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Wettenbank

European Works Councils Act

Valid from 16-12-2017 until today

Law of 23 January 1997 implementing Directive No 94/45/EC of the Council of the European Union of 22 September 1994 on the establishment of a European Works Council or of a procedure in undertakings or groups of companies with a Community dimension for the purpose of information and consultation of employees (European Works Councils Act)

We Beatrix, by the grace of God, Queen of the Netherlands, Princess of Orange-Nassau, etc. etc. etc.

Salute to all who will see or hear them read! do know:

As We have considered that it is necessary to implement Directive no. 94/45/EC of the Council of the European Union of 22 September 1994 on the establishment of a European Works Council or of a procedure in undertakings or groups of companies with a Community dimension for information and consultation of workers;

Thus it is that We, having heard the Council of State, and in consultation with the States General, have approved and understood, as We hereby approve and understand:

Chapter 1. General provisions

Article 1

- 1 In this law, the following definitions apply:
 - a. concerned state: a member state of the European Union or another state that is party to the Agreement on the European Economic Area;
 - b. Directive: Directive No. 2009/38/EC of the European Parliament and of the Council of the European Union of 6 May 2009 on the establishment of a European Works Council or of a procedure in undertakings or groups of companies with a Community dimension for the purpose of information and consultation of the employees (PbEU 2009, L 122);
 - c. a Community enterprise: an enterprise which, for the past two years, has had an

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- average of at least 150 employees each in at least two States concerned and at least 1000 employees in the States concerned together, unless it belongs to a Community group;
- d.** a Community group: the whole of undertakings consisting of a parent undertaking as referred to in Article 2 and the undertaking or undertakings over which it exercises control and of which:
- 1°.** at least two companies are located in different affected states and
 - 2°.** for two years at least one enterprise has on average at least 150 employees in an affected state and another enterprise has on average at least 150 employees in another affected state and
 - 3°.** all companies together have on average at least 1000 employees in the states concerned for two years;
- e.** *cross-border matters*: matters of interest to the entire Community enterprise or to the entire Community group, or to at least two enterprises or establishments of a Community enterprise or a Community group in two different States concerned;
- f.** central management: in the case of a Community company: the management of this company; in the case of a Community group: the management of the parent company, referred to in Article 2;
- g.** *information provision*: the provision of information on cross-border matters by the central management or another more appropriate level of management to employee representatives, at a time, in such a way and with such content that employees' representatives can form a thorough assessment of the consequences and, if desired, consultation be able to prepare with the central management or another more appropriate level of management;
- h.** *consultation*: establishing a dialogue and exchange of views on proposed measures between the central management or other more appropriate level of government and employee representatives, at a time, in such a way and with such content that employees' representatives are able to rely on the information provided information on proposed measures on cross-border matters to which the consultation relates, to issue an opinion within a reasonable time, which may be taken into account when taking the decision.

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- 2** If a Community undertaking is domiciled or has its registered office outside the States concerned, the following shall be regarded as central administration:
 - a.** a person designated for that purpose by the Community undertaking, who is in charge of the effective management of one of its establishments within a State concerned, or, in the absence of such designation:
 - b.** the person or persons who are in charge of the effective management of the establishment which has the largest number of employees in a single State concerned.
- 3** If the parent company referred to in Article 2 is domiciled or has its registered office outside the States concerned, it may designate as its representative the management board of a group company domiciled or have its registered office within the States concerned. In the absence of such designation, the board of the group company domiciled or domiciled within the States concerned and which has the largest number of employees in one State concerned shall be regarded as such.
- 4** Acts or omissions by the central management referred to in the first paragraph, under e or the third paragraph, respectively, shall be attributed to the natural or legal person who maintains the Community enterprise or the parent company or the group enterprise referred to in the third paragraph.

Article 2

- 1** For the purposes of this Act, parent company is understood to mean: the company within a Community group which can directly or indirectly exercise dominant control over another company and which is not itself an undertaking over which another company directly or indirectly exercises dominant control. Unless the contrary is shown, an enterprise is presumed to be a parent enterprise if it:
 - a.** can appoint more than half of the members of the administrative or management or supervisory body of the other undertaking, or
 - b.** can exercise more than half of the voting rights in the general meeting of the other company or
 - c.** provides the majority of the subscribed capital of the other company.
- 2** For the purposes of the first paragraph, the rights of the parent company with regard to the capital, the voting rights and the appointment also include: a.

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- a. the corresponding rights of other companies over which it exercises dominant control;
 - b. the corresponding rights of persons or bodies acting in their own name but on behalf of the parent company or of one or more of its group companies.
- 3 For the purposes of the first paragraph, the rights with regard to the capital and the voting rights are not attributed to an enterprise if it holds them on behalf of others.
- 4 For the purposes of the first paragraph, voting rights attached to pledged shares are allocated to the pledgee, if he may determine how the rights are exercised. However, if the shares are pledged for a loan that the pledgee has provided in the ordinary course of his business, the voting rights will only be attributed to him if he has exercised them in his own interest.
- 5 No parent company is an enterprise as referred to in Article 3, fifth paragraph, under a. or c. of Council Regulation (EC) 139/2004 of 20 January 2004 on the control of concentrations between undertakings (OJ 2004 L 24).
- 6 The law applicable to an enterprise determines whether that enterprise is a parent enterprise as referred to in the first paragraph. If that law is not the law of a State concerned, it shall be determined by the law applicable to the group company, the management of which represents the parent company pursuant to Article 1, paragraph 3.
- 7 If several companies of a group meet one or more criteria of the first paragraph,
 - a. the company that meets the criterion referred to in the first paragraph, under a, is regarded as a parent company, whereby the right of appointment with regard to the management body takes precedence;
 - b. if the application of subsection a does not lead to the designation of one enterprise as parent company, the criterion referred to in subsection 1(b) takes precedence over that referred to in subsection 1(c);all this without prejudice to the evidence that another company can exercise a dominant influence.

Article 3

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- 1 In this Act, insofar as it concerns persons working in the Netherlands, 'employee' is understood to mean: the person who, under an employment contract, is employed in the Community enterprise or the Community group, and insofar as it concerns persons employed in the other states concerned: which is the right of that State concerned.
- 2 For the purposes of Articles 4, eighth to tenth paragraphs, 7, 8, second paragraph, and 11, third paragraph, under e, sixth and eighth paragraphs, 'representatives of employees' shall be understood to mean: what is understood under the law of the relevant State in which those workers are employed; for the Netherlands these are works councils.

Article 4

- 1 The second to seventh paragraphs apply to employees working in the Netherlands who are members of a special negotiating group or a European works council or who act as representatives in another way of providing information and consulting employees.
- 2 These employees retain their entitlement to wages for the time during which they have not performed the stipulated work as a result of attending a meeting of the special negotiating body or of the European Works Council, or of a meeting in the context of another method of information and consultation.
- 3 Insofar as this is reasonably necessary for the performance of their duties, they shall be given the opportunity during working hours and with pay, to deliberate and consult with other persons on matters in which they are involved in the performance of their duties and to receive education and training. Facilities are made available to them that they reasonably need in the performance of their duties.
- 4 They are obliged to observe secrecy with regard to all business and trade secrets that they learn in their capacity, as well as with regard to all matters in respect of which their secrecy has been imposed or of which, in connection with the imposed secrecy, they must understand the confidential nature. This obligation also applies to persons who fulfill a position as referred to in the first paragraph without being an employee.
- 5 The obligation of confidentiality does not apply to a person who is approached for consultation or as an expert as referred to in Articles 12 and 20, provided that the central management or the person who has imposed the confidentiality has given permission in advance and the person concerned has stated in writing that he/she has

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undertakes to observe secrecy with regard to the matter concerned. In that case, the confidentiality obligation applies to the person in question.

- 6 The duty of confidentiality does not lapse upon termination of the position referred to in the first paragraph, nor upon termination of the activities of the person concerned in the company.
- 7 The employer shall ensure that those who are or have been candidates for a position as referred to in the first paragraph, as well as those who fulfill or have held this position, are not disadvantaged in their position in the company as a result of this.
- 8 Without prejudice to any obligation of confidentiality, employees who are members of a European works council or who act as representatives in another procedure for the provision of information and consultation of employees shall inform the employees' representatives within the Community company or group, or, if there are no are, all employees about the content and results of the information and consultation procedure that took place in accordance with this law.
- 9 Any employee or employee representative working in the Netherlands may require the employer to provide him with information that is required for the opening of negotiations as referred to in [Article 8\(1\)](#). This information shall in any event contain an overview of the number of employees employed by the Community undertaking or group and the distribution of these employees among the various States concerned.
- 10 The employer of an employee working in the Netherlands who is designated or elected as a member of a special negotiating body or of a European works council notifies the central management of this election or appointment.

Article 5

- 1 Any interested party may request the Enterprise [Section](#) of the Amsterdam Court of Appeal to determine that the provisions of this Act must be complied with, with the exception of [Article 4](#), insofar as the second paragraph does not provide otherwise, or in an agreement as referred to in the [articles 11](#) or [24](#). A special negotiating body or its members and a European Works Council established under this Act cannot be ordered to pay the costs of these proceedings.
- 2 The special negotiating body or its members and a European works council may request the Enterprise Chamber of the Amsterdam Court of Appeal to:
 - a. secrecy imposed pursuant to [Article 4, fourth and fifth paragraph, 11, seventh](#)

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paragraph or 19, sixth paragraph, on the ground that the person who imposed the secrecy, when weighing up the interests involved, could not reasonably have been able to impose secrecy decide;

- b. to oblige the person who has refused information pursuant to Article 11, seventh paragraph, or 19, sixth paragraph, to provide information on the ground that he could not reasonably have decided to refuse information after weighing up the interests involved.

Chapter 2. Information and consultation of employees in Dutch Community enterprises and groups

Section 1. General provisions

Article 6

- 1 This chapter applies to a Community company and a parent company domiciled or domiciled in the Netherlands.
- 2 If a Community company or parent company is domiciled or has its registered office outside the States concerned, this chapter shall apply if the establishment or group company referred to in Article 1, paragraphs 2 and 3, respectively, is domiciled or has its registered office in the Netherlands.

Article 7

- 1 A Community undertaking or the parent undertaking shall provide employees or their representatives with information necessary for the opening of negotiations as referred to in Article 8(1). This information shall in any event contain an overview of the number of employees employed by the Community undertaking or group and the distribution of these employees among the various States concerned.
- 2 If, after the establishment of the special negotiating body, significant changes occur in the data referred to in the first paragraph, a Community enterprise or parent company shall, as soon as possible after this change, provide the special negotiating body with an amended overview and, if that situation occurs, to the employees or their representatives of a Community company or group from a concerned State who are not yet represented in the special negotiating body.

Section 2. Information and Consultation Agreements

Article 8

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- 1 The central management may set up a special negotiating body in order to negotiate an agreement establishing a European Works Council, whether or not in accordance with paragraph 3, or an arrangement providing in another way for the provision of information to and the consultation of employees or their representatives on cross-border matters.
- 2 The central management is obliged to set up a special negotiating body as referred to in the first paragraph, if a written request to that effect has been received from at least 100 employees or their representatives from at least two companies or branches in at least two different states involved. If a request to that effect is received by an establishment or enterprise belonging to the Community undertaking or group, the central management shall ensure that the request is forwarded to it without delay and that the applicants are notified of the forwarding.
- 3 If the special negotiating body has taken a decision as referred to in Article 11, paragraph 2, the obligation referred to in the second paragraph shall not apply for a period of two years after that decision has been made, unless the central management and the special negotiating body have agreed otherwise.

Article 9

- 1 The special negotiating body shall be composed of such a number of representatives of the employees of the Community undertaking or group as to ensure that, per State concerned, one member is elected or appointed for every 10%, or part thereof, of the employees employed in the State concerned. calculated on the total number of employees employed by the Community undertaking or group in all the States concerned.
- 2 Each member shall be elected or designated in accordance with the law of the relevant State in which he is employed.
- 3 The number of members of the special negotiating body and the distribution of seats shall be kept in accordance with paragraph 1. If the number of members from a State concerned changes without a new election or designation in respect of those seats, the members sitting for that State concerned shall together have as many votes for the purposes of Article 13 as corresponds to the number of members that State concerned pursuant to paragraph 1 and together represent the employees of the Community undertaking or group employed in that State concerned in a proportion to be determined by them or, failing agreement, in proportion to the number of employees.

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that they represented before the amendment.

Article 10

- 1 With regard to the Dutch branches and companies, the members of the special negotiating body are appointed, or their appointment is revoked, by the works councils established at those branches or companies.
- 2 If one or more central works councils have been established with regard to works councils as referred to in the first paragraph, the appointment or withdrawal will be made by that council or councils.
- 3 If no central works council has been established, but one or more group works councils have been appointed, the appointment or withdrawal will be made by that council or councils.
- 4 If not all works councils or group works councils are represented in a central works council or group works council, the designation or withdrawal will be made jointly by the central or group works councils or councils and the unrepresented works councils.
- 5 If no works council has been established, the members of the special negotiating body are elected by the collective employees of the Community company or group working in the Netherlands. The election takes place by secret ballot, in which each employee has one vote. For the purpose of the election, an association of employees, which has the said employees among its members, has the object pursuant to its articles of association to represent the interests of its members as employees and as such operates within the company or group concerned and furthermore holds full legal capacity, is authorized to submit a list of candidates, provided it has consulted with its members within the company or group about the composition of the list of candidates.
- 6 In the application of the first to fourth paragraphs, employees of Dutch branches or companies who are not represented in a works council, group works council or central works council are given the opportunity to express their views on the persons to be designated as members of the special negotiating body.

Article 11

- 1 After the special negotiating body has been set up, the central management will convene a meeting with it in order to negotiate an agreement as referred to in [Article 8, paragraph 1](#). It allows the group to meet before and after this meeting.

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- 2** As long as an agreement as referred to in Article 8(1) has not been concluded, the special negotiating body may decide not to enter into negotiations or to break off negotiations already underway.
- 3** If the central management and the special negotiating body agree to establish a European works council, the regulations of the council will also be established by agreement. Unless the central management and the special negotiating body agree otherwise, the regulations shall regulate at least the following matters:

 - a.** for which establishments or undertakings of the Community undertaking or group the European Works Council has been established;
 - b.** the size and composition of the board, in which employees are represented as balanced as possible, and the term of office of its members;
 - c.** the area of activity and powers of the council;
 - d.** the manner in which the Board is informed and consulted;
 - e.** the manner in which the provision of information and consultation of the council and the provision of information and consultation of the representatives of employees, referred to in Article 3, second paragraph, are linked, taking into account their powers;
 - f.** the frequency, duration and place of board meetings;
 - g.** the financial and material resources available to the Board;
 - h.** if a select committee is set up within the board: the composition, the appointment procedure, the job description and the regulations thereof.
- 4** If the central management and the special negotiating body agree on a procedure for the provision of information and consultation of employees or their representatives other than the establishment of a European works council, the manner in which this will be done will also be agreed by agreement. At least the following is provided for:

 - a.** to which establishments or undertakings of the Community undertaking or group the procedure applies;
 - b.** how workers or their representatives are informed and consulted on cross-border matters that have significant implications for workers;

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- c. the manner in which the employees or their representatives can meet on the matters referred to in subparagraph b;
 - d. the financial and material resources made available for carrying out the procedure.
- 5 The central management and the special negotiating body may agree that separate European Works Councils or separate procedures will be established for parts of the Community company or group. They may also agree that one or more parts of the Community company or group will be the subject of one or more European Works Councils and that other parts will be subject to one or more procedures.
- 6 The agreement between the central management and the special negotiating body contains provisions regarding the date of entry into force, the duration of the agreement, the manner in which the agreement may be amended or terminated, the cases and manner in which a new agreement will be negotiated and the manner in which on which the agreement is adapted to changes in the structure or size of the Community enterprise or group and in the numbers of employees employed in the States concerned. If these provisions do not provide that employees or their representatives of undertakings or establishments which became part of the Community undertaking or group after the conclusion of the agreement,
- 7 The central management is not required to provide information to the extent that this would reasonably seriously impede or damage the functioning of the Community undertaking or the group. The central management can impose secrecy with regard to the provision of information, if there are reasonable grounds for doing so; as far as possible before the matter in question is dealt with, the grounds for imposing secrecy, which information provided in writing or orally are covered by the secrecy, how long it should last, as well as whether there are persons with whom the secrecy is to be kept. need not be taken into account.
- 8 If the agreement does not contain rules as referred to in the third paragraph, part e, in case decisions are being considered, which are likely to entail important changes in the work organization or the employment contracts, the provision of information and consultation of the council and the provision of information and consultation of the representatives of employees, referred to in Article 3, second paragraph, as far as possible simultaneously.
- 9 The central management is responsible for compliance with the rights and obligations included in the agreement.

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Article 12

- 1 The special negotiating body may be assisted in the negotiations by one or more experts of its choice, including representatives of authorized and recognized workers' organizations at Community level as referred to in Article 154 of the Treaty on the Functioning of the European Union. At the request of the special negotiating body, these experts may be present as advisers in the meetings referred to in Article 11, paragraph 1.
- 2 The costs reasonably necessary for the performance of the task of the special negotiating body shall be borne by the Community undertaking or the parent undertaking. This only applies to the costs of consulting one or more experts or of conducting legal proceedings if the Community company or the parent company has been informed in advance of the costs to be incurred.

Article 13

- 1 Without prejudice to Article 9, paragraph 3, each member of the special negotiating body shall have one vote. The special negotiating body shall decide by an absolute majority of the votes cast.
- 2 A decision as referred to in Article 11, second paragraph, requires a majority of two thirds of the number of votes cast.
- 3 A decision to enter into an agreement as referred to in Article 11, paragraph 1, requires at least as many votes as corresponds to the majority of the number of votes that can be cast when the special negotiating body meets in full.

Article 14

- 1 The central management shall ensure that the composition of the special negotiating body as well as the time at which a meeting as referred to in Article 11 will be held is announced within the Community company or group.
- 2 The central management shall also inform the competent and recognized workers' and employers' organizations at Community level as referred to in Article 154 of the Treaty on the Functioning of the European Union of the composition of the special negotiating body and of the start of the negotiations referred to in article 8, first paragraph.

Article 14a

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- 1 If the structure of the Community company or group is substantially changed and no or conflicting provisions are included in the applicable agreements, the central management starts on its own initiative or at the written request of at least 100 employees or their representatives from at least two companies or establishments in at least two different States concerned, the negotiations referred to in [Article 8, paragraph 1](#), and set up a special negotiating body for that purpose.
- 2 In addition to the members of the special negotiating body elected or designated in accordance with [Article 9](#), at least three members of the existing European Works Council or of each of the existing European Works Councils shall be members of the special negotiating body.
- 3 During the negotiations referred to in the first paragraph, the existing European works council or councils will continue to function in accordance with the applicable agreement or agreements, or a different procedure for the provision of information and consultation of employees will continue to apply, if agreed.

Section 3. Subsidiary provisions on non-contractual information and consultation

Article 15

The central management is obliged to establish a European Works Council in accordance with this paragraph if:

- a. the central management has shown that it will not negotiate with a special negotiating body within six months of receipt of a request as referred to in [Article 8, paragraph 2](#);
- b. the central management and the special negotiating body have not concluded an agreement as referred to in [Article 8, paragraph 1](#), within three years of receipt of a request as referred to in [Article 8, paragraph 2](#), or, if the central management has established the special negotiating body on its own initiative, within three years after the date of the institution, unless a decision as referred to in [Article 11, second paragraph](#), is in force.

Article 16

- 1 The European Works Council consists of such a number of representatives of the employees of the Community company or group as to ensure that, per State concerned, one member is elected or appointed for every 10%, or part thereof, of the employees working in the State concerned. calculated on the total number of employees employed by the Community enterprise or group in all the States concerned.

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- 2** Each member shall be elected or designated in accordance with the law of the relevant State where he is employed.
- 3** The number of members of the European Works Council and the distribution of seats is kept in accordance with the first paragraph. If the number of members from a State concerned changes without a new election or designation having taken place in respect of those seats, the members sitting for that State concerned shall have the same number of votes for the application of the relevant provisions on voting relations within the European Works Council. if corresponding to the number of members established for that State under paragraph 1 and together they represent the employees of the Community undertaking or group working in that State concerned in a proportion to be determined by them or, if no agreement is reached thereon reaches,

Article 17

- 1** With regard to the Dutch branches and companies, the members of the European Works Council are appointed or elected, or their appointment is withdrawn, in accordance with Article 10, on the understanding that those members serve for a period of four years.
- 2** Only employees of the Community company or group may be designated or elected as members. Membership ends by operation of law when the member ceases to be an employee.
- 3** A member of a special negotiating body or of the European Works Council or its deputy, who is a member of the crew of a seagoing vessel, shall have the right to participate in a meeting of the special negotiating body or of the European Works Council or in any other consultation organized if such member or alternate is not at sea at the time of the meeting or in a port in a country other than where the company is established. As far as possible, a meeting is planned in such a way that the member or his deputy can easily participate in the meeting. Insofar as the member or his deputy is prevented from attending a meeting, an attempt will be made to obtain the input of the member or his deputy by other means.

Article 18

- 1** The European Works Council elects a chairman and one or more deputy chairmen from among its members. The chairman, or in his absence the deputy chairman, represents the European Works Council in court.

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- 2** The European Works Council may elect from among its members a select committee consisting of a maximum of five members.
- 3** The European Works Council adopts rules of procedure. Before the regulations are adopted, the central management is given the opportunity to make its point of view known. If a select committee has been elected, the regulations determine the powers of that committee, as well as the facilities necessary to be able to carry out its work.

Article 19

- 1** The provision of information to the European Works Council concerns in any case:
 - a.** the structure, economic and financial situation, likely development of the activities, production and marketing of the Community undertaking or group;
 - b.** the status and probable development of employment, investment, material changes in the organisation, the introduction of new working methods or production processes, care for the environment, merger or downsizing of companies, establishments or important parts thereof.
- 2** The central management informs the European Works Council or the select committee as soon as possible about all special circumstances and intended decisions that have significant consequences for the interests of the employees, in particular regarding the relocation or closure of companies, establishments or important parts thereof or collective redundancies.
- 3** The European Works Council shall be consulted in such a way as to enable it to meet with the central management or another more appropriate level of management within the Community undertaking or group with its own decision-making power on the matters to be discussed and to obtain a reasoned response to its opinions. Consultation shall in any case concern the subjects referred to in the first paragraph, part b, and the second paragraph.
- 4** The central management and the European works council meet at least once per calendar year. At the meeting, the European Works Council is informed and consulted on the development of the activities and prospects of the Community company or group on the basis of a written report drawn up by the central management. The central management ensures that this annual meeting is published within the Community company or group.

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- 5** At the request of the European Works Council or the select committee, it shall meet with the central management or another more appropriate level of management within the Community undertaking or group with its own decision-making power on the matters to be discussed, in order to written report drawn up by the group or group about the circumstances referred to in the second paragraph and intended decisions to be further informed and consulted. Members of the European Works Council who are co-elected or designated by the employees of the establishments or companies directly affected by the relevant circumstances or intended decisions are also invited to a meeting with the select committee.
- 6** The central management is not required to provide information insofar as this would reasonably seriously impede or damage the functioning of the Community enterprise or group. The central management may impose secrecy with regard to the provision of information, if there are reasonable grounds for doing so. As far as possible before the relevant matter is dealt with, it will be communicated what grounds exist for imposing confidentiality, which information provided in writing or verbally falls under the confidentiality, how long it lasts, as well as whether there are persons with regard to whom the confidentiality is not needed to be taken into account.
- 7** The central management gives the European Works Council or the select committee the opportunity to meet before and after each meeting with the central management.
- 8** Unless otherwise agreed, the chairmanship of a meeting as referred to in the fourth or fifth paragraph is held alternately by the central management and the European Works Council.

Article 20

- 1** The European Works Council and the select committee may be assisted by experts of their choice insofar as this is necessary for the performance of their tasks.
- 2** The costs reasonably necessary for the fulfillment of the task of the European Works Council and the select committee shall be borne by the Community company or the parent company. The obligation to bear the costs of experts engaged by the European Works Council is limited to one expert per agenda item, unless the European Works Council and the Community company or the parent company agree otherwise.
- 3** The first sentence of the second paragraph also applies to legal proceedings, provided, however, that the Community company or the parent company has been informed in advance of the costs to be incurred.

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Article 21

- 1 No later than four years after its establishment, the European Works Council decides, whether or not on a proposal from the central management, whether it is desirable to enter into negotiations with the central management regarding the conclusion of an agreement as referred to in Article 8, paragraph 1.
- 2 The articles 11, the third to sixth member, and 13, first and third members, are applicable mutatis mutandis, with the proviso that the European works herein in the place of the SNB.

Article 22

The central management ensures that the composition of the European Works Council as well as the time at which a meeting as referred to in Article 19 will be held is announced within the Community company or group.

Section 3. Information and consultation of employees in non-Dutch Community companies and groups

Article 23

If, for the implementation of the Directive, a special negotiating body or a European Works Council as referred to in the Annex to the Directive is set up in a State other than the Netherlands involved in a Community company or group, the Dutch branches or companies of that Community company or group Articles 10 and 17 apply mutatis mutandis.

Section 4. Final Provisions

Article 24

- 1 Subject to Articles 5 and 14a, this Act shall not apply to a Community undertaking or group that was party to one or more agreements that entered into force before 5 February 1997, provided that these agreements provide for a regulation regarding the provision of information to and consultation of employees on cross-border matters, and concluded with an employee representation which the Community undertaking or group may reasonably consider representative of the employees of the States concerned.
- 2 This Act, as it read on the day before the entry into force of the Act of 7 November 2011 amending the European Works Councils Act in connection with the implementation of Directive 2009/38/EC of the European Parliament and of the Council of the European Union of 6 May 2009 (OJEU 2009, L 122), recasting Directive

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94/45/EC, on the establishment of a European Works Council or of a procedure in undertakings or groups of companies with a Community dimension for the purpose of informing and consulting employees, subject to Articles 5 and 14a, applicable to a Community undertaking or group that is party to an agreement as referred to in Article 8, paragraph 1, covering the entire workforce, signed or revised in the period from June 5, 2009 to June 5, 2011.

3 Article 11, ninth paragraph, applies mutatis mutandis.

4 This Article shall apply mutatis mutandis to a Community company or group which would come within the scope of this Act from 15 December 1999 solely as a result of the entry into force of the Directive in the United Kingdom, but which on that date is a party to one or more agreements that have come into effect as referred to in the first paragraph.

Article 25

1 For the purposes of Article 9, it is only necessary to take into account those States concerned, where the Community undertaking or group of employees has employees and whose legislation implementing the Directive has entered into force.

2 If an agreement as referred to in Article 8 does not contain a provision that employees or their representatives of undertakings or establishments of the Community undertaking or group in the States concerned, which have not been taken into account in the composition of the special negotiating body in accordance with paragraph 1, two years after the entry into force of the legislation of that State concerned implementing the Directive, are involved in the renewal or amendment of that agreement or are represented within that period in the European Works Council or in the other information and consultation procedure, that Agreement revised subject to Article 9.

Article 26

[Expired as of 15-11-2011]

Article 27

This Act shall enter into force on September 22, 1996. If the *Official Gazette* in which this Act is published is published after September 21, 1996, it shall enter into force on the day after the date of issuance of the *Official Gazette* in which it is published.

Article 28

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This Act shall be cited as: European Works Council Act.

Charges and orders that it will be published in the *Official Gazette* and that all ministries, authorities, colleges and officials concerned with it will observe its accurate implementation.

Given in The Hague, January 23, 1997

Beatrix

The Minister of Social Affairs and Employment,

APW Melkert

Released February 4, 1997

The Minister of Justice,

W. Sorgdrager

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