

Berlin, 28 June 2007

Good Morning, Ladies & Gentlemen

Welcome to the 1st Panel session of our 5th European Company Law and Corporate Governance Conference!

This panel's session ends at about 10 past 12:00 o'clock. This gives us about 5 quarters of an hour, which is not too much.

I would therefore like to step right in into our topic

**Company Mobility - Does Europe
offer the right framework?**

However, prior to presenting my fellow panellists to you, let me start with a few introductory remarks:

The EU, Ladies and Gentlemen, the EU is not only expanding its scope. Europe is also growing together, slowly but steadily. Last week's summit is a good example for that.

What has been an economic community with only limited effects on the social and political structure of the member states has changed into a growing social and political community, where economic community is an undisputed fact - and is taken for granted. The economic border lines within the EU have - more or less - vanished and there is only one borderline left - and that is the Outside Borderline around the EU.

That has had a lot of impact on the basic liberties of the European citizens and corporations

free movement of goods

free movement of persons

free movement of services

free movement of capital

and - last but not least -

right of free establishment.

The European Court of Justice has been the No. 1 promoter of these liberties and has construed them with the clear intent to make Europe happen.

This is especially true for the right of establishment.

There are numerous decisions where the Court has torn down borders between member states.

The court has made it clear

- that the laws of the member states have to fully respect the right of natural persons and legal entities to freely move and settle within the community, and
- that national laws forbidding or impeding such movements are inconsistent with community law.

Because of this continuous - and progressive, not to say: aggressive - jurisdiction, especially Germany has become "invaded" by corporations from other member states, especially the British Ltd, but also corporations from other member states have found their way to do business in Germany.

Actually, there is not much known about German corporations having moved abroad, but this is certainly no longer based on

the effectiveness of contradicting German rules of law, such as the traditional company seat principle (“Sitztheorie”). We will certainly see more of those movements in the future.

Nevertheless, there remains one big obstacle: companies transferring to another member state are still breaking new ground. They may be forced to fight for the freedom of establishment before the courts. This may be time-consuming and costly and there remain a lot of open questions. It is a clear sign for these difficulties that so far only smaller, that is more flexible, companies have been bold enough to make that step.

The EU-Commission has tried to bolster this development mainly in 2 ways:

- 1) It is paving the way to facilitate the transfer of corporations within the EU by establishing new directives:
 - On the one hand, the 10th company-directive for cross border mergers, which is in force and is just being implemented by the member states.

- On the other hand, the 14th company-directive on cross border transfer of companies, which - as you know - is only a proposal and the issuance of a first draft has just been postponed again.

2) The EU has finally succeeded to introduce a genuine European form of a corporation, the Societas Europaea, which can be established in all Community member states and which can freely move and settle within the European community, based on European statute and not just on the jurisdiction of the European Court of Justice.

Another European Company format - the EPC - may follow, hopefully soon.

These are certainly big steps forward, but are they enough?

Is it already what we, the companies, the European industries, need?

Does it offer the right framework?

Do we have the right rules for conflict solution?

What else do we need?

And with that we are right in the middle of our panel-topic.

Before I now ask my fellow-panellists for a short introductory statement, let me introduce them to you at least with a few remarks:

To my outside right sits Silja Maul. She is a German attorney at law and works with KPMG. She has been a German national expert with the EU, DG markets, for some years - which has made her a real expert

on European Company Law

and she has issued a lot of articles on European Company Law development in major European and German law journals.

Next to her, just to my right-hand side sits Professor Vermeulen. He is teaching law at Tilburg University in the Netherlands and - at the same time - he is Senior Legal Counsel to Philips International BV, Holland. He looks at “Company Mobility” not only from an academic point of view but

- certainly at least to the same extent - looks at the practical aspects and their consequences on the daily life of corporations.

On the other side, to my outside left, you have Stefano Micossi, the Director General of “Assonime”, that is the Italian institute on publicly held corporations - or the “DAI” of Italy.

In the 90s of last century he was Director General of DG Industry of the Commission and knows everything about company Mobility. Besides, he is also teaching at the “College of Europe” at Bruges, Belgium.

Last but not least, sitting to my left, you have Professor emeritus Sonnenberger from the University of Munich. He is an expert on International Private Law and he has developed a draft-proposal for a

European regulation on international
company law

which he will present us in a minute!

As to myself, my name is Eckart Süner; I am the General Counsel for BASF AG, the Chemical Company, and I am also the Chairman of the Legal Committee of the BDI. I think that is why I am here and why I have the honour to chair this panel.

Before I now ask Professor Sonnenberger to address the audience let me explain

that I intend to ask each panellist for a short statement of possibly not more than 5 minutes.

Only Professor Sonnenberger will have more time to explain his draft regulation.

We will then have a second round in the panel to take up ideas of other panellists.

And then I will open up the floor to take your questions and remarks. Those of you who intend to participate in the discussion, please give us your name and your profession, and also whom of us you want to answer your questions. There are

2 microphones in the centre aisle, which you can use. Please speak slowly for the interpreters

Professor Sonnenberger, may I now ask you to give us your speech!