

ecoDa

a.s.b.l.

European confederation of the Administrators' Associations
European confederation of Directors associations

Mr Giuseppe Gargani, M.E.P.
Chairman of the Committee on Legal
Affairs,
European Parliament,
60 rue Wiertz,
1047, Brussels.

31 August 2005,

Dear Mr Gargani,

The European Confederation of Directors' Associations (ecoDa) is a new organisation representing the views of its four members, the UK's Institute of Directors (IoD), the *Institut Français des Administrateurs* (IFA), the *Association Belge des Administrateurs* (AB) and the new *Institut Luxembourgeois des Administrateurs* (ILA), on corporate governance and company law issues. Following its launch at the European Parliament on 25 April last, it is anticipated that the Spanish Institute will affiliate to us in the coming months.

Within the context of ecoDa's aims and objectives, I am now taking the liberty of advising you of our standpoint with regard to the *audit committees* proposed within the terms of the draft directive on statutory audit of annual accounts and consolidated accounts and amending Council Directives 78/660/EEC and 83/349/EEC.

Given that this directive is scheduled for discussion during the part-session at the European Parliament to take place on 5th September next, I am enclosing a copy of our initial letter which was recently sent last June to DeHeer Bert DOORN, Rapporteur for the Legal Affairs Committee.

In order to further clarify our remarks, I would like to assure you that ecoDa has no intention to understate the importance of the role of the directors either in relation to financial reporting and oversight of the external audit or in the evaluation and management of financial and other risks. However, we question whether the structural rigidity of a requirement for a statutory audit committee requirement is necessarily the only way to achieve the desired results. At the EU level, having regard to the diversity of legal structures for companies across the Member States, ecoDa believes that the emphasis should be on the roles to be performed rather than on requiring a particular legal structure. If the structural aspect of the role is to be considered, this would more appropriately form part of a recommendation that could be implemented by non-legislative as well as legislative means, thus giving weight to the principles based approach to corporate governance much more readily adapted to different types of companies and suited to market requirements for a higher level standard

for the most powerful ones. At its core, the collective responsibility of the board that is a fundamental aspect of company law in many Member States must not lightly be discarded.

I wished to explain these elements to you in addition to those mentioned in the attached letter to which I would like to draw also your attention. In relation to that letter I would particularly point out:

- The placing of these very specific roles onto non-executive directors alone is not desirable and will undermine the basic concept of collective responsibility of boards;
- Any shift of responsibility from external auditors on to non-executive directors should be resisted;
- Provisions that have been put forward to assist with 'equivalence' with the US Sarbanes-Oxley Act are far more demanding than that Act (particularly as applying not only to financial risks) and are not placed on a 'comply or explain' basis.

In conclusion, in thanking you for your attention to these topics, I trust that the suggested amendments to the Legal Affairs Committee proposal will be adopted by the European Parliament as a whole.

We hope that you will give your support to our remarks.

Yours sincerely,

Daniel Lebègue
Chairman of ecoDa

Enclosed: the letter sent to De Heer Bert Doorn