

## Chapter 12

# Introduction to Part IV

As it becomes clear from the travaux préparatoires of Directive 89/104/EEC and Regulation (EC) 40/94, the non-adoption of the principle of international exhaustion of trademark rights by the aforesaid legislative acts, and now Directive 2008/95/EC and Regulation (EC) 207/2009, was justified on the ground that the major trading partners of the European Community (now European Union) also did not recognise that principle.<sup>1</sup> In particular, in the context of the above-mentioned travaux préparatoires, the Commission of the European Communities (currently European Commission) justified the non-establishment of the principle of international exhaustion of the national trademark and the Community trademark on the ground that the United States, Japan, and the countries of Scandinavia, i.e. the major trading partners of the Community, also did not recognise a regime of international exhaustion of trademark rights.

Today, almost 20 years after the adoption of Directive 89/104/EEC and Regulation (EC) 40/94, new countries have been included in the major trading partners of the European Union (EU). In particular, according to the most recent statistics (2011), the ten most important trading partners of the EU are, in descending order, the USA, China, Russia, Switzerland, Norway, Turkey, Japan, India, Brazil, and South Korea.<sup>2</sup> Part IV presents the regimes of exhaustion of trademark rights currently adopted by the aforementioned countries. This presentation is motivated by the assessment that the exhaustion of trademark rights regimes adopted by the major trading partners of the EU will be, based on the travaux préparatoires of Directive 89/104/EEC and Regulation (EC) 40/94, the decisive factor to be taken into account by the relevant EU institutions should an issue of reviewing the EU exhaustion of trademark rights rules arise.

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<sup>1</sup> See *supra* Sect. 9.4.5.4.

<sup>2</sup> Source: Eurostat.