



One share-one vote; Berlin 28 June 2007

**Main points of the introductory remarks by Jan Persson, General Counsel,
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- **A company can be described as an organisation consisting of a lot of contracts with many stakeholders having different interests and ambitions. Among those contracts are the financial instruments; each with its own characteristics**
- **Various investors have different policies and aims with there investments. Some seek power. Some only want to have a good return on their money and do actually invest in the owner of the company**
- **Investors and companies require a whole set of financial tools to meet different demands. They need these different financial instruments in a global perspective to compete in an equal basis. Companies in all countries, in and outside of Europe, can use a variety of financial instruments. And the numbers of these are emerging. Why should Europe impede or over regulate these possibilities to flexibility?**
- **EU ought to react against the use of certain financial instruments only if there is evidence showing that they are creating worse performance by the companies or bad corporate governance. But the ISS-report does not confirm that this is the case**
- **The ISS-report has shown that there are no solid empirical or theoretical basis for declaring that companies using 1 s/1 v perform better or have better governance than companies with control-enhancing mechanisms (CEMs)**
- **Quote from the summary in the ISS-report; “*The review of theoretical literature shows that control-enhancing mechanisms have advantages and drawbacks.*”
And; “*The empirical survey concludes that the evidence on the control-enhancing mechanisms discount is tenuous.*”**

- **The ISS-report thus confirms earlier findings**
- **The ISS-report recognizes that all reviewed countries have between five and eleven CEMs available in their jurisdictions and that the mechanisms are widespread among firms**
- **Example; In Sweden nearly 50 % of the listed companies have differential voting rights (1:10). It is a totally transparent system. Over 40 % of the capital of those companies is owned by foreign investors. Sweden has a take over activity being very high even compared with the biggest markets in the EU. A market can be dynamic even if there exist CEMs!**
- **If EU regulates this area, favouring one structure of ownership, there is a risk that fewer new companies are willing to turn to the stock exchanges for new capital. Large companies may consider de-listing. This would mean a great disadvantage to European economy and growth**
- **Transparency of CEMs is a key issue. However Article 10 in the Takeover Directive stipulates an extensive transparency regime of the governance systems in the companies. There is no need for further regulations**
- **A “comply or explain” concept for CEMs would implicate that EU favours one system. The principle of proportionality would then be the accepted standard. All other methods have to be explained. Such an approach is not supported by the empirical and theoretical parts in the ISS-study**
- **Further demands for transparency than Article 10 would also contradict the better regulation and simplification theme. Companies are very sensitive to the burden of all rules. Indeed they are tired of regulations**
- **Conclusions:**
 - **Different ownership structures have different advantages and disadvantages. CEMs are widespread among jurisdictions and often used by firms. No system is superior compared to another. The ISS-report shows that there is no solid basis declaring that one share/one vote creates increased value to the company and its shareholders**
 - **European countries compete on a global basis concerning hosting new and old companies. The European companies need access to flexibility and a great variety of financial instruments; old and new ones**

- **The need for transparency of CEMs is a natural claim but this is already regulated in the Takeover Directive. As long as an investor has the possibility to make an investment in a company in full awareness of what he or she buys there is no need or no justification for more regulations in this area on a European basis**
- **All new rules are burdensome to the companies. There is no need for further actions at the EU-level**
- **Respect the freedom of contract! The principle of freedom of contract is more deeply rooted than the proportionality principle! Allow free competition between different structures of ownership! Let a free market, and not the legislator, decide if a structure of ownership is attractive or not!**