



To COREPER  
(by e-mail)

17 November 2009

Dear Ambassador,

BUSINESSEUROPE has appreciated the intensive and significant efforts of the Swedish presidency, building on the progress achieved by previous presidencies, towards a political agreement on both a common patent jurisdictional system for Europe and the Community Patent.

Europe's policy-makers must take the necessary political decisions to shape a high-quality, cost-effective and efficient patent system for Europe. This is necessary to boost Europe's competitiveness and innovation efforts in the global field.

We would like to reiterate the key elements of a common patent jurisdictional system for Europe.

Europe needs a common patent jurisdictional system because the existing fragmented patchwork of national patent jurisdictions is a barrier to intellectual property protection for companies and especially SMEs. A common patent jurisdictional system would bring important cost-savings of approximately 300 million euro that companies could devote to further research and development. In addition, such a system must deliver the highest quality, cost-effectiveness and legal certainty for companies.

BUSINESSEUROPE supports the setting-up of a European and Community Patent Court with highly experienced legally and technically qualified judges sitting in multinational panels and applying common procedural rules. Flexible solutions to handle validity and infringement disputes should be provided. Effective transitional mechanisms, including the possibility of an opt-out of the system for applicants, should be put in place to allow companies to gain trust in the new system. We strongly believe, however, that Europe's policymakers should start without delay to work towards building a real patent and language competency for judges to be appointed to the proposed Patent Court so that it may become operational from day one.



In order to have a cost-effective system, we support the use of a single language regime for court proceedings, namely the language in which the patent was granted.

BUSINESSEUROPE asks for a Community Patent that fully meets users' needs in terms of quality, cost-effectiveness and legal certainty and is set up in the current framework of the European Patent Convention.

We are at an important cross-road. We urge Member States to aim at a political agreement on a common patent jurisdictional system and the Community Patent sending a positive signal in favour of Europe's innovation and competitiveness. At the same time, Member States must avoid any unworkable solutions that would fail to meet the needs and requests of Europe's innovative companies.

Yours sincerely,



Philippe de Buck