

Minister For Agriculture and Food Mary Coughlan  
Agriculture House  
Kildare Street  
Dublin 2

January 21, 2005

**European Patent Directive (2002/0047 COM (COD))**

Dear Minister for Agriculture and Food, Ms. Mary Coughlan, T.D.,

At the Agricultural Council's meeting next Monday, the Directive COM 2002/0047 (COD) "On the Patentability of Computer-Implemented Inventions" (Software Patent Directive) is likely to be inserted into the list of A-items at the last minute.

The Irish Free Software Organisation calls on you to object when the Council President asks for confirmation of the agenda (at the beginning), and demand the removal of the software patent directive from the list of A items.

The directive will have drastic consequences for Europe's indigenous software industry and it is unacceptable that such a controversial proposal should be put forward for adoption without discussion.

There are several procedural grounds on which you should object to this item being accepted:

- The Council's rules of procedure demand that the provisional agenda be sent 14 days in advance. In this case, the software patent directive was set on the agenda less than one day before the session.
- The proposed text of the directive does not enjoy a qualified majority. It has been inserted into the agenda on the basis of deceptive tactics by the European Commission and questionable interpretations of the Council's rules of procedure. The Spanish, Italian, Austrian and Belgian governments do not support it. Furthermore the Dutch Parliament has withdrawn support for the directive, as has the Polish government. The German Bundestag has criticised it as "deficient".
- The explanatory documents for the Council draft were made available only in early December. This text rejects essential amendments by the European Parliament, arguing that they are "incompatible with the TRIPs treaty" or that they would not reflect "established practice". These arguments are new and not covered by any "political agreement". They cannot be adopted without a vote.

In Summary: The Council is interpreting its rules in an anti-democratic spirit, and,

in doing so, is creating new harmful precedents for the EU. It is inappropriate for the current Council proposal to be passed as an A-item, and there is no need for you as a minister of agriculture or fisheries to stand for this with your name. Please ask the concerned minister to take full responsibility for this directive and to credibly address the issues it raises.

Yours sincerely,

Glenn Strong  
(on behalf of the committee)