

Brussels, 9 November 2010

Commissioner Michel Barnier  
European Commission

Dear Commissioner,

Ten years have passed since the Commission presented its proposal for a Community patent. The aim was then, and still is, the creation of a unitary patent title for the whole European Union that is affordable in terms of translation costs. The discussions in Council took an important step forward with the adoption of conclusions on an "Enhanced patent system for Europe" and a general approach on the proposal for a Regulation on the EU Patent in December 2009.

However, if the negotiations regarding an appropriate translation regime for the EU-patent continue to be blocked during the Council meeting of 10 November, it would be clear that European companies will be deprived of an unitary EU patent right for the foreseeable future. Meanwhile, Professor Monti has recently stated in his report on "A New Strategy for the Single Market" addressed to Commission President Barroso that "*[f]ailure to agree on EU patent is one of the most serious missing links in the single market.*" Furthermore the EU-patent is mentioned as a main priority in the EU 2020 strategy and the Flagship initiative "Innovation Union", and BusinessEurope, representing small, medium and large European companies, speaks clearly out in support of the Commission's proposal on the translation arrangements emphasising that it is now time for EU Member States to act and reach a final decision.

Representing Member States that find it imperative not to delay the move towards a more innovative Europe, we would like to ask the Commission to consider the feasibility of proposing enhanced cooperation in this area, should the Commission in the near future be presented with a request to propose such a cooperation.

We consider that legislative proposals within enhanced cooperation should be based on the Council negotiations up to date in order to ensure participation by as many Member States as possible as prescribed by Article 328(1) of the TFEU. In line with this, enhanced cooperation could be structured around the Council's conclusions on an "Enhanced

9 November 2010

---

patent system for Europe" and the general approach on the proposal for a Regulation on the EU Patent adopted by unanimity on 4 December 2009 as well as the Commission's proposal (COM (2010) 350) for a Council Regulation on the translation arrangements for the European Union patent that, with some amendments, has found a large support in Council.

We have chosen to take the step of writing this letter for the sake of the competitiveness of European businesses and the credibility of the EU as a whole. It goes without saying that all elements of the package have to be put in place for the EU patent to come into effect.

Yours sincerely,

Batt O Keeffe, TD  
Minister for Enterprise, Trade and Innovation of Ireland

Maxime Verhagen  
Vice Prime Minister and Minister of Economic Affairs, Agriculture and Innovation of the Netherlands

Darja Radić  
Minister of the Economy of Slovenia

Ewa Björling  
Minister for Trade of Sweden

Baroness Wilcox  
Parliamentary Under-Secretary for Business, Innovation and Skills of the United Kingdom

Cc: Secretary-General Catherine Day, European Commission