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Membre de l'Union des Éditeurs de la Presse Périodique

MESSAGE FROM SECRETARY GENERAL

Dear UNICE@news Readers,

Difficult month for Europe



This has been a difficult month for Europe. The European Union has been thrown into a deep crisis following the negative votes in referendums on the Constitutional Treaty held in France and the Netherlands. In both cases, citizens were voting partly to express dissatisfaction with their national governments, but there were also genuine European concerns such as fears about the pace of enlargement. There also appears to have been a perception that Europe's elites were pushing through a project on which citizens had not been properly consulted. This debate is now out in the open, and this must be turned to positive advantage.

UNICE continues to believe that the document is a good balance and gives a good response for Europe's governance needs. What it does not do – and was not intended to do – is relieve European policy-makers of the need to implement reforms at national level. The referendums have shown that communication has been inadequate. It is now up to the governments of Member States to find the right solutions – as quickly as possible. Without reforms, the Growth and Jobs strategy will be a dead letter.

The other main item on the European Council's agenda was the Financial Perspectives 2007-2013, which also turned out to be a thorny issue with arguments about who should pay and receive what. UNICE regrets that the summit was not able to agree a budget, since the resulting uncertainty will make planning difficult and could delay important programmes. We hope that agreement can be reached before the end of the year under the British Presidency.

It is essential that the Financial Perspectives live up to their vocation as an instrument for the Growth and Jobs strategy, with a clear bias in spending towards competitiveness-enhancing programmes such as research, transeuropean networks, training and support to innovative SMEs. The argument that the Financial Perspectives have to set the conditions for a 21st century economy is the right one and has to be supported.

A handwritten signature in blue ink, which appears to read 'Philippe de Buck'.

Philippe de Buck
Secretary General

DECLARATION BY UNICE PRESIDENT: "CONSTITUTIONAL CRISIS OR NOT, EUROPE NEEDS GROWTH AND JOBS"

■ After the two negative referendums in France and the Netherlands, UNICE's Council of Presidents has examined the current situation and agreed the following statement.

The European business community wants to reiterate its commitment to the European Union, which has brought about peace and freedom. It has also organised an internal market which has generated important economic growth and creates the conditions for social progress.

Nevertheless, the crisis in the EU ratification process comes at a difficult moment for the EU:

- economic growth in most of the Member States is totally insufficient;
- job creation is poor and unemployment high;
- public finances are threatened by a large implicit debt due to unfunded liabilities in pension and health care systems;
- external competition from the USA and Asia is growing, challenging the European industrial base.

It is therefore essential that the EU leaders:

- pursue implementation of the Growth and Jobs strategy at both EU and national levels;
- create an environment that enables the EU to take full advantage of international trade opportunities;
- clarify the future of the ratification process in order to put an end to the current uncertainty;
- assess why citizens rejected the Constitutional Treaty and how to better include them in the EU project.

Now it is up to national governments, the European Council, the Commission and members of the European Parliament to explain to European citizens the benefits of reforms which are indispensable in order to sustain social progress across Europe which associates growth and solidarity. The reforms concern education systems, flexibility in the labour market, pension and health care systems and the functioning of the internal market for services.

Businesses are essential to the Growth and Jobs strategy and will continue to communicate this clearly. Therefore, it is imperative that the EU leaders take full responsibility in clearly defining the appropriate framework which would lead to enhanced competitiveness in Europe by increasing entrepreneurship, innovation, research and development. If not, the lack of confidence of businesses throughout the EU will be even greater.

Achieving a final decision on the financial perspectives 2007-2013 with competitiveness issues as the main target would send a clear signal to restore confidence in the European Union.

*UNICE Council of Presidents
10 June 2005*

UK PRESIDENCY TO FILL IN THE BLANKS

■ The UK will take over the chair of the EU as it tries to deal with two large problems on the discussion table: the future of the Constitutional Treaty and the EU's budget. This is not to mention the various specific proposals such as REACH or the Services Directive which require advancement in the Council. It is therefore a major challenge to the UK government, and the CBI has been working together with them to help ensure the success of the Presidency in certain key areas for business.

Following on from the Spring Summit, where Member States committed to the Lisbon process of economic reform, it is the UK which will have to ensure that national action plans for growth and jobs are produced in the autumn, in spite of calls from other Member States to focus on the internal questions. Business has been a strong supporter of the Lisbon process, which is essential to the long-term future of the EU, and welcomes the renewed vigour with which the Commission has taken to the task of making the goals of competitiveness a reality for Europe.

We hope that the UK Presidency can fill in the blanks and ensure that the necessary cooperation from governments appears as well.

Better regulation has been one of the common threads through the four Presidencies in 2004 and 2005, and the UK government has made it clear that it is not going to break that thread. There has already been progress in this area at national level, and British business hopes that lessons can be learnt at European level thanks to the leadership role of the UK in this respect.

On the external aspects, the CBI and European business in general urges the UK Presidency to work for progress on the Doha Development Agenda at the ministerial meeting in Hong Kong, and to look at finding global solutions to the problems of climate change. The leadership role that Europe plays must be one that creates support, not isolation in today's global market.



*by Andrew Moore, Permanent Delegate
Confederation of British Industry*

UNICE REACTS TO EP'S WORK ON SERVICES DIRECTIVE

■ Our readers will remember that, on services, UNICE is of the opinion that the Commission's approach based on a broad application of the country of origin principle is the most suitable instrument to provide legal certainty, to promote free establishment and movement of services and to tackle obstacles that are holding the well-functioning of the services market in Europe.

UNICE is following attentively first reading discussions on this proposal by the EP. We have read the draft report prepared by Ms Evelyne Gebhardt, draftswoman in IMCO, with concern, in particular with respect to the effect of her proposed amendments on the workability, efficiency and legal certainty of the directive. Indeed Mrs Gebhardt excludes many sectors from the directive's scope and replaces the country-of-origin principle with mutual recognition, which is undermined by a long list of derogations and exceptions, and which is coupled with the need for minimum harmonisation of a great number of areas.

UNICE believes that Ms Gebhardt's proposal will not serve to attain efficiently the objectives sought or be able to create a well-functioning internal market for services that is crucial for meeting the Lisbon objectives of increased growth and employment. It also believes that her proposal would lead to increased legal uncertainty and regulatory burden. UNICE has already reacted to the first part of the report with [detailed views](#). It is currently preparing detailed comments on the second part of the report.

Concerning the work by Mrs Van Lancker, draftswoman in the Employment Committee, UNICE has just sent a [letter to MEPs](#) to express its serious concerns about her proposal. UNICE points out that the proposed limitation of the scope of the directive will reduce dramatically the ability of the directive to achieve its objectives. Neither consumers nor workers nor service providers would benefit from such a narrow approach.

For further information, please contact [Carlos Almaraz](#).

ECONOMIC AND FINANCIAL AFFAIRS

FINANCIAL PERSPECTIVES 2007-2013: URGENT NEED TO RESTORE CONFIDENCE!

On 17 June 2005, the European Council was unable to reach an agreement on the financial perspectives 2007-2013, i.e. the future EU budget. This is highly regrettable, since Europe can hardly afford any delay in implementation of Community policies. A new compromise has to be reached as a matter of urgency under the UK Presidency in order to restore confidence in the European Union. This compromise should meet European citizens' concerns regarding poor job creation and high unemployment and therefore gives the highest priority to competitiveness-enhancing programmes such as research, trans-European networks, training and support to innovative SMEs. In particular, most of the new initiatives should be maintained and financed under the forthcoming research and innovation framework programmes.

It is likely that the renewed negotiations in the Council will steer again towards an overall envelope significantly lower than the Commission's proposal but this should not be achieved at disproportionate expense to competitiveness-enhancing policies. With the likelihood of a very tight budget constraint and notwithstanding recognition of efforts provided since 2002, the question of common agricultural expenditure will have to be addressed.

The delay in reaching an agreement on EU financial resources should not be used as an excuse to postpone the elaboration of the National Action Plans to implement the Growth and Jobs Strategy. Structural reforms need to be delivered in most Member States. Oral commitments by national governments must be matched in the share of the national budget related to competitiveness.

For further information, please contact [Jean-François Maystadt](#) or consult [UNICE reaction to the European Council Summit](#) or [UNICE position paper on the 2007-2013 Multiannual Financial Framework](#).

LEGAL AFFAIRS

EP LEGAL AFFAIRS COMMITTEE VOTE ON COMPUTER-IMPLEMENTED INVENTIONS

On 20 June 2005, the Legal Affairs Committee at the European Parliament (EP) voted on the amendments regarding the proposed directive on the patentability of computer-implemented inventions, currently going through the second reading at the EP.

Most of the amendments proposed by the rapporteur were rejected. The final result was 16-10 votes with the Socialists and the Greens voting against the common position as amended. The plenary vote is scheduled for 6 July 2005.

UNICE considers the result of the vote a step in the right direction, even though there is still need for further clarification.

Some of the amendments adopted, regarding in particular the definition of technical contribution with the adoption of the 'forces of nature' concept, do not enhance legal certainty. In addition, further clarification is necessary regarding the issue of program product claims, the definition of interoperability and the use of other definitions (computer-assisted inventions).

UNICE, with its member federations, will intensify its contacts with members of the EP in view of the plenary vote, in order to demonstrate the issues at stake for Europe's innovators.

For further information, please contact [Ilias Konteas](#).

EUROPEAN COMMISSION SEMINAR: ENLARGEMENT AND CONSUMER PROTECTION

On 20-21 June 2005, the European Commission (DG Health & Consumer Protection and DG Enlargement) organised a seminar entitled “Enlargement and consumer protection. One year on the business perspective”. The aim of the meeting was to inform the business sector in the ten new Member States, as well as in Bulgaria, Romania and Turkey about their obligations arising from implementation of consumer protection legislation. Experts from European business federations (UNICE, Eurocommerce, UEAPME) presented the experience of EU business organisations in this respect.

In particular, it was an opportunity for the new Member States, one year after their accession to the EU, to look into the special challenges that have been encountered by the business community in

these countries and to exchange best practices and models.

It is expected that the workshop will also facilitate dialogue between the business community and representatives of national administration with responsibility in the field of consumer protection, as well as with European counterparts (institutional and platform interest groups).

UNICE actively participated in the organisation of the seminar and provided several speakers for the event. It was also represented by representatives of its member federations in the ten new EU countries plus Romania, Bulgaria and Turkey.

UNICE welcomes the organisation of events aimed at increasing the knowledge of economic operators in new Member States about EU policies.

For further information, please contact [Carlos Almaraz](#).

BUSINESS DOES NOT WANT MANDATORY AUDIT COMMITTEES

Readers will recall from previous editions of UNICE@News that the European Commission has proposed a new Directive on statutory audit of annual and consolidated accounts (hereafter “the 8th company law Directive”).

The stated aim is to “ensure that investors and other interested parties can rely fully on the accuracy of audited accounts and to enhance the EU's protection against the type of scandals that recently occurred in companies such as Parmalat and Ahold”.

UNICE contributed to the consultation process that took place prior to the Commission issuing its proposal. In light of what was proposed and the discussions between the European Parliament and the Council, concerns are crystallising particularly around Art 39 of the proposal which would make audit committees mandatory in listed companies.

Although the Rapporteur, Mr Bert DOORN (EPP-NL) initially requested the deletion of Article 39 in his [draft report](#), negotiations have been going on between the EP, the Council and the Commission to find a compromise.

The vote on [compromise amendments](#) in the Legal Affairs Committee was expected on 20-21 June.

UNICE takes this opportunity to reiterate its concerns regarding a prescriptive approach. We consider that a prescriptive approach as outlined in the Commission proposal would prevent the mission of audit committees changing according to market requirements as such is currently the case. For example, if originally the mission of audit committees was mainly to review accounts, they are now increasingly involved in decisions regarding the appointment of external auditors, monitoring their independence, etc.

We believe that audit committees should remain part of national codes and should not be prescribed in a Directive at EU level.

We adhere to the justification originally foreseen by the Rapporteur for deletion of Article 39: “The requirement to introduce an audit committee for public interest entities leads to complicated regulation and disrupts the debate on the further development of corporate governance at Member State level. This requirement would also lead to unnecessary administrative red tape and extra costs, and thus conflicts with the Lisbon strategy”.

For further information, please contact [David Coleman](#).

AMENDING 2ND COMPANY LAW DIRECTIVE ON CAPITAL MAINTENANCE: COULD DO BETTER!

On 29 October 2004 the European Commission presented a proposal for a Directive to make it easier for public limited liability companies to take certain measures affecting the size, structure and ownership of their capital. The proposal would amend the parts of the 1976 Second Company Law Directive covering the formation, maintenance and alteration of capital.

The report drafted by Ms Pia-Noora Kauppi, (EPP-Fin), the Rapporteur in the European Parliament's Legal Affairs Committee, was due to be discussed at the Legal Affairs meeting on 20-21 June.

For UNICE, in principle, the EU Commission deregulation proposals for the 2nd company law Directive are to be welcomed. Essentially, they follow the recommendations of the SLIM expert group from 1999, as well as those put forward in

2002 by the high-level expert group on company law (the Winter Group). In the course of several consultations, these recommendations were largely supported by interested parties. European business hopes that proposals facilitating measures related to the capital market and eliminating superfluous formalities will be implemented rapidly.

However, UNICE very much regrets that on several points the Commission does not go as far as the SLIM group recommendations. On other points, the advantages to be gained by simplifying administration have been taken away by unnecessary securities instruments and uncertain legal terms. The sell-out right of the shareholders as a counterpart to the squeeze-out should be rejected as there is no identifiable need for this. The complex procedure regarding the appropriateness of the price also lays it open to abuse.

For further information, please contact [David Coleman](#) or consult [UNICE comments](#).

BOARD RESPONSIBILITIES, CORPORATE AND FINANCIAL INFORMATION: BUSINESS SUPPORTS EP RAPPORTEUR

On the 27 October 2004, the European Commission also proposed a Directive to amend the so-called 4th and 7th company law Directives concerning annual and consolidated accounts. The aim of this proposal is to cover board responsibilities, financial and corporate governance information.

The Rapporteur in the European Parliament's Legal Affairs Committee, Mr Klaus-Heiner LEHNE

(EPP-D), will present his draft report for discussion at the meeting on 20-21 June.

We give our support to the [draft report](#) by Mr Lehne and underline that new legislation should not be imposed in matters that are already regulated in IFRS/IAS, other directives and/or national Corporate Governance Codes. The scope of this regulation should not be broadened to non-listed companies.

For further information, please contact [David Coleman](#).

PUBLIC PAPERS RECENTLY ADOPTED

- UNICE comments on the EC proposal to amend the [2nd directive on company law concerning the formation of public limited liability companies and the maintenance and alteration of their capital](#)
- UNICE comments on the [EP amendments for the second reading regarding the directive on the patentability of computer-implemented inventions](#)
- UNICE comments on the [draft memorandum of understanding on the role of national standard-setters and their relationship with IASB](#)
- UNICE letter to [IASB on IAS 21 : net investment in a foreign operation](#)

WORK IN PROGRESS

- UNICE response to second consultation by European Commission on shareholders' rights

SOCIAL AFFAIRS

CURRENT ACTIVITIES IN THE EUROPEAN SOCIAL DIALOGUE

- As part of their current joint work programme 2003-2005, the European social partners will shortly undertake the following initiatives:
- ageing workforce: seminar to explore possible joint actions
 - young people: promoting young people's interest in science and technology through -joint declaration and/or awareness-raising campaign
 - undeclared work: seminar aiming at a joint opinion
 - racism: updating 1995 joint declaration

In addition, UNICE/UEAPME, CEEP and ETUC have started reflecting on the content of the next work programme for the EU social dialogue starting in 2006. In this context, on 10 June 2005, UNICE's Council of Presidents discussed the approach to be suggested by UNICE to the other European social partners, namely developing a new work programme along the lines of the existing work programme, firmly embedded in the Lisbon strategy, and focusing on two main themes: employment and enlargement.

For further information, please contact [Thérèse de Liedekerke](#).

UNICE CONCERNED ABOUT COMMISSION AMENDED PROPOSAL ON WORKING TIME

■ On 2 June, the Social Affairs Council had a first discussion on the European Commission amended proposal on the revision of the working time. The amended proposal takes into account the European Parliament's report adopted in the first reading.

In its press release reacting to the 2 June Social Affairs Council discussions, UNICE expressed its deepest concerns regarding the amendments on the opt-out (removal of the opt-out after a period of three years from the date of implementation of the

revised directive) and on the reference period for calculating maximum weekly working time (tighter conditions for extending the reference period up to 12 months).

European employers noted that the proposals regarding the inactive part of the on-call time and the compensatory rest provide a good basis for discussions.

UNICE is currently examining the details of the amended proposal.

For further information, please contact [Lorena Ionita](#) or consult [UNICE press release](#).

SIMPLIFICATION OF PROVISIONS OF THE HEALTH AND SAFETY DIRECTIVES ON PRACTICAL IMPLEMENTATION REPORTS: UNICE REPLIES TO CONSULTATION

■ UNICE supports the Commission's plans to harmonise the periodicity of implementation reports and to require implementation reports for all health and safety directives. A new specific directive to amend the reporting provisions in relation to existing directives would be the most appropriate and straightforward means swiftly to achieve a certain simplification and unification in this sense.

However, UNICE has expressed some reserves on other issues raised in the consultation document. The introduction of a single report, for example, would require this report to be sufficiently detailed

to provide for a sound analysis and evaluation of each of the transposed directives and its implementation with a view to be of use. Moreover, attempts to harmonise the social partners' contributions are deemed unacceptable.

While a simplification of health and safety provisions on practical implementation reports would essentially benefit Member States' authorities, UNICE stresses that what is mostly needed is a genuine simplification of the complex regulatory environment for companies, alongside a true commitment to better regulation.

For further information, please contact [Natascha Waltke](#) or consult [UNICE reply](#).

PUBLIC PAPERS RECENTLY ADOPTED

- UNICE reply to the social partner consultation on the [simplification of health and legislation](#)

WORK IN PROGRESS

- UNICE position on the Commission green paper on demographic change
- UNICE position on the Commission Communication on restructuring and employment

INTERNATIONAL RELATIONS

TEN YEARS OF THE BARCELONA PROCESS: TIME TO INJECT NEW MOMENTUM

■ In a joint statement to the VIIth Euro-Mediterranean Foreign Ministerial Conference on 30-31 May 2005, UNICE and UMCE (Union of Mediterranean Confederations of Enterprises) called for a refocus of the Euro-Mediterranean Partnership on targeted deliverables. Ten years have elapsed since the launch of the Barcelona

Process and it has fallen short of delivering its expected results. Euro-Mediterranean business believes that time has come to breathe new life into the process for the next five years. The success of the Barcelona Process is key to strengthen Euro-Mediterranean economic competitiveness on the world stage.

For further information, please consult [UNICE-UMCE Joint Statement](#).

UNICE DELEGATION IN RUSSIA

A small UNICE delegation was in Moscow from 8-10 June 2005 to discuss EU-Russia economic relations and implementation of the EU-Russia Common Economic Space. On that occasion it met UNICE's business partner in Russia, representatives from various Russian Ministries and EU representatives in Moscow. UNICE will



step up its activities on Russia so as to improve the environment for European business in that country.

Photo: T. Laukkanen, J. Hansen and P. Thagesen in front of the Lenin Mausoleum in Moscow

For further information, please contact [Adrian van den Hoven](#).

WTO/DDA SERVICES NEGOTIATIONS

UNICE is very concerned about the state of the DDA services negotiations. That is the message conveyed on 31 May 2005 by UNICE Secretary General Philippe de Buck on the occasion of the European Services Forum (ESF) High Level Meeting with Trade Commissioner Peter Mandelson. ESF leaders warned that current services offers in the DDA often fall short of providing new business opportunities through real market opening. The leaders also emphasised that developing countries need access to modern services if their economies are to grow and their exports are to compete in world markets. Improved GATS offers can help accelerate this process and encourage investment in more modern

services. Commissioner Mandelson underlined the importance of the services negotiations for the EU and the need to get better offers for the round to succeed.



For further information, please consult [ESF press release](#).

WORK IN PROGRESS

- UNICE fiche on Development aspects of the DDA
- UNICE position on international investment
- UNICE fiche on DDA NAMA negotiations

ENERGY EFFICIENCY: UNICE COMMENTS ON THE FUTURE DEVELOPMENT OF EU POLICY

In the context of preparation of the Commission green paper on energy efficiency, UNICE has sent Commissioner Piebalgs and Commission officials an own-initiative contribution which highlights the fundamental process whereby energy efficiency is achieved in industry, and the lessons to be learnt for the development of EU policy. This document, which also comments on some elements of the directive on energy end-use efficiency and energy services, has also been sent to COREPER in view of the Energy Council on

28 June 2005 which is expected to discuss and adopt the said directive in a substantially amended form.

The Commission adopted the green paper on energy efficiency on 23 June 2005 and has submitted it to interested parties for consultation. UNICE will prepare a detailed contribution in the context of this consultation. A task force has been put in place to this end, chaired by Mr Frits de Groot (VNO-NCW).

For further information, please contact [Daniel Cloquet](#) or consult [UNICE contribution](#).

REACH BURDENS ON SMEs CAN BE REDUCED WITH A RISK-BASED APPROACH

Industry has developed concrete proposals for a risk-based approach, which would keep the same timeline of 11 years to implement the REACH scheme. These proposals would present the following strong economic and environmental benefits:

- Earlier information exchange through pre-registration which will facilitate consortium formation, incorporating SMEs from the start if they deem it appropriate
- More proportionate information requirements, which means first tackling substances of high concern and facilitating registration of substances of low concern, therefore allocating resources where most appropriate
- Devising suitable measures for risky substances earlier in the process, independent of their volume
- Minimising animal testing.

This approach particularly serves SMEs as they can focus on the information they need to demonstrate safe use of their products, without generating an extensive data set which does not provide any additional benefit to health and/or environmental protection.

Furthermore, through a pre-registration step, lower volume manufacturers or importers can identify at an early stage potential for consortium formation with higher volume manufacturers or importers for sharing expertise and resources.

The proposal would therefore enable more efficient processing of the 30,000+ substances within the same 11-year timeframe proposed by the Commission. On top of that, this proposal would allow for appropriate measures to be taken on substances of highest concern, independent of production volumes, earlier than currently scheduled.

The main difference with the Commission proposal, which foresees the generation of extensive data and test requirements regardless of the actual risk a substance poses, is that we propose a combination of volume thresholds, as proposed by the Commission, together with risk-based prioritisation.

Industry's specific and pragmatic suggestions for a risk-based approach have also been addressed in amendments tabled in the European Parliament.

For further information, please contact [Nadine Toscani](#).

PUBLIC PAPER RECENTLY ADOPTED

- UNICE contribution on preparation of a Commission [Green Paper on Energy Efficiency](#)

WORK IN PROGRESS

- UNICE response to Commission proposals for market access to port services
- UNICE comments on the European Commission's White Paper on the review of Regulation 4056/86, applying EC competition rules to Maritime Transport
- 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 comments on the review of the emissions trading directive (Climate Change)
- UNICE Opinion on the 7th RTD Framework Programme

PIN BOARD / EVENTS

CONFERENCE ON EUROPEAN CONTRACT LAW

■ The European Commission and the UK Presidency will jointly hold a [conference](#) on the theme of "European Contract Law: better lawmaking through the Common Frame of Reference". This event will take place on 7 and 8 July in London.

The conference will bring together representatives of the European institutions and European Governments, business, consumer and professional stakeholders and other experts. UNICE will participate as a speaker to talk about needs of business stakeholders in the field of contract law and issues arising from the work of the stakeholder expert group set up by the Commission.

Your OPINION?

Your comments and/or suggestions are welcome.

Please do not hesitate to e-mail them to our Communication Department at <mailto:news@unice.be>.

For more information about UNICE and its member federations, consult UNICE's website at www.unice.org.