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UNICE POSITION PAPER ON EXPORT CONTROLS ON ENCRYPTION

Discussions are currently under way on encryption among different parties such as the Wassenaar Arrangement partners, the Member States of the European Union and US officials and agencies. This is very comprehensible in the light of the different approach that industry and governments have on this issue.

Industry wants to be free to implement strong encryption in all its communications, to protect itself as much as possible against fraud, embezzlement, eavesdropping, etc.

- 1) The importance of encryption for large and growing sectors of society is fundamental. Society is moving increasingly towards communication and storage of information and assets in electronic form, and away from the use of physical documents. The importance of encryption will increase substantially in the coming years as digital traffic (or electronic communication) will grow substantially, mostly using publicly available networks. To secure all this communication and to protect stored electronic information and intellectual property, powerful encryption technologies will be required.
- 2) On 16 September 1999, the United States issued its new policy on encryption¹. This policy will come into effect on 14 January 2000 when the new US rule is published in the Federal Register. This policy relaxes controls on encryption commodities and places United States industry in a privileged position as “any encryption commodity or software of any key length may be exported under license exception (i.e., without a license), after a technical review, to individuals, commercial firms, and other non-governmental end users in any country except for the seven states supporters of terrorism”. This statement is made in view of tremendous growth in the use of encryption to ensure that US firms can compete in commercialising this technology.
- 3) It is important that European companies have the possibility to pursue business activities and trade internationally in the same manner and to the same degree as competing foreign companies.

¹ see www.bxa.doc.gov/encryption/whpr99.htm

UNICE believes that European institutions should establish measures to encourage European companies to participate in this booming market.

In view of all the above, UNICE, as the voice of business in Europe, urges the Council of the European Union to remove encryption from Annex IV of Council decision 1999/193/CSFP.

Moreover, it appears that everybody can find encryption parameters with any key length placed on the Internet by countries without any serious export control rules. This means that all encryption is becoming “foreign-available”, which should prompt a general and global relaxation.