

1 October 1998

SUBSIDIARITY :
**UNICE STATEMENT ON THE EVE OF THE INFORMAL EUROPEAN SUMMIT
IN PÖRTSCHACH 24-25 OCTOBER 1998**

1. UNICE welcomes the informal meeting of the heads of state and government to discuss the future development of the European Union while focusing on subsidiarity, transparency and citizenship. As the voice of European business it wishes to contribute to this important debate.

UNICE supports social progress and a high level of employment. Growth and competitiveness of European enterprises are indispensable in order to reach these objectives. European policies should aim at creating the conditions that will allow enterprises to be set up, and developed, and to create employment.

The inclusion of the protocol on the application on the principles of subsidiarity and proportionality is an important step towards creating such conditions through more efficient Community action.

2. This protocol fully reflects the views expressed in UNICE's submissions to the 1996 IGC. It specifies that
 - Community action shall be as simple as possible and the Community shall legislate only to the extent necessary.
 - Community measures should leave as much scope for national decision as possible and respect well-established national arrangements and legal systems, which reflect different aspirations of its citizens stemming from deeply rooted cultural differences. This will be even more important after enlargement of the European Union.
 - For any proposed Community action the reasons on which it is based shall be stated with a view to justifying its compliance with the principles of subsidiarity and proportionality and the reasons for concluding that a Community objective can be better achieved through actions at European level must be substantiated by qualitative or wherever possible by quantitative indicators. Any Community action should therefore provide an added value.
 - In order to establish that a Community objective can be better achieved by action on the part of the Community three conditions must be fulfilled: first, the issue under consideration has transnational aspects which cannot be satisfactorily regulated by Member States alone. Second a lack of Community

action conflict with the requirements of the treaty. Third, action at Community level is of clear and substantial benefit.

3. Rigorous application of this protocol is particularly important to avoid imposing administrative, financial and legal constraints which would hold back the creation and development of SMEs which represent 95% of UNICE's members.
4. UNICE fully supports the process of European integration. It therefore agrees that
 - this protocol should not be used to question the Commission's right of initiative or other powers given to the European level by the treaty.
 - Subsidiarity is a dynamic concept and it is indispensable to differentiate between the different policy areas when assessing how the principles of subsidiarity and proportionality should be applied.

Subsidiarity should not serve as pretext for Member States not to apply the rules necessary for a properly functioning single European market.

5. As far as social and employment policies are concerned, the treaty of Amsterdam has added new procedures. It has not added new competences to the Community even though a new employment title has been introduced and the protocol on social policy has been incorporated in the treaty.

In this field rigorous respect of the protocol on subsidiarity and proportionality is of particular importance because social policy deals directly with people's aspirations and is therefore deeply rooted in cultural and structural differences. Diversity in the definition of what is economically feasible and socially desirable has materialised into 15 different social security and industrial relations systems. Harmonisation of these systems is not a pre-requisite for the achievement of a single market, nor for progress towards political union. The different traditions and practices must be respected and preserved while being allowed to evolve and develop naturally in the European context.

The incorporation of art. 3 and 4 of the protocol on social policy into the treaty has increased the role of the social partners and added a new dimension to the principle of subsidiarity. UNICE calls on the heads of state and government to take account of this new dimension by preserving the autonomy of the social partners at all levels and respecting their freedom to conduct social dialogue.

6. Our economic system is not restricted to the European continent. Therefore the legislation of the Community needs to take into consideration the ongoing process of globalisation. It must be in conformity with existing global standards and agreements. Regarding the further development of the global regulatory environment it is essential to have a concerted approach with the Community's main trading partners.

Competition between regimes plays an important role in satisfying the need for competitiveness and flexibility of European business in general. European authorities should only intervene to the extent necessary to create the framework conditions in which companies have to operate in order to maintain smooth transaction of business. The motto should be “think globally – act locally”.

Procedural issues in applying the principles of subsidiarity and proportionality

Subsidiarity and proportionality should guarantee a high level of quality in the legislation of the European Community. Therefore UNICE considers that the business test panel system is a first indication of the Community’s intention concerning a real cost benefit analysis.

According to paragraph 9 of the protocol on the application of the principles of subsidiarity and proportionality, it is indispensable to strengthen the role of the impact assessment procedure and to make it a more useful tool for evaluating legislative initiatives.

UNICE endorses the use of green and white papers by the Commission but its motto “less but better” should be still applied even during this preliminary phase. Paragraph 9 of the protocol shows very clearly that the work of interest groups, which is part of the European concept of democracy, also needs to be sustained by a better quality of consultation beforehand.