

# Information and consultation of employees: establishment of a European Works Council or a procedure in Community-scale undertakings and groups of undertakings. Recast

2008/0141(COD) - 02/07/2008 - Document attached to the procedure

This document aims to contribute to the Commission efforts to manage the process of globalisation in a balanced way. It emphasises the key role and the potential of transnational company agreements in an increasingly international business environment. It is intended as input for the debate on such agreements and on the contribution of different stakeholders to their development. The growing need to anticipate developments in terms of employment, flanking measures for restructuring, and managing human resources throws down new challenges for both management and workers in transnational companies. Against the backdrop of new approaches to dialogue and corporate social responsibility, companies and workers' representatives have begun agreeing texts in various forms, drawn up jointly for application in more than one Member State. The Commission has listed 147 joint transnational texts in 89 companies. Most of these have been concluded since 2000. Such initiatives help to create a climate of trust and dialogue that allows balanced company policies to be developed through an approach based on partnership, in particular as regards anticipation of, and accompanying measures for, change.

The paper examines the following issues:

- **the purpose of transnational texts and transparency:** the Commission looks at existing texts and discusses their subject matter. It states that the drafting of transnational texts should observe certain principles where the parties wish them to produce effects other than declaratory;
- **actors in transnational company organisations:** the European trade-union organisations, who believe the role of the trade unions cannot be circumvented, highlighted their special concern regarding the issue of the actors in the negotiation. The type of actors involved and the process followed in concluding transnational texts also pose a problem for the company negotiators, who need to innovate to ensure the text agreed is accepted as widely as possible and has the biggest impact. The issue of the actors is thus crucial for the development of transnational company agreements;
- **effects of transnational texts:** the Commission discusses whether such texts are collective agreements;
- **dispute settlements:** in cases where a signatory party, employee, local employer or third party seeks to have rights under transnational texts recognised by the courts, the situation as determined by the rules of international private law is particularly complex and unclear today.

The paper concludes that the conclusion of transnational company agreements is a key factor in the development of the European actors' future capacity to conduct a social dialogue in keeping with the increasingly transnational nature of company organisation and the need to anticipate change and have strategies to deal with it. Yet actors wishing to conclude transnational agreements today encounter uncertainties and difficulties that may prevent or at least reduce the impact of such agreements. These relate to the determination of the parties to conclude an agreement, its effects and the settlement of any disputes that may arise in its interpretation and implementation.

With a view to promoting social dialogue and supplementing the action of the Member States as regards the representation and collective defence of the interests of workers and employers, the Commission will

support initiatives to conclude transnational company agreements without prejudice to compliance with the applicable national or Community provisions.

To that end the Commission will set up an expert group on transnational company agreements whose mission will be to monitor developments and exchange information on how to support the process under way, and it will invite the social partners, governmental experts and experts of other institutions to take part.

The Commission will provide the expert group with its initiatives and work on the subject, which will focus on:

- developing a data base of transnational texts;
- organising exchanges of experience and analyses;
- reviewing the effects produced by company agreements and the way norms relate to each

other in the Member States;

- clarifying the rules of international private law in connection with transnational texts.

The Commission will also propose that support for the conclusion of transnational company agreements be among the priorities in the budget headings on social dialogue. In this connection the Commission will consider projects to:

- identify ways of ensuring the texts agreed are more transparent;
- facilitate the identification of the actors, approaches or mechanisms that could be promoted in this area;
- determine conciliation or mediation mechanisms that could be promoted with a view to facilitating dispute settlement.