UK Presidency

European Corporate Governance conference

14 November 2005, London

Reiner Hoffmann
Deputy General Secretary
European Trade Union Confederation

- “The Lisbon Strategy is about improving our competitiveness in high added value products and services and more generally about securing Europe’s place on world markets by moving up the ladder of innovation, technology and productivity. Europe cannot compete with low wage countries for labour intensive products.”

- **Joint social partners declaration on the mid-term review of the Lisbon strategy (01.03.2005)**

- EU company law initiatives should therefore endorse the emergence and evolution of a European model of corporate governance, fostering company boards' orientation towards long-term value creation, high-trust labour relations, participation of employees in the company's decision-making process, and societal responsibility.

- Not only shareholders, but also workers, other citizens and the community at large have an interest in good governance of companies. The European corporate governance framework should provide proper institutional conditions for companies to foster long-term profitability and employment prospects, mechanisms to prevent mismanagement and transparency and accountability with regard to investments and their returns.

The globalisation of product markets and financial markets causes countries with different legal corporate governance frameworks to compete with one another to attract investments. Financial markets are driving companies to give centre stage to maximising profits and increasing shareholder value in the short term.

ETUC, however, thinks that a corporate governance model that motivates capital and labour to agree on all important elements of the company’s policy and management, will certainly perform better in the long run. It is precisely by means of such a model that polarisation within the company will be prevented as well as polarisation from society towards the company. It introduces stability and enables orientation to long-term goals.

An important basic contribution of the European Union to corporate social responsibility is through establishing and maintaining a well-balanced corporate governance framework by legislation.

We need a different approach to the ‘shareholders-model’. An approach that aims at finding a balance between the different interests. It looks at the labour force as human capital and consequently as a partner in business.

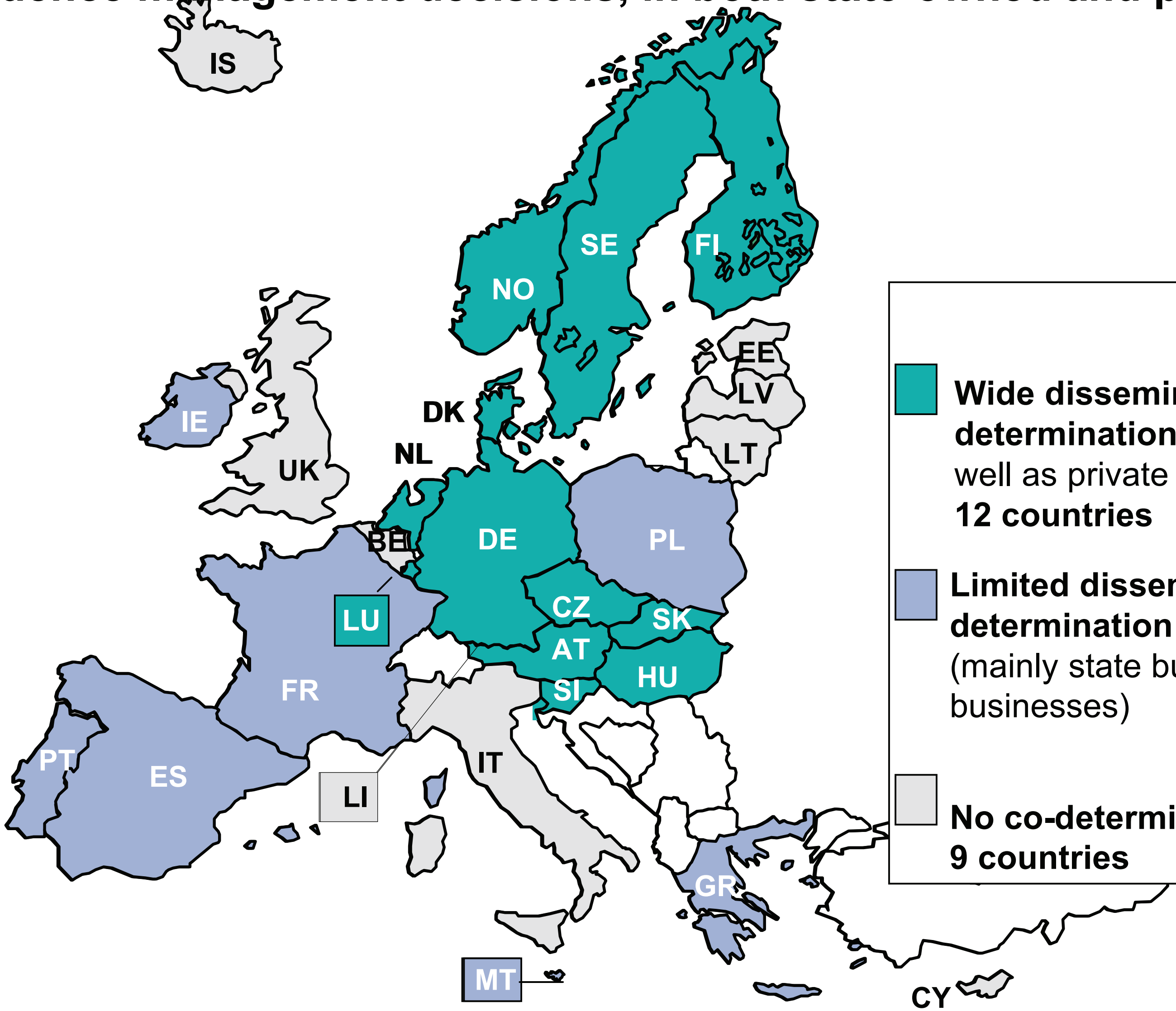
Essentials for a sound corporate governance framework:

- The board takes an independent position in such a way that it does not become a plaything of stock market forces;
- The executives are subject to expert and independent supervision by non-executives/supervisors who form a buffer between management and shareholders;
- The non-executives/supervisors are appointed in a way that guarantees expertise and independence from management and sets them at arms' length from the stakeholders;
- An institutional role is given to the employees in the company's decision-making system.

Workers are concerned with corporate decisions in different ways:

- As *employees* who seek a source of income for their livelihood, and good working conditions, regulated by collective agreement;
- As *business partners* entitled to be involved seriously and obligatory in the company's major decisions which concern them;
- As *investors* by holding shares directly or indirectly, for the most part providing for retirement income;
- As *citizens* who are interested in social justice and business ethics, not only locally by also globally.

In 12 (including Norway) out of 28 EU and EEA member states, workers have the obligatory and legally-binding right to be represented on boards and to influence management decisions, in both state-owned and private companies



Wide dissemination of co-determination rights (in state-owned as well as private businesses)
12 countries

Limited dissemination of co-determination rights
(mainly state but also privatised businesses) **7 countries**

No co-determination regulations
9 countries

M. Stollt / N. Kluge: 2005

Economic Performance of EU Countries, according to strength of board representation rights

Strength of board representation rights	Balance of Trade/ GDP 1999 -2003	Gini - Coefficient (ca. 2000)	Strike Rate 2000 -02 (Days per 1000 workdays)	BCI – Business Competitive -ness Index
Countries with strong rights (all Sectors covered, and more than 1 Representative)*	(+) 3.9 %	0.259	9.7	Rank 6.8
Countries with weak or no board representation rights * *	(-) 2.0 %	0.321	104.8	Rank 19.9

*AU, CZ, DK, FI, GE, HU, LU, NL, NO, SL, SI, SE

**BE, CY, EE, FR, GR, IC, IR, IT, LT, LIE, LV, MT, PO, PT, SP, UK

Source Vitols 2005

EU policy in the field of corporate governance must be reassuring and needs a clear direction.

On the one hand:

- Directive on European Works Councils
- European Company Statute

emphasize that ‘sound corporate governance’ needs management-labour relations in which employees’ participation in decision-making is statutorily recognized and guaranteed.

On the other hand:

The Thirteenth Directive on take-over bids and

The Fifteenth Directive on transfer of seats

must be coherent with employees' participation rights

The EU and its Member States should contribute to the evolution of a strong and reliable European model of corporate governance. This model should be basically incorporated in European and national statutory law and provide for:

- Full transparency on accounting and investment;
- Clear distinction of executive and non-executive/ supervisory board functions in the two-tier as well as the single board model;
- Incompatibility of executive responsibility and board chair responsibility in the one-tier board model;
- Publication of details of remuneration of individual (executive and non-executive/supervisory) board members and top managers;

…/…

.../...

- Participation of employees in the company’s decision-making process either through representation in the company’s (supervisory) board (including their presence in its main committees), or through company level (central) works councils being assigned with adequate consultation and participation rights;

- Introduction of a right of shareholders, representing a specified share capital percentage, as well as trade unions to request the court for an investigation into the company’s affairs and management if these give rise to serious doubts, and for judicial intervention if the investigation proves mismanagement;

.../...

…/…

- Mechanisms to promote long-term investment and responsibility, such as double voting rights for long-term shareholders;
- Upholding the company board's ability – under judicial control – to counteract a take-over bid which is reasonably deemed to be prejudicial to the company's independent and long-term profitable entrepreneurship.

At least at the moment, a European Corporate Governance Code is not necessary, since the existing corporate governance codes at national level have shown some convergence, while at the same time remaining distinct because of their roots in different national systems.

Reiner Hoffmann
Deputy General Secretary
European Trade Union Confederation
(ETUC)
Boulevard du Roi Albert II, 5
B-1210 Brussels
Tel: +32 2 22 40 427
Fax: +32 2 22 40 582
rhoffman@etuc.org