

COREPER

19 February 2003

THE SECRETARY GENERAL

Dear Ambassador,

RE: **COMMUNITY PATENT PROPOSAL**

This afternoon, the COREPER will meet to discuss further the Community patent proposal. No need to remind you how important this subject is for European industry and its competitiveness.

The latest proposal on the table is still not satisfactory for UNICE and we urge you to

- make an assessment of the current proposal compared with the objectives set in Lisbon of adopting a Community patent that can be competitive with US and Japanese patents and;
- discuss further ways of reducing the cost of the proposed instrument, the use of English only being clearly the most competitive solution.

UNICE considers that political compromises have already placed the current package far away from the instrument that business needs if it wants to compete with its main trading counterparts.

UNICE will adopt in the coming days a more detailed position paper, which we will send you.

We thank you in advance for your support

Yours sincerely,

Philippe de Buck

Enclosed : Page on Community Patent taken from UNICE's Lisbon Strategy Status Report

## COMMUNITY PATENT

### UNICE's expectations

*Acceleration of efforts developed during the four previous presidencies in order to secure adoption of a Community patent that can meet users' needs in terms of quality, cost-effectiveness and legal certainty, and support EU's competitiveness. The deadline set in Lisbon for the Community patent was 2001. This deadline has already been missed.*

\* \* \*

Innovation depends on the creation and dissemination 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 with their competitors.

The Commission has set out the essential elements for a patent system.

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.

### UNICE's RECOMMENDATIONS

The EU presidency must ensure that the EU Competitiveness Council:

- ✓ Adopts a **Community Patent**, of a **unitary character** which is **affordable, guarantees legal certainty** and can coexist with the present patent systems in Europe
- ✓ Makes an **assessment** of the **current proposal** compared with the objective set in Lisbon of adopting a Community patent that can be **competitive with US and Japanese patents**;
- ✓ **Adheres to the new timetable (Spring Summit 2003)** it has set itself. If by that time the proposal has not been amended to meet users' needs, UNICE will seriously consider withdrawing its support and concentrate its efforts on improving the current European patent system.

*"Yet not so long ago, the March 2000 Lisbon Summit gave the Community patent totemic significance...The credibility of the Lisbon agenda now looks threadbare...Because of a complex compromise over languages this year, the present plan would inevitably result in a Community patent that is far more expensive than patents in the US and Japan. Starting again would be a shock. But that would be just what the EU's Member States and the Lisbon agenda need to get back on track."*

**"Patently Absurd", Financial Times, 15 November 2002**