

UNICE

THE VOICE OF BUSINESS IN EUROPE

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Contact: Jérôme P. Chauvin

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Ms Ana Palacio Vallelersundi
Committee on Legal Affairs and Internal Market
European Parliament
rue Wiertz, 60 (ASP 11e242)

B 1047 Bruxelles

Dear Ms Palacio Vallelersundi,

UNICE has followed with interest the debate on Exhaustion of Trademark Right held in the European Parliament Legal Affairs Committee on 24 January 2001.

UNICE believes that there are still a few aspects of this complex dossier that have not been sufficiently studied by the European Parliament. One of them is, of course, the risk that the EU will find itself in an absurd situation if two different exhaustion regimes were to apply in its territory. That is what would happen if a qualified majority were achieved in the Council in favour of modifying the regime for exhaustion of national trademarks but the absence of unanimity made it impossible to amend the regime for the Community trademark.

One of the other worrying aspects, which seems to have been disregarded is the fact that the United States and many other countries do not apply international exhaustion for trademarks. If the European Union were to decide to adopt the regime of international exhaustion unilaterally, it would be making an important concession to its main trading partners, without any reciprocity. That is why UNICE has always advocated that a discussion at global level (WTO or WIPO) is the only acceptable way of addressing this question.

Lastly, I would like to draw your attention to the fact that the price of products on the European market is directly affected by wage costs and levies linked to social protection. By adopting the regime of international exhaustion, consumer goods with a given trademark produced in the territory of the European Union would be in direct competition with products of the same brand manufactured in countries where production costs are much lower, bearing in mind that the latter could be freely marketed and sold in the territory of the European Union.

This would put pressure on some companies in the European Union to relocate their production units to countries where labour costs are lower in order to be able to align their prices in the territory of the European Union on lower prices at global level.

This social aspect and its serious consequences seems to us to be all too often disregarded by the European Parliament. Consumer protection is certainly important, but pushing European companies into relocating their production units outside the European Union will not encourage employment policy and hence consumption.

We remain at your disposal for any further details you may require on this subject.

Yours faithfully,

(original signed by)
Daniela Israelachwili
Acting Secretary General