

Brussels 7 March 2003

**PRELIMINARY ASSESSMENT OF COUNCIL'S COMMON POLITICAL APPROACH ON
COMMUNITY PATENT**

Further to adoption of a political agreement by the Competitiveness Council at its latest meeting (3 March 2003) UNICE would like to make the following remarks:

- UNICE has always stressed the need of a Community patent that can provides the EU with a support to its competitiveness and innovation, as an intangible element of the Lisbon strategy.
- However, it remains fundamental that such a Community Patent can meet users' needs in terms of quality, affordability and can guarantee legal certainty on the basis of a reliable jurisdictional system.

UNICE considers that the political agreement constitutes an important political development. However, UNICE wants to stress that political compromises have moved the agreement away from the instrument that business needs today if it wants to compete with its main trading counterparts and, in this respect, does not fully meet users' needs, particularly in terms of costs while legal certainty would only be ensured after a seven-year transitional period.

Concerning the Community Patent jurisdictional system to be put into place:

- UNICE considers that the creation of an integrated and unitary Community Patent Court with wide competence is a major achievement as it is essential for industry to have consistent case law for Community Patent throughout Community territory.
- However, UNICE is not satisfied with the transitional period that has been set. This is bad for legal certainty in particular when the first Community patents will be issued. UNICE therefore urges member States to reconsider their positions on this.

Regarding the question of costs and translations, UNICE would like to stress that:

- The decision to have all claims translated into all EU languages creates excessive and unnecessary costs. This solution is inconsistent with the Lisbon process and will be a burden on European industry, and in particular for SMEs, scientists and research centers.
- UNICE urges Member States to streamline their decision on translations, in view of the need to create a cost-effective instrument.

On the relationship between the EPO and national patent offices:

- UNICE acknowledges and supports the fact that the EPO will alone be responsible for examining applications and granting the Community Patent.
- UNICE expresses its serious concerns about prior art searches being made by national patent offices, a possibility that will affect the quality of the Community Patent system. It is essential that the EPO has sufficient powers to monitor the quality of the work done by national patent offices.

UNICE feels that these aspects need to be taken into account by Member States and the Commission before adoption of the Community Patent Regulation, if they intend to create a Community Patent system attractive for all users.