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To the Members of the Committee on Civil Law Matters

8 November 2006

THE SECRETARY GENERAL

Dear Member of the Committee on Civil Law Matters,

RE: ROME I REGULATION

UNICE would like to draw your attention to an issue of major concern for European business: the proposal to convert the Rome I Convention into a regulation, (COM (2005) 650). UNICE strongly believes that the current Commission proposal will have major and costly implications for business and consumers, lead to fragmentation of the internal market and create an unacceptable level of legal uncertainty in cross-border contracts. The proposed regulation will have a disproportionate adverse effect on business, particularly on SMEs and electronic commerce.

Firstly, we wish to express our grave concerns about the approach taken by the Commission, by failing to carry out a regulatory impact assessment on the proposed regulation which makes significant additions and changes to the Rome Convention.

The failure to consult properly and to conduct an impact assessment is a major omission and one that has contributed to the current controversy. The process would have provided the opportunity to explore how the proposals will affect business and consumers throughout the EU, and would in all likelihood have clarified many of the concerns now being identified.

UNICE hopes that in light of the failure to consult properly business concerns will now be taken into account and there will be open-mindedness about proposals for amendments. We hope the process going forward will reflect the "better regulation" standards.

Secondly UNICE wishes to highlight the potential damage to the development of the internal market posed by Article 5 of the proposed Rome I regulation. Business has not had the opportunity to previously comment on this proposal. Article 5 proposes a

substantive change to business to consumers' contracts by removing the fundamental principle of freedom of choice for the parties and requiring business to comply with the laws of 25 Member States simultaneously.

Article 5 is an unacceptable burden for business which will increase costs, create legal uncertainty and lead to the fragmentation of the internal market. Article 5 does, according to UNICE, not reflect a balanced approach addressing the needs of consumers and business alike. Furthermore, UNICE believes that it is detrimental to the interests of consumers: it will imply higher prices for goods and services (costs of adaptation will be reflected in prices) and less choice (companies may simply refuse to deliver in certain Member States to avoid legal risks). UNICE requests that the current system for business to consumers' contracts (Rome I Convention of 1980) be retained: freedom of choice of law, combined with the application of the mandatory rules of the consumers in certain particular cases.

As a general principle, UNICE strongly believes that any alteration to the consumer law should be debated in the context of the review of the consumer acquis.

These are not our only concerns and UNICE hopes that business concerns will be taken into account in the current process.

We remain at your disposal should you wish to discuss any further these comments.

Yours sincerely,

Philippe de Buck