TUAC trade union advisory committee to the
OECD organisation for economic cooperation and development
■ CSC commission syndicale consultative auprès de
OCDE l'organisation de coopération et de développement économiques

Proposal of revision of Principle IV.C-related text of the Draft Assessment Methodology of the OECD Principles of Corporate Governance (document DAF/CA/CG(2005)13/REV3)

Paris, 10 May 2006

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4.3.3 Principle IV.C

168. Principle IV.C states that "*Performance-enhancing mechanisms for employee participation should be permitted to develop*". The intent of the principle is that the corporate governance framework permits ~~facilitates or at least does not prevent~~ the development of mechanisms to improve performance through employee participation. The annotations note the difference between mechanisms for employee representation – board representation, works councils – and mechanisms for financial participation – employee share-ownership plans, other forms of profit sharing schemes. ~~and must be read in conjunction with principle IV.A~~. In countries in which pre-funded schemes constitute an important source of retirement income, pension commitments are also often an element of the relationship between the company and its past and present employees. The annotations note that "where such commitments involve establishing an independent fund, its trustees should be independent of the company's management and manage the fund for all beneficiaries".

Likely practices to be examined

169. The degree to which employees participate in corporate governance depends on national laws and practices, and may vary from company to company as well. Examples of mechanisms for employee participation, which are mandated in some jurisdictions, include employee representation on boards and governance processes such as works councils that consider employee viewpoints in certain key decisions. Where not mandated, there should at least be no ~~legal~~ barriers to their adoption. With respect to performance enhancing mechanisms, which can be ~~are mostly not~~ mandated by law or ~~but~~ the result of collective agreements ~~private arrangements~~, employee stock ownership plans or other profit sharing mechanisms are to be found in some countries.

170. In a number of countries in which pre-funded schemes constitute an important source of retirement income, pension funds have been established with both the company and the employees contributing. However, in many cases the company has retained control over the fund choosing to invest in the shares of the company itself and to assign the voting rights to a member of the company, usually the chairman or CEO. While these arrangements have been justified by the need to prevent commitments being made on behalf of the company without its permission, official reports in several jurisdictions have indicated that more balance in the oversight of the pension funds is needed.

171. Such practices and the intent of the principle suggest the following essential criteria:

1. ~~Where performance enhancing mechanisms in their various forms are mandated there is widespread and effective compliance. Where not required or only recommended,~~ As part of the effective implementation of regulation and employee's right to collective bargaining, the corporate governance framework permits ~~(e.g. does not prevent or inhibit)~~ the development of different forms of employee participation, including board representation and works councils.

2. As part of the effective implementation of regulation and employee's right to collective bargaining, the corporate governance framework permits the development of different forms of employee financial participation, including employee share-ownership plans and other profit-sharing schemes.

3. As part of the effective implementation of regulation and employee's right to collective bargaining, the corporate governance framework requires or encourages pension funds that are established by companies on a participatory basis with employees, to be overseen by trustees capable of exercising judgement independent of the company and charged with the task to manage the fund for the benefit of all beneficiaries.

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