Commission proposal	Amendments by Parliament

Article 2, point (ba) (new)

	(bd) "technical field" means an industrial application domain requiring the use of controllable forces of nature to achieve predictable results. "Technical" means "belonging to a technical field". The use of forces of nature to control physical effects beyond the numerical representation of information belongs to a technical domain. The production, handling, processing, distribution and presentation of information do not belong to a technical field, even when technical devices are employed for such purposes.

Justification

The fact that a programmable apparatus, such as a generic computer, makes use of physical effects in order to process information should not be used to allow patent protection to the program running on such an apparatus.

This amendment synthesises Am. 16 Cult, Am. 19 Cult, Am. 23 Itre, Am. 24 Itre. and Am. 25 Itre (was: JURI 45)

Commission proposal	Amendments by Parliament

Article 4, paragraph 1

1. Member States shall ensure that ***a computer-implemented invention is patentable on the condition that it is susceptible of industrial application, is new and involves an inventive step.***	1. Member States shall ensure that ***patents are granted only for technical inventions which are new, non-obvious and susceptible of industrial application***

Justification

Article 4(1) should be coherent with the amended version of Article 2. There must not be distinctions between patentable and non-patentable inventions. This amendment synthesises Am. 11 Cult, Am. 20 Cult, Am. 28 Itre, and Am. 29 Itre.. (was: JURI 48)

Commission proposal	Amendments by Parliament

Article 4, paragraph 3

3. The technical contribution shall be assessed by consideration of the difference between ***the scope of the patent claim considered as a whole, elements of which may comprise both technical and non-technical features,*** and the state of the art.	3. The technical contribution shall be assessed by consideration of the difference between ***all of the technical features of the patent claim*** and the state of the art.

Justification

The wording of this article is self-contradictory, as it seems to state that a technical contribution may consist of non-technical features. One should ensure that the conditions of novelty and inventive step regard the technical contribution, otherwise any novel software running on a non-novel technical device could be patentable

This amendment synthesises Am. 32 Itre and Am. 33 Itre. (was: JURI 52)

Commission proposal	Amendments by Parliament

Article 5

Member States shall ensure that a computer-implemented invention may be claimed as a product, that is as a ***programmed computer, a programmed computer network or other programmed apparatus,*** or as a process ***carried out*** by such a computer, computer network or apparatus through the execution of software.	Member States shall ensure that a computer-implemented invention may be claimed ***only*** as a product, that is a ***set of equipment comprising both programmable apparatus and devices which use forces of nature in an inventive way,*** or as a ***technical production*** process ***operated*** by such a computer, computer network or apparatus through the execution of software

Justification

The original wording of this article is confusing, since allowing to patent programmed generic computers would be equivalent to allowing to patent their software as such. Also, one must make sure that the production of information cannot be considered as an industrial production process.

This amendment synthesises Am. 24 Cult, Am. 25 Cult, Am. 37 Itre and Am. 38 Itre. (was: JURI 59)