

22 October 2003

COREPER

THE SECRETARY GENERAL

Dear Ambassador,

RE: PATENTABILITY OF COMPUTER-IMPLEMENTED INVENTIONS

In view of the ongoing negotiations at Council level on the above-mentioned subject, UNICE would like to voice its strong alarm at the outcome of the first reading in the European Parliament.

***UNICE has from the outset supported the stance of the Commission proposal for a directive on patent protection for computer-implemented inventions***, whose main aim was to ensure a clear legal framework consistent with the current European patent practice, in a way supportive of Europe's innovation and competitiveness. UNICE has also supported the common approach endorsed by the Competitiveness Council on 14 November 2002.

However, after the European Parliament plenary vote, the bulk of the amendments adopted have altered the scope of the original Commission proposal in such a way that UNICE can no longer support it.

***Industry can function very well with the existing legal framework and no longer sees the added value of a directive on the patentability of computer-implemented inventions along the lines proposed by the European Parliament.***

The outcome of the European Parliament plenary vote is a major setback and goes against the fundamentals in existing patent law and the international obligations of the European Union under the WTO-TRIPs agreement. It not only completely sets aside the stated purpose of the directive, i.e. harmonisation within Europe, it also undermines long-standing patenting practice in Europe. The impact of such legislation on the overall IP framework could be significant and would work against the interests of European economy in promoting innovation and competitiveness as well as protecting investment in European R&D in almost all cutting-edge technologies.

In this context, UNICE urges the Council to reject the amendments adopted by the European Parliament that are highly disruptive to current European patent practice, as explained in the annex, and to stick to its common approach of November 2002. In addition, the Council should make an assessment of the current situation compared with the objective of promoting the interests of Europe's innovators in general, and in particular in the fields of R&D as well as information and communication technologies.

We thank you in advance for your support

Yours sincerely,

*(original signed by)*  
Philippe de Buck