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**EPO PCT CONSULTATION**

In the context of the current debate launched by the EPO on the future structure of the European Patent system, UNICE would like to express the views of users of the European patent system<sup>1</sup>.

UNICE is the official voice of more than 20 million small, medium and larger companies. UNICE's members are 36 central industrial and employers federations from 30 countries.

At present, the decentralisation of PCT work within Europe is being considered, either on the basis of sub-contracting, or through the creation of new autonomous European PCT authorities, or both.

UNICE has from the outset supported the key role of the EPO in ensuring a high-quality reliable and cost-effective PCT procedure. Business shares the view that such a patent system, which simplifies the processing and granting procedure with one application handled by the EPO, yields important cost savings for companies.

UNICE is of the strong conviction that the EPO must retain full responsibility for prosecuting and handling those applications which meet the criteria set out by the Patent Cooperation Treaty (PCT) and rejecting those applications which do not meet those criteria.

UNICE strongly opposes any proposals that would deprive the EPO, in whole or in part, of this core responsibility. For the whole of the European innovative sector any deviation from this core responsibility would decrease the coherence and sustainability of the EPO as the central European patent granting authority fully responsible for granting European patents.

In this context broadening the exception contained in Section III of the Protocol on Centralisation would result in the basic principle of the Protocol becoming meaningless.

The PCT procedure is one single procedure, not a succession of independent sub-procedures such as search and preliminary examination. Any proposals that would result in the weakening of EPO's full control over parts of the procedure are not acceptable, as they would negatively influence the consistency of the procedure.

In the context of the granting procedure, companies strive for the highest degree of legal certainty and therefore cannot run any risks of inconsistencies and subsequent legal uncertainty that would render the system unattractive for users.

Consequently, UNICE opposes any system where the EPO would be obliged to transfer work to entities, including National Patent Offices (NPOs), over which it would have no such control. This applies to both PCT cooperation and situations under the European Patent Convention (EPC), where the EPO would have to accept the search results and preliminary opinions of other Offices as part of the European granting procedure. UNICE has previously voiced its grave concerns on the political agreement between EU Member States regarding the Community Patent, where such mandatory transfer of search tasks is foreseen.

<sup>1</sup> The CBI is not able to endorse all parts of this UNICE position paper.

Considering the future challenges facing the patent system in Europe, UNICE believes that all means of increasing efficiency and reducing duplicative work should be considered, in order to ensure a system which delivers high and uniform quality on time.

In this process, the possibility of a higher degree of geographical distribution through the creation of further EPO sites should not be excluded. An absolute pre-condition for such a development is, however, that the possible further sites are truly part of the EPO organisation, so that EPO retains full control over the work carried out. This would for example mean that examiners are employed by EPO, use EPO tools and guidelines etc. It also requires an enhanced quality control system within the EPO.

The central competence and full responsibility of the EPO in the EPC procedure is one of the cornerstones of the European Patent system and UNICE is of the strong conviction that it should not in any way be jeopardised.

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