright attributes disappear when moving on to Step 3:

- Steps 1 Collection and transmission
- Steps 2 Consolidation and encoding
- **Steps 3 Integration**
- Steps 4 Evaluation
- Steps 5 Use of the service

Thus, all the initial creative activities before the coding are done under the influence of the national legislation.

A national law may apply differently than any other national law at the level of the rights related to the person of the author, namely the moral right in the sense of the Berne Convention.

At this stage, the limitations and exceptions to the harmonization issued by the directives have no effect at the level of the Rosatte circuit of exchanges and sharing with regard to the data and metadata.

Thus, the intellectual property attributes disappear during the coding activity because of the formatting and the classification.

After the coding, the series of data enter the process of Community, or transfrontier, exchange and/or sharing. At this step of the Rosatte circuit, the application of the harmonized national laws could be done outside national limits and restrictions authorized by the directives because, due to the coding, the data and metadata have become devoid of intellectual property attribute.

On the other hand, only some aspects of economic property remain of the data and metadata extracted from databases which are managed solely at the level of¹⁵ :

- The remuneration or the guarantee of use,
- The royalty-free distribution from an extraction for reuse,
- The remuneration of the marketing of the data extracted and broadcast for purposes of reuse.

However, the geographical repositories are analyzed as databases. These resources serve both for coding and decoding. At the coding level, the organization has a contractual licence on the geographical repository and the GIS software. At the decoding level, the use of a repository appears indispensable. The analysis of the circuit has permitted learning that his activity could be carried out

¹⁵ Directive 96/9/CE legal protection of the databases Article 7 2 “we mean by:

- a) “extraction”: The permanent or temporary transfer of all or a substantial part of the contents of a database to another data medium by any means or in any form whatsoever;
- b) “reuse”: Any form making available to the public all or a substantial part of the contents of the base through distribution of copies, through rent, transmission online or by other forms. The first sale of a copy of a database in the Community by the legal owner, or with his consent, exhausts the right to control the resale of this copy in the Community.

with another repository with the need for the Coding one. **This possibility of not using the coding reference system depends on the conventional provisions of the licence of the manufacturer of this reference system but also its level of interoperability in conformity the database directive and INSPIRE.**

The table shown below gives a quick view of the cases studied at the data and metadata level.

Copyright attributes attached to the Rosatte data and metadata created during the acquisition				
Those participating in the Rosatte acquisition process	At the end of Step No. 1 “collection and transmission”	At the end of Step No. 2 “consolidation and coding”	At the end of Step No. 3 “Integration”	At the end of Step No. 4 “Evaluation”(**)
The owner and/or the author of the cartographic reference used (*)	Attribute of property	YES	YES	YES
The buyer of rights to the cartographic reference used (*)	Attribute of property	YES	YES	YES
The provider of the terrain survey,	Attribute of property	NO	NO	NO
The sponsor of the preceding work(*)	Attribute of property	NO	NO	NO
The providers of the digitizing and post-processing	Attribute of property	NO	NO	NO
The sponsor of the preceding work.	Attribute of property	NO	NO	NO
The supplier of Data, due to his own gain	Attribute of property	NO	NO	NO
Among the other participants in the rest of the process	At the end of Step No. 1 “collection and transmission”	At the end of Step No. 2 “consolidation and coding”	At the end of Step No. 3 “Integration”	At the end of Step No. 4 “Evaluation” (**)
The custodian of the Rosatte Database ¹⁶ (public authority)	Not applicable	NO	NO	NO
The processor	Not applicable	Not applicable	YES	YES
The Service supplier (public authority) ¹⁷	Not applicable	Not applicable	Not applicable	NO

(*) As a rule, the sponsor is the supplier of data, but there may also be a cascading operation due to subcontracting.

(**) This step is not elaborated in the “Rosatte” study, but it is an element of the collaborative flow on which it conditions overall the economic layout.

Thus, the information relative to the constraints of access and use will have to appear in the metadata¹⁸ in conformity with the European legislation both at the level of:

- Conditions applicable to the access and use and, if applicable, the corresponding fees, "in conformity with Article 5, Paragraph 2, Point b), and Article 11, Paragraph 2, Point f) of Directive 2007/2/EC"
- Restrictions concerning public access “under Article 13 of Directive 2007/2/EC”

5.5 - Technical Part N° 2: “responsibility of the contributors”

The geographical data, the geographical metadata, the series of geographical data may contain errors which may appear in any step whatsoever of the Rosatte circuit of information.

¹⁶ Only concerns the raw data

¹⁷ Only concerns the raw data

¹⁸ See 8 “Constraints relative to access and use” of Part B of Appendix “rules of implementation relative to metadata” of the Regulation (EC) No. 1205/2008 of the Commission of 3 December 2008 bearing application methods of the Directive INSPIRE 2007/2/ as regards metadata

5.5.1 – Quality and validity

The INSPIRE directive specifies in its Recital 2 that “A certain number of problems arise concerning the availability, the quality, the organization, the accessibility and the sharing of the geographical information necessary to achieve the objectives established in said programme”. The directive stipulates in its Article 5-2 and 5-2-c that “The metadata must include information on the following aspects: ... c) The quality and the validity of the geographical data series;” While also adding in Article 5-3 that “The Member States must take the measures necessary to guarantee that the metadata are complete and of sufficient quality to satisfy the objective listed in Article 3, Point 6.” This is completed by Article 21-2 which addresses quality assurance.

The definition of the “conformity” enacted by the directive INSPIRE is specified in other Community texts concerning the series of geographic data and the services of geographical data. The implementation rules have been the subject of three regulations and the decision:

- The metadata with Regulation (EC) 1205/2008 of 3 December 2008 (ref. Article 5, Paragraph 2, Point b and Article 11, Paragraph 2, Point f of the INSPIRE directive),
- The follow-up and reporting with Decision 2009/442/EC of 5 June 2009 (ref. Article 19, Paragraph 2 and Article 21, Paragraphs 1, 2 and 3 of the INSPIRE directive)
- The services in network with Regulation (EC) 976/2009 of 19 October 2009 (ref. Article 16 of the INSPIRE directive)
- The access by the Community institutions and organizations to the series and services of geographical data of the Member States under standardized conditions with Regulation (EU) 268/2010 of 29 March 2010 (ref. Article 17 of the INSPIRE directive).

The Member States must respect the conformity to the implemented rules enacted by these regulations and this decision.

The Member States by virtue of the INSPIRE directive “must take the measures necessary to guarantee that the metadata are complete and of sufficient quality to satisfy the objective listed in Article 3, Point 6, of the Directive namely: Make possible the research, the inventory and the use of the series and services of geographical data (see Article 5-3 of the directive).

Regulation N° 1205/2008 of the Commission of 3 December 2008 relative to the metadata INSPIRE¹⁹ defines that “quality“ is all the characteristics of a product which give it the ability to satisfy the expressed or implicit needs, in conformity with the standard EN ISO 19101.

The Regulation also specifies²⁰ that the “references to the validity of the series of geographical data must be understood as concerning one of the following aspects:

- The interval of space and time which is relevant for the data,
- The question of knowing if the data has been verified in relation to a standard of measurement or performance,
- The level of appropriateness of the data in relation to the anticipated use,
- If applicable, the legal value of the series of geographical data”.

The regulation mentioned that the conformity requirements²¹ must appear in the metadata at the level of:

- The reference of the implementation rules adopted (specifications),

¹⁹ See 1 of Part A of its appendix “implementation rules relative to the metadata” Regulation (EC) N° 1205/2008 of the Commission of 3 December 2008 bearing methods of application of Directive 2007/2/EC with regard to the metadata

²⁰ See 2 of Part A of its appendix “implementation rules relative to the metadata” Regulation (EC) N° 1205/2008 of the Commission of 3 December 2008 bearing methods of application of Directive 2007/2/EC with regard to the metadata

²¹ The requirements defined in Article 5, Paragraph 2, Point a) and in Article 11, Paragraph 2, Point d) of the Directive 2007/2/EC as regards the conformity and the degree of conformity with the implementation rules adopted under Article 7, Paragraph 1, of Directive 2007/2/EC. See 7 “Conformity” of Part B of the Appendix “Implementation rules relative to the metadata” of Regulation (EC) N° 1205/2008 of the Commission of 3 December 2008 bearing methods of application of the INSPIRE directive 2007/2/EC regarding metadata

- The degree of conformity of the resource^{22,23} in relation to the implementation rules.

So to compensate for these difficulties, the European legislation requires that a quality assurance process be implemented at the level, preferably, of every participant and to mention the quality and the validity in the metadata pertaining to it. The fact of making warning messages appear vis-à-vis every user in order to unload all liability, cannot be considered a quality assurance step.

A data must not, in principle, be

- erroneous from the start,
- falsified during Rosatte exchanges,
- its integrity be modified during a Rosatte activity.

Nevertheless, the updating in real time of the data does not appear evident. In addition, temporary modifications on the terrain for different reason, as for example the temporary signalling of works or an accident, may also become temporarily contradictory. In this case, the metadata should guarantee the convincing value of the information at a given data and the non modification of the data during Rosatte activities.

The Bali project demonstrates a quality assurance approach:

- Controls and information carried out during the acquisition,
- Adjustments carried out by the police and gendarmerie forces,
- Updates made by the authorities making decision relative to the speed limits.

5.5.2 – Liability

In case of diffusion and/or marketing of erroneous, falsified or modified data which generates accident-causing situations, could the liability of the different participants (contributors) of a chain of consolidation data be involved?

The lack of quality and validity can increase in particular:

- As a result of an error of acquisition or of non compliance of the integrity of the data through Rosatte activities,
- Depending on the obsolescence of the data or the lack of data supplied with a period of time to be established.

To avoid that the participants of the Rosatte chain (public authority or third parties)²⁴ become implicated unnecessarily, these participants must try to implement solution to attempt to protect themselves in particular:

- Conventional clauses of limitation and/or exemption from liability in their contracts,
- Warnings in the applications and the services destined for the users,
- Communication campaigns,
- Processes of assurance of the quality as stipulated by the INSPIRE Directive.

²² "Resource": A resource of information referring directly or indirectly to a specific geographical place or zone defined in 1 of Part A of its appendix "implementation rules relative to the metadata.

²³ The types of resources:

1.1. Set of series of geographical data (series),

1.2. Geographical data series (dataset),

1.3. Service of geographical data (services) in accordance with 1 "Elements of metadata" Part D of the Appendix "rules of implementation relative to metadata" of the Regulation (EC) No. 1205/2008 of the Commission of 3 December 2008 bearing application methods of the Directive INSPIRE 2007/2/ as regards metadata.

²⁴ In the sense of 9 and 10 of Article 2 of the INSPIRE directive

The national courts may consider that these precautions are not sufficient.

Rosatte also offers some liability aspects concerning the users who are driving. In fact, in case where they may be a difference between the limit:

- Listed in a decision of a national or local public authority,
- Determined on the ground
- Coming from information appearing in the vehicle,

The national legal authority will always have the tendency, especially in the case of an accident:

- To refer to the decision or even take into account also whether the speed sign giving the decision of the authority involved, was visible and legible,
- rather than accept taking into account the information appearing in the vehicle of the user.

Can the attributes of geolocalised road safety, if they turn out to be erroneous, falsified, or modified be compared... to defective products coming under the context of Directive 1999/34/EC of the European Parliament and the Council, of 10 May 1999, modifying Directive 85/374/EEC of the Council relative to the approximation of the legislative, regulatory and administrative measures of the Member States on liability due to defective products?

Directive 2010/40/EU of 7 July 2010 "Intelligent Transportation Systems" stipulates general rules on liability relative to the supply of applications and services with application of rules pertaining to defective products^{25,26} in particular on the defective products even though the applications and the services are navigation aid systems and not means of navigation. It would appear that this defective products liability does not apply to data and metadata.

Nevertheless, the provisions of Regulation N° 1205/2008 of 3 December 2008 concerning the INSPIRE metadata identify organizations responsible for the establishment, the management, the maintenance and the diffusion of the series and services of geographical data, said organizations are listed in 5.1.2 of this report²⁷,

This denomination "organizations responsible" could lead to consequences if this responsibility appears to weigh more on the conformity with the implementation requirements stipulated by the Directive than on the quality of the data. In addition, this responsibility could be reduced by virtue of Article 14-4 of the INSPIRE Directive which appears to allow the possibility of limitation of responsibility through non-liability clauses relative to the services of geographical data provided by a public authority.

As a result, no criminal statute within the context of the INSPIRE Directive establishes the limits and/or the possible exemptions of liability of the public authorities and organizations in terms of data and metadata except if it turned out that an error, proven with causal link between the error and the damage, was charged against them.

Is this statute determined at the Community level or is it left to the national judges?

5.6 - Technical Part N° 3: "Patents of Methods – Framework of Reference"

In order to ensure the convergence of the collaborative flow, the Rosatte Project depends on the dynamic method "Agora C", corresponding to Standard 17572-3. Standard ISO 17572 covers several standards.

²⁵ Article 11 Rules concerning liability of Directive 2010/40/EU of 7 July 2010 concerning the context for the deployment of systems of intelligent transportation in the domain of road transport and interfaces with other modes of transport.

²⁶ Directive 85/374/EEC of the Council of 25 July 1985 relative to the approximation of the legislative, regulatory and administrative provisions of the Member States on liability due to defective products.

²⁷ 9 of Part B Appendix: "Implementation rules relative to the metadata" of Regulation (EC) N° 1205/2008 of 3 December 2008 containing methods of application of Directive 2007/2/EC INSPIRE.

ISO 17572		
Standard	Title	Date
ISO 17572-1:2008	Intelligent Transportation Systems (ITS) – Localisation for geographical databases – Part 1: General requirements and conceptual model	December 2008
ISO 17572-2:2008	Intelligent Transportation Systems (ITS) – Localisation for geographical databases – Part 2: Precoded localisations (precoded profile)	December 2008
ISO 17572-3:2008	Intelligent Transportation Systems (ITS) – Localisation for geographical databases – Part 3: Dynamic localisations (dynamic profile)	December 2008
ISO 17572-3/AC1:2009	Technical amendment 1 to the Standard ISO 17572-3 of December 2008	July 2009

A recent submission of patents relative to process on coding and decoding, last chains of the central process of the Rosatte study rest on a Standard ISO 17572 relative to the Localisation Methods (methods of georeferencing attributes linked to transportation) were carried out by a pool of companies.

These patents could be integrated into said standard. In that case, the manufacturers should have declared them to the institution for standardization of connection.

Conflicts may arise between patents and standards if the application of the standard requires the use of a technique protection by at least one patent. The goal of a standardization institution, as well as the businesses participating in the preparation of a standard, is to draft a standard that can be used by the greatest number. The holder of a patent request or a patent cannot prevent the application of a standard by refusing to grant a licence or by demanding fees that are too high.

A number of standardization institutions ask the parties in the normalization process to disclose information concerning the patents involved (and sometimes also the patent requests) in order to include the pertinent information in the process.

Faced with such a problem, numerous standardization institutions ask the holder of the patent to:

- Disclose information concerning the patents involved,
- To accept the granting of licences at equitable, reasons and non-discriminatory conditions (Reasonable and Non Discriminatory Licensing called RAND), or without fee.

At the level of the European Union, the transfer of commitments relative to the granting of licences at equitable, reasonable and non discriminatory conditions proves necessary.

The international standardization institutions, ISO, CEI and ITU, have prepared rules relative to the standardization of products or patented processes (RAND licence rules); in this regard, see the ITU site "Common Patent Policy for ITU".

According to these rules, the existence of a patent must be notified as early as possible during the drafting of a standard. In this case, the holder of the rights pledges vis-à-vis the standardization institution involved, to negotiated licences with applicants all over the world, at reasonable and non discriminatory terms and conditions.

For the European Union: "Standardization guarantees a certain equality of opportunities in terms of innovation due to the fact that it allows interoperability and competition between products, services and processes." In addition, the Commission specifies that the standardization takes into account the existing correlations between the rights of intellectual property and the standardization.

The Commission²⁸ proposes “that the standardization institutions in the CIT domains implement clear and not discriminatory policies regarding the rights of intellectual property which guarantee competition. The Commission also hopes that the standardization institutions contemplate a declaration of the most restrictive licence conditions, specifying in particular the highest rates of fees before the adoption of a standard.”

In fact, the European standardization policy currently authorizes the integration, in some standards, of proprietary technologies encumbered with intellectual property rights. However, the texts relative to the competition stipulate that a standard should not “lead to a restriction of the competition and should be based on non discriminatory, open and transparent procedures.”

In this same spirit, if when the publication of a standard is issued, a manufacturer tried to block its implementation by claiming a monopoly thanks to having obtained a patent, this monopoly could be described as anti-competitive because it rests on a patent basically restricting competition²⁹.

²⁸ White book of the Commission, of 3 July 2009, entitled “Modernize Standardization in the field of Communications and Information Technology (CIT) in the EU: towards the future”

²⁹ Order of the District Court (Large Chamber) of 17 September 2007 case T T-201/04: “Article 82 EC intends to prevent a dominant business from strengthening its position by resorting to means other than those that come under competition through merit.”

6 - Recommendations

6.1 – Recommendations relative to intellectual property rights

Rosatte is a European project that requires a collective approach of the member states.

6.1.1 – Overall Recommendations

The review of the Directives, in the context of this study, highlights that a part of the legal provisions pertaining to intellectual property still remain slightly at the level of the prerogatives of the Member States due to their national disparities which do not appear to be contrary to the Treaty. It must be remembered that all harmonization remains a compromise between the Member States in compliance with the Treaty of the European Union.

The legal problem that the Rosatte project raises relative to the transfer circuit of the data and the metadata lead us to recommend to those involved in the Rosatte circuit:

- To maintain an approach as close as possible to the harmonized texts of the Directives relative to intellectual property,
- To manage the exceptions and the limitations of the Directives relative to intellectual property, reverting to the Member States, which affect the circuit of attributes in the context of contractual licences,
- To implement specifications for exchanges which allow any aspect of intellectual property to be excluded via in particular the format and the classifications of data and metadata to realize a model of data which can be used free of charge,
- To consider that the safety attributes, specific to the Rosatte project, taken from databases to not affect the economic right of the manufacturer.

The moral, non economic rights and specific to the author, remain the free discretion of every Member State in compliance with the Berne Convention, the WIPO Treaty and the TRIPs, as has been seen in this study. These limits and exceptions reserved for the Member States, by the directives could appear as disincentives to a transfrontier implementation.

6.1.2 - Arguments

On the contrary, the economic rights which rest on the common core of the directives, have a legislation harmonized in every Member State. This legislative harmonization should promote the exchange, the sharing, the access and the use of the Rosatte data eliminating the restrictions to the maximum³⁰. As a result, it appears interesting in the context of the national coordination³¹ and the Community coordination³² that, particularly at the European Commission, additional measures be recommended to the specifications of implementation appearing in the three regulations and in the decisions pertaining to the INSPIRE directive so that, the data and metadata be formatted, classified ... so that any form of creativity is excluded through coding. This exclusion would eliminate any claim if originality and therefore any attribute of copyright. This suggestion does not have the goal of excluding any form of creativity during the acquisition but to set a destination to the data and series of data. This organization solution and technique would avoid any form of claim of copyright.

Should there be a transfer of right, the participant must authorize through licence contract with the public and private organizations the extraction of the data and metadata with a targeted destination for any use in the Rosatte circuits and beyond that to the end user. These conventional requirements

³⁰ Cf. Article 17-2 Directive 2007/2/EC of 14 March 2007 INSPIRE which specifies “The measures anticipated in Paragraph 1 (measures concerning sharing) exclude any restriction likely to create practical obstacles.... to the sharing of series and services of geographical data.

³¹ Cf. Article 18 of Directive 2007/2/EC of 14 March 2007 INSPIRE which specifies that “ These structures coordinate, among other things, the contributions of the users, the producers, the suppliers of value added service and the coordination organizations with regard to the identification of the pertinent series of data, the needs of the users, the supply of information on existing practices and a return of information on the implementation of this directive”.

³² .Article 19 of Directive 2007/2/EC of 14 March 2007 INSPIRE 1. The Commission is responsible for the coordination in the Community of INSPIRE and is assisted in this goal.

should appear in every licence agreement which is established between every participant in the process.

The data and metadata of the Rosatte project only cover attributes of road safety and not attributes of public safety, national defence....Because of this, this data and metadata should be able to circulate throughout the Rosatte circuit without any restriction³³.

The BALI project of the Ministry of Ecology, Development and Sustainable Development of the French Republic uses a standardization of data thanks to a user interface connected to a cartographic space. Nevertheless, the geographic repository and the means are used in compliance with the rights held. The team of the BALI project does not appear to have given its opinion at present on "the basic status of data and legal aspects concerning the intellectual property of data".

6.1.3 - Suggestions of clauses

Thus, the public organizations could do what is necessary to “avoid the transfer of the right of intellectual property.”

For every data and metadata which is part of a data series or service, it will also be necessary to grant a contractual licence between every subsequent participant of the Rosatte circuit. This licence should integrate types of provisions right from the coding as for example in full compliance with Regulation (EU) N° 268/2010 of the Commission of 29 March 2010³⁴.

The licence granted authorizes the extraction of safety attributes of the series of data for exchange, sharing and access as well as utilization but only for the activities of the Rosatte circuit (in particular reproduction, translation, integration, adaptation, transformation, coding and decoding) for distribution to the public and use by the public. The series of coded data are formatted and classified... As a result, these series are not originals. However, every geographical repository used to code and decode is a means (database and/or software) which the user must have a user licence for. If, during coding, some elements of a repository were to be transferred with the series, the participant will not be able to use the elements of the repository for decoding unless he has rights pertaining to it.

In terms of every participant of the Rosatte circuit the activities of one of which would generate a right of intellectual property, the approach centred on the safety attributes should be similar. In fact, is suggested that the following provisions be integrated in the service contracts:

The safety attributes supplied with the services are raw non creative data due to the fact that they are not original because they have been formatted and classified without any possibility of creativity. Thus, this data or raw information are not protected by copyright. If however, voluntarily or involuntarily, the provider enters safety attributes subject to copyright, in this case the provider grants ex officio a free licence on these attributes. This licence granted authorizes the exchange, sharing, access as well as the utilization but only for the activities of the Rosatte circuit (in particular reproduction, translation, integration, adaptation, transformation, coding and decoding) for access or distribution to the public and use by the public. The raw data thus transmitted remain free regardless of the activity of the Rosatte circuit.

³³ See restriction of Articles 13 and 16 of the Directive 2007/2/EC of 14 March 2007 INSPIRE

³⁴ Regulation (EU) N° 268/2010 of the Commission of 29 March 2010 containing application methods of Directive 2007/2/EC of the European Parliament and Council regarding access by Community organizations and bodies to the geographic data series and services of the Member States under coordinated conditions

6.1.4 – Summary tables

Copyright attributes attached to the Rosatte data and metadata by type of participant								
Participants	Attribute of property at the end of the step							
Those participating in the Rosatte acquisition process	Step 1 – “Collection and Transmission”		Step 2 – “Consolidation and encoding”		Step 3 – “Decoding and Integration”		Step 4 – “Evaluation”(**)	
	Report	Advice	Report	Advice	Report	Advice	Report	Advice
The owner and/or the author of the cartographic reference used (*)	YES	YES	YES	NO	YES	NO	YES	NO
The buyer of rights to the cartographic reference used (*)	YES	YES	YES	NO	YES	NO	YES	NO
The provider of the terrain survey,	YES	YES	NO	NO	NO	NO	NO	NO
The sponsor of the preceding work(*)	YES	YES	NO	NO	NO	NO	NO	NO
The providers of the digitizing and post-processing	YES	YES	NO	NO	NO	NO	NO	NO
The sponsor of the preceding work.	YES	YES	NO	NO	NO	NO	NO	NO
The supplier of Data, due to his own gain	YES	YES	NO	NO	NO	NO	NO	NO
Among the other participants in the rest of the process	Step 1 – “Collection and Transmission”		Step 2 – “Consolidation and encoding”		Step 3 – “Decoding and Integration”		Step 4 – “Evaluation”(**)	
	Report	Advice	Report	Advice	Report	Advice	Report	Advice
The custodian of the Rosatte Database ³⁵ (public authority)	Not applicable		NO	NO	NO	NO	NO	NO
The processor	Not applicable		Not applicable		YES	NO	YES	NO
The Service supplier (public authority) ³⁶	Not applicable		Not applicable		Not applicable		NO	NO

(*) As a rule, the sponsor is the supplier of data, but there may also be a cascading operation due to subcontracting.

(**) This step is not elaborated in the “Rosatte” study, but it is an element of the collaborative flow on which it conditions overall the economic layout.

(***) Provided other participants do not introduce new attributes of intellectual property.

³⁵ Only concerns the raw data

³⁶ Only concerns the raw data

Copyright attributes attached to the Rosatte data and metadata by type of participant					
Stages	Outgoing data	Elements of intellectual property in the Rosatte circuit			
Titles	Types of data	Type of right	Type of information or medium	Attribute of property	
				report	suggested
Step 1 Collection and transmission	Either integrate them into one's own operating system before re-exporting them or transmit them directly Or input them directly via a portal (BALI method) Partial series of data in compliance with specifications	Pre-existing Property Right	Documents	YES	NC
			Raw data	NO	NO
		Pre-existing Property Right transferred during the phase	Documents	YES	NC
			Raw data	NO	NO
		Property Right created during the phase	Raw data	NO	NO
			Metadata	YES	NO
			Documents	YES	NC
		Restriction on destination of the results of the task		NO	NO
Step 2 Consolidation and coding	Export of E 1 in standard Rosatte format (in conformity with AGORA-C) • Data • Metadata with IGN standard	Pre-existing Property Right	Documents	YES	NC
			Raw data	NO	NO
		Pre-existing Property Right transferred during the phase	Raw data	NO	NO
			Metadata	YES	NO
			Documents	YES	NC
		Property Right created during the phase	Raw data	NO	NO
			Metadata	YES	NO
			Documents	NO	NC
Step 3 Decoding and Integration	Cartography with attributes (in format useful for the custodian of the service with their own reference possibly impoverished) (plus IGN format)	Pre-existing Property Right	Raw data	NO	NO
			Metadata	YES	NO
			Documents	NO	NC
		Pre-existing Property Right transferred during the phase	Raw data	YES	NO
			Metadata	YES	NO
			Documents	NO	NC
		Property Right created during the phase	Raw data	YES	NO
			Metadata	YES	NO
Step 4 Evaluation	Information in real time on the speed limits.	Pre-existing Property Right	Raw data	NO	NO
			Metadata	NO	NO
			Documents	NO	NC
		Pre-existing Property Right transferred during the phase	Raw data	NO	NO
			Metadata	NO	NO
			Documents	NO	NC
		Property Right created during the phase	Raw data	NO	NO
			Metadata	NO	NO
Step 5 Use of the service	Return of the user	Pre-existing Property Right	Raw data	NO	NO
			Metadata	NO	NO
			Documents	NO	NC
		Pre-existing Property Right transferred during the phase	Raw data	NO	NO
			Metadata	NO	NO
			Documents	NO	NC
		Property Right created during the phase	Raw data	NO	NO
			Metadata	NO	NO
			Documents	NO	NC
		Restriction on destination of the results of the task		NO	NO
		Public or proprietary cartographic repository		AC	AC

NC: Do not circulate beyond Coding

AC: At choice: The reference used in the preceding step and partially transmitted or another but in compliance with the law

6.2 – Recommendations in terms of the "liability of the contributors"

The recommendations cover:

- On the one hand the quality assurance for which the public authorities are responsible in accordance with the INSPIRE Directive,
- On the other hand on the limitation and exemption of liability in the European texts.

6.2.1 – Quality Assurance

The Rosatte project serves as platform of experimentation for presenting suggestions in order to attempt a harmonization in terms of the control of quality and validity of the series and services of geographical data.

Currently, the information relative to road traffic comes from public authorities and operators with or without real control in real time of the operators. The updates relative to the GPS are carried out in particular via:

- Periodic updates that the user acquires or not of certain geographic road aspects
- Communication in real time relative to traffic aspects.

Tomorrow, in terms of speed limit, will the mechanisms be the same? Are the public powers able to impose the acquisition of updates by the users of the system? The information on the speed limits comes exclusively from the public authority (in the sense of the INSPIRE directive), will this authority become liable?

The Member States must implement "the organization of the quality assurance" at the level of data and metadata³⁷.

One or several approaches should be considered to comply with the rules of implementation of the quality assurance, in particular:

- A certification by a third party organization of the quality at every step of the Rosatte circuit between the acquisition and access to the public,
- A quality charter or a quality assurance plan to be complied with by every participant in the Rosatte circuit with self-checking of each one and preferably through a control of the incoming and outgoing data and metadata,
- A booklet of test types for internal or independent control.
- And/or a software control tool such as "Chouette" in the domain of the information of public transportation³⁸.

6.2.2 - The limitation and exemption from liability

To respond to the situation noted in 5.2, that is to say the uncertainty of the limit and/or possible exemption of liability of the national public authorities and organizations relative to the quality and the validity of the data to be exchanged and shared in a Community, transfrontier and transnational environment (see Recitals 5 and 35 of the INSPIRE Directive), a Community harmonization would appear to be useful and necessary in order not to slow down this process.

It also appears necessary to also extend this limitation and exemption to the series and services of geographical data having attributes of safety.

³⁷ See Article 21-2 of Directive 2007/2/EC INSPIRE

³⁸ "CHOUETTE (Creation of Schedules with a Tool of Exchange of data TC according to the Trident European format) is free software financed by the Ministry of Sustainable Development (MEEDDM/link) which serves to capture and exchange data describing the theoretical offer of networks of collective transportation in conformity with a profile of standardized exchange." see site <http://www.chouette.mobi/>

Pending an uncertain European legislative future, it becomes particularly useful to implement a maximum of precautions strengthening in particular:

- The conventional clauses of limitation and/or exemption from liability in their contracts,
- The warnings in the applications and the services destined for the users,
- The communication campaigns,
- The processes of assurance of the quality as stipulated by the INSPIRE Directive.
- By specifying the validity of the information to the users,

So that the users use the information as a tool for navigation which does wish to replace the vigilance of the driver.

6.3 – Recommendations regarding: “Patents of Methods – Framework of Reference”

6.3.1 – Overall Recommendations

The patent requests deposited before or after the publication of Standard ISO 17572-3 corrected, trying to reserve a technological monopoly, could prove to slow the value of a project.

This situation requires the authorities sponsoring the project:

- To make sure that said patent is not monopolistic,
- **To negotiated with the Holders of patents of licences** (minimum clauses with a maximum rate) depending on the evolutions of the market and for example in the context of the INSPIRE Community coordination.
- To conduct a campaign of communication to promote the project and thus to favour the deployment of the technologies for which a licence type has been negotiated.

6.3.2 - Arguments

The European projects are sources of economic opportunity particularly for the Patent Holder dealing with a standard.

The Community dimension of the Rosatte project offers a consequent economic perspective for the manufacturers and the operators if the Rosatte circuit becomes fully interoperable at the level of the series of geographical data and the services of geographical data.

Even if some licence commitments issuing from the Holder of titles of industrial property appear in the standard, it would appear necessary to successfully complete in the context of the INSPIRE Community coordination a negotiation so that the decrease of the licences provides a benefit to the public authorities as well as the holder of the patents/

The low price fees favour the promotion of technologies. The prohibitive rates are an impediment to the realization of these projects at the European Union level.

The Europeanization of the need coupled with a communication campaign by the European departments should allow one to forecast strong economic opportunities in terms of:

- Development of computer applications
- Development of services,
- Supply of services,
- Manufacture of new GPS terminals,...

The manufacturers and the operators should benefit from it. The public authorities should also have some savings.

8 - Appendices

8.1 - Glossary

TRIPs	The WTO Agreement on aspects of intellectual property rights affecting business negotiated during the Uruguay Round, which was held from 1986 to 1994, introduced for the first time rules relative to intellectual property in the multilateral commercial system. This agreement established minimum levels of protection of intellectual property that every government must guarantee to the other members of the TWO. ONIC site
The Paris Convention for the protection of industrial property of 20 March 1883	<ul style="list-style-type: none"> • Revised: <ul style="list-style-type: none"> ○ In Brussels on 14 December 1900, ○ In Washington on 2 June 1911, ○ At The Hague on 6 November 1925, ○ In London on 2 June 1934, ○ In Lisbon on 31 October 1958 ○ And in Stockholm on 14 July 1967, • Modified on 28 September 1979, WIPO site
The Berne Convention for the protection of literary and artistic works of 9 September 1886	<ul style="list-style-type: none"> • Completed in PARIS on 4 May 1896, • Revised in BERLIN on 13 November 1908, • Completed in BERNE on 20 March 1914, • Revised: <ul style="list-style-type: none"> ○ In ROME on 2 June 1928, ○ In BRUSSELS on 16 June 1948, ○ In STOCKHOLM on 14 July 1967, ○ In PARIS on 24 July 1971, • Modified on 28 September 1979, WIPO site
International Convention on the protection of performing artists, producers of phonograms and broadcasting organizations (issued in Rome on 26 October 1961)	WIPO site
OMPI/WIPO	The World Intellectual Property Organization WIPO site
WTO	World Trade Organization WTO site
The WIPO Treaty on copyright adopted in Geneva on 20 December 1996	WIPO site
Patent Cooperation Treaty (PCT) in Washington on 19 June 1970	Modified: <ul style="list-style-type: none"> • 28 September 1979 • 3 February 1984 • 3 October 2001 WIPO site
European Union Treaty and Treaty on the Operation of the European Union	Consolidated version which appeared in the Official Journal of the European Union, Communications and Information 30 March 2010; This text constitutes a documentation tool which does not commit the liability of the institutions of the European Union. Site eur-lex.europa.eu/fr/index.htm

8.2 - Bibliography

8.2 – Extract of Texts

8.3.1 - Berne Convention for the protection of literary and artistic works

- of 9 September 1886,
- Completed in PARIS on 4 May 1896,
- Revised in BERLIN on 13 November 1908,
- Completed in BERNE on 20 March 1914 and revised in ROME on 2 June 1928, in BRUSSELS on 26 June 1948, in STOCKHOLM on 24 July 1967 and in PARIS on 24 July 1971
- And modified on 28 September 1979

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Article 2bis:	Possible Limitation of Protection of Certain Works. 1. Certain speeches; 2. Certain uses of lectures and addresses; 3. Right to make collections of such works
Article 3:	Criteria of Eligibility for Protection: 1. Nationality of author; place of publication of work; 2. Residence of author; 3. "Published" works; 4. "Simultaneously published" works
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Article 7:	Term of protection: 1. Generally; 2. For cinematographic works; 3. For anonymous and pseudonymous works; 4. For photographic works and works of applied art; 5. Starting date of computation; 6. Longer terms; 7. Shorter terms; 8. Applicable law; "comparison" of terms
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Article 8:	Right of Translation
Article 9:	Right of Reproduction: 1. Generally; 2. Possible exceptions; 3. Sound and visual recordings
Article 10:	Certain Free Uses of Works: 1. Quotations; 2. Illustrations for teaching; 3. Indication of source and author
Article 10bis:	Further Possible Free Uses of Works: 1. Of certain articles and broadcast works; 2. Of works seen or heard in connection with current events
Article 11:	Certain Rights in Dramatic and Musical Works: 1. Right of public performance and of communication to the public of a performance; 2. In respect of translations
Article 11bis:	Broadcasting and Related Rights: 1. Broadcasting and other wireless communications, public communication of broadcast by wire or rebroadcast, public communication of broadcast by loudspeaker or analogous instruments; 2. Compulsory licenses; 3. Recording; ephemeral recordings
Article 11ter:	Certain Rights in Literary Works: 1. Right of public recitation and of communication to the public of a recitation; 2. In respect of translations
Article 12:	Right of Adaptation, Arrangement and Other Alteration
Article 13:	Possible limitation of the Right of Recording of Musical Works and Any Words Pertaining Thereto: 1. Compulsory licenses; 2. Transitory measures; 3. Seizure on importation of copies made without the author's permission
Article 14:	Cinematographic and Related Rights: 1. Cinematographic adaptation and reproduction; distribution; public performance and public communication by wire of works thus adapted or reproduced; 2. Adaptation of cinematographic productions; 3. No compulsory licenses
Article 14bis:	Special Provisions Concerning Cinematographic Works: 1. Assimilation to "original" works; 2. Ownership; limitation of certain rights of certain contributors; 3. Certain other contributors

Article 14ter:	<i>“Droit de suite” in Works of Art and Manuscripts: 1. Right to an interest in resales; 2. Applicable law; 3. Procedure</i>
Article 15:	<i>Right to Enforce Protected Rights: 1. Where author's name is indicated or where pseudonym leaves no doubt as to author's identity; 2. In the case of cinematographic works; 3. In the case of anonymous or pseudonymous works; 4. In the case of certain unpublished works of unknown authorship</i>
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Article III:	Limitations on the Right of Reproduction: 1. Licenses grantable by competent authority; 2 to 5. Conditions allowing the grant of such licenses; 6. Termination of licenses. 7. Works to which this Article applies
Article IV:	Provisions Common to Licenses Under Articles II and III: 1. and 2. Procedure; 3. Indication of author and title of work; 4. Exportation of copies; 5. Notice; 6. Compensation
Article V:	Alternative Possibility for Limitation of the Rights of Translation: 1. Regime provided for under the 1886 and 1896 Acts; 2. No possibility of change to regime under Article II; 3. Time limit for choosing the alternative possibility
Article VI:	Possibilities of applying, or admitting the application of, Certain provisions of the Appendix before becoming bound by it: 1. Declaration; Depository and effective date of declaration

8.3.2 – ADPIC (TRIPs) Part II – Standards concerning the Availability, Scope and Exercise of Intellectual Property Rights

ONIC Document: Warning: The texts reproduced here (ONIC site capture 01-10-10) do not have the legal status of the original documents kept by the Secretariat of the WTO in Geneva.

Section 1: Copyrights and related rights

Article 9 Reports with the Berne Convention

- Members shall comply with the first articles to 21 of the Berne Convention (1971) and to the Appendix of said Convention. However, Members will have no rights or obligations under this Agreement with regard to the rights conferred under Article 6bis of the Convention or the rights derived therefrom.
- Protection of the copyright shall extend to expressions and not ideas, procedures, methods of operation or mathematical concepts as such.

Article 10 Computer Programmes and Compilations of Data

- Computer programmes, whether expressed as source code or object code, shall be protected as literary works under the Berne Convention (1971).
- Compilations or data or other material, whether reproduced or machine readable or any other form, which, at the selection or arrangement of their contents, constitute intellectual creations shall be protected as such. This protection, which shall not extend to the data or material itself, will be without prejudice to any copyright subsisting in the data or materials itself.

Article 11 Rental Rights

With respect to at least computer programs and cinematographic works, a Member shall provide authors and their heirs the right to authorize or prohibit the commercial rental to the public of originals or copies of their copyrighted works by copyright. A Member shall be excused from this obligation in respect of cinematographic works unless such rental has led to widespread copying of copies of such works materially impairing the exclusive right of reproduction conferred in that Member on authors and their dependents. In terms of computer programs, this obligation does not apply to rentals where the program itself is not the essential object of the rental.

Article 12 Duration of Protection

Whenever the term of protection of a work, other than a photographic work or a work of applied art, is calculated on a basis other than the life of a natural person, such term shall be at least 50 years from the end of the calendar year of authorized publication, or, if such authorized publication does not occur within 50 years from the completion of the work, at least 50 years of the end of the calendar year of implementation.

Article 13 Limitations and Exception

Members shall confine limitations or exceptions to exclusive rights these rights to certain special cases which do not affect the normal exploitation of the work and do not unreasonably prejudice the legitimate interests of right holder.

...

Section 2: Manufacturing or business brands

...

8.3.3 – Treaty on the Functioning of the European Union

Extracts of the consolidated version of the Treaty on the Functioning of the European Union FR 30.3.2010 Official Journal of the European Union C 83/47

Article 19

1. The Court of Justice of the European Union includes the Court of Justice, the Court and the Specialized Courts. It ensures respect for the law in the interpretation and application of the treaties.

Article 118

In the context of the establishment and functioning of the internal market, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish measures for the creation of European intellectual property rights to provide uniform protection of intellectual property rights throughout the Union and for the setting up of centralised Union-wide authorisation, coordination and supervision arrangements.

Article 207 (ex-article 133 TCE)

1. The common commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services, and **the commercial aspects of intellectual property**, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those taken in the event of dumping or subsidies. The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action.

2. The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall adopt the measures defining the framework for implementing the common commercial policy.

3. Where agreements with one or more third countries or international organizations need to be negotiated and concluded, Article 218 shall apply, subject to the special provisions of this Article. The Commission shall make recommendations to the Council, which shall authorise it to open the necessary negotiations. The Council and the Commission shall be responsible for ensuring that the agreements negotiated are compatible with internal Union policies and rules. The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it. The Commission shall report regularly to the special committee and to the European Parliament on the progress of the negotiations.

4. For the negotiation and conclusion of the agreements referred to in Paragraph 3, the Council shall act by a qualified majority. For the negotiation and conclusion of agreements in the fields of trade in services and the commercial aspects of intellectual property, as well as foreign direct investment, the Council shall act unanimously where such agreements include provisions for which unanimity is required for the adoption of internal rules. The Council shall also act unanimously for the negotiation and conclusion of agreements: a) in the field of trade in cultural and audiovisual services, where these agreements risk prejudicing the Union's cultural and linguistic diversity; b) in the field of trade in social, education and health services, where these agreements risk seriously disturbing the national organisation of such services and prejudicing the responsibility of Member States to deliver them. 5. The negotiation and conclusion of international agreements in the field of transport shall be subject to Title VI of Part Three and to Article 218. FR C 83/140 Official Journal of the European Union 30.3.2010

8.3.4 – CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION

Extract of the Charter of Fundamental Rights of the European Union

Article 17

Right to property

1. Everyone has the right to own, use, dispose of and bequeath his or her lawfully acquired possessions. No one may be deprived of his or her possessions, except in the public interest and in the cases and under the condition provided for by the law, subject to fair compensation being paid in good time for the loss. The use of property may be regulated by law in so far as is necessary for the general interest.

2. **Intellectual property shall be protected.**

Exercising the jurisdiction allocated by this article in the field of common commercial policy does not affect the delimitation of jurisdictions between the Union and the Member States and does not entail a harmonisation of the legislative or regulatory provisions of the Member States to the extent that the treaties exclude such a harmonisation.

8.4 – Institutions Sites

European Commission	http://ec.europa.eu/ http://ec.europa.eu/index_fr.htm
© European Union	http://eur-lex.europa.eu/
EUR-Lex	http://eur-lex.europa.eu/fr/index.htm
WIPO	http://www.wipo.int http://www.wipo.int/portal/index.html.fr
Légifrance	http://www.legifrance.gouv.fr/
Ministry of Ecology, and Sustainable Development and Housing	http://www.developpement-durable.gouv.fr/
Certu Centre of studies on the networks, transport, planning and public buildings	http://www.certu.fr/
Setra Service of studies on transport, roads and their layout	http://www.setra.equipement.gouv.fr/