

Democracy and Globalization:

Concept for more democratic influence on big enterprises and on the world economy

0. Introduction

This concept originates in the following **basic concept**:

In big international enterprises the supervisory board (SB) (that elects and controls the board of managers (BoM)) is elected by 3 groups having equal rights:

shareholders, employees and the population.

First the result of it is a better co-determination / democratic influence in the enterprises.

Second this basic concept can also be the basis for an even more comprehensive democratization of the economy: by **international democratic** procedures (see mainly 2.2 and 4.1), with which international politics can be formed comprehensively (with consideration of social issues, ecology, ...).

1. basic issues

- 1.1 democracy, power and property
- 1.2 basic concept
- 1.3 alternatives in the group "population"

2. consequences of this concept

- 2.1 in a single enterprise
- 2.2 stronger democratic influence on the world economy

3. size of an enterprise

4. election-procedures

- 4.1 population: distribution of 1/3 of the SB-seats by it
 - 4.1.1 overview and basic issues
 - 4.1.2 election of a single seat of an SB
 - partly by an international parliamentary assembly
 - 4.1.3 election of the other SB-seats
- 4.2 employees: distribution of 1/3 of the SB-seats by them
- 4.3 chairperson of a SB
- 4.4 ratio 5:5:5, 5:4:5 or 5:6:5 in a SB

5. human rights

6. carrying it through

- 6.1 Europe
- 6.2 state
- 6.3 customers
- 6.4 enterprises from states without this co-determination

Appendix:

- A. to 1.2 ("...existing mechanism in German enterprises,...")
- B. completing regulations to 4.1
- C. completing regulations to 4.1.3
- D. property and constitution

1. basic issues

1.1 democracy, power and property

The most comprehensive freedom of the greatest possible number of people (while considering the rights of minorities!) needs as a base a democratic structure of society. In order that democracy works well, the forming power of the democratic institutions must be much greater than the power of persons or small groups through property; this power through property is used especially by means of enterprises. Therefore concerning big enterprises we must at least strive for the most comprehensive democratic co-determination, under which free-market economy can work.

[About property see also appendix D.]

1.2 basic concept

For this concept I start from the **existing mechanism in German enterprises that have more than 2000 employees**: In the SB (that elects and controls the BoM) half of the seats is elected by shareholders, the other half is elected by employees. If a voting is undecided, then the chairperson of the SB has two votes in a repeated voting; this is very important, because the representatives of the shareholders can elect her/him alone and therefore can also make the decisions alone (e.g. can elect the BoM alone).

[More about it: see appendix A.]

The **basic concept** that I propose has a **third** group that can elect members into the SB: the **population**. The representatives of all three groups have the same number of votes; this is also valid during the election of the BoM.

1.3 alternatives in the group "population"

How the population elects representatives for 1/3 of the SB-places:

Alternative 1: by the citizens directly;

alternative 2: by representatives of the population that were elected on communal or regional level.

Every state can decide itself (also for international elections), which of the both alternatives is used in the own state. See more in 4.1.1.b.

2. consequences of this concept

2.1 in a single enterprise

- Because there are no clear majorities, one-sided positions can hardly be carried through. Whether it is about high profits for the shareholders or about high salaries for the employees: Both interest groups do not have the majority to make such decisions alone (because they do not have the majority to elect the BoM alone).
- The representatives of the group "population" can mediate in conflicts between shareholders and employees.
- If shareholders and employees agree, then the representatives of the group "population" can't carry through anything.
- The representatives of the group "population" are most responsible to their voters. Therefore social interests now play a greater role in the decisions of the enterprise.
- Through the personal contact with the representatives of the group "population" and through the lost of the majority, it is becoming more normal for the representatives of the shareholders, to deal with social issues, human rights and ecology.

2.2 stronger democratic influence on the world economy

a) The population and politicians have influence

- by their co-determination in big enterprises
- and through the international democratic parliamentary assembly (see the following and 4.1).

To support the own interests as strong as possible (e.g. to get SB-seats in the biggest international enterprises), the political groups must **unite in international groups** (e.g. socialists/social democrats, conservatives, liberals, greens).

If the big international party-like groups (**IP-groups**) can agree on common aims, then they can effectively influence the world economy, e.g. with regard to social issues/standards, human rights, ecology, taxes. This influence does not only work through the single enterprises. Because of the right to decide in one single important world economic issue (see 4.1.2) the international parliamentary assembly has the attention of the public and of the national politicians, and so it can influence national politicians in many fields.

Through the governments the IP-groups can also have influence on international economic organizations like the World Trade Organization (WTO), the World Bank and the International Monetary Fund (IMF). In addition: Also the pressure and influence of big enterprises on the WTO (and other organizations) and on the WTO-member-states is influenced by the IP-groups und the international parliamentary assembly, respectively.

Through the international parliamentary assembly the political parties can build a democratic structure of power that reduces problems, which occur because of the competition between the states.

b) As a comparison: Under discussion is the creation of a parliamentary assembly of the World Trade Organization (WTO). This initiative is supported especially by the European Parliament (EP) and the worldwide parliament association Interparliamentary Union (IPU). The EP hopes that this assembly will have consultative powers, the assembly should receive reports from the WTO and should have the ability to make proposals to organs of the WTO.

The parliamentary assembly from my concept has a bigger influence to carry through contents (see a))

See also:

- *European Parliament: "Report on openness and democracy in international trade"* (www.mikox.de/mitbestimmung/EP-Desir.pdf) (document A5-0331/2001) by Harlem Desir; with a motion that has been adopted by the EP.
- "Ein Parlament für die WTO?" by Peter Bender, in "Internationale Politik" 6/2002, pages 43- 44.
- "Verfassungsperspektiven und Legitimation des Rechts der Welthandelsorganisation (WTO)" by Markus Krajewski, 2001, pages 255-261.
- "Parliamentary Conference on the WTO - organised jointly by the Inter-Parliamentary Union and the European Parliament" (www.ipu.org/english/surveys.htm#wto03) from 2003. With "Final Declaration" on the pages 19-20 (is also in www.ipu.org/Splz-e/Trade03/declaration.htm).

c) Non-Government Organizations (NGOs):

- The international parliamentary assembly is an important institution, where NGOs can concentrate their pressure on politicians.
- NGOs can exert pressure directly to single enterprises especially by the help of SB-members from the group "population".

d) Trade/Labor unions: Through the fact that an international regulation takes place for a part of the employee-votes (see 4.2), also an important structure is created for the international coordination of the unions among themselves.

3. size of an enterprise

To explain the basic concept of this co-determination, I already mentioned as an example enterprises with more than 2000 employees.

Besides the number of the employees there are further criteria for the introduction of this co-determination:

- value of an enterprise
- value of the shares of an enterprise
- especially at finance-enterprises: value of property, that they manage for their customers

In addition there should be a graduation for the co-determination, according to the number of employees, the value of an enterprise, Example:

ratio of votes in the SB	employees	or	value, ...
$\frac{1}{3} : \frac{1}{3} : \frac{1}{3}$	more than 2000	or	over A
($\frac{1}{2}$ = shareholders) $\frac{1}{2} : \frac{1}{4} : \frac{1}{4}$	200 to 2000	or	1/10 A to A

(The election procedure for the SB-seats of the group "population" is for $\frac{1}{3} : \frac{1}{3} : \frac{1}{3}$ international+national [see 4.1], for $\frac{1}{2} : \frac{1}{4} : \frac{1}{4}$ national.)

In addition there should be regulations for:

- enterprises, whose shares are partly owned by enterprises that have this co- determination.
- a group of enterprises, where the same person/group owns big parts of each enterprise.

Also if you advocate a reduced size of the big enterprises and combines, this co-determination / democratic influence makes sense:

- Example: The big enterprises are divided into enterprises that have only a 10th of the original size. Consequence: Even then many of these smaller enterprises are still big enough for the co-determination with the ratio of votes of $\frac{1}{3} : \frac{1}{3} : \frac{1}{3}$ in the SB.
- The ratio of votes of $\frac{1}{3} : \frac{1}{3} : \frac{1}{3}$ in the SB (+ paragraphs 4.2 and 4.3) prevents, that the enterprise is subordinated to a combine.

4. election-procedures

4.1 population: distribution of 1/3 of the SB-seats by it

4.1.1 overview and basic issues

- a. The representatives of the group "population" are elected into a SB in 3 ways:
- a single SB-seat is partly elected by an international parliamentary assembly (see 4.1.2);
 - the other SB-seats are elected as follows (see 4.1.3):
 - 50% by an election-procedure on national level,
 - 50% by an international election-procedure **without** international parliamentary assembly.

(For the ratio 50:50 there can be exceptions.)

Example: An SB has 15 members, so 5 from the group "population". These 5 are elected as follows:

1 member according to 4.1.2 (this election is only after the election according to 4.1.3),

2 members according to 4.1.3 on national level,

2 members according to 4.1.3 on international level.

The SB can be smaller: with 9 members.

The election of the SB-members of the group "population" takes place at the end of every year (for about 4 years): for SBs whose members of the group "shareholders" are elected in the months before or after.

b. Every state can decide itself (also for international elections), who has the right to vote in the own state:

b1 the citizens directly

b2 or the representatives of the population on communal or regional level.

Example 1: In Germany the representatives of the population that have the right to vote could be those that were elected on communal level: for rural districts, towns or districts of towns (in Germany a body of 40 to 70 people represents in each case about 50.000 to 300.000 people).

Example 2: Instead of using existing communal or regional bodies: Together with the national parliamentary election an additional election takes place, during which people are elected on communal or regional level that take part in the elections according to 4.1.

During the national election according to 4.1.3 a voter can vote on every enterprise that has its headquarters in the state of this voter; irrespective of where in this state the headquarters of an enterprise are.

Their votes are weighted according to:

- if b2 applies: how many citizens are represented by a voter
- the size of the population of a state: the share of votes per state is at most 12,5% (= an 8th) in the (4.1.2.a and 4.1.3) international elections; see also C.6.9.
- whether a state is "small" (see appendix B.1)
- big regions (see appendix B.2)
- human rights (see 5.)

4.1.2 election of a single seat of a SB partly by an international parliamentary assembly

For every SB a **single** SB-seat is elected **partly** by an international democratic parliamentary assembly. "Partly" means: The assembly decides on the group that gets an SB-seat, but it does not decide, which person gets this SB-seat. This SB-seat is elected only then, when the election of the other SB-seats of the group "population" (according to 4.1.3) has already taken place. This SB-seat can be decisive for the creation of majorities.

(About the purpose of the parliamentary assembly: see also 2.2.a.)

a. election of the assembly

The voters (according to 4.1.1.b) elect an international parliamentary assembly with e.g. 200 members for 4 years; in the election they can choose between international lists of candidates, which belong to various political directions (parties and international party-like groups).

80% of the delegates of this assembly are elected by the voters from the bigger states, 20% by the voters from the "small states"; this separation is necessary because of the additional right to vote of the "small states" (see below).

b. decision procedures

In the international **parliamentary assembly** decisions about the distribution of the SB-seats are made in this way:

1. By a certain date there is an agreement with 2/3 of the votes of all and more than 1/2 of the votes from the "small states".
2. If there is no agreement, then a decision is made by lot; the single groups get a number of SB-seats that matches their portion of the votes.

An agreement can include e.g.:

- SB-seats are distributed to a party or IP-group (**IP-group** = international party-like group).
- SB-seats are distributed to a regional group (e.g. Africa) of an IP-group.
- Lottery drawing: For several enterprises together SB-seats are distributed by lot between 2 or more groups of interest. (*Example: For 5 enterprises 5 SB-seats are distributed by lot to the IP-groups A and B; for A there are 3 lots, for B there are 2 lots.*)
- Basic patterns of distribution are agreed on for several years.

After such an agreement it is clear at once who the new SB-member is. This SB-member is taken from a list of candidates according to 4.1.3.a.

Example: A SB-seat of the enterprise X is distributed to the regional group "Africa" of an IP-group. This SB-seat goes to the

candidate that has, from all according to 4.1.3 unsuccessful international candidates of this IP-group for this SB, the most votes from Africa.

4.1.3 election of the other SB-seats

The following basic election-procedure (**a. till c.**) is used **twice**:

- on national level,
- on international level.

In principle **50%** of these SB-seats are elected on national level and **50%** on international level, but exceptions or alternatives are possible (see appendixes C.4 and C.6.4).

- a. For the SB of an enterprise there are lists of candidates of several parties or IP-groups (**IP-groups = international party-like groups**).

The voters (according to 4.1.1.b) elect a candidate from one of these lists.

It is also possible that several parties or IP-groups together make a joint list of candidates.

- b. A voter can weight his vote.

Example: A voter can select up to 41 enterprises, on the ballot paper of the voter the first enterprise has the biggest share of votes:

Position 1 for an enterprise means 10-times share of the votes,

position 2 for an enterprise means 9,8-times share of the votes,

position 41 for an enterprise means 1,0-times share of the votes.

- c. A correction is necessary after voting, so that a small party or IP-group that has less SB-seats than are corresponding with its share of votes (of the votes for all SBs) gets more SB-seats.

Example, before the correction: In all SBs together a small party has 2% of the SB-seats that are distributed according to 4.1.3.a+b in a national election; but its total share of votes is around 10%.

A possibility for the correction is shown in appendix C.2.

Completing regulations to 4.1.3 you find in **appendix C**.

4.2 employees: distribution of 1/3 of the SB-seats by them

- a. **One half** of the employee-representatives is elected by the employees of an enterprise.
- b. The **other half** is elected by trade/labor unions (about a problem with "One half ... other half" see 4.4). When the unions fill their SB-seats of the specific enterprise, in most cases they will act accordingly to the wishes of the employees there; that the unions don't have to do this, has advantages: e.g. at finance-enterprises with high-income employees. Such enterprises can have a great influence on society and by this on the great number of employees at other enterprises, who earn less. The interests of these worse earning employees are supported by the direct influence of the unions.
- c. The distribution-mechanism for the SB-seats of the unions is similar to the distribution-mechanism for the SB-seats of the group "population".
- The right to vote of a union is also weighted according to the number of its members.
- To take part in this co-determination a union must fulfil minimum standards (e.g. according to democracy within the union).

Irrespective of this co-determination in SBs, the employees have additional rights that refer to the work in the enterprise where they work.

4.3 chairperson of a SB

1. If there is no 2/3 majority for the chairperson of the SB, then she/he will be elected by the representatives of the group "population" (they are the most neutral group).
2. If a voting has resulted in a tie, then the chairperson has an additional vote.

This regulation is interesting for the example from 4.2 ("finance-enterprises with high-income employees"): The half of the employee-representatives that is elected by the unions (4.2.b) can have a majority together with all representatives of the group "population".

(Alternative regulations for such a majority:

- *Alternative A: The number of the employee-representatives that are elected by the unions is one person higher than the number of the other employee-representatives.*
- *Alternative B: If a voting has resulted in a tie, all representatives of the group "population" have an additional vote.*

With alternative A or B the regulation in 4.3 for the SB-chairperson can be deleted.)

4.4 ratio 5:5:5, 5:4:5 or 5:6:5 in a SB

For the employees an *even* number of SB-seats is more practical (compare 4.2), for the group "population" an *odd* number of SB-seats is more practical (because of 4.3.1). If the ratio shareholders:employees:population is 5:4:5 or 5:6:5 instead of 5:5:5, then there is scarcely a difference: If shareholders and employees vote completely against each other, then at all three alternatives decides the 3:2 majority of the representatives of the group "population"; at that one has to pay attention to the method of electing the SB-chairperson, who has an additional vote, if the voting has resulted in a tie (so 3:2 becomes 4:2).

The proportions 5:4:5 and 5:6:5 could be changed with every new election of the SB.

Also the proportion 5:5:5 can be used (*e.g if there are 6 representatives of the employees in a SB, but 2 of them have only a half vote; and in secret elections the other SB-members have each 2 half votes*).

5. human rights

A committee will be elected, that can reduce the co-determination of the population of single states because of violation of human rights (concerning 4.1.2.a; concerning the international election of 4.1.3). Precise example: The committee consists of 15 persons; every 2 years 1/3 of the persons are newly elected by a simple majority for 6 years (by the international parliamentary assembly from 4.1.2). The committee decides with a simple majority about human right issues. A sentenced state loses up to 5% yearly of the normal portion of votes of its population. An even greater part can be subtracted, if after the human-rights-committee also the parliamentary assembly (4.1.2) supports it: with a 2/3-majority of the votes cast and a simple majority of the votes from the "small states". Members of the parliamentary assembly that have the nationality of the concerned state cannot vote.

The members of the committee can decide according to their own values; normally they surely orientate themselves on the various human right conventions.

The members of the committee can make decisions on their own initiative.

The committee should sometime be replaced by a human rights court, which can reduce the portion of co-determination without a limit according to very precise human right laws.

6. carrying it through

6.1 Europe: This co-determination works, if it is introduced by several economically important states together. Therefore most states of the European Union (EU) have to join in, or the USA. If most states of the EU are ready to introduce this co-determination, then surely all over the world there are states that are interested in joining in.

6.2 state: For public contracts a member state has to prefer enterprises that have this co-determination, if there is a choice only between big enterprises. Criteria for this: according to 6.3, b.-c.

6.3 customers: The customers can have influence by

- a. preferring enterprises that have this co-determination, if there is a choice only between big enterprises;
- b. preferring out of these enterprises those,
 - whose big suppliers (of goods and services) also have, to an as possible great extent, this co-determination;
 - that offer more with regard to social issues, human rights and ecology.
- c. What you find in b. concerning big suppliers is also valid for big suppliers of small enterprises.

Ranking lists or valuations in the internet or in magazines about products, producers, traders und service companies could be a help for the selection. For this the mass media and organizations can get information about suppliers, human rights, ecology etc. just from SB-members that are from the group "population", because:

- The information can support political aims of parties and international party-like groups (whose candidates are members in SBs as representatives of the group "population"); therefore they are interested in publishing information (especially interesting: differences with respect to the various political directions).
- The representatives of the group "population" are less inclined than the shareholder- representatives to make light of something or to keep something secret.
- Most international party-like groups will probably develop standards for their information-work. This increases the comparability of the information of different enterprises.

6.4 enterprises from states without this co-determination

If many customers prefer enterprises with this co-determination, then this can be an argument for enterprises from states without this co-determination, to introduce such a co-determination.

For such enterprises special regulations are necessary.

- The third of the SB-seats that is occupied by the representatives of the group "population" is elected a little differently: The election that is according to 4.1.3 takes place 100% on international level (so there is no election on national level).
- By a decision of the shareholders' meeting this co-determination will be fixed in the statute of the enterprise.

Appendix:

A. to 1.2 ("...existing mechanism in German enterprises,...")

A.1 It is also worth mentioning: Also a representative of the group of the leading/managing employees belongs to the representatives of the employees.

A.2 A special case is the "Montan"-co-determination. This co-determination is applied in big mining enterprises and in big enterprises that produce iron and steel, if these fields make up at least 20% of an enterprise. It has the following regulation:

In the supervisory board shareholders and employees have the same amount of votes, additionally both groups together elect a "neutral" person.

One could expand this regulation to all fields of enterprise.

Also this regulation has disadvantages to my proposal:

- e.g. "at finance-enterprises with high-income employees" (**compare 4.3 and 4.2**). Such enterprises can have a great influence on society and by this on the great number of employees at other enterprises, who earn less. Through the "Montan"-co-determination these less earning employees and the society have no influence on these enterprises; through my proposal they have.
- Interests of the society that don't have much significance in the conflict "shareholders against employees" are not adequately considered.
- It is not a starting-point for a global democratic regulation of the world economy (**in contrast: see 2.2**).

Completion: According to the German law shareholders and employees have not entirely equal rights, when they elect the "neutral" person; through a regulation that twice involves a law court the shareholders can decide alone.

B. Completing regulations to 4.1

B.1 What is a "small state"? "Small states" are those smallest states of a region (B.2), which together have not more than 20% of the population.

Completing rules:

- The population of a single "small state" can not have more than: 10% of all votes divided by the number of the regions, that are created according to B.2. (*Example: There are 4 regions. 10% : 4 = 2,5% of all votes.*)
- See B.2.a.+c.

B.2 big regions:

- a. Regions are needed for the "**small states**" (B.1).
For "small states" (alternatively: for all states) all regions have the same share of votes at international elections (exceptions: according to 5., B.1 ['...10%...'], B.2.e).
- b. First there is only one region. From this region can be cut off further regions, if there is agreement in the international parliamentary assembly (4.1.2) of 2/3 of the votes from the "small states" and more than 1/2 of the votes of all. There could be e.g. 4 basic regions: Africa, America, Asia/Oceania (without India and China) and Europe.
- c. Big states can become regions, if they have sub-areas with a certain degree of independence and their own parliaments; with respect to voting, the smaller of these areas obtain the same status as the "small states". Example-state: India. In the international parliamentary assembly agreement is needed of 2/3 of the votes from the "small states" and more than 1/2 of the votes of all.
- d. Out of the up to 4 basic regions one can form up to 8 regions. This way it can be prevented, that big states that become a region (see c.) have a too great influence. In the international parliamentary assembly agreement is needed of 2/3 of the votes from the "small states" and more than 1/2 of the votes of all. A new region can arise from states from more than one basic region.
- e. A region that is especially small has only the half right to vote. This could be regulated like this: If the population of a region is smaller than 40% of the smallest basic region, then it has only the half right to vote. Concerning the 8 regions mentioned in d), this region is a half region.

B.3 These and other regulations will be fixed in such a way that they can only be changed with a double 2/3-majority in the international parliamentary assembly: 2/3 of all votes and 2/3 of the votes from the "small states". The latitude for such changes will be defined in a treaty that will be made by the states.

C. Completing regulations to 4.1.3

C.1 A SB-seat that a party gets by an election on **national** level can lead to the result that this party or the IP-group of this party does not get an SB-seat in the election on **international** level.

Example: A party got 1 SB-seat for a certain SB during the election on national level. Therefore in the election on international level this party or its IP-group can not get an SB-seat for this SB; exception: if in the international election this party or its IP-group has a share of votes for this SB that is corresponding with 2 or more SB-seats.

With this regulation it becomes more likely, that in the international election a party or IP-group gets 2 SB-seats in 2 different SBs, than that it gets 2 SB-seats in a single SB.

Additional regulations:

- A party that is competing on national level for a SB-seat must also compete on international level for this SB; or this party must be member of an IP-group that is competing on international level for this SB-seat.
- A candidate can only be in the lists of candidates of one single party and its IP-group (for this party/IP-group this candidate can also be in a common list of candidates of several parties/IP-groups).

C.2 To compensate a **disadvantage of smaller** parties or IP-groups, the following correction is made; first on national level, then on international level (before the use on international level: C.1 must be used).

"Party or IP-group" is meant where you find "party" in the following passages.

a. Without correction the following is possible:

	For all SBs together:		
	share of votes	SB-seats	difference
Party A	7%	0%	-7%
Party B	15%	4%	-11%
Party C	28%	25%	-3%
Party D	50%	71%	+21%

The parties A, B and C have too few SB-seats, the party D has too many SB-seats.

b. The parties A, B and C get more SB-seats, the party D gets less SB-seats.

A party with too few SB-seats (party A, B or C) gets these additional SB-seats for those SBs, where the **difference of votes** between this party's list of candidates and the list of candidates of party D is **the smallest in percentages**.

Example for the parties B and D:

	Supervisory boards (SBs):					
	1	2	3	4	5	6
<i>votes for party B</i>	100	100	300	500	600	50
<i>votes for party D</i>	1200	1300	900	600	1000	500
$(D-B)*100/D$ <i>difference of votes</i>	92%	92%	67%	17%	40%	90%

For SB 4 the difference of votes is the smallest (with 17%). Party B has the biggest claim for this SB-seat (if there is no exception according to C.2.c).

c. To C.2.b there are the following **exceptions**:

c1 A party with too few SB-seats (party A, B or C) does not get a SB-seat, if an other party with too less SB-seats

- has more votes for this SB
- *and* gets the SB-seat according to C.2.b .

c2 A party with too few SB-seats (party A, B or C) does not get a SB-seat,

- if its list of candidates has less than 5% of the votes;
- or according to the example in C.2.d, last sentence;
- or if this party has already a SB-seat in this SB;
- or if the party, that shall lose a SB seat, has already lost a SB-seat in this SB through C.2.b.

c3 The importance of the difference of votes in percentages becomes smaller to get more continuity:

- If the candidate of the party that so far has too few SB-seats (party A, B or C) has already been exactly 1 periode in this SB, then the difference of votes in percentages between the lists of candidates of the two parties counts as *halved*.
- If the candidate of the party that so far has too many SB-seats (party D) has already been exactly 1 periode in this SB und this party has only 1 SB-seat in this SB, then the difference of votes in percentages between the lists of candidates of the two parties counts as *doubled*.

These 2 points make each other invalid, if in both parties the candidate has already been exactly 1 periode in this SB.

d. When a party gets an SB-seat, then votes of this party are subtracted from its votes for all SBs together.

Example: For a certain SB 2 SB-seats are elected on international level according to 4.1.3, for this SB 10.000 votes were cast. $10.000 : 2 = 5.000$ votes per SB-seat. If a party has still 9.000 remaining votes of its votes for all SBs together, then it gets a seat in this SB, if this is possible according to C.2.b+c; and has after this still 4.000 remaining votes ($9.000-5.000=4.000$) to get seats in other SBs. If a party has instead of 9.000 only 4.999 remaining votes, then it does not get this SB-seat.

e. It can also happen that instead of 1 party (in C.2.a the party D) there are 2 or more parties that have more SB-seats than are corresponding with their share of votes. The procedure remains nearly the

same.

Example:

	<i>For all SBs together:</i>		
	<i>share of votes</i>	<i>SB-seats</i>	<i>difference</i>
<i>Party E</i>	7%	0%	-7%
<i>Party F</i>	15%	4%	-11%
<i>Party G</i>	38%	46%	+8%
<i>Party H</i>	40%	50%	+10%

Irrespective of where the difference of votes between 2 parties (e.g. between F and G or between F and H) is smaller, the following is valid: party G can not lose more than 8%, party H not more than 10%.

f. Additional points:

- In a list of candidates: The unsuccessful candidate of a list who has the most votes after a successful candidate is substitute for the SB. C.2.c3 is not valid for substitutes.
- If a small party tries to get SB-seats mostly by common lists of candidates of several parties, it can happen that this small party gets more SB-seats than are corresponding with its share of votes for all SBs together. This party loses SB-seats in the same way, as the big party D in C.2.b.

C.3 common lists of candidates of several parties or IP-groups:

If several parties or IP-groups create common lists of candidates for single SBs, it must be prevented that the **smaller** parties are discriminated against the bigger ones. The correction for this is similar to the correction according to C.2 . Central differences to the procedure in C.2:

- What matters is the difference of votes in percentages between **2 candidates of 1 list**; in C.2 the votes of all candidates of a list are counted together, then 2 lists are compared.
- This correction takes place separately for position 1 of the common lists of candidates and for position 2 of the common lists of candidates.

Other regulations for common lists of candidates:

- If in a list of candidates of a party or IP-group candidate A is before candidate B, and a common list of candidates of several parties or IP-groups is created, then in this common list candidate A must not be behind candidate B.
- Regulations could be made for a decentral election of the persons that negotiate about the creation of a common list of candidates.
- Also in a common list of candidates every candidate is marked as candidate of a party or IP-group. The reason: The voters shall mark only a candidate (and not extra mark a party or IP-group); as it is also the case for lists of candidates that are not common lists. In addition this marking is important to find out the sum of votes of a party or IP-group for all SBs together; this sum of votes is important for C.2.

C.4 For the SB-seats that are elected on **national level** the following special regulation is applied:

In the international parliamentary assembly (see 4.1.2) it can be decided with 2/3 of the votes of all and more than 1/2 of the votes from the "small states", that for single enterprises the election on national level can be replaced by an international election according to 4.1.3.

Example for usage: A big international enterprise has its headquarters in a small state that is financially very dependent on this enterprise. And this dependency has already become noticeable concerning the necessary majority according to 4.3 (concerning the already in 4.2 mentioned "finance-enterprises with high-income employees").

C.5 In connection with 4.2 and 4.3 ("finance-enterprises with high-income employees") are the following regulations. They prevent that parties or IP-groups that are especially near to shareholders can prevail against a big majority of other parties or IP-groups.

One of the following alternatives is used:

Alternative 1: The international parliamentary assembly (4.1.2) can decide (with 2/3 of the votes of all and more than 1/2 of the votes from the "small states") that the SB of an enterprise becomes smaller: all 3 groups (shareholders, employees, population) get less seats in this SB.

Alternative 2: At the election for a SB a list of candidates gets all seats, if it fulfills the following preconditions:

- the list of candidates has at least 2/3 of the votes

- and is a common list of parties or IP-groups that in the international parliamentary assembly (4.1.2) have together at least 2/3 of all delegates.

C.6 Additional points:

- C.6.1 The voting (together for national and international election) could take place about 2 months before the decision according to 4.1.2.b.
- C.6.2 For a list of candidates (according to 4.1.3.a) there could be a minimum size of 4 candidates.
- C.6.3 A person can be in maximum 3 SBs. If a person gets a 3rd and 4th SB-seat at the same time, then s/he can only keep the SB-seat where s/he got more votes as candidate.
- C.6.4 The international election could be further limited in favor of the national election. Example: Only in 50% of the enterprises SB-seats of the group "population" are elected on national and international level; it is about these 50% where the interest is biggest according to the international voting. (In order that votes out of small countries carry weight, these votes are considered separately.)
- C.6.5 Not only parties and IP-groups can take part in the election. Citizens' initiatives and Non-Governmental Organizations (NGOs) that have collected a certain amount of subscriptions for single SBs/enterprises from supporters (and that have a democratic structure) can candidate.
- C.6.6 A candidate for a SB-seat can compete on a national and on an international list for the same SB at the same time.
- C.6.7 The voters shall have the possibility to create their ballot paper by the help of a computer database (but it also works without it).
- C.6.8 Regulations could also be made for decentral decisions about the primary order of a (4.1.3.a) list of candidates.
- C.6.9 For very big states (e.g. India), whose voters can have a maximum share of 12,5% of votes (see 4.1.1.b): It can be considered, if more than 12,5% of the enterprises come from this country.
Example: A state has 16% of the population and 15% of the enterprises. For the 2,5% (15%-12,5%=2,5%) of the enterprises that are most unpopular in the international election, the SBs are elected only on national level. (Instead of 2,5% the share could be a little bigger: because it only concerns the enterprises that are most unpopular).
 For all states applies: The share of enterprises that is above the share (in the example 16%) of the population is not considered.

D. property and constitution

Regarding property in connection with big enterprises you must distinguish between 2 fields:

- the possession of a part of an enterprise ("financial element");
- the right to influence the decisions of an enterprise ("membership powers").

In a verdict about co-determination the German constitutional court wrote, in context with §14 ("property,...") of the constitution, the following:

*However regarding the property warranty essentially only the **membership** powers of the shareholders are concerned, while the **financial** element of the property-share is not affected. In addition the only **weak personal relation** of the share-rights in their membership-legal meaning carries weight*

(From the reasons of a verdict from 1999 about the "Montan"-co-determination; see BverfG, 1 BvL 2/91 of 2 March 1999, paragraph no. 77, <http://www.bverfg.de>.)

See also a verdict from 1979 about the co-determination law from 1976; BverfGE 50, 290 [341 ff.].

You can find this also on page 3 in "Kollektives Arbeitsrecht, Unternehmensmitbestimmung" from Christian Rolfs, 4 pages,

http://www.jura.uni-bielefeld.de/Lehrstuehle/Rolfs/Begleitmaterial/SS_2002/Arbeitsrecht/10Juni.pdf.)

Michael Kox

www.mikox.de/english/co-determination/contact

Version of 11 March 2007

Changes: www.mikox.de/english/co-determination/changes.htm

In other languages:

Esperanto: www.mikox.de/esperanto/kundecidado

German: www.mitbestimmung.info