

**Opening speech of Mr Bernhard Jansen**

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European Commission

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***Check against delivery***

Last year has been a pivotal year for European social dialogue. It has seen the 20<sup>th</sup> anniversary of the discussions, negotiations and joint actions by European social partners, which have been initiated by then Commission President Jacques Delors in 1985.

The European social dialogue is a key feature of the European social model, and the participation of the social partners in EU policy-making through the social dialogue combines a number of values typical to most national industrial relations systems in Europe, namely responsibility, solidarity and participation. The European social dialogue acts as a complement to national industrial relations systems and has developed in tandem with European integration.

The importance of the social dialogue is such that it is recognised in the Treaties. Article 138 of the EC Treaty provides the Commission with the task of promoting the consultation of social partners at Community level and taking any relevant measure to facilitate their dialogue.

The European social dialogue in its current form has evolved considerably since its launch in 1985. At that time there was little bilateral interaction between the social partners at cross-industry level, whereas now there is a great deal of active and regular dialogue between the cross-industry social partners. In addition, the sectoral social dialogue has expanded considerably, with a total of 32 sectoral social dialogue committees covering over 50 % of the economy. The work of the various social dialogue committees has resulted in the adoption of numerous texts by the cross-industry and sectoral social partners since the mid-1980s.

These take a variety of forms ranging from joint opinions, to guidelines, codes of conduct, and agreements. Some of these initiatives, such as three of the agreements concluded by the cross-industry social partners and those in the transport sector, have been implemented by Council directives. The topics covered by these texts are diverse, encompassing employment, working

conditions, training, health and safety, working-time, social dialogue, as well as more sector specific concerns. Some of these texts are responses to Commission consultations under Article 138, whereas others are purely autonomous initiatives or responses to Commission policy in specific sectors.

There is no doubt that the European social dialogue at cross-industry and sectoral has become an essential element of European governance.

In parallel with the development of social dialogue at European level we also witness the development of new forms of trans-national social dialogue at company level.

This is the area where we would like to focus on today.

The Directive on European Works Councils, establishing a framework for transnational Information and consultation is now in force since ten years. European works councils exist in almost 800 companies and more than 14 million employees are represented in the transnational information and consultation processes taking place in these bodies.

In the very last years, many companies have also negotiated with employee representatives, in more or less formalised forms, texts having a transnational scope. My services recorded almost one hundred of these texts, dealing notably with fundamental rights, health and safety, equal treatment, mobility and restructuring.

Indeed, the general mobility of production factors and the growing number of businesses operating on an international scale fundamentally affect the ability of social partners to pursue their objectives in a purely national context and are among the reasons why these transnational negotiation processes are emerging as a reality.

Globalisation increasingly sets the transnational company into the hotspot for strategic decisions affecting the employment, the work organisation and the professional careers of the workers. This sustained trend explains why the Commission pays special attention to the development of the transnational dimension of social dialogue at corporate level

However, very limited legal instruments are currently at the disposal of social partners as regards transnational negotiation at corporate level.

These reasons plead for a closer examination of potentialities for the development of a Community framework in this area.

That is why the Commission announced in its Social Agenda 2005-2010, that it will look at the possibility of an European framework for transnational agreements which would allow the social partners to formalise the nature and results of transnational negotiation. With regard to transnational situations only, the aim of this European framework would be to add to the existing instruments of social dialogue and would not aim to replace or harmonise

them in any way. It would be purely optional, the parties remaining free to retain informality in their negotiation and the outcome of it.

While, at first sight, there seems to be a need for such an optional framework, we have to recognize that it needs to be given greater precision and consistency.. Moreover there is no easy solution on the basic elements of a possible optional framework. For example, who should be the actors entitled to negotiate ? What should be the legal effect of the texts resulting from transnational negotiations ? What should be the interrelation between the different levels of norms ? We don't have the answer now.

That is why the Commission started analysing the facts. This morning, we will have an insight in these recorded initiatives, based on a first analysis we done and that has been already sent to you. And we will hear the actors of one of the companies involved in this process -Arcelor-

The Commission also commissioned a legal study that will be presented this afternoon.

The study seminar today intends to contribute to a common base of knowledge and to encourage reflections among social partners, Member States and European institutions on the present state of transnational negotiations at corporate level and on the possible added value of a European initiative in this domain.

In this seminar, we will together address the state of play, the context and the issues raised in this field. It will allow us to share experiences, questions and analyses with academics and practitioners. The Commission wishes an open debate on this difficult issue.

Thanks to all of you for your interest in this study seminar and your numerous attendance. Special thanks to the social partners for helping preparing it, notably as regards the case study and the presence of the very actors of the process going on.

I am confident that this discussion and pooling of experience will help all of us. Please don't hesitate to share your experience, information, remarks, questions and ideas. We are here for that.

I wish you a good seminar