JUNE 2005



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Membre de l'Union des Éditeurs de la Presse Périodique

MESSAGE FROM SECRETARY GENERAL

Dear UNICE@news Readers,

Cooperation between industry and policy-makers bears fruit



mpact assessment is an essential tool to ensure that legislative proposals are proportionate to the objective in view and to iron out as much as possible any unintended consequences. The recent cooperative exercise on the draft REACH regulation between the Commission, UNICE, the chemicals industry and downstream users is a good example of how the involvement of those who will be directly and indirectly affected by proposed measures can add to the quality of impact assessment.

When the chemicals package was first tabled, industry agreed with the objectives of protecting the environment and health but was worried that the Commission's initial impact assessment underestimated the costs to both the chemicals industry and downstream users. In response to these concerns, industry and policy-makers put in place a structure for further impact assessment work which culminated in a study produced by the consultant firm KPMG.

Thanks to the findings of this study, we are now confident that solutions are within reach, provided that a number of matters are taken into account to ensure that the REACH regulation is made more workable and cost-effective whilst keeping the environmental and health benefits.

A less satisfactory development is the vote by the European Parliament on the working time directive. If followed through, this will scrap the opt-out whereby workers can choose to work an average of more than forty-eight hours a week, but employers cannot require them to do so. The Parliament was not even prepared to accept that this maximum forty-eight hour week should be averaged out over one year instead of over four months as at present, whereas one year would be the natural reference for many activities whose intensity tends to vary with the seasons.

Unfortunately, this is a good example of policy-makers failing to respond to a changed employment landscape where employees increasingly expect to be able to shape their working lives to meet their own requirements (including the option of working longer hours). This vote will also reduce flexibility for employers who have to cope with short-term surges in demand.

The Parliament's views on working time send a discouraging signal for the Commission's growth and jobs strategy. These objectives can only be achieved if the policies put in place enable players on the ground – employers and workers – to get on with making a success of their businesses without unnecessary or counterproductive intereference.

Ridefi

Philippe de Buck Secretary General

UNICE HIGHLIGHTS

MISCONCEPTIONS AND BENEFITS OF THE SERVICES DIRECTIVE: WHAT'S BEHIND THE MYTH?

UNICE has participated with great interest in the animated debate on the proposed directive on services. It issued its official views on the proposal in October 2004, supporting the Commission's horizontal approach to promote cross-border trade and establishment in the internal market for services.

A well-functioning internal market for services is crucial to Europe's competitiveness and its ability to attain the Lisbon objectives of increased growth and employment. However, some specific provisions of the proposal need to be adjusted, particularly those relating to control and supervision by national authorities and to avoid undermining directive 96/71 on posting of workers.

Despite the unanimous accord of the need for Community action in this sector, it is striking to see the frenzy and misleading discussions that have surrounded the debate on this proposal.

UNICE feels that the need for an informed debate on the services directive has not yet been met. Discussions have been dominated by often unfounded criticisms that have proved that fear of competition is holding up opening of the market for services and application of competition rules. Misconceptions and wrong assumptions have predominated over the advantages of having a genuine common market for services where unjustified barriers are removed allowing for wider choice and information, lower prices and better control and supervision.

In an attempt to clear up misgivings and illustrate the proposal's advantages, UNICE has elaborated two documents in support of its October position paper. Both documents intend to provide additional evidence of the need for the directive to create a genuine internal market for services in the EU. UNICE's stance was recently conveyed to the President of the European Parliament, Josep Borrell.

The first document responds to numerous <u>misconceptions</u> generated during the debate, namely regarding "social dumping", race to the bottom effect for public health, safety and environmental standards, privatisation of "public services" or legal uncertainty. UNICE's document sheds light on these important issues and provides responses in simple terms, taking account of existing applicable legislation and case law.

The second highlights the <u>advantages</u> of the proposed directive. It identifies concrete benefits that the directive is expected to bring about for the European economy in general and for all interested parties, particularly service providers, consumers, employees and governments.

UNICE hopes that these documents will help rationalise the ongoing discussion on the directive and that the EU institutions, with assistance and input from interested stakeholders, will strive to agree on a services directive able to deliver the objectives pursued.

For further information, please contact Carlos Almaraz or consult also UNICE position.

RESULTS FROM IMPACT ASSESSMENT OF REACH REVEAL SEVEN MAIN AREAS FOR IMPROVEMENTS

The additional work on REACH impact assessment set up by a Memorandum of Understanding between industry (UNICE / Cefic and involved sector associations) and the Commission (DGs Environment and Enterprise) has been finalised. The results were discussed both during a High Level Group meeting on 27 April, including Commission's Vice-President Verheugen and Commissioner Dimas, and at a workshop organised by the Luxembourg Presidency on 10 and 11 May.

From the results of the case studies UNICE outlines seven main recommendations which will be essential to improve the efficiency and workability of REACH:

- 1. Prioritisation of substances in the registration process and pre-registration to help focus resources and increase cost-effectiveness;
- 2. Increased cost-effectiveness to enable SMEs to cope with REACH requirements and to avoid disruption of the value chain;

- 3. Balanced approach between the transparency of the information requirements, to be channelled mainly through standardised Safety Data Sheets, and the confidentiality needs of companies, which cannot be accommodated by mandatory data-sharing in consortia;
- 4. Combination of the "identified use" concept with broader "exposure categories" in order to safeguard the need for flexible substance use by downstream users;
- 5. Clearer scope of REACH to avoid overlap with other legislation, in particular exemption of recycled/recovered material to lower unintended consequences conflicting with sustainability objectives;
- 6. Clear exemption for R&D in order to boost innovation;
- 7. Minimisation of the re-engineering costs induced by the authorisation and restriction procedure, by taking into account application specific lead-times and product cycles.

UNICE will continue making a constructive contribution to the debate and help find solutions that are key to render REACH workable.

For further information, please contact Nadine Toscani.

ECONOMIC AND FINANCIAL AFFAIRS

COMPETITIVENESS COUNCIL: WHAT ROLE IN THE NEW GOVERNANCE CYCLE?

On 10 May 2005 there was an extraordinary session of the Competitiveness Council, scheduled by the Luxembourg Presidency in the framework of the new governance cycle of the Lisbon Strategy. UNICE Secretary General, Mr de Buck, had the opportunity to present UNICE's views to Mr Jeannot Krecké, Luxembourg Minister for economy and Chairman of this Council formation.

In line with UNICE positions, the Competitiveness Council gives solid support to the microeconomic part of the Integrated Guidelines adopted by the European Commission. On this particular subject, UNICE considers that the microeconomic guidelines proposed by the Commission are the right recipes for more growth and jobs. Furthermore, UNICE attaches particular importance to the extending and deepening of the Internal Market which includes the free movement of people as well as of services; the better regulation agenda and the research and innovation policy.

UNICE continues to believes that the Competitiveness Council has a vital role to play as the guardian of Europe's competitiveness; but it needs to live up to that role more fully.

For further information, please consult UNICE letter to the Competitiveness Council.

EU CAPITAL REQUIREMENTS DIRECTIVE: MORE WORK REQUIRED

The Commission proposal for new capital adequacy rules for EU financial institutions, tabled in July 2004 and meant to transpose the international Basel-II accord into EU law, is meeting with significant demands for changes from European lawmakers: close to 300 amendments were tabled by the European Parliament's Committee on Economic and Monetary Affairs in early April.

UNICE, while strongly supporting the general framework of the directive, will shortly send its comments to the Commission in which it highlights the need for adjustments regarding a number of provisions. These adjustments are meant to take better account of the overall requirements this directive should fulfil:

 EU-wide level playing field: a number of discretionary elements Member States have been granted for transposing the directive – close to 200 – carry a great risk of leading to unequal treatment of groups of financial institutions headquartered in different countries as well as to different treatment for identical underlying business.

- International consistency: EU implementation of the Basel accord must not make it more difficult for EU financial institutions to provide capital to companies compared with non-EU banks.
- Support for SME financing: the directive's provisions must not restrict the availability of finance for SMEs. They must reflect the fact that, due to the diversification effects of SME portfolios, the risk involved in small loans, in equity exposures to SMEs and to small start-ups is relatively limited compared with exposures to large companies.
- Priority for prudential benefit: where the new rules lead to significant increases in capital requirements for certain types of transactions that are likely to be passed on to the customers, there must be a proportionate gain in prudential security.

For further information, please contact **Barbara Stearns-Bläsing**.

LEGAL AFFAIRS

INDUSTRY TRILATERAL ADOPTS RESOLUTION ON HARMONISATION OF PATENT SYSTEMS

UNICE is coordinating its action with IP organisations in the US (IPO, AIPLA) and Japan (JIPA), in the framework of the Industry IP Trilateral, which met in Brussels on 11 April 2005 (see our May 2005 edition).

The Industry IP Trilateral adopted a joint resolution on the harmonisation of patent systems. The Industry Trilateral recommends that patent offices should move towards the adoption of a common patent application standard. A first step towards this goal should be adoption of a common patent application format by the Trilateral Patent Offices, based generally on the PCT format.

For further information, please contact <u>llias Konteas</u> or consult the joint resolution.

EP APPROVES CROSS-BORDER MERGERS DIRECTIVE

The European Parliament adopted its opinion on the 10th company law directive on cross-border mergers in the plenary session which took place on 10 May 2005.

Commissioner McCreevy, responsible for company law issues, <u>welcomes the vote</u> in the EP.

The European Parliament has decided to align itself with the Council compromise position regarding the threshold of workers to be taken into account to determine whether the worker participation model is carried through the new company or not, i.e. 33.3 % at opposed to the 25% threshold initially proposed by the European Commission. The Council of Ministers is likely to accept the European Parliament opinion and finalise the adoption of this proposal as amended in its first reading.

UNICE appreciates that this directive will have positive consequences in improving the mobility of companies in the internal market.

Nevertheless, we regret that the provisions dealing with worker participation for all types of companies do not make reference to the national rules of the newly created company resulting from the merger. Retaining a threshold of 33.3%, even though it is an improvement on the originally proposed 25%, still allows for a minority to impose its model on a majority.

For further information, please contact David Coleman.

COMMISSION APPOINTS NEW COMPANY LAW AND CORPORATE GOVERNANCE ADVISORY COMMITTEE

Further to issuing the call for candidates in January, the European Commission has now issued the list of members of <u>expert advisory group</u> that is to provide detailed technical advice on preparing corporate governance and company law measures.

The group comprises twenty non-governmental experts from various professional backgrounds (issuers, investors, employee representatives, academics, regulated professions, etc.) with particular experience and knowledge of the subject.

Several of the experts are also active in UNICE, notably the Chairman of UNICE's Company Law Working Group.

The group's advice will supplement, not replace, public consultations on Commission's initiatives. The Commission will regularly consult the group, chair the group meetings and establish the calendar for meetings.

The technical work of this group will be complementary to the more strategic role in the convergence of corporate governance in Europe carried out by the recently created <u>European</u> <u>Corporate Governance Forum</u>.

For further information, please contact David Coleman.

PUBLIC PAPERS RECENTLY ADOPTED

- UNICE letter to EFRAG on <u>IAS 39 the fair value option endorsement advice</u>
- UNICE comments on the Rocard working document on the <u>patentability of computer-implemented</u> inventions
- Industry Trilateral resolution on the harmonisation of patent system
- UNICE letter to EFRAG on IFRIC D12-14 services concessions arrangements

UNICE comments on the amendments proposed on the directive on the patentability of softwareimplemented inventions at the second reading in the European Parliament

SOCIAL AFFAIRS

COMMISSION GREEN PAPER "CONFRONTING DEMOGRAPHIC CHANGE: A NEW SOLIDARITY BETWEEN THE GENERATIONS"

In March 2005, the European Commission published a green paper "Confronting demographic change: a new solidarity between the generations". The green paper identifies major demographic challenges for European societies and describes their impact on Europe's prosperity, living standards and relations between the generations. The green paper takes an inter-generational approach and addresses a broad range of issues such as retirement schemes, long-term care for the elderly, integration of young people, work-life balance, equal opportunities, child care, working time, work organisation, and immigration.

Demographic ageing is one of the biggest challenge facing European economies and societies today. European employers welcome the debate launched by the green paper. They believe that the intergenerational approach could aim at improving the overall functioning of labour markets for the entire workforce.

Nevertheless, UNICE is deeply concerned that the green paper seems to approach this crucial issue exclusively from the perspective of individuals and does not take sufficient account of companies' needs. This lack of a company perspective gives the impression that the Commission seeks to shift the burden of meeting the cost of demographic ageing exclusively on companies and ignores other players' responsibilities. Such an approach would be totally counter-productive for growth and employment.

UNICE is currently preparing a response to this green paper.

For further information, please contact Lorena Ionita.

UNICE DEPLORES EUROPEAN PARLIAMENT DECISION ON WORKING TIME DIRECTIVE

On 11 May, the European Parliament plenary adopted the report on the revision of the working time directive.

In its press release reacting to the report, UNICE deplored the changes made and believed that reducing flexibility in working time was inconsistent with the objectives of enhancing growths and jobs in Europe. It also recalled the main concerns for business and called on the Commission and the Council to take them on board.

Currently, the European Commission is drafting a revised proposal to take into account the EP amendments which could be published only very shortly before the 3 June Social Affairs Council. The Council could have a first discussion on the Commission revised proposal at its 3 June meeting. Nevertheless, further discussions in the Council could take place still under the Luxembourg Presidency.

For further information, please contact Lorena Ionita or consult UNICE press release.

PUBLIC PAPERS RECENTLY ADOPTED

- UNICE response to the Commission's Green Paper on <u>economic migration</u>
- UNICE position on the Commission proposals for <u>integrated guidelines for growth and jobs</u>

WORK IN PROGRESS

- UNICE position on the Commission green paper on demographic change
- UNICE position on the Commission Communication on restructuring and employment
- UNICE reply to the social partner consultation on the simplification of health and safety legislation

INTERNATIONAL RELATIONS

WTO/DDA: NEGOTIATIONS MUST MOVE FORWARD ON ALL FRONTS

To prepare for the Hong Kong Ministerial Conference (13-18 December 2005), UNICE has been actively promoting EU business interests in the DDA. UNICE's Roadmap to Hong Kong develops the key negotiating themes that require significant progress up to and in Hong Kong: rapid progress in the industrial market access negotiations to significantly reduce applied tariff rates and to remove NTBs; significantly improved services offers to generate real new business opportunities; real progress in negotiations on a WTO trade facilitation agreement to speed up customs clearance and lower trade costs and strengthen WTO rules in areas such as antidumping, anti-subsidy and regional trade arrangements.

For further information, please contact Adrian van den Hoven.

ECONOMIC RELATIONS WITH RUSSIA: A CALL FOR PROSPERITY AND COMPETITIVENESS IN GREATER EUROPE

In a statement prepared for the 10 May 2005 EU-Russia political summit, UNICE called for a renewed focus on economic cooperation in greater Europe. UNICE's overall aim is to support the deepening of relations between the two European strategic partners through continued growth of bilateral trade and investment between the EU and Russia. UNICE hopes that Russia will rapidly accede to the WTO under commercially sustainable terms by addressing outstanding issues and concrete implementation ensuring of commitments. Looking ahead, UNICE considers the proposal for a common economic space to be an excellent basis for the creation of an open and integrated market for EU and Russian business. The statement also underlines some of the current issues affecting the business environment, which should be addressed by the EU and Russia to improve economic relations, such as the energy dialogue, the development of a transparent investment regime in Russia, cooperation on regulatory issues, concerns over customs reform, the importance of transport links and visa/work permit issues, which should be addressed effectively by EU and Russian officials.

For further information, please contact Adrian van den Hoven or consult UNICE statement.

A SPRINGBOARD FOR DEVELOPMENT IN AFRICAN, CARIBBEAN AND PACIFIC (ACP) COUNTRIES: THE EU-ACP ECONOMIC PARTNERSHIP AGREEMENTS (EPA)

For European business, EPAs could serve as a springboard to put the ACP economies on the path of international competitiveness. Five main issues are developed in the UNICE position on the EPA process. First, UNICE supports the EPA focus on regional integration to encourage economic growth in the ACP regions. Second, it calls for a reasonable time-table for the implementation of goods liberalisation in line with the development objectives of the ACP countries. Third, European business firmly believes that EPAs need to address a broad range of issues that can contribute to

economic development such as trade facilitation, services, procurement and foreign direct investment in recognition of the development needs of the ACP countries. Fourth, it is important to adapt and coordinate EU development assistance to promote market reform and opening and to assist in the development of vibrant private sectors in the ACP regions. Finally, UNICE calls on the EU and the ACP countries to support greater participation and closer cooperation with the private sector in the EPA process.

For further information, please contact <u>Adrian van den Hoven</u> or consult <u>UNICE position</u>.

PUBLIC PAPERS RECENTLY ADOPTED

- 9 May UNICE Position on <u>Economic Partnership Agreement Negotiations</u>
- **3** May UNICE Statement on <u>EU-Russia Economic Relations</u>
- 26 April UNICE comments on the <u>reform of export controls of dual-use goods</u>

WORK IN PROGRESS

- UNICE fiche on Development aspects of the DDA
- UNICE position on EU-China Economic Relations

Your OPINION?

Your comments and/or suggestions are welcome. Please do not hesitate to e-mail them to our Communication Department at <u>mailto:news@unice.be</u>. For more information about UNICE and its member federations, consult UNICE's website at

www.unice.org.

INDUSTRIAL AFFAIRS

EUROVIGNETTE SAGA REACHES A CONCLUSION – OR HAS IT...?

After months of delay, the European Council has finally reached a political agreement on the Eurovignette (charging for the use of infrastructure by heavy goods vehicles over 3.5 tonnes) proposal which was approved by qualified majority voting (QMV). While this agreement appears to signal the conclusion of a process which has dragged on in the Council for a number of months, the reality is that the debate on this issue is far from finished.

The main outstanding issues which were cleared up in the Transport Council meeting on 21 April were:

- Definition of construction costs (infrastructure constructed 30 years prior to the coming into force of this directive will not be covered by this proposal);
- Surcharges to finance alternative infrastructures (read rail. A surcharge may be levied of between 15 – 25% in sensitive mountainous areas or to assist cross-border routes);
- Toll variations (their adaptation depending on certain criteria e.g. time of day, levels of pollution, etc.);
- Concession method of toll collection employed in France;
- Frequent-user discounts;
- Allocation of receipts.

A number of concessions were required on the part of many Member States before agreement was reached on this proposal.

From an industry point of view, the political agreement reached is not one which by and large we can be positive about. In particular industry was strongly in favour of the Commission's proposal whereby receipts raised by these tolls should be reinvested in the transport infrastructure (maintenance, construction, safety etc.). The Council did not agree and under this agreement Member States will be free to decide on the allocation of receipts as they please, i.e. they may channel funds towards sectors other than the transport sector (such as the health sector etc.).

Under the co-decision procedure (which applies in this case), the European Parliament has second reading rights on this proposal (now modified as a result of the Council's political agreement) and it is unclear at the moment whether or not the EP will agree with the Council on the detail of their agreement (though on the allocation of receipts issue it would appear that they agree). If it does not then it is likely that this issue has a way to run yet as it will go to conciliation between the two institutions.

For further information, please contact Vincent McGovern.

UNICE'S POSITION ON THE REVISION OF THE WASTE FRAMEWORK DIRECTIVE

The Commission recognises the need to revise the waste framework directive, in particular to clarify the interpretation of the definition of waste. This latter has been a major issue for industry and UNICE welcomes the launch of this revision. The proposal by DG Environment is expected in July 2005. In the meantime UNICE has drafted a position paper highlighting the main aspects that need to be addressed.

The UNICE proposal ties in with and complements the current rules of the waste framework directive. The objective is to base the distinction between waste and non-waste on the economic viability of recovery operations together with environmental and safety specifications. Therefore:

- It adds a fourth criterion to the definition of waste. A substance or object is not waste if it is economically useful in its existing form.
- In addition, the concept of recovery is defined. Waste recovery takes place when waste is used in the production of secondary raw materials, fuels and recycled products or when it generally substitutes other materials.
- By contrast the disposal of waste is defined as a process where waste is removed from the economic circuit.
- Another essential element of the proposal is the determination of when waste ceases to be waste. This is the case when substances or objects meet European specifications as secondary raw materials after the recovery process is finalised.

For further information, please contact <u>Nadine Toscani</u> or <u>Miriam Munnich</u> or consult <u>UNICE</u> <u>position</u>.

PUBLIC PAPERS RECENTLY ADOPTED

- UNICE views <u>TENs financial aid to transport infrastructure</u> (4 May 2005)
- UNICE position on the <u>revision of the Waste Framework Directive</u>

WORK IN PROGRESS

- Drafting of amendments on REACH proposal
- UNICE contribution on a global "sector approach" to reduce greenhouse gas emissions
- UNICE position on EU policy regarding the use of renewables for the generation of electricity
- UNICE contribution on EU policy for energy efficiency
- UNICE comments on the review of the emissions trading directive (Climate Change)
- UNICE response to Commission proposals for market access to port services
- UNICE Opinion on the 7th RTD Framework Programme

ENTREPRENEURSHIP & SMES

LET SMES GROW!

UNICE has recently issued a publication where European entrepreneurs and SMEs speak out their need for growth: Let SMEs Grow!

In the European economic landscape entrepreneurs and SMEs are the driving force of growth and job creation. However, policy-makers must heed their requests if Europe is to reach the goal set by EU leaders in the Lisbon Strategy for Europe to become the most competitive knowledge-based economy in the world.

This document in its initial phase sums up the recommendations of

entrepreneurs and SMEs on five main policy areas to foster Europe's entrepreneurial spirit and support growth of SMEs:



- Coordinated, streamlined, measurable and strong entrepreneurship and SME policy,

- Concrete translation of commitment to entrepreneurship education,

- Easy access to finance,
- Less obstructive taxation and

- Better regulation: reducing administrative burdens and ridding Europe's entrepreneurs of unnecessary red tape.

In the future, responding to the broad impact of EU policy on entrepreneurs and SMEs, this document will be reinforced by UNICE views on additional policy issues ranging from 'company law' to 'accounting', 'state aid' to 'intellectual property', and many others.

For further information, please contact <u>David Coleman</u> or consult <u>UNICE publication</u>.

PUBLIC PAPER RECENTLY ADOPTED

Let <u>SMEs grow!</u> - European companies speak out their need for growth

WORK IN PROGRESS

Preparations for a UNICE Seminar on SME Access to finance

PIN BOARD / EVENTS

UNICE POLICY COMMITTEES

To strengthen its services dimension, UNICE has created a new "Internal Market" Policy Committee which brings together UNICE's goods-related and services-related activities. A platform for exchanges of information open to all professional federations will be created in collaboration with the European Services Forum and coordinated by Pascal Kerneis, Managing Director of ESF. In consultation with the Chairman (not yet nominated), the work of the Internal Market Policy Committee will be programmed by Jean-Paul Mingasson in collaboration with Daniel Cloquet, assisted by Vincent McGovern and Carlos Almaraz.

In addition, and in order to create a closer match with their portfolios, the names of two Policy Committees have been changed: Company Affairs Committee becomes Legal Affairs Committee, and External Relations Committee becomes International Relations Committee.

Finally, some chairs of UNICE Policy Committees have been renewed recently. We are pleased to provide our readers with an updated list below.

Economic and Financial Affairs Committee: Entrepreneurship & SME Committee: Industrial Affairs Committee: Internal Market Committee International Relations Committee: Legal Affairs Committee: Social Affairs Committee: Mr Jean-Paul Betbéze (Crédit Agricole) Mr Francesco Bellotti (Fratelli Bellotti) Mr Fabrizio d'Adda (ENI) [to be nominated soon] Mr Bernd Stecher (Siemens) Mr Philippe Lambrecht (VBO-FEB) Mr Eero Leivo (Metso Corp)

New Chairmen for Competition and Transport Working Groups

After 10 years of very active chairmanship of UNICE's working group on "Competition" Mr Peter Plompen decided to step-down as chairman in view of his retirement from Philips International. Mr Klaus Becher will be the new chairman of the working group. Mr Becher is General Counsel at DaimlerChrysler Services AG, Germany and has highly valued expertise in competition law matters. IBEC nominee Tom Noonan takes over as Chairman of UNICE's Transport Working Group on 1 June. He will be assisted by two vicechairmen; Rune Landin (A.B. Volvo) and Alfredo Macchiati (Ferrovie dello Stato). Mr Noonan is the CEO of the independent Irish oil company Maxol and was previously chairman of IBEC's Transport and Logistics Council.

NEW ARRIVAL IN UNICE

Ms Sonja Polan has started her work as an adviser in UNICE's International Relations Department in charge of enlargement and trade policy issues. She can be reached at: <u>sp@unice.be</u>.