

EUROPEAN BUSINESS says:

**BARCELONA MUST REVITALISE THE
LISBON PROCESS**

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"The Union has today set itself a new strategic goal for the next decade: to become the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion."

Presidency conclusions, Lisbon European Council, 23-24 March 2000

FAILURE TO MATCH POLITICAL COMMITMENT WITH ACTION

The introduction of the Lisbon process could - and should - have marked a turning-point for the European economy. But political commitments have not been matched by actions, and tough choices have been avoided time and again.

The European economy has under-performed as a consequence. At the Lisbon summit, Member States concluded that a combination of the agreed measures and a sound macro-economic background should allow an average economic growth rate of around 3%.

There was an enthusiastic reception for the Lisbon strategy within the business community, as Heads of State and Government made the clear commitment to achieving a genuine Single Market in the EU, setting themselves an ambitious goal.

EU LAGGING BEHIND

Since Lisbon, the EU's relative performance has been poor.

In comparison with the USA, growth and productivity in the EU has been consistently low. Does this matter? Yes, it matters very much. If the EU had achieved the same rate of growth as the US over the last 10 years, its total GDP would have been roughly 17% higher in 2001 than it actually was.

THE ECONOMIC COST

This loss of income can no longer be justified. The Lisbon process is falling well behind schedule. Implementation of the Lisbon strategy will boost Europe's growth potential; without it, the benefits of the single market will not be achieved.

For business to succeed it needs a legislative system which provides clarity and certainty, and an infrastructure that enables it to be efficient - in terms of economic, social and environmental costs.

A COHERENT APPROACH IS REQUIRED

First of all, a dynamic Europe needs a **stable macro-economic climate**, with free and open markets which offer opportunities for investment and growth. Both pillars of macroeconomic policy must function properly: it is not enough to have a single monetary policy - governments must ensure that their fiscal policies are conducive to sustainable economic growth. The Stability and Growth Pact has an important role as guarantor of fiscal responsibility.

Secondly, we need the **economic and structural reforms** encompassed by the Lisbon process.

UNICE has consistently argued that the single market needs to become a reality if growth is to increase. Liberalising protected markets will create opportunities for investment and growth, with increased competition leading to higher quality and lower prices for goods and services. Improving the quality and efficiency of labour markets will enhance job creation. Opening up the markets for public procurement will improve economic efficiency. Companies face a vast number of barriers to cross-border activities. 15 different administrative and legal systems, and technical fiscal barriers are not conducive to a dynamic and flexible business sector.

Third, there are areas where the EU has a great deal of untapped potential that can be released through combining policies and **creating synergy** between different areas.

In Lisbon and in Stockholm, the buzz was on the potential benefits from using new technologies. Some progress has been made on a number of key issues identified in the eEurope 2002 Action Plan, including the so-called "Telecom Package", but cheap, fast and secure Internet access is not yet a reality for all in Europe. UNICE calls on Member States to demonstrate their commitment to making this a reality by requesting the continuation of a more focused eEurope Action Plan beyond 2002. And of course equipping the workforce with the skills they need through their lives underpins all other policy measures. Europe's skilled workforce is one of its greatest assets, notably in the fields of science and engineering. Member States should therefore ensure that EU policies and legislation reflect the EU's innovative potential in these areas, and do not hinder it.

WHAT IS AT STAKE

If progress is not made in Barcelona, the 2010 deadline will not be met. Two years out of the ten have already passed. Progress has been inadequate and time is running out. We have to ensure that the momentum set at Lisbon, as with the EU Charter for Small Businesses, delivers for Europe's companies, 99% of which are SMEs, employing two thirds of Europe's workforce. Europe cannot afford to waste this opportunity to revitalise our markets and our economy. Governments may be keen to set targets for participation rates and job creation, but without the conditions for a dynamic economy, business will be unable to create the jobs and prosperity Europe needs. UNICE expects decisive and real steps in this direction from the summit in Barcelona. The glaring gap between commitments made at summits, and actual implementation needs to be closed.

UNICE, consisting of 34 central industrial and employers' federations from 27 countries and representing more than 16 million companies, calls on Heads of State and Government to meet this challenge. On their decision depend significant economic and social improvements in Europe. UNICE undertakes to appraise annual progress in time for each spring summit.

EXECUTIVE SUMMARY

INNOVATION AND ENTREPRENEURSHIP

Research and development must be a priority at the Barcelona summit. In order to have a competitive knowledge-based economy, Member States must recognise Europe's potential in areas of science and high technology, and provide a legislative environment in which this can flourish. This includes facilitating the mobility of highly skilled workers, providing European business with a competitive Community patent, encouraging the development of the biotechnology sector, and ensuring that the objectives of the EU Charter for Small Businesses are met.

FLEXIBLE LABOUR MARKETS, PROVIDING THE NECESSARY SKILLS

Increasing employment rates requires carrying on with sound macroeconomic policies, speeding up structural reforms and effectively implementing the entrepreneurship pillar of the employment guidelines. Member States should endeavour to simplify, streamline and ensure the coherence of existing processes in the area of employment. This will enable the proper focus to be put on a limited number of real priorities. In Barcelona, Member States should strengthen coordination in the fields of education and training. Labour market reforms must support lifelong learning strategies so as to translate economic growth into employment. The modernisation of the labour market depends above all on measures taken within Member States. But the European level must avoid imposing additional constraints in the form of ill-conceived social measures. The proposed directive on temporary work, which is currently being discussed by the Commission, is an example of such a measure.

ESSENTIAL INFRASTRUCTURE FOR THE INTERNAL MARKET

Europe needs integrated and interoperable networks that are open and competitive. The Barcelona summit should provide new impetus for the full opening-up of energy, transport, postal and telecommunications networks. Member States are urged to complete the single market, which is the backbone of the European economy. This will enable European companies to operate and compete effectively across borders.

FINANCIAL SERVICES

UNICE calls on all governments to increase their efforts to push Financial Services Action Plan measures through the legislative process. All Member States have committed to the FSAP, yet there is a substantial risk that the targets for implementation will be missed due to insufficient political conviction. This will hamper Europe's economic growth. Greater urgency to meet the targets should not lead to inadequate consultation and transparency, which would be counter-productive. Both are essential elements in making good policy.

SUSTAINABLE DEVELOPMENT

The Barcelona summit should uphold the recommendations from Göteborg that there must be a balance between the three pillars of sustainable development; economic, social and environmental. In order to develop strategies which combine high environmental effectiveness and high economic efficiency, it is essential to create more space for co-regulation and negotiated agreements. In addition, the Barcelona summit should provide the impetus for wide regulatory reform, to improve the quality of EU regulatory activity.

BARCELONA SUMMIT

The Lisbon process will be a failure unless concrete action is taken now. Actions are needed, not words. Europe's leaders must face the challenge of implementing the reforms they have all committed themselves to. Too much time has been wasted. Europe must now push ahead with determination. European business expects its political leaders to take decisive steps at the Barcelona summit. We can no longer afford to wait.

Innovation and entrepreneurship

RESEARCH AND DEVELOPMENT (R&D)

Lisbon target: to make the EU the most competitive and knowledge-based economy in the world by 2010.

UNICE's expectations for Barcelona: UNICE supports the Commission's proposal to launch a concerted strategy designed to strengthen R&D efforts in all European countries. The Commission has proposed that the ratio of R&D spending to GDP in the EU should be increased from 1.7% to 3% by 2010. UNICE can support this objective if it signals a political commitment to a simultaneous upgrading of the framework conditions for innovation, the volume of actions to support R&D and innovation, and the quality of the support instruments deployed. At operational level, however, a strengthening of national R&D policies will have to be piloted by means of objectives which are more targeted than simply the ratio of R&D spending to GDP.

The principal objective of the common R&D policy must be to help underpin innovation in Europe and to support the competitiveness of European companies. **Only if the framework conditions for innovation are favourable will corporate spending on R&D be able to increase substantially.** Greater efforts must be made with a view to:

- ◆ encouraging entrepreneurship as well as young people's interest for natural sciences and engineering
- ◆ adopting the Community patent
- ◆ eliminating barriers to market development
- ◆ improving financing and fiscal conditions for innovation
- ◆ eliminating barriers to growth of firms, particularly those linked to size thresholds in the application of excessively rigid labour regulations.

Careful consideration of the impact of new policies on competitiveness is necessary. The white paper on "A strategy for a future chemicals policy" is an example where the policy objectives are welcome, but the excessively bureaucratic approach will most likely inhibit innovation in the European chemicals industry.

BUSINESS RECOMMENDATIONS

Future challenges require an increase in public and private R&D efforts. **UNICE calls on the public authorities in each country to make immediate plans to upgrade their support for R&D in proportions which are in line with the ambitions of the Lisbon strategy.** At the same time, efforts must be made to improve the efficiency of spending, especially in public research activities.

Given that business and industry account for two thirds of R&D spending in Europe, any policy for increasing corporate spending on R&D must be developed in cooperation and partnership with the business world. **Best practice should be identified in the field of incentives for R&D** (in particular horizontal aid for research) and cooperative ventures between academia and industry. It is essential to eliminate obstacles which stand in the way of commercialisation of the results of academic research, whether initiated by academic centres or through companies.

In view of the EU's aim to make Europe more attractive for private R&D investments, it is essential that the Commission takes care not to damage European industry's international competitiveness in the planned revision of the Community framework for state aid for R&D.

*Lisbon target: The **Stockholm** summit concluded that the EU should harness new technologies, calling on the Council and Commission to utilise the full potential of biotechnology and strengthen the competitiveness of this sector.*

UNICE's expectations for Barcelona: Business calls for the endorsement and implementation of the recent communication from the Commission "Life sciences and biotechnology - A strategy for Europe", with the time frames indicated there, taking into account the business recommendations below.

IMPLEMENTATION OF THE COMMISSION ACTION PLAN

On January 23, 2002, the European Commission adopted a major policy initiative in the form of the communication "Life sciences and biotechnology - A strategy for Europe".

This strategy paper forms one of the main building blocks of the Commission's contribution to the Barcelona European Council in March 2002. It includes an action plan with recommendations for Member States, local authorities, industry and other stakeholders. Industry welcomes this effort to acknowledge biotechnology as a major source of innovation for a very wide range of products and the important role it can play in building a knowledge-based economy.

The communication is particularly welcome at a time when Europe's biotech industry is struggling to keep up with the international competition. In order to reap the fruits of biotechnology, the recently established European Food Safety Authority must become the leading European authority for risk assessment of GMO products, and the current moratorium on the market introduction of GMO products should be lifted as soon as possible.

Meanwhile, business considers the rapid implementation of the action plan in the communication, with the time frames indicated there and taking into account the business recommendations below, as a crucial step towards meeting the Lisbon objectives for innovation.

BUSINESS RECOMMENDATIONS

The European Council must now take forward the Commission's communication on the European strategy for life sciences and biotechnology. In the short term, particular focus should be put on the following:

- ◆ There is an urgent requirement in EU legislation for a practical, cost-effective and controllable system for the traceability and labelling of GMO products. The current Commission proposal does not yet meet these criteria. The legislation must be implemented in the EU by the end of 2003 at the latest.
- ◆ Clear criteria for risk management by governments must be formulated and introduced by the end of 2002.
- ◆ Full and immediate national transposition of directive 98/44/EC on the legal protection of biotechnological inventions. Non-implementation offers a pretext to opponents to keep calling for a "square one" re-discussion of the directive.

Innovation and entrepreneurship

COMMUNITY PATENT: ESSENTIAL INSTRUMENT FOR INNOVATION

Lisbon target: The European Council asked the Council and Commission to "ensure that a Community patent is available by the end of 2001" so that "Community-wide patent protection in the Union is as simple and inexpensive to obtain and as comprehensive in its scope as the protection granted by key competitors".

UNICE's expectations for Barcelona: UNICE calls upon the Member States in Barcelona to push for progress, to ensure that this key dossier is tackled with due diligence and pragmatism to meet users' needs, and not sidetracked by nationalistic interests. Discussions at Council level impeded adoption of the proposal by the end of 2001.

WHAT IS AT STAKE

Innovation depends on the creation and diffusion of new ideas, requiring considerable investment in time, skills and capital. To encourage and reward innovation, which in turn develops competitive advantage, intellectual property rights must be protected. As it currently stands, European innovators are at a disadvantage when it comes to obtaining and enforcing patents, compared to their competitors. The Commission has set out the essential elements for a patent system.

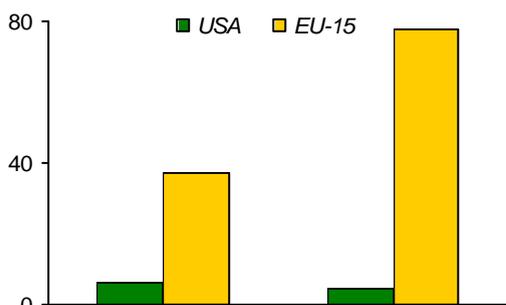
The Community patent must be of a unitary character, affordable, guarantee legal certainty and coexist with the present patent systems in Europe.

The EU needs:

- ◆ a unitary Community patent which provides incentives for creation of inventions and remedies the current cost-gap vis-à-vis the US and Japanese patents;
- ◆ a reliable jurisdictional system, based on a Community court specialised in patent matters and competent to examine infringement and validity of Community patents for the entire Union;
- ◆ an instrument that makes use of and can coexist with the present European Patent Convention.

BUSINESS RECOMMENDATIONS

UNICE calls upon the Spanish Presidency to secure a rapid adoption of the Community patent by the end of June 2002. It is crucial that European companies be entrusted with an instrument which meets their needs, enhancing their competitiveness by protecting the results of their R&D investments as easily and efficiently as possible, and at a similar price to that in the US and Japan. In this context, UNICE believes that the Commission's August 2000 proposal represents a sound basis to develop further the framework for creation of a Community patent system.



Cost in euro (€1000) of obtaining and renewing patents, 1999(cost of application for 15 EU countries; cost of renewal for 20-year patent life)

Source: Industrial Research and Development Advisory Committee of the European Commission (cited in UNICE 2000 Benchmarking report)

Essential infrastructure for the internal market

LIBERALISATION OF ELECTRICITY AND GAS MARKETS

***Lisbon target:** complete liberalisation of the European internal market for electricity and gas.*

UNICE's expectations for Barcelona: Member States should reach a political agreement on directives presented by the Commission in March 2001, notably with a view to creating a fully operational internal market for business customers by 1 January 2003 (electricity) and 1 January 2004 (gas). A positive decision on these directives is essential, both in terms of competitiveness, and to demonstrate the EU's decision-making capacity. In the absence of progress, UNICE calls on the Commission to take action on the basis of article 86 of the Treaty.

LESSONS FROM THE FIRST STAGE OF LIBERALISATION, STARTED IN 1996

UNICE emphasises the need for a twin-track approach for effective market opening: pursuit of the proposed new **quantitative** objectives for the extent of liberalisation must go hand in hand with paying much closer attention to improving the **qualitative** aspects of the legal implementation of existing directives.

There are major deficiencies in this area, which have harmful consequences. In several countries, the degree of market opening achieved on paper is robbed of its significance by inadequate legislation for unbundling. It is therefore just as important to correct serious qualitative shortcomings in the implementation of directives 96/92/EC (electricity) and 98/30/EC (gas) as it is to work on the second stage of liberalisation. UNICE deplores the unacceptable fact that some Member States have failed to meet the timetable for implementation of directives 96/92/EC and 98/30/EC.

BUSINESS RECOMMENDATIONS

Speeding up unbundling is particularly important if existing and future directives are to deliver their economic benefits. It is essential that the process of unbundling should ensure that:

- ◆ There are no cross-subsidies
- ◆ Neutrality of network operators vis-à-vis all network users is guaranteed
- ◆ Transparency is injected into cost-reflective network tariffication

The comparative market principle should be applied for all network utilisation compensation.

There is a clear need to reshape national legislation on the basis of identical principles of liberalisation, but UNICE cautions against seeking total technical harmonisation of the tools for implementation of liberalisation as an end in itself. Instead, policy makers should take account of the specific tools that have generated a broad measure of satisfaction among users in the Member States. There should be continual evaluation of these tools.

Companies are also concerned that the benefits of liberalisation could be negated by new constraints in the form of tax penalties, new constraints on network operators (disproportionate public service obligations) or linked to exaggerated support for renewables. UNICE could not accept a link being established in the negotiations between liberalisation of energy markets and the introduction of measures designed to harmonise and increase energy taxes on the basis of the Commission's poorly thought-out proposals in this area.

Liberalisation must go hand in hand with an economic policy that creates conducive framework conditions for the investment needed to develop gas and electricity infrastructure, including **cross-border links**. For markets to function efficiently, complicated, non-transparent or non-cost-reflective pricing structures for cross-border transport of electricity and related services, must be overhauled, as these dissuade foreign operators from adding to the service offer. In this regard, UNICE urges the Commission not to endorse the introduction of cross-border tariffication models which would perpetuate artificial obstacles to trade.

"The Barcelona summit must finally take a clear decision for rapid and complete liberalisation of the European internal market for electricity and gas. This is a precondition for reducing the competition disadvantages which European companies face as compared with their competitors in important OECD countries, in particular the USA, due to high energy prices."

*Dr. Werner Marnette,
Chairman of the Executive Board, NORDDEUTSCHE AFFINERIE AG, Hamburg*

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COMPLETION OF THE INTERNAL TRANSPORT MARKET

Lisbon target: to speed up liberalisation in the area of transport.

UNICE's expectations for Barcelona: Member States are urged to adopt the Commission's proposals to create a single European airspace, to liberalise domestic rail freight transport and liberalise access to port services within the deadlines foreseen.

RAILWAY LIBERALISATION

Liberalisation of rail freight transport is crucial to improving the price quality ratio of railway services. With an anticipated 38% growth in demand for freight transport over the next ten years, Europe will clearly need well-functioning railway transport services. This is why European business fully supports the Commission's proposals to liberalise domestic rail freight transport, essential for putting rail on an equal footing with other transport modes. It is equally important to make swift progress to improve connections between the different national networks and to give more priority to slots allocated to freight trains. **The Commission's proposals are a very positive step towards completing the internal railway market. UNICE calls on the European Council to adopt them swiftly, without extending the 2006 deadline,** as proposed by the Commission.

SINGLE EUROPEAN SKY

Business is suffering more and more from delays in air traffic, leading to increasing costs for the European private sector. This is the result of the aggravating mismatch between the capacity of the airspace as well as airports and the growing demand for air travel and air transport. The full benefits of the internal market cannot be realised as long as internal air travel and air transport are impeded. Statistics show that one of every three to four intra-European flights is delayed. The current functioning of air traffic management (ATM) is a key cause of the increased delays. **European business therefore strongly supports the Commission proposals for creating a Single European Sky, through better organisation and use of airspace, as well as integration of the different air traffic management systems.** UNICE calls upon the European Council to recognise the urgency of adopting the necessary EU legislation, in order to meet the target date of 31 December 2004.

MARKET ACCESS TO PORT SERVICES

In 2001 the Commission submitted a proposal for a directive on Market Access to Port Services. In its first reading, the scope of the directive was limited by the European Parliament by excluding pilotage. UNICE considers that the directive, especially in its original scope, will contribute to completing the internal transport market and pave the way for improving the quality and efficiency of port services. This will increase the efficiency of supply chains and support a more prominent role for maritime transport and short-sea shipping, thereby promoting the development of a sustainable transport policy. **UNICE calls on the European Council to express its support for adoption of the directive.**

INTERCONNECTION OF INFRASTRUCTURES

UNICE calls for selective financial intervention by the EU to accelerate the construction of major transeuropean traffic routes and to eliminate infrastructure bottlenecks, paying due attention to effective integration between the different transport modes.

Implementation of 2001 railway liberalisation package

	A	B	Dk	Fin	D	Irl	It	NL	P	E	Sw	UK
Progress in legislation												

Progress in legislation to date

Transposition to be completed by March 2003

- transposition of the directive and adoption in national law
- official draft has been produced in national Parliament
- no official draft

"Liberalisation of railway freight transport can break the vicious circle of high tariffs, low quality, falling market share, continuing financial losses, postponement of necessary investments and the threat of job losses."
Peter Elverding, DSM Managing Board chairman

Essential infrastructure for the internal market

TARGETING A FULL LIBERALISATION OF POSTAL SERVICES

Lisbon target: the European Council asked the Commission, the Council and the Member States to speed up liberalisation in the area of postal services.

UNICE's expectations for Barcelona: Member States must commit themselves to opening up all cross-border postal services to full competition throughout the EU, at the earliest possible date.

STATE OF PLAY: ASSESSING DEVELOPMENTS

The compromise agreement reached under the Belgian Presidency shifted any real progress in the liberalisation process into the distant future:

- ◆ By 2006, not even 23% of the current revenues of the postal operators will be opened to competition and another directive will be necessary to continue the liberalisation process
- ◆ In 2006, a study needs to assess whether universal service can still be guaranteed in a fully liberalised postal market

BUSINESS RECOMMENDATIONS

The Spanish Presidency should, as a priority:

- ◆ Speed up the correct implementation of all provisions of the 1997 postal directive, including the notice which deals with competition rules
- ◆ Ensure that the common position is adopted by the European Parliament
- ◆ Ensure that competition rules, also for the postal sector, are rigorously enforced

THE MARKET FOR POSTAL SERVICES

Business activities generate more than 85% of postal services in Europe. European business supports the efforts of the European Commission and of some Member States to speed up the process of dismantling the postal service's monopoly. Full liberalisation of the postal services should be achieved at the latest by 2007. Such efforts are fully in line with the conclusions of the Lisbon European Council (23/24 March 2000).

All postal operators have to adapt rapidly to customers' demands and to the international dimension of their activity, having to cope with market developments, requiring better quality and adaptation to technological changes. The remaining monopolistic situation of the incumbents in most Member States for letter post slows down their adaptation process, which has counterproductive effects both for their customers and for themselves.

Public service obligations can be fulfilled by both public and private operators, through tenders based on specifications.

The fundamental evolution of the postal and express courier services, due to the fast development of e-business in the global economy, makes it necessary to open all cross-border postal services to full competition throughout the EU, before the end of 2003, together with all direct mail activities and the national postal packages above 50g. This is a market-driven need for liberalisation. The current regime acts as an obstacle for postal operators to comply with the needs of their customers, i.e. regarding the possibility to provide door-to-door delivery on a cross-border level.

Essential infrastructure for the internal market

CONDITIONS FOR THE DEVELOPMENT OF BROADBAND

Lisbon target: *The European Council in Lisbon, 23-24 March 2000, called on Member States to introduce greater competition in local access networks, unbundle the local loop in order to help bring about substantial reduction in the costs of using the Internet, make available in all European countries low-cost, high-speed interconnected networks for Internet access.*

UNICE's expectations for Barcelona: Member States are requested to demonstrate their commitment to making broadband available and stimulating demand throughout the European Union by 2005 in a competitive environment.

WHAT CAN BROADBAND DO FOR EUROPE?

Business in particular is increasingly reliant on modern and fast communications to operate effectively and to be competitive. Broadband, in providing **cheap, fast Internet access** for European business and citizens alike is a key factor for Europe's competitiveness.

STATE OF PLAY - BROADBAND IN EUROPE

The current lack of effective implementation of the regulation on unbundled access to the local loop¹ in the EU prevents businesses and citizens from reaping the benefits of effective competition in local access networks.

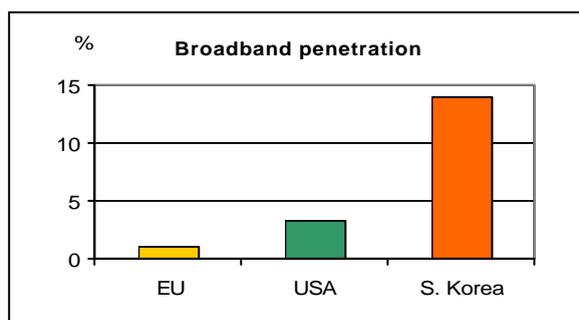
But while local loop unbundling (LLU) is an important ingredient in availability of broadband because it creates a competitive environment for ADSL² providers who use the local loop, it is by no means the only factor. Competition between broadband access platforms (metal local loops, cable modem, xDSL, Wireless Local loop, fibre-optic networks, high-speed mobile Internet access through UMTS) will provide considerable stimulus to the market. Regulators must refrain from being technology-specific. Mobile broadband (UMTS) should not suffer from the lack of harmonisation of the allocation of frequencies which, at present, varies dangerously between Member States.

Governments have a major role to play in stimulating the development of broadband through developing eGovernment broadband services applications, ensuring that regulation stimulates investment in broadband infrastructure, services and applications and that non-urban areas are not left on the wrong side of the digital divide.

TAKE-UP AND ROLL-OUT OF BROADBAND IN EUROPE: ESSENTIAL FOR EUROPEAN INDUSTRY'S COMPETITIVENESS

European industry calls on Member States to promote effective competition and a level playing-field including measures such as:

- ◆ Effective implementation of the local loop unbundling regulation;
- ◆ Further increasing Internet penetration;
- ◆ Ensuring that non-urban areas have access to broadband;
- ◆ Allowing for competition between broadband access platforms;
- ◆ Adopting action plans to promote the roll-out of broadband;
- ◆ Measures to stimulate demand, including eGovernment initiatives and services, fiscal measures and tax incentives.



¹ OJ L 336, 30.12.2000, p.4.

² Asymmetric Digital Subscriber Line: technology that facilitates the high-speed transmission of digital data over copper lines found in the local loop

Essential infrastructure for the internal market
LEGAL CERTAINTY FOR E-COMMERCE DIRECTIVE

Lisbon target: creation of an information society for all: the Council and European Parliament were asked to adopt the directive on electronic commerce³ as soon as possible in 2000.

UNICE's expectations for Barcelona: Member States are requested to transpose rigorously the e-Commerce directive without delay and to ensure that future regulatory initiatives do not undermine the "country of origin principle" thereby demonstrating their commitment to it and the legal certainty it creates.

STATE OF PLAY: LACK OF COHERENT TRANSPOSITION

The European Parliament and the European Council of Ministers adopted the directive on 8 June 2000, requiring Member States to transpose it into their national legislation before 17 January 2002. This deadline has now elapsed. Although welcoming the fact that all Member States have at least initiated transposition, UNICE regrets the wide disparity in the state of progress (see table below). It appears that while a number of Member States have finalised the adoption of the national transposition measures, a significant number are still at very early stages in the process and others have yet to present any official draft law.

EUROPEAN EFFICIENCY IS AT STAKE

Such a disparity is detrimental to the take-up of e-commerce by European industry and consumers. The e-commerce directive provides a sure framework for all, which will facilitate cross-border e-commerce throughout the EU and provide legal clarity and security for business and consumers. It is estimated that e-commerce has growth potential of 150-220% between 2001 and 2003⁴.

KEY PRINCIPLE

UNICE draws Member States' attention to the importance of transposing the directive while fully respecting one of the key principles enshrined therein: **the country of origin principle** (Article 3). This principle means that operators established in one Member State are, in principle subject only to the law of that Member State. A correct, rigorous and rapid transposition of the country of origin principle is of the utmost importance to European industry because of the degree of **legal certainty** it creates regarding the law applicable to information society services.

In UNICE's view, the most efficient way to transpose the country of origin principle is to ensure clearly and unambiguously that information society service providers established in the EU have to comply only with the laws of the Member State in which they are established. UNICE encourages regulators to refrain from undermining this cornerstone principle of the Internal e-Market in other initiatives related to determining the law applicable to e-commerce.

VAT AND E-COMMERCE

UNICE is pleased that Member States finally reached an agreement on the directive [COM(2000) 349 final] regarding the value added tax arrangements applicable to certain services supplied by electronic means, which creates a level playing-field for European companies.

Implementation of the e-commerce directive

	A	B	Dk	Fin	F	D	EL	Irl	It	L	NL	P	E	Sw	UK
progress in legislation	Green	Yellow	Yellow	Yellow	Yellow	Green	Yellow	Yellow	Orange	Green	Yellow	Orange	Yellow	Yellow	Orange
implementation in practice: has country of origin principle been applied correctly?	↗	⇒	↘	↗	↗	↗	N/A	↗	N/A	↗	↘	N/A	↗	↘	N/A

Progress in legislation

- transposition of the directive and adoption in national law
- official draft has been produced in national Parliament
- no official draft

Application of country of origin principle

- ↗ correct and clear application
- ⇒ application unclear
- ↘ poor application

³ Directive 2000/31/EC, OJ L 178, 17.7.2000, p. 1

⁴ Source: Forrester Research

Essential infrastructure for the internal market

PUBLIC PROCUREMENT

***Lisbon target:** The European Council called for creation of a new framework for public procurement (development of the new set of rules was initially supposed to be ready by 2001).*

UNICE's expectations for Barcelona: UNICE has welcomed the fact that the Commission has initiated the "Legislative Package" aimed at simplifying and modernising the EU directives on public procurement. It is, however, deeply concerned about the European Parliament's wish to increase the thresholds of these directives. Such an increase would lead to a extensive destruction of the Internal Market for public procurement.

UNICE urges the Commission and the Council not to allow an increase of the current thresholds. Furthermore the EU legislator should abstain from the far-reaching demands of the European Parliament to make public procurement dependent on the consideration of aspects of social and environmental policies not linked with the specific subject of procurement.

STATE OF PLAY

On 17th January 2002 the European Parliament adopted a large set of proposals for amendments to the Commission's proposals for revised EU Procurement directives ("Legislative Package"). In general UNICE endorsed the initiative of the Commission to develop the legislative package with the aim of simplifying and modernising public procurement. UNICE especially welcomes proposals for the introduction of a "competitive dialogue" procedure for complex contracts allowing for more flexibility concerning complex procurements. UNICE furthermore supports the intention to create an appropriate framework for the implementation of modern electronic business in public procurement. UNICE has actively contributed to the discussion of these and other items of the legislative package.

UNICE'S CORE POSITIONS

UNICE is very concerned about the European Parliament's call for an increase of the thresholds for EU public procurement law to an extent of up to 50 per cent of the current values. Such an increase would drastically reduce the area of application of the EU Directives on public procurement which provide concrete rules for fair and transparent procurement procedures throughout the EU. Increasing the thresholds would almost certainly lead to a re-creation of national and local barriers to cross-border procurement. Apart from that it would conflict with the thresholds of the Government Procurement Agreement which has been signed by the EU.

Furthermore, UNICE is strictly opposed to a set of proposals by the Parliament to make the procurement of goods and services dependent on social and environmental aspects apart from the quality of the products/services purchased. These proposals are not acceptable as they would decisively weaken core principles of competitive procurement, especially the obligation to purchase according to the principles of "best value for taxpayer's money" and the efficiency of public services. However, UNICE welcomes the Parliament's proposals concerning electronic procurement; they will help to optimise and clarify the rules on data security in future electronic tendering and should be accepted by the Council and the Commission.

"I was astounded that it is the European Parliament which is calling for a drastic increase of the thresholds for the EU procurement Directives. The European Parliament should not restrict, but encourage the application of common European procurement rules. The Commission and the Council should not accept the Parliament's call for increased thresholds."

*Michael Kutschenreuter, Member of the Group Board,
Information and Communication Networks, Siemens AG.*

Flexible labour markets and skills availability

ENTREPRENEURSHIP IS THE BASIS FOR EMPLOYMENT GROWTH

*Lisbon target: the Union and Member States committed themselves to achieving target employment rates of 70% overall and 60% for women by 2010. The **Stockholm** European Council introduced intermediate targets of 67% overall and 57% for women by 2005 and a new target of 50% for older workers by 2010.*

UNICE's expectations for Barcelona: Increasing employment rates requires carrying on with sound macroeconomic policies, speeding up structural reforms and effectively implementing the entrepreneurship pillar of the employment guidelines. Simplifying, streamlining and ensuring coherence of existing processes is essential to concentrate efforts on a limited number of real priorities.

STATE OF PLAY: PROMOTION OF ENTREPRENEURSHIP IS ESSENTIAL TO MEET THE EMPLOYMENT TARGETS

	Situation at Lisbon	Situation at Barcelona	EU 2010 target
Overall employment rate	63.2	63.9	70
Women employment rate	52.8	54.7	60
Older workers employment rate (55-64)	37.2	38.3	50

European Commission 2002, synthesis Report⁵

The European Employment Strategy (EES) provides a good basis for achieving these targets, and is starting to bear fruit. However, the current economic situation has interrupted the four-year fall in unemployment and makes job creation more difficult. After the first five years of application of the EES, a complete evaluation of its impact has been launched, and discussions on the future shape of the strategy are under way.

UNICE is concerned that progress in implementing the entrepreneurship pillar is lagging behind.

BUSINESS RECOMMENDATIONS

Employment growth depends on the effective implementation of a whole spectrum of **policies geared towards sound economic growth**. In the light of less favourable economic prospects, it is necessary to **speed up structural reform** of all markets, including labour markets. Further reforms of pension systems and the discouraging of early exit from the labour market are also essential if the ageing of the population is not to endanger future economic growth prospects.

The European employment strategy should focus on **encouraging entrepreneurship**. The strong bias towards the supply side (labour supply) in the employment guidelines must be corrected. More attention must be paid to the demand side (job creation). Reversing the long-term trend towards higher taxes and charges on labour is essential to encourage companies to create jobs. Member States should be encouraged to **set targets for the reduction of the tax burden on labour** (which is particularly penalising for older workers) in order to reach the average level of the three best-performing countries.

Multiplication of processes at EU level (on employment, on economic policy, on structural reforms, on social inclusion, on pensions, etc.) can damage efficiency. Efforts should concentrate on real priorities. **Simplifying, streamlining and ensuring coherence of existing processes** is indispensable.

The modernisation of the labour market depends above all on measures taken within Member States. But the European level must avoid imposing additional constraints in the form of ill-conceived social measures. The proposed directive on temporary work, which is currently being discussed by the Commission, is an example of such a measure.

"Business organisations have a responsibility resolutely to encourage the spirit of enterprise, one of the key elements for job creation in Europe. It is essential to place the right value on qualities such as risk-taking, creativity, drive or organisational capacity so that ever more young people decide to create new businesses, and thereby promote prosperity and employment."

José María Cuevas, President, CEOE

Flexible labour markets and skills availability

INCREASING COMPETENCES OF THE EUROPEAN WORKFORCE FOR THE 21ST CENTURY

Lisbon target: to modernise the European social model by investing in people and building an active and dynamic welfare state. "Europe's education and training systems need to adapt both to the demands of the knowledge society and to the need for an improved level and quality of employment."

UNICE's expectations for Barcelona: Member States in Barcelona are asked to strengthen coordination in the fields of education and training. Labour market reforms must support lifelong learning strategies so as to translate economic growth into employment.

FROM LISBON TO BARCELONA

A number of initiatives have been taken to implement the objectives set in Lisbon, such as the Council report on the concrete future objectives of education and training systems (February 2001), and the Commission communication on lifelong learning (November 2001). In March 2002, the Barcelona European Council will be the occasion for governments to review progress in the field of education and training and to set action priorities for the coming years. In its 2002 synthesis report⁶, the Commission called on Member States to step up efforts in the areas of education, training, research and innovation and to launch a process for coordinating national education and training policies.

European social partners (UNICE, CEEP and ETUC) will also present a specific joint contribution to the Lisbon objectives on the lifelong development of competences in view of the Barcelona summit.

BUSINESS RECOMMENDATIONS

At European level, the **open method of coordination**, through structured exchange of experience and monitoring exercises, could help Member States to achieve the Lisbon objectives. UNICE fully supports the Council's objectives for education and training systems. However, further work needs to be done on indicators and benchmarks, in particular to focus on outputs, i.e. raising skills levels, and to take better account of non-formal learning.

Consistency between the coordination process of education and training policies and the Luxembourg process for employment is essential to ensure that measures taken in Member States have a real impact on the general employment situation and respond to companies' needs, notably by creating conditions conducive to increased development of competences within companies.

Further actions are needed to promote **recognition of learning achievements and transparency of qualifications**. Responsibility in this field is mainly national. However, at European level, exchange of experience and actions with a view to improving employee mobility, transparency of competences and qualifications and the functioning of labour markets, are desirable.

An increase in the level of qualification will enable us to: (...)

- *maintain over time the employability of employees by guaranteeing their adaptability in a rapidly changing world, through qualifications, which requires a joint effort by companies and employees;*
- *improve the competitiveness of companies by moving forward the professionalism of the individual so that companies can face up to global competition, adapt to technological developments and respond to changes in their environment;*

We need better trained employees to enable us to come to grips with activities with increasing value-added.

Ernest-Antoine Seillière, President, MEDEF

⁶ The Lisbon strategy - making change happen, COM(2002)14 final

REVIVAL OF FINANCIAL SERVICES ACTION PLAN

***Lisbon target:** creation of "efficient and integrated financial markets", including steps to implement the Financial Services Action Plan (FSAP) by 2005.*

UNICE's expectations for Barcelona: UNICE calls on all governments to **increase their efforts to push FSAP measures through the legislative process**. All Member States have committed to the FSAP, yet there is a substantial risk that the targets for implementation will be missed due to **insufficient political conviction**. This will hamper Europe's economic growth. Greater urgency to meet the targets should not lead to inadequate consultation and transparency, which would be counter-productive. Both are essential elements in making good policy.

Resources should now be focussed on implementing several priority areas by 2003:

- ◆ Directive on the activities of Institutions for Occupational Retirement Provision
- ◆ Adoption of International Accounting Standards
- ◆ Single company prospectus
- ◆ Directive on international financial collateral arrangements
- ◆ E-commerce and financial services
- ◆ Directive on insider dealing and market manipulation

STATE OF PLAY

Of the 42 original measures, some 25 have been completed, or look likely to be completed. This means 17 measures are still outstanding. In order to meet the target dates established, 10 legislative acts will need to be adopted in 2002. 8 new legislative proposals still have to be made by the Commission. Much of the legislation is stuck in Council.

ESTABLISH PRIORITIES

This represents a heavy workload. The quality of legislation cannot be compromised by the need to accelerate adoption. The obvious solution would be to focus political efforts on the most important proposals first. We therefore suggest that the six proposals above be accorded priority in terms of political will and resources. These are the most important legislative proposals for the business community in the EU; they are fundamental to any serious attempt to establish a single market for capital. The target date for their implementation should really be 2003.

THE LAMFALUSSY REPORT

UNICE welcomes the recent compromise that allows the implementation of the recommendations contained in the Lamfalussy report. These establish a new procedure for financial market legislation, which will accelerate the adoption of FSAP measures. The report's **emphasis upon consultation and transparency** throughout the legislative process - which is essential - should ensure both quality and speed are maintained. Once these recommendations are implemented, UNICE expects Member States to make every effort to adopt the FSAP measures within the original timeframe.

THE IMPORTANCE OF A SINGLE MARKET FOR FINANCIAL SERVICES

Without further integration of financial markets, the full benefits of the single market will not be realised. A single capital market in the EU is about much more than simply oiling the economic system. Ready access to the capital markets is essential for a vibrant and thriving economy. Capital market integration implies a fuller exploitation of profitable opportunities, leading to a permanently higher rate of return on invested funds, and more dynamic investment. This will increase long-run growth rates in the EU.

The year 2002 will also see the Basel committee's recommendations for a revision of the Basel Capital Accord. Once implemented, these proposals will have far-reaching effects upon the banking system. It is essential that the recommendations do not lead to a loss of competitiveness for European business. Once adopted, however, Europe should not lag behind in the implementation of the accord, which would place companies in the EU at a disadvantage.

INSTITUTIONS FOR OCCUPATIONAL RETIREMENT PROVISION

Lisbon target: *Among the measures contained in the FSAP, the proposed directive regulating the activities of Institutions for Occupational Retirement Provision (IORP) is a priority. The **Stockholm** Council confirmed the need to address the long-term issue of pensions sustainability, and asked the Commission to look into the issue of the portability of supplementary pensions for the Barcelona Council.*

UNICE's expectations for Barcelona: UNICE calls for rapid adoption of this directive under the Spanish presidency. The European Parliament's amendments introducing qualitative investment rules, rather than quantitative restrictions, improved the original Commission proposal in July 2001. Since then progress in the Council has been very disappointing. The size of the potential gains makes it all the more incomprehensible that there should be such limited progress in the Council⁷.

THE FRAMEWORK

This proposed IORP directive establishes a framework for the operation of occupational pension funds across the EU as a whole, based on mutual recognition of such funds across all 15 Member States.

Currently, regulatory differences between Member States inhibit the cross-border operation of such pension funds in Europe, which means that a single market for occupational pensions is far from being a reality. The directive would enshrine the prudent man principle as the regulatory basis for investment choices, rather than imposing quantitative restrictions on investment choices. An apparent misunderstanding over the implications of the prudent man principle seems to be impeding the progress of the directive.

The prudent man principle does not imply complete freedom of investment choices for managers; but within a set of prudency rules, it allows them more flexible investment choices, taking into account the characteristics of their contributors.

The key features underlying the prudent man principle are clearly defined:

1. Take into account the nature and duration of the future pensions.
2. Ensure security, quality, liquidity, and profitability of the portfolio.
3. Ensure that assets are properly diversified.
4. Invest no more than 5% of technical provisions in sponsor.

FINANCIAL SERVICES

"Europe needs to provide its companies with inexpensive, flexible sources of capital, which are essential to our global competitiveness. Companies are the engine of economic growth and socially inclusive wealth creation. Therefore they need efficient and intelligently regulated markets that enable them to thrive. And nowhere is this more important than in facilitating access to capital and driving down costs. The Commission's proposal on the prospectus directive would have represented a step back from the single market; we welcome the Parliament's actions to get the proposal back on track. The European institutions need to deliver on the spirit of the Lisbon process, not just the number of legislative measures taken, in order to achieve a more entrepreneurial Europe."

Digby Jones, Director General, CBI

⁷ UNICE published its strategy paper on sustainability of pensions in November 2001.

Financial services
INSTITUTIONS FOR OCCUPATIONAL RETIREMENT PROVISION

A WIN-WIN-WIN DIRECTIVE

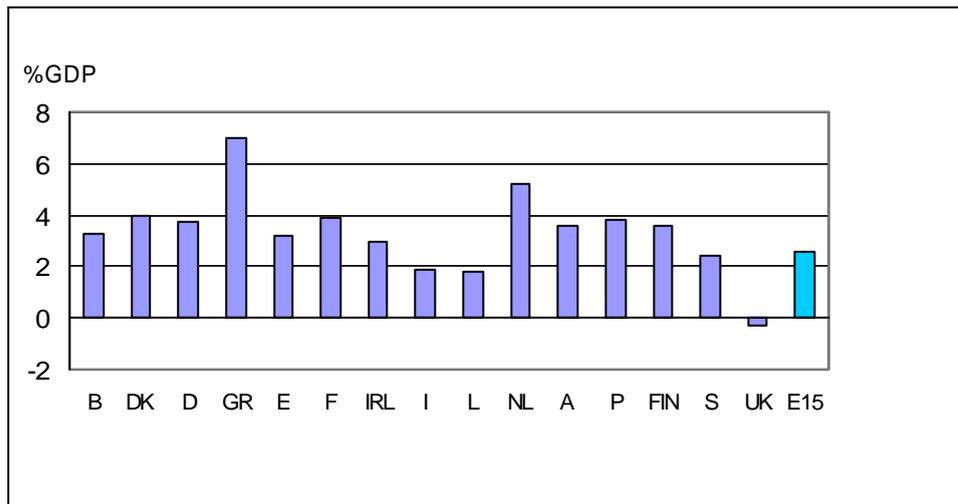
The gains from this directive would not only be large, but would also be felt across large sections of the economy. More active and integrated pension fund activity sets the stage for higher returns to occupational pensions contributions.

- ◆ **Employees** would benefit from higher retirement benefits
- ◆ **Employers** would be able to organise the occupational pension arrangements of all their employees within a single pension fund, leading to considerable cost savings. More broadly, where mature funded schemes are in place, employers benefit from lower pension contributions, so containing their labour costs. The IORP directive would make it easier for more Member States to introduce funded systems, while also improving the performance of funded schemes.
- ◆ **Economy** - the macro-economic benefit of the genuine cross-border operation of pension funds would be considerable. The removal of barriers to the investment activities of pension funds across the Union as a whole represents a substantial step towards a single market for capital. Companies of all sizes would benefit from lower capital costs, as access to cheaper financing in equity markets increases. Similarly, the venture capital market would increase in size and activity. The economy would become more dynamic as a consequence. Furthermore, effective second pillar pension schemes could relieve some of the pressure that public pension schemes will suffer due to population ageing in the coming years, so improving the stability of public finances.

TAXATION OF PENSIONS

UNICE would like Member States at the Barcelona summit to make a commitment to remove the fiscal barriers to cross-border provision of occupational pensions, an essential complement to this directive.

Increase in public pensions expenditure 2000-2030 (% GDP)



Source: EPC: Budgetary challenges posed by ageing populations, 2001

INTERNATIONAL ACCOUNTING STANDARDS

Lisbon target: *The Presidency conclusions stressed the need to accelerate completion of the Internal Market for financial services, setting a deadline of 2005 to implement the FSAP, and urged that steps be taken to enhance the comparability of financial statements prepared by listed companies.*

UNICE's expectations for Barcelona: It is extremely important to ensure rapid adoption of the regulation on accounting standards to meet the 2005 deadline, and is essential to have consistent application of IAS by all listed EU companies, to enable comparability: national variations would hinder the efficient functioning of the markets. Any delay in adoption will jeopardise the goal of applying International Accounting Standards for EU listed companies by 2005.

THE OBJECTIVE: THE COMMISSION ACTION PLAN

The Commission's 13 June 2000 Communication *The EU's Financial Reporting Strategy: The Way Forward*, aimed at the adoption of uniform, high quality financial reporting rules in EU capital markets, so as to enhance overall market efficiency and to reduce the cost of capital for companies.

The Communication proposes that all EU companies listed on a regulated market should be required to prepare their consolidated accounts in accordance with a single set of accounting standards, namely International Accounting Standards (IAS) from 2005, at the latest.

WHY WE NEED A NEW APPROACH

EU accounting legislation, adopted in the 1970s, provided a base level for harmonisation in terms of reporting requirements for limited liability companies. However, it has not been able to deliver sufficient comparability for publicly traded companies. A new approach is necessary to meet the current needs of a fully integrated European capital and financial services market.

Furthermore, companies are subject to more demanding disclosure requirements from investors and need a financial reporting system that offers a much higher level of transparency and comparability of company performance.

"In a globalised corporate environment it should be made possible for multinational companies to issue one set of financial statements in all countries in which they are active. Therefore convergence of International Financial Reporting Standards and US-GAAPs is absolutely necessary in order to ensure a worldwide level playing-field for EU- and US-listed companies"

Jacques H. Schraven, President, VNO-NCW

Sustainable development

EU SUSTAINABLE DEVELOPMENT STRATEGY

Lisbon target: the economic and social commitments made in Lisbon were supplemented in Göteborg with the launch of an EU sustainable development strategy based on the principle that the economic, social and environmental effects of all policies should be examined in a coordinated way, opening up the way for a new approach to policy-making.

UNICE's expectations for Barcelona: in order to develop strategies which combine high environmental effectiveness and high economic efficiency, it is essential to create more space for co-regulation and negotiated agreements. In addition, the Barcelona summit should provide the stimulus for wide regulatory reform, to improve the quality of EU regulatory activity.

Business plays a principal part in the process towards a sustainable society. Sustainable development is best achieved through open, competitive and rightly framed international markets. Economic growth and environmental and social improvements are mutually dependent.

COMBINING HIGH ENVIRONMENTAL EFFECTIVENESS AND HIGH ECONOMIC EFFICIENCY

To meet this goal, it is essential to make much more use of co-regulation and negotiated agreements, engaging companies and public authorities in joint selection of objectives and tools for environment policy. These approaches should be fully recognised and integrated in the conclusions of the debate on European governance currently under way. With a view to improving the quality of EU regulatory activity, UNICE calls on Member States in Barcelona to agree the launch of a wide regulatory reform. This will entail committing all EU institutions to undertake high-quality regulatory impact analyses, following standard procedures. This reform should correct the shortcomings of the present arrangements, which fail to guarantee adequate quality and scope for the impact analyses that are carried out.

As a first step, it is essential that the Commission develops, before the summer, an efficient sustainability impact assessment mechanism for testing all major policy proposals, ensuring an assessment of their potential economic, environmental and social benefits and costs.

ECONOMIC INSTRUMENTS

UNICE would be happy to play its role in developing well-designed economic instruments capable of delivering environmental progress at lower costs than traditional "command-and-control" regulation. Such economic instruments must meet the following criteria:

1. effectiveness/efficiency: existence of sound and transparent environmental objectives; environmental effectiveness; economic efficiency; and ease of introduction and adjustment of the instruments through regular monitoring;
2. policy coherence: consistency with the internal market; compatibility with the principles of sustainable development (including the principle of shared responsibility); and clear and substantial value to be added by Community initiatives;
3. competitiveness: the international competitiveness of European business and industry should not be weakened.

UNICE remains completely opposed to the current proposal for an EU directive to harmonise taxes on energy products, which clearly does not meet these criteria.

"Design of strategies for sustainable development must fully involve policy-makers with responsibility for the economy, employment and environment so that the strategies can deliver economic, social and environmental progress in an integrated manner. These strategies must take full account of economic and social realities on the ground."

Fabrizio d'Adda, Chairman and CEO, POLIMERI EUROPA

**Rue Joseph II, 40/4
B - 1000 Brussels - Belgium
Tel : 32 2 237 65 11 - Fax : 32 2 231 14 45**

E-mail : main@unice.be