



*“Effectiveness of information and consultation rights of employees and their evolutions. An action model for EWCs before the challenges of change”*

# **Challenging change: Methods of Action for EWCs**

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April 2007



Avec le soutien financier de la Commission Européenne  
*With the financial support of the European Commission*



This Publication was produced by the Social Development Agency (SDA)  
as part of the 'INFOPOINT' project 2006 - supported by the European Commission

The SDA was created in 2004 on the initiative of the ETUC member organizations to support Europe's social dimension in a globalised world. The board consists of John Monks (President) and Reiner Hoffmann (Vice President). The Managing Director is Claudio Stanzani.

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'Infopoint' is an SDA project providing free support to social partners relating to the 04030303 budget line, supported by the European Commission.  
Convention VS/2006/0713 – SI2.452628





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## **INTRODUCTION**

The increasingly high cross-border mobility of companies in Europe – and beyond – causes economic structures to evolve rapidly and has important effects on employment and working conditions, thereby posing a great challenge for the labour movement. The very fact that a growing number of companies operate at a transnational level was the key reason for the adoption by the Council of the European Communities, over 12 years ago, of the European Works Councils (EWCs) Directive. This 'Europeanization' of companies, accelerated to a great extent by a deepening of the EU's single market, created the need to set up structures which would help bridge the gap between corporate decision-making and the workforces throughout Europe affected by these decisions. The experience of EU-level information and consultation of workers has been very diverse, and there certainly is room for improvement. One reason for this is the weak legal framework in which EWCs operate, which does not yet give them sufficient tools with which to discharge their role in a fully efficient manner. This only confirms the necessity for a revision of the EWC Directive, which remains a top priority among the ETUC requests to European policy-making institutions.

The ever increasing number of transnational company restructuring measures over the recent years – originating from various types of operations including mergers, take-overs, relocations, outsourcing, and so on – calls for a greater role to be played by EWCs in ensuring they take place in a socially acceptable manner. A majority of EWC agreements actually include issues such as mergers, transfers of production, closures on the list of topics employee representatives are to be informed and consulted on, so it seems that on paper at least, EWCs are “quite well equipped to be informed and consulted regularly on restructuring-related issues”<sup>1</sup>. However, the cases where employee representatives are not properly informed or consulted by management are still too frequent: more than 75% of EWC members claim that information about restructuring measures were presented to them after the decision was taken, as a *fait accompli*<sup>2</sup>.

When facing restructuring processes, different types of EWCs react in different ways, as illustrated by the mapping and categorisation of EWC practice (symbolic, service, project-oriented and participatory EWCs) developed by Lecher and colleagues<sup>3</sup>. The EWC experience therefore shows a high level of fragmentation. The efficiency of EWCs' actions and their influence on company decisions, which is not always as effective as we would wish, depends on many parameters, such as the nature of the company's business operations (the degree to which production and other activities are integrated across borders, or internationalised), the policies and practices of management in dialogue with employee representatives, and the strength of existing cross-border cooperation among worker representatives and/or trade unions.

We have witnessed a number of attempts of EWCs to go beyond their strict information and consultation role. Some EWCs, usually benefiting from strong trade union support coordinated by European Industry Federations (EIFs), have tried, and managed, to activate transnational actions aimed at influencing company decisions and at reducing the social consequences of these decisions. Most

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<sup>1</sup> Carley, M.; Hall M., “*European Works Councils and Transnational Restructuring*”, European Foundation for the Improvement of Living and Working Conditions, 2006.

<sup>2</sup> EWC Bulletin, *The performance of EWCs 12 years after the Directive*, Issue 65, September / October 2006.

<sup>3</sup> Lecher, W. et al., *The Establishment of European Works Councils. From information committee to social actor*, Aldershot, 1999.

outcomes take the form of a wide range of joint texts and agreements, differing from one another in terms of contents, procedures and efficiency. But this is far from being the ordinary work, or every-day activity, of most EWCs.

Over 12 years after the adoption of the directive, the EWC “starting-up” phase is over. It is time to deepen the debate on the role EWCs should play in the European industrial relations system, and identify practices which have proved to be fruitful. The objective is to **explore ways to progress towards participative models of industrial relations in which the information and consultation processes of employee representatives are integrated into a comprehensive strategy of cross-border trade union cooperation aimed at ensuring a strong social dimension in the strategic decisions of multinational companies.**

This becomes necessary, now more than ever, considering that many economic and institutional factors – EU enlargement, further integration of the single market and modernization of company law – tend to support further the mobility of companies and will generate a growing number of restructuring processes.

The first key issue is to identify how to get the most from the information and consultation rights of workers in Multinational companies. In this context of increasing company mobility, **anticipation** is crucial to succeed in the task of ensuring that change takes place **in a socially responsible manner**. The earlier employee representatives receive relevant information on restructuring measures planned by management, the more they can anticipate, and the less costly the economic and social consequences of restructuring are bound to be.

The second important issue relates to **the involvement of trade unions in EWCs**. It is essential that trade union actors, at the local but also European levels, collaborate closely with EWC members, not just to provide them with the necessary support and expertise, but to allow these transnational bodies to create a common platform of demands and speak with one voice.

Even though there are still shortcomings in the effectiveness of the role played by EWCs (often related to poor quality and timeliness of information, or bad access to expertise, therefore illustrating the need for a revision of the EWC Directive), it is important to explore methods of allowing EWCs to play a substantial role in the trade union strategy for accompanying corporate restructuring, and to eventually influence the decisions of management. We shall analyze four different examples of EWCs which have taken an active role in facing situations of restructuring, and which were suggested to us by the EIFs coordinating them. We will then draw conclusions from the best practices as well as the limitations highlighted by these experiences, and recommend some methods of action for EWCs in general.

## **Methodology**

It is clear that the different sector-specific elements, and the different structures of multinational companies in which EWCs have been established, make it practically impossible to draw a model of EWC action and functioning which is suited to all. Nevertheless, we intend to identify the **key working methods, modes of action and channels of communication and interaction among the various actors in this multi-level system of industrial relations** which have proven to be successful in making the most of EWCs' role in restructuring situations.

Information on these cases was collected through structured interviews with EWC delegates, as well as

with several trade union officials (of European Industry Federations or national trade unions), whose experiences in coordinating the EWCs analysed have provided a helpful insight. Complementary research was based on analysis of data from different sources: the original texts of the relevant EWC agreements, whose analyses can be found in the SDA Database; independent reviews such as the European Works Councils Bulletin; as well as reports, surveys and case studies from the European Industrial Relations Observatory.

Our analysis of these cases was aimed at identifying the following:

- the most effective ways of structuring/organizing EWCs;
- the role of European Industry Federations (EIFs) as coordinators of EWCs' actions;
- the synergies and interactions between EWCs and national trade unions;
- the resources and procedures which actually make EWC action successful.

In doing this, we firstly analysed **the functioning of the EWCs** in question, including both the **static and dynamic aspects**. The static aspects are connected with what the EWC agreement actually says. Which issues can it be informed and consulted about? When can extra-ordinary meetings be convened and who should sit in those meetings? What are the resources of the EWC? What is its access to expertise? The dynamic aspects describe the quality of communication channels, a key issue which determines to a great extent the effectiveness of EWC action. We have tried to assess whether a structured communication takes place among EWC members between meetings, and through what means (e-mail lists, website, newsletters). We have also assessed the communication structures between the EWC and other levels of employee representation, trade unions, or simply the employees they represent. We have asked the interviewees whether any obstacles to these channels of communication exist, such as an abusive use of the confidentiality clause.

We have also taken into account the pro-activeness of the EWC, by observing for instance the role of the select committee and asking two pertinent questions: does it play an active pivotal role between the EWC and management, allowing the EWC to have a constant interlocutor at the decision-making level of the company? Does it adopt an agenda-driven approach and take own initiatives such as promoting the setting-up of working groups on specific issues?

The second set of information gathered concerns the **collaboration and interaction of the EWC with trade unions and local bodies of employee representation**. We have observed the degree of “trade unionisation” of EWC delegates, as well as whether any national trade unions have set-up a specific coordination of EWCs in order to provide support for “their” EWC members. The **coordination role of European Industry Federations (EIFs)** was also analysed. For example, what is the role of the EIF coordinator in the EWC? Was a European trade union coordination group created? Who is represented in this group: the EWC select committee? the EIF? national trade unions? representatives of the different company plants?

We then gathered detailed information on the various **restructuring measures planned by management** and on the **involvement of the EWC** in an information and consultation procedure. This involved a detailed analysis of the restructuring operations which were planned and their social impacts. We aimed at answering questions on when and how the EWC was informed, including whether the information was provided with enough time to anticipate, to be consulted, and eventually to influence the process.

The third set of information used to analyse these cases relates to **the way the restructuring process**

**was managed by the employee side**, including the immediate response and action taken by the EWC. We tried to observe whether this collaboration between the EWC and the trade union actors involved managed to foster cohesion and solidarity among the workers side, and eventually lead to creating a common platform of demands. Questions were then raised regarding the actions triggered by the EWC / trade unions cooperation: whether this collaboration resulted in cross-border industrial action and, if so, how was this action coordinated? Whether these common demands managed to influence the decision of management, or whether the workers side requested to negotiate a pan-European agreement to ensure management carries out the restructuring measures in the most socially acceptable way? If so, who took the initiative of negotiating with management? What was the composition of the trade union team in charge of negotiating? Who was the protagonist in animating the debates and leading discussions with management?

To draw conclusions on the success, and limitations, of these experiences and on the processes these EWCs went through in facing restructuring situations, information **on the outcomes of this collaboration** was finally gathered. We therefore observed whether an agreement was reached, and if so, what it consisted of, how it was to be implemented and who would be in charge of monitoring the implementation process.

# CASES

## General Motors Europe

### Background

Founded in 1908, General Motors (GM), a joint stock-company with headquarters in Detroit (USA), is today the world's largest automotive group with approximately 14% of the global vehicle market. The group has manufacturing operations in 33 countries and employs 327.000 people around the world. Present in Europe since 1911, having acquired successively Vauxhall (UK), Opel (Germany) and, more recently, Saab (Sweden), GM operates 11 production and assembly facilities in 8 European countries. Despite drastic workforce cuts (the group cut 21.000 jobs between 1998 and 2001, and still employed more than 73.000 people in 2003) GM employs a workforce of approximately 64.000 in Europe. The group established General Motors Europe (GME) in 1986, with headquarters in Zurich, and this marked the beginning of greater centralisation of its European operations.

### The European Employee Forum

In 1996, a voluntary agreement between GME management and representatives of the entire workforce of GME (“the negotiation representatives”) was signed, resulting on the setting-up of an information and consultation procedure: the GME European Employee Forum (EEF). GME management ensured the EEF was established on the basis of the Belgian transposition law of the EWC Directive, in order to avoid German co-determination law, and the EEF is composed both of management representatives and employee representatives. The latter form the European Employee Council, which today includes 29 members from 17 countries (Germany, UK, Belgium, Spain, Sweden, Austria, France, the Netherlands, Portugal, Poland, Hungary, the northern cluster – Denmark, Finland, Norway, Ireland – and the South-East cluster – Italy, Greece).

The EEF is run by a very active select committee composed of 6 members (2 Germans, a British, a Spanish and a Swedish member), who “organize the daily work, coordinate communication with and between national EEF delegates, prepare meetings and agenda topics and, most notably, represent the EEF against the GM management.”<sup>4</sup> The EEF chairman is also the chairman of the German GM Opel works council.

The EEF works in very close cooperation with trade unions at national level (due to the high degree of unionisation among the EEF members) which get involved in assisting “their” EEF members. This EWCs is also characterised by a strong European level trade union coordination: the European Metalworkers Federation (EMF) has set-up working groups dealing with specific transnational issues of importance to GME employees. These groups are composed not only of EWC members but also of other trade union advisors from different countries where GME operates, and meet before each EEF plenary session.

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<sup>4</sup> European Foundation for the improvement of Living and Working Conditions, *EWCs in the new member states Case study: GM Opel*, 2006.

## **GME restructuring and the 2000-01 European Framework Agreements**

Reflecting the general problems faced by the European car manufacturing sector in the 1990s, GME began restructuring its European operations “in the light of an increasingly competitive environment in Europe and decreasing market shares, as well as over-capacities and profitability problems.”<sup>5</sup> These operations could not be considered as growth and innovation strategies, but rather as cost-cutting strategies consisting in setting-up new production plants in eastern Europe and increasing competition between the different plants. This led to a number of agreements being signed at national level between GME and employee interest representations, such as national and local job agreements at Opel Germany (1993 and 1998) and at Vauxhall UK (1998). The EEF did not play a significant role in reaching these national agreements, but EEF members however kept each other informed about these agreements and the general evolutions in their plants. They soon were to recognize that this was a no-win solution, at a time when management adopts the strategy of playing production plants off against one another across borders, since success of one site would come at the expense of other sites. A transnational approach was needed to tackle this transnational issue.

The dispute around **the GM – Fiat alliance in 2000** is said to be the turning point for the EEF. Management, having planned an outsourcing into two joint venture companies which would have affected over 14.000 GM workers<sup>6</sup>, failed to abide by the information and consultation rights of EEF members. The EEF organized Europe-wide action, forcing management to **sign a European framework agreement which would form the basis for different plant-level agreements in Europe**, eventually securing the employment conditions and the representation of staff in the sections of the company integrated into joint ventures with Fiat. This European framework agreement was negotiated in cooperation with the European Metalworkers Federation (EMF), and with a particularly active support from the German metalworkers' union, IG Metall.

The second GME European framework agreement on industrial restructuring was negotiated and signed in 2001, after management announced the reduction of 10,000 jobs worldwide, of which 6,000 were to take place in Europe, including the closing down of the Vauxhall plant in Luton, UK. Members of the EEF stated that this plan violated an existing employment security agreement and that the incomplete and late information delivered to the EEF did not allow for a meaningful information and consultation procedure. Again, **the EEF closely cooperated with the European Metalworkers Federation (EMF)**, as well as with **local unions and works councils**, and managed to **coordinate the first “GM European Day of Action”** on 25<sup>th</sup> January 2001, mobilizing 40.000 workers from many different GM plants to participate in a common strike against plant closures (there were work stoppages in the UK, Germany, Belgium, Spain and Portugal), therefore showing a great cross-border solidarity. The wide support for this day of action surprised management which, although against it originally, had to sign a framework agreement on restructuring with the EEF in march 2001, according to which the Luton production site would be retained and workforce reductions would only be permitted by socially accepted means. This framework agreement was implemented through national-level agreements, to ensure that the agreed provisions would become legally binding.

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<sup>5</sup> European Foundation for the improvement of Living and Working Conditions, *EWCs in the new member states Case study: GM Opel*, 2006.

<sup>6</sup> European Metalworkers' Federation (EMF). 2005. *GME Restructuring and Framework Agreements: An Example of EMF European Company Policy*. Brussels: EMF Focus N 1.

On the same year (2001), the EEF signed its third European framework agreement with GME management, as a restructuring programme was presented by the latter, the Olympia programme, aiming at reducing overcapacity in Western Europe and affecting plants in Belgium, Germany and Spain. The EEF offered to support the Olympia programme in principle, therefore accepting the “need to reduce surplus capacity, but was keen to avoid plant closures and redundancies, arguing that cuts and job losses should be spread across Europe rather than being concentrated on just one production site”<sup>7</sup>. The chairman of the EEF has indeed highlighted on many occasions the importance of “sharing the burden”, as a central principle in the EEF's position on restructuring.

### **The 2004 Framework Agreement**

In 2004, the EEF was to face yet another test when GME management announced its intention to close a production site without previous information and consultation.

The EMF called a meeting of its affiliates involved in GME to develop a common strategy and establish a “**European trade union coordination group**” composed of members of the EMF secretariat, representatives of the national unions involved, and members of the EEF. During this meeting, they adopted a **common action program** and common demands: “**a political platform**”. They also agreed on further important steps, such as:

- “The setting-up of an information mechanism at trade union level and **commitment on no individual negotiations on national level**;
- Immediate **distribution of the EMF political platform** amongst the EMF affiliates, the companies and employees;
- A letter from the EEF steering Committee to GME management asking for **negotiation of a framework agreement** (including a “worst case” scenario in case of refusal by management)
- The **setting-up of a select trade union group** to prepare the demands of the EMF and its affiliates for negotiation with GME management; the group consisted of one representative for each country involved and the EMF coordinator.”<sup>8</sup>

Nevertheless, GME management announced a cost-saving plan intending to reduce costs by €500 million a year, cutting Employment in Europe by 20% (threatening approximately 12.000 jobs), and concentrating the production of mid-range Saab and Opel cars in just one plant, **therefore putting the German plant of Russelheim and the Swedish plant of Trollhättan in direct competition**. The immediate reaction of the EMF secretariat was to inform its affiliates concerned with GME about this benchmarking strategy adopted by management (playing one plant off against another), and warned them to be prepared for a joint European action.

On its second meeting, the European trade union coordination group decided, by consensus, to organise **a second GM European Day of Action** on 19<sup>th</sup> October 2004, calling for the active participation of all GME sites. Over 50.000 GM employees throughout Europe responded, sometimes accompanied by

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<sup>7</sup> European Metalworkers' Federation (EMF). 2005. *GME Restructuring and Framework Agreements: An Example of EMF European Company Policy*. Brussels: EMF Focus N 1.

<sup>8</sup> European Metalworkers' Federation (EMF). 2005. *GME Restructuring and Framework Agreements: An Example of EMF European Company Policy*. Brussels: EMF Focus N 1.

politicians and local authorities representatives. The trade unions concerned by GME organized various forms of actions such as protest demonstrations, information meetings, plant-level meetings. Once again, transnational industrial action forced management to the negotiation table.

The EEF Steering Committee was supported by the European trade union coordination group in its negotiations with GME management (the bargaining partners on the workers' side were the EEF, national trade unions concerned and the EMF). A European framework agreement was reached and signed, on the workers side, by the select committee members and the EMF.

The agreement consists of, on the one hand, basic rules and norms to be taken into account in the implementation process, and on the other, a code of conduct setting the way in which both parts should proceed with this implementation, using words such as 'in the tradition of joint solutions' 'with the intention to reach mutually agreed solutions' or 'work together in good faith'.<sup>9</sup> It focuses on two main aspects: the cost-cutting restructuring plan and the management decision concerning the locations where the next generation, or platform, of vehicles will be produced.

On the aspects related to cost-cutting, the framework agreement dedicates a chapter to manpower, stating that socially responsible solutions for the necessary manpower adjustments may cover voluntary separation programmes, early retirement programmes, transfers to spin-offs, joint ventures, or other locations, and in any case, forced redundancies shall be avoided.

On GM's future business strategy, the agreement lists the principles which would guide decisions on future volume allocation, capacity utilization and site selection processes, and these include "**employment situation and separation cost**", among more classic ones, such as sales and marketing strategy, general demand situation, manufacturing strategy, financial effectiveness or competitiveness.

Both the EEF and EMF, in this agreement, therefore recognized the economic problems faced by GME and "in general" support the need for the restructuring, but "the agreement reaffirms the 'no forced redundancies' and 'no plant closures' principles of the previous agreements signed at GME. The burden of restructuring is to be shared by all the sites and restructuring is to be constantly negotiated with representatives of the employees."<sup>10</sup> The framework agreement could not prevent the job cuts from being implemented, but it provided that this restructuring process would be managed in such a way that plant closures were avoided (activity in both the Russelheim and Trollhättan plants was secured until 2010) and forced redundancies used as a last resort. Again, the approach of sharing the burden was put forward, as illustrated in the first paragraph of the agreement: "This restructuring programme will affect all brands, sites, plants and functions within Europe"<sup>11</sup>.

The implementation of this framework agreement was to occur at national level, involving trade unions and/or employee representation bodies according to national legislation and practice, to "ensure that the agreed provisions become legally binding for individual employees as well as negotiating partners."<sup>12</sup>

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<sup>9</sup> European Metalworkers' Federation (EMF). 2005. *GME Restructuring and Framework Agreements: An Example of EMF European Company Policy*. Brussels: EMF Focus N 1.

<sup>10</sup> Da Costa, Isabel, and Udo Rehfeldt, *European Unions and American Automobile Firms: From European Works Councils to World Councils?* Report for the "Commissariat Général du Plan", France. Noisy-le-Grand: Centre d'Etudes de l'Emploi, 2006.

<sup>11</sup> European Metalworkers' Federation (EMF). 2005. *GME Restructuring and Framework Agreements: An Example of EMF European Company Policy*. Brussels: EMF Focus N 1.

<sup>12</sup> European Metalworkers' Federation (EMF), *GME Restructuring and Framework Agreements: An Example of EMF*

For instance, worker representatives at Opel in Germany, the most affected site, signed a subsidiary agreement provided for the job cuts “to be secured by means of voluntary severance, partial or early retirement for older workers, outsourcing and so called 'transfer agencies' (government-subsidised schemes to offer workers retraining and wage guarantees) rather than compulsory redundancies.”<sup>13</sup>

An interesting element of this framework agreement is that it gives an important role to the EEF in the follow-up stage, in monitoring management's compliance with this agreement, since it stipulates that “progress and sustainability” would be reviewed at meetings of the EEF steering committee. This agreement, even if it is mainly political, leaves “only small latitude for local implementation, the EWC conserving a role of co-ordination, and even of arbitration in case of local demands for different forms of implementation.”<sup>14</sup>

### **The involvement of trade unions and the coordinating role of EMF**

As this series of European framework agreements signed with management show, the EEF has adopted a very pro-active approach in tackling these restructuring plans in order to avoid falling into what one could call the “beauty contest trap” and signing concession deals with management – therefore reducing social standards – to attract activity to your production plant. **The EEF has indeed shown its capacity to centralise workers' interests beyond national borders into a common platform.** But this degree of cohesion could not have been reached without such a **close collaboration with the trade unions involved in GME, under the umbrella of the EMF coordination strategy.**

The activity of the **EMF coordinator** was a key element in carrying out this strategy. This role has indeed been very important in developing the relationship between the EEF and EMF and in **organizing trade union cooperation and support**, which proved to be crucial especially in the negotiation procedures, including in signing the agreements. This coordinator was appointed to be an intermediary between the EEF and EMF. Although the coordinator is attached to a national trade union affiliated to European Federation (in the GME case, the coordinator is an IG Metall officer), as most EWC coordinators are, he/she should be identified as an EMF representative. As stated in the EMF handbook on how to deal with transnational company restructuring, “he/she is the first point of contact for the EMF organisations when problems arise with an EWC. He/she guarantees that workers' European interests are safeguarded. It is clear that in some cases the EMF coordinator will be at the same time the expert paid by the company to assist the EWC as provided by the agreement.”<sup>15</sup>

By supporting the EWC in promoting cooperation between trade unions involved in the company, the role of the EMF coordinator is therefore to “help the EWC to develop a truly European profile. (...) In the case of exceptional circumstances which are likely to affect workers substantially such as transfers of production, plant closures, redundancies, he/she will be actively involved and will ensure that the cohesion of the group is maintained. It is essential that the trade union coordinator embraces a

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*European Company Policy*. Brussels: EMF Focus N 1, 2005.

<sup>13</sup> Martin Bartmann, *Facing tough decisions at the European Works Council*, Mitbestimmung International Edition, Hans Böckler Stiftung, 2005.

<sup>14</sup> Udo Rehfeldt “European Works Councils and International Restructuring: A Perspective for European Collective Bargaining?” In Elsie Charron, Paul Stewart (eds.), *Work and Employment Relations in the Automobile Industry*, Basingstoke / New York (Palgrave Macmillan) 2004.

<sup>15</sup> EMF Handbook - How to deal with transnational company restructuring, European Metalworkers Federation, 2006.

European position in such cases.”<sup>16</sup>

The setting-up of a **GM European trade union coordination group** composed of members of the EMF secretariat, representatives of the national unions involved, and members of the EEF, was also **crucial in achieving a common platform**. It was important to ensure that all trade unions and plant level representatives were represented in this group, so that it could form **the basic forum to consolidate all levels of employee and trade union representation**. “In some cases, EMF affiliates gave mandates to employee representatives or EEF members. This is accepted by the EMF as long as the nominated person has a trade union mandate. But this person is also responsible for informing his trade union about ongoing developments. The **backing of the union is decisive**.”<sup>17</sup>

The EMF describes the process of reaching this 2004 European Framework Agreement as being **the fruit of a two pillar strategy**, combining a bottom-up and a top-down approach. It is a top-down strategy in the sense that the agreement is “an umbrella consisting of basic rules, norms and procedures that are binding for all follow-up agreements at plant-level. In the bargaining process, the European coordination by the EMF also ensures that all trade unions and employee representatives are kept informed.”<sup>18</sup> The strategy can also be described as bottom-up, since it is “mainly carried out by the members of the EWC. This strategy consists in a close process of consultation and information between the different plants involved, and of information to the EMF affiliates and the EMF.”<sup>19</sup> The EMF adds that at the time when the issue of competition between the Russelheim and Trollhattan plants came out through rumors or in the press, **the close exchange of information between employee representatives and the trade unions concerned was vital**.

This crucial communication flow between GM workers across Europe will probably be facilitated further by a very recently developed communication tool, launched in March 2007: an internet blog for GM workers ( <http://www.gmworkersblog.com/> ), which will allow them to share information and comment instantaneously on any issue they consider relevant, as a counter to the various blogs posted by GM management.

This tool was created in cooperation with the EMF, which is the host of the blog, and with the support of the Hans Böckler Foundation. It combines comments with articles, making it also possible to upload pictures and files to be downloaded by the blog visitors. The blog contains news from the factory floor, focuses on the real problems faced by the workers and talks about what is really going on at GM, without the usual filter of the GM Public Relations department.

### **The solidarity pledge: necessary but under pressure**

The current strategy of “global platforms” adopted by management, meaning that single production plants can manufacture very different GM brands and that production can rapidly be transferred

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<sup>16</sup> EMF Handbook - How to deal with transnational company restructuring, European Metalworkers Federation, 2006.

<sup>17</sup> European Metalworkers' Federation (EMF), *GME Restructuring and Framework Agreements: An Example of EMF European Company Policy*. Brussels: EMF Focus N 1, 2005.

<sup>18</sup> European Metalworkers' Federation (EMF), *GME Restructuring and Framework Agreements: An Example of EMF European Company Policy*. Brussels: EMF Focus N 1, 2005.

<sup>19</sup> European Metalworkers' Federation (EMF), *GME Restructuring and Framework Agreements: An Example of EMF European Company Policy*. Brussels: EMF Focus N 1, 2005.

between plants, strengthens the effect of playing production sites against one another. Still today, GME management announces the closure of western European plants in the years to come, continues to develop over-capacity in eastern Europe and Asia, despite plants currently working below their volume. The EEF has estimated that a potential 30.000 jobs could be lost by 2014 in western Europe.

In 2005, GME management announced that it would be adopting a cost-cutting “site-selection process strategy” running over 2006 and 2007 and involving its Opel Delta plants, where the Astra and Zafira models are produced: Bochum (Germany) Antwerp (Belgium), Ellesmere Port (UK), Gliwice (Poland) and Trollättan (Sweden). **The GM European trade union coordination group**, concerned by this announcement, “**agreed on a set of principles for equable and equitable plant utilisation and for the GM site-selection process**”<sup>20</sup>.

A particularly interesting initiative taken by the GM trade union coordination group, in order to respond to this challenge and to allow the EEF and unions to be involved, from an early stage and on a common platform, in the process of site selection, is the **creation of the “Joint Delta Working Group”**. This working group includes, among others, plant-level employee representatives and the national unions of the sites involved, and its aim is to develop a proposal for the implementation of the above-mentioned set of principles agreed, on the basis of a mutual, fair and truthful process of decision-making for the upcoming site-selection process. Another aim of the working group is to eventually sign a common framework agreement with GME on the manufacturing of the Delta platform vehicles.

At a meeting of the working group in December 2005 in the Polish site of Gliwice, the chairman and vice-chairman of EEF and trade unions from the five countries concerned signed a 'solidarity pledge', essentially “**refusing to compete for capacity allocation within the group by agreeing on cost-cutting measures, and seeking to avoid sites being played off against each other**”<sup>21</sup>. This solidarity pledge confronts GME management's competitive approach with a worker's approach based on solidarity, and establishes the following common goals and procedures<sup>22</sup> to achieve a common platform:

- **Minimum standards:** these are to be developed on the basis of decisions taken by the GM trade union coordination group and the EEF, and joint agreements will be made on “offers” regarding production allocation;
- **Information and consultation:** direct and unrestricted information and consultation on all matters related to the work of the Delta Working Group;
- **Monitoring:** members of the working group will monitor capacity utilisation of the plants. They will draw up criteria and measures for an equable and equitable capacity utilisation and alternatives will be proposed jointly in cases of under-utilisation;
- **European Framework Agreement:** the working group will try to reach such an agreement with GME on the Delta site-selection process;
- **External communications:** the working group will conduct a joint proactive media strategy;
- **Internal communications:** the working group will inform GM employees regularly and in their languages;
- **Training and exchange programmes:** these programmes will be developed to intensify

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<sup>20</sup> EWC Bulletin, *EMF adopts restructuring guidelines*, EWCB Issue 62, March/April 2006.

<sup>21</sup> EWC Bulletin, *EMF adopts restructuring guidelines*, EWCB Issue 62, March/April 2006.

<sup>22</sup> EWC Bulletin, *EMF adopts restructuring guidelines*, EWCB Issue 62, March/April 2006.

- cooperation;
- **Supporting activities and solidarity:** supporting activities and solidarity will be developed, with proactive involvement geared to politicians, people, artists;
  - **Implementation:** joint strategies and simultaneous action will be organised to achieve implementation of joint agreements and demands;
  - **Further requirements:** the solidarity pledge is to be concretised by the working group. Should matters arise during the course of the group's work, the pledge will be amended.

This commitment to sharing the burden, to the goal of “distributing production and using capacity fairly amounts to a policy of '**a trouble shared is a trouble halved**' – **it is cost-cutting rather than higher production that is being shared out** – making it all the more surprising that cooperation between employee representatives and the solidarity of the workforce has, as yet, not crumbled.”<sup>23</sup>

An interesting initiative generated by IG-Metall (illustrating again the importance of the involvement of national unions) was to submit a bid for EU funding under the European Commission’s budget lines dedicated to promote the social dialogue and the information and consultation rights of workers. The success of this bid led to the launch, in November 2005, of a project entitled “Requirements and Perspectives of the General Motors Europe Employees Co-operation (GMEECO)”, **which aims at setting-up a cross-border negotiating body, and formulating rules and tools for cooperation.** This project also provides academic and research support in formulating a cross-border framework agreement for GM, while taking full account of plant-level, regional and social factors. The GMEECO project enables workers representatives to have an input into the site-selection process, by meeting in workshops (therefore forging links and trust), exchanging information on their production plants, and “developing criteria for the site-selection process that would reflect the interests of all plants.”<sup>24</sup>

Solidarity of the workforce is however constantly put under pressure by management and cannot always guarantee results, as shown by the job cuts in 2006 at the Ellesmere Port plant, UK, (an entire shift was cut, affecting 900 jobs), where the Delta working group was unsuccessful, with management rejecting the alternative proposals put forward by employee representatives. Another recent example illustrating these difficulties is the the Azambuja van plant (Portugal) closure, announced by management in June 2006, which could not be prevented, despite negotiations with management on alternatives to the closure of this plant following a series of protest actions in GM sites across Europe in support of a strike by the Azambuja workforce.

The GME case is, by many, considered a breakthrough, in the sense that its EWC has managed to undertake actions which influenced – and actually stopped – GME management's restructuring plans which would have involved closures of plants and massive job losses. It clearly shows how an EWC can be a forum which facilitates cross-border trade union collaboration, and how the actions of this forum fit into a European trade union strategy supported and coordinated by the EIF, therefore creating a common platform, a prerequisite for ensuring that all workers' interests are considered as much as possible in the way companies such as GM undertake mobility and restructuring operations.

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<sup>23</sup> Martin Bartmann, *The challenge of the solidarity pledge*, Mitbestimmung International Edition, Hans Böckler Stiftung, 2006.

<sup>24</sup> Martin Bartmann, *The challenge of the solidarity pledge*, Mitbestimmung International Edition, Hans Böckler Stiftung, 2006.

# InBev

## Background

In March 2004, Interbrew, a Belgian-based brewer also operating in France and the Netherlands, merged with the Brazilian “Companhia de Bebidas das Americas“, also known as AmBev, to form InBev. The group is now the world’s largest brewer by volume with more than 200 brands of beer including Stella Artois, Beck’s, Leffe, Brama, Skol and Hoegaarden. InBev employs a workforce of 77.000 around the world, among which approximately 30.000 people work in Europe. Its headquarters are located in Leuven, Belgium, where the former Interbrew headquarters were located.

## The InBev EWC

InBev employee representatives in Europe are now in the process of renegotiating their EWC agreement. Until now, their EWC functions according to the terms of the Interbrew EWC agreement, originally composed of 17 seats covering the workforce of Belgium, France and the Netherlands (1 seat per group of 500 employees), which was gradually updated to include the new members of the group, until the accession of Bulgaria and Romania in the EU. It now has 40 seats.

The EWC, established under Belgian law in 1996 on the basis of article 13 of the EWC Directive, is composed of both management representatives and employee representatives, and meets once a year. It has the possibility of convening extraordinary meetings and has used this option on various occasions in the past couple of years, due to various restructuring measures carried out in the group. A draft agenda of meetings is proposed two months in advance by the EWC President (representing management) to the EWC Secretary (representing employees), who has a month to send this draft agenda to his fellow EWC members, collect their comments and add complementary items to the agenda or questions (on transnational issues) to management in the name of EWC members. There is however another possibility to add items on the agenda, or questions, during the employee-only pre-meetings that take place a day before EWC plenary meetings. The secretary is also in charge of drafting minutes and reports following meetings.

The European Federation of Food, Agriculture and Tourism trade Unions (EFFAT) has appointed a coordinator to follow this EWC, whose seat as an EWC member is foreseen in the EWC agreement, and whose role is to act as the representative of all the trade unions affiliated to EFFAT involved in the EWC. The EFFAT coordinator also acts as a **trade union expert support for the employee side of the EWC**, and has the role of encouraging teamwork, internal communication and cohesion among the EWC members.

Concerning management's attitude towards the EWC, it was stated that it could be more cooperative. Management indeed tends to consider most of the restructuring issues described below as local issues, therefore failing to inform the EWC as it is entitled to, and dealing instead with local employee representatives. In terms of resources, management cooperates with members of the EWC according to the minimum requirements, but not more: it minimizes the costs as much as possible but, for instance, allows the use of external experts when needed for analyzing specific technical aspects of items discussed in the EWC meetings.

Communication between the EWC and national trade unions as well as local levels of employee representation works well. The InBev EWC is almost exclusively composed of active union members,

therefore facilitating this communication, which is crucial but not always evident. They play an active intermediary role in the communication channel, **reporting back the discussions held in the EWC to their national organisations, and informing their fellow EWC members on the evolutions or agreements taking place at local level.**

### **Restructuring at InBev**

Since the company was formed by the merger of Interbrew and Ambev in 2004, it has relentlessly pursued what the IUF (International Federation of Food, Farm and Hotel Workers) describes as “a short term strategy of ‘shareholder value’, with little regard for the people who actually make and distribute their beer.”<sup>25</sup> In 2004, the group closed the famous Boddington's Ale brewery of Manchester (UK) despite large-scale popular protest. In 2005, the group made over €6.5 billion in profit, up an enormous 20.4 %<sup>26</sup>. However, 2005 was the year when InBev management announced a range of cost-cutting restructuring operations. These concerned transfers in both production and service operations.

In the context of a “global infrastructure efficiency programme”, management decided to outsource subdivisions of the information technology (IT) department, which triggered a reorganization at the company headquarters, therefore mainly affecting InBev workers in Belgium.

In December 2005, management also announced its plan to close its Bellevue brewery in Brussels and the one in the small village of Hoegaarden, where the white beer of the same name has been produced for centuries. According to the IUF this reflects InBev's “global strategy to restructure operations and close breweries in its established markets of Western Europe and Canada while expanding further into developing markets of Russia, China and Latin America.”<sup>27</sup> Indeed, today the group owns 19 breweries in China, for instance.

These announcements created strong mobilisation in Belgium and beyond (notably France): just days after the announcement, more than 2.000 citizens and political figures joined InBev workers in a mass demonstration against the closure of these plants. Industrial action also took place: the breweries of Belle-Vue and Hoegaarden went on strike for the day and 200 workers blocked the entrance of the InBev administrative headquarters in Leuven.”<sup>28</sup>

Yet another wave of restructuring was announced in February 2006, potentially effecting jobs across Europe. Indeed, as InBev reported a 15% increase in earnings, management announced a cost-cutting initiative in the form of a merger of its European finance, procurement and export operations and the subsequent transfer of these operations to the Czech Republic and Hungary. This plan threatened 360 jobs. As EFFAT states in a press release “the restructuring hits some harder than others. InBev recently paid €1m to three departing top executives. However, when it comes to ordinary workers, management will not even agree to negotiate a framework of minimum standards”.

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<sup>25</sup> IUF, *Citizens join InBev workers to fight massive job cuts and closure of the historic Hoegaarden and Bellevue breweries*, <http://www.iuf.org/>, December 2005.

<sup>26</sup> Profit calculated with EBIT (earnings before interest and tax), EFFAT press release, 27 March 2006.

<sup>27</sup> IUF, *Citizens join InBev workers to fight massive job cuts and closure of the historic Hoegaarden and Bellevue breweries*, <http://www.iuf.org/>, December 2005.

<sup>28</sup> IUF, *Citizens join InBev workers to fight massive job cuts and closure of the historic Hoegaarden and Bellevue breweries*, <http://www.iuf.org/>, December 2005.

## **Coordinated reaction of the EWC and unions: a European Protest Action**

Given this context, it is not an understatement to say that social relations reached a very tense level at InBev, with management facing mounting union protest against its restructuring plans, particularly in Belgium, being the place bound to be affected most by these plans.

In this period of successive restructuring announcements, **the EWC has convened 3 extraordinary meetings**: in December 2005, January 2006, February 2006. The EWC has kept formulating arguments in opposition to these operations, putting forward that these measures were not viable in the long term, and reminding that these local breweries which management intends to close down have built InBev's brands.

Since January 2006, the EWC and national unions have called on InBev management to **disclose critical information on individual plant performance and on the overall company strategy for the next three years**, but this has always been met with negative answers, as management replied that budgets and planning of operations are only made annually. Yet successive waves of restructuring have occurred, and employee representatives were not provided with relevant information, therefore not finding it easy to predict what management's intentions were beyond a few months, despite the latter's legal obligation to inform and consult workers' representatives about its plans.

Another reaction by the EWC and unions concerned, following the company's latest announcement of brewery closures and the merger and transfer to central Europe of its European finance, procurement and export operations, was to request a negotiated "common framework of minimum guarantees on future restructuring" for all InBev European workers. That demand was also rejected by management.

The idea of **undertaking a European protest action** against InBev was therefore **generated within the EWC**, and the **Belgian trade unions involved in InBev followed-up on this initiative**, getting in contact with EFFAT on this issue. **A meeting took place between EFFAT, the Belgian unions concerned and the EFFAT EWC coordinator, to discuss on how to implement this European day of action.**

**A European demonstration therefore took place** on 28 March 2006 in Leuven, Belgium (site of InBev's Corporate Headquarters), **under the coordination of EFFAT** and with the cooperation of its affiliated trade unions and of the EWC secretary, who called for the mobilisation of all his fellow EWC members, providing them with the information on the protest action.

On this occasion, the following demands were reiterated to management: the need to **negotiate a framework of minimum standards for restructuring in Europe**, the **access to information on management's plans for the next three years**, and **guarantees on job security**. This demonstration was also accompanied by one-day strikes at three of the four InBev plants in Belgium (Stella Artois, Hoegaarden and Belle-Vue), leaving the Jupille brewery running at limited capacity.

This action was a success, showing **European level solidarity of InBev workers** with high support and attendance of demonstrators from Belgium, Germany, France, the Netherlands and Luxembourg. This European protest action also gained a considerable weight due to a high media coverage, with national but also international press agencies having followed the event.

InBev management were therefore given a strong signal that there is solidarity among its workforce throughout Europe, and that they would have to take it into consideration and be cautious on the way it implements the company's potential cost-cutting restructuring operations in the future.

Besides these “traditional” strike and protest methods to condemn “the company’s continuous series of downsizing projects and the lack of information on the long-term plans, the unions have used innovative campaigning methods.”<sup>29</sup> Broad public support for the actions was gathered with the **launch of a website** ([www.mijnvoorstel.be](http://www.mijnvoorstel.be)) where people could post their ideas on how to maintain the brewing activities in Belgium. “Second, they have **lobbied for the official protection of the local beer brand names**, especially the name ‘Hoegaarden’, since it is not only the name of a well-known beer, but also the name of the town where the beer was produced. Third, they have been gathering **political support** from various quarters: success in this area came from the highest level with the Belgian Prime Minister Verhofstadt writing a letter to his predecessor, Jean-Luc Dehaene, who has a seat on InBev’s board of directors, urging him to raise the union concerns at a board meeting.”<sup>30</sup>

Restructuring measures were eventually carried out but the negotiations that took place at the national level, between management and Belgian trade unions were able to minimize the consequences: the Hoegaarden and Belle-Vue breweries were not closed down but kept with reduced activity (involving the transfer of some operations to another Belgian brewery, in Jupille), and representatives could not avoid workers being made redundant before an agreement on a social plan was reached.

Although it seems difficult to feel satisfied with an outcome consisting of “minimizing the consequences”, it has to be said that the social plan was relatively good given the original restructuring project, and the pressure put on management by the European protest action has surely helped Belgian unions in succeeding to reach this outcome. Moreover, the strength of Belgian unions in this case is likely to benefit the workforce in other countries, since this social plan negotiated in Belgium can be used to push for similar solutions in other InBev sites facing similar restructuring processes.

### **The Framework of minimum standards for restructuring**

The request from the European trade union front to negotiate with management a framework of minimum standards for restructuring in Europe is an interesting issue, with respect to both the content of the framework as well as the process through which it was elaborated. The idea, or concept, **originated in the EWC**, where the employee representatives, being the closest to the ground, and obviously the most connected with the realities of the workers they represent, considered that such a framework could be a useful tool to set some standards and guarantees. **The link was then made through the EWC coordinator, who transmitted the initiative to the EFFAT secretariat, in order to put the concept into practice. The EFFAT secretariat therefore elaborated a first draft for this framework.** EFFAT then invited all its affiliates involved in InBev, the InBev trade union coordination group, so as to present this draft framework to them. In a meeting of this group, various points of the draft were discussed and amended, **until a proposal for a framework was agreed on.**

This framework sets out the pre-existing obligations of InBev management (such as abiding by ILO conventions, respecting information and consultation rights via the EWC), and contains a series of – qualitative rather than quantitative – minimum standards to be respected in cases of restructuring.

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<sup>29</sup> EIRO news, March 2006.

<sup>30</sup> EIRO news, March 2006.

These take the shape of principles to observe in such situations, and tackle the issues of redundancies, early retirement, internal moves, outsourcing, entitlement to compensation, and so on.

A request for negotiation of this framework of standards was therefore sent to InBev management and EFFAT is still waiting for a reply. **This framework will be negotiated by EFFAT**, after the negotiating mandate was, informally, given to it by its affiliates. It has not been decided yet who will compose the negotiating group but however, once on the negotiating table with InBev management, it will most probably be a similar composition as the trade union group negotiating the EWC agreement: an EFFAT representative and representatives of some key trade union involved (notably Belgian) in InBev. However, before being in the position of signing any agreement as EFFAT, the negotiating group would have to present the proposal to its executive committee.

It is also clear that the EWC would be continuously informed of the state of negotiations, and have a role in monitoring the implementation of this agreement. Indeed, as they constitute the European level network inside the company, EWC members are located at the best place to monitor whether the agreement is breached, and to inform trade union actors in such cases.

Finally, although this agreement would not have a legal status, it will have a strong moral status, therefore putting pressure on InBev management to observe these standards. If management was to break this gentlemen's agreement which they signed, they would have to face the trade union protest reaction triggered by such failure to comply.

# **RWE Energy AG**

## **Background**

RWE AG (Rheinisch-Westfälisches Elektrizitätswerk Aktiengesellschaft”), founded in 1898 in Essen, Germany, has developed into a European Group with global commitments through takeovers and subsidiaries outside of Germany. RWE AG has established itself as a ‘multi-utility provider’ with companies in the various public utility areas offering a wide range of services. It is composed of three main branches: RWE power AG (power generation and production of natural gas and oil), RWE energy (transmission, distribution and retail of electricity, gas and water), and RWE Thames Water plc (water and sanitation, mainly operating in the UK and the US). The company's strategy for its future development is to successively withdraw from the water business (especially in the US) and focus on its core energy business: electricity and gas in Europe.

RWE Energy AG therefore forms a European group of companies whose activities focus on the transmission, distribution and sale of electricity, gas and water. The group operates in Germany, the Czech Republic, Hungary, Poland, Slovakia, Austria and the Netherlands.

## **The RWE European Energy Forum (EEF)**

The group, which soon will enter in the process of starting negotiations to create an EWC covering the workforce employed in all its branches, has up until now only set-up a European information and consultation body for RWE Energy AG.

The need for the creation of an RWE Energy EWC was accelerated by the EU internal market directives on electricity and gas market liberalisation, which were logically expected to provoke great changes in the European energy industry and serious challenges (pressures on jobs and working conditions), to be tackled by employees and their representatives. A resolution adopted by the International Conference of the employee representatives of RWE Energy AG, held in Bochum in November 2004, requested management to start “constructive negotiations” with a special negotiating body in order to reach an EWC agreement. The agreement establishing the RWE European Energy Forum (EEF) was signed on 1<sup>st</sup> March 2005, on the basis of the German law transposing the EWC Directive (Europäischen Betriebsrätegesetz – EBRG).

The chair (a German representative), the deputy-chair (a Czech representative) and 5 further members of the EEF form the executive committee of the EEF, whose task is to ensure cooperation between members of the Forum and RWE Energy AG in all respects. The executive committee consists of one representative from all the 7 countries represented in the EEF (Germany, the Netherlands, Austria, Czech Republic, Poland, Hungary and Slovakia).

Alongside members and observers, a representative of the European Federation of Public Service Unions (EPSU) has the right to participate in all meetings of the European Energy Forum. On agreement between the chair and the employer’s representative, further guests can also participate to the meetings, such as other employee representatives, or external experts, as specialists on individual items of the agenda.

RWE Energy AG presents a report to the EEF on the progress and prospects of the group once a year,

but the EEF holds regular plenary session twice a year. For preparatory and follow-up purposes, the executive committee meets the day before and immediately after plenary meetings. There is also a possibility to hold extraordinary meetings of the executive committee in cases of transfer of undertakings or establishment, closure of undertakings or establishments, and collective redundancies. The executive committee shall also invite to these meetings members of the EEF appointed by the establishments or undertakings directly affected by the planned measures.

According to the agreement establishing the EEF, restructuring-related operations with a cross-border dimension are among the topics employee representatives are to be informed and consulted about by management. As listed in paragraph 2 of the EWC directive's subsidiary requirements, these include measures such as transfers of undertakings and of production, mergers, divisions, cut-backs or closures of undertakings or establishments, and collective redundancies.

As regards the behaviour of RWE Energy AG in collaborating with the EEF, although the original attitude of management reflecting some scepticism, a constructive dialogue since the creation of the EEF made this relationship more collaborative. This might be explained by the fact that RWE in Germany has a high percentage of unionized workers and a long tradition of co-determination. Some problems were however reported concerning local management of a few of the group's companies in Central and Eastern European Countries, who failed, on various occasions, to comply with their duty to inform local workers representatives.

### **The EEF: a pro-active EWC collaborating closely with trade unions**

In between meetings, members of the EEF communicate on a regular basis, mainly by e-mail or by phone, and the means of communication from the EEF to the workforce is variable, leaving employee representatives the choice of using the channels most appropriate to the local context. The group's newsletter is also used to circulate information on what has been discussed in EEF meetings.

Despite the language barriers, a difficulty encountered by most EWCs, **this structured communication between EEF members allows a continuous flow of information between the various national works councils and national trade unions involved in RWE Energy.**

The executive committee **actively plays its pivotal role**, being in regular contact with central management, therefore allowing the EEF to have a constant interlocutor.

The executive committee is also active in **facilitating the organisation of training seminars for EEF members**, suggesting the topics and reaching the experts selected to provide these training seminars. Experts in the fields of social and industrial relations (notably from the European Trade Union Institute for Research, Education, Health and Safety) were therefore called upon to train EEF members on the different systems of worker representation in the EU, which has proven to be very useful in this particular case. The first phase of collaboration between employee representatives meeting each other, coming from different cultural backgrounds, is often difficult and sometimes triggers feelings of scepticism and mistrust, especially when some of your fellow EWC members are also members of the company's supervisory board, which is the case for a few of the German members of the EEF. Learning about the different systems of workers participation, and the different opportunities each could bring has surely helped in reducing such feelings of scepticism. Training seminars in other fields, such as intercultural communication and competences, were also given.

As mentioned above, the European federation of Public Sector Unions, EPSU, has appointed a trade union officer to fulfill the function of coordinator of this EWC. An important part of his role is to hold the contacts of the EEF with the trade union movement and with EPSU, to participate to all meetings of the EEF and to **facilitate collaboration between the EEF members**. He also fulfills the role of trade union expert advising the EEF and providing EEF members with information about energy policies and evolutions at the European level. Finally, it was stated that another function of this coordinator is to **forge useful links with contacts from other EWCs in the sector via the EPSU network of EWC coordinators**, through which the latter exchange their EWC experiences and informations on relevant evolutions in their sector.

The degree of unionisation of EEF members is very high and there is **active trade union coordination of this EWC at the national level**, with notably unions such as Ver.di (Germany) GPA (Austria) or UNIOS (Czech Republic) providing assistance and expertise to “their” EEF members.

Finally, **the EEF plans to create working groups** to focus on specific transnational questions of particular relevance to employee representatives. Issues to be tackled by these EEF working groups are, among others, the potential centralisation of the group’s IT services, the creation of a full RWE AG group-level EWC, and the future signing of a group-level social charter.

### **Restructuring at RWE**

The RWE group has carried out and is currently planning two main types of restructuring operations, related, on the one hand, to a cost-cutting strategy and, on the other hand, to legal obligations derived from EU energy market liberalisation directives.

Management has informed the EWC about cost-cutting plans consisting in the centralisation of operations currently grouped under RWE systems, the branch of RWE AG which operates the group's purchasing, IT services, property and personnel services. It is however not known whether this centralisation will lead to a transfer of this activity in a company owned by the group, or whether these operations will be outsourced.

The 2003 European legislation on energy markets liberalisation, more particularly the “legal unbundling” requirement, request that the generation, sales, trading, transmission (or transport) and distribution of energy must be separated and operated by different liable legal entities. The group therefore proceeded to the dismantling of various RWE gas and electricity departments throughout Europe, so that their sales, transmission and distribution operations are unbundled.

This restructuring had been anticipated in the German RWE undertakings, which comply with the new EU internal market legal requirements, but subsidiaries in the new member states and in the Netherlands (where the gas network of local RWE undertakings have only recently been open to competition) are going through this process. This results in considerable changes in the structure of all RWE undertakings, as illustrated by the creation, for instance, of a new company: RWE Gas Midstream. This new entity will be operating tasks within the midstream chain – between the “upstream” (extraction) and “downstream” (distribution and sales) ends of the business – therefore taking the raw natural gas from the producers and physically modulating it to meet the needs of the customers. These tasks which are now united in this new midstream service provider, were, up until now, spread out among various RWE undertakings who now have to concentrate on their core activities.

These changes have had consequences in terms of employment and working conditions. Part of the workforce was – and is being – placed in these new RWE entities set-up in the process of unbundling, but restructuring has also involved some job cuts and local works councils and trade unions have negotiated with management a vast social plan.

### **Agreement on the Application of Minimum Standards for Restructuring**

The need to ensure that these restructuring operations are carried-out by management in a socially acceptable manner was **discussed within the EEF**. Members from the new member states were particularly keen to push forward such an initiative, for the simple reasons that the workforce they represent is the least protected in such situations and, as past experience had shown, the most likely to be affected by violations of workers participation or trade union rights.

Various approaches were mentioned during discussions within the EEF: to reach an agreement on corporate social responsibility, or get management to sign a social charter. At this stage, **the EPSU coordinator played a crucial role in the sense that he came up with the suggestion of negotiating an agreement on minimum standards**. This suggestion was agreed upon by the EEF members, and the EPSU coordinator then drafted a proposal for a minimum standard agreement. The EEF therefore requested negotiations with management on this agreement proposal.

The negotiating group facing management was composed of the executive committee and the EPSU coordinator, and the agreement was finally reached in February 2007 and signed by management representatives (Human Resource Directors) and the EWC executive committee members (one representative per country in the EEF).

As stated in its preamble, this agreement “aims to support the restructuring measures required to position the company in the market and for competition from the employees’ point of view and to minimise any adverse effects that may arise for the employees”<sup>31</sup>. The agreement states that during this process, the national differences in information and consultation rights of employee representatives regarding restructuring measures must be observed. “The present agreement defines minimum standards, without affecting any further national participation rights on account of laws or agreements. (...) To enable EEF to make efficient and effective use of its participation rights in the case of restructuring, it is necessary to apply comparable standards in the countries involved. This is the objective of this agreement.”<sup>32</sup>

This agreement therefore **responds to a particular restructuring context without confronting it by principle, but ensuring that the process is carried out in a socially responsible manner**. It contains both substantive provisions on the implementation of restructuring (mainly aimed at minimising the employment effects of it) and procedural provisions on information and consultation of the EWC and on the participation of local employee representatives and trade unions in cases of restructuring.

The 1<sup>st</sup> article defines what is understood by “restructuring”: this definition includes measures such as site closures, site relocation, basic change of work organisation, outsourcing of major parts of a business, collective redundancies and close-downs, disposals and spin-offs of major parts of a business.

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<sup>31</sup> RWE Energy, *Agreement on the application of minimum Standards for restructuring*, February 2007.

<sup>32</sup> RWE Energy, *Agreement on the application of minimum Standards for restructuring*, February 2007.

Then the agreement sets out the information consultation obligations management is required to comply with (RWE Energy AG will inform the Forum about general strategic developments within the group and all the issues listed in the EWC agreement, in good time and with presentation of the relevant documents) and states that these minimum standards will be based on ILO conventions and EU directives on information and consultation of workers and on termination or transfer of employment.

The procedural aspects of the agreement highlight the participation rights of the EEF in case of restructuring adding that “to enable EEF to make effective use of these participation rights, it is necessary that employees at national level obtain almost simultaneous and comparable information from the company on any planned restructuring measures.”

Moreover, it engages company management to observe the following minimum standards when engaging in a restructuring operation: “a) Consultation with employee representatives and/or trade unions will take place in a comprehensive manner and in due time prior to the final determination of the relevant restructuring measures. All documents which may be of significance to the relevant decision must be submitted. b) This timely and comprehensive consultation shall enable employee representatives to prepare their own statements so that their positions will be considered in the decision-making process. c) This provision shall in no way affect the legal procedures as defined in the relevant national laws.”<sup>33</sup>

The substantive measures concerning the consequences for employees in case of restructuring commit the parties to “make every effort to observe the following principles in order to mitigate the individual social consequences for employees in case of restructuring measures”. The agreement therefore states that dismissals due to restructuring shall be avoided as far as possible, and lists the tools available for socially compatible staff reduction, to be used as appropriate. These include early retirement and partial retirement, voluntary cancellation agreements and severance payments, part-time work, transfers, qualification measures, and promotion of mobility. Moreover, it specifies that “when applying these tools, the individual social criteria and qualifications of the employees shall be taken into account. The parties shall not plan any restructuring measures which are exclusively aimed at degrading participation rights, working conditions and retirement benefit schemes. Organisational changes resulting from restructuring measures shall in no way impair the rights of employee representatives.”<sup>34</sup>

As such, this agreement does not have any legal value, but then again, the commitment of management to observe these standards has a strong moral value. Where needed, this framework will be transposed into national agreements, but not in all cases, as the strategies of national trade unions and works councils will be different according to their local context and practices.

EEF members will be in charge of monitoring that these minimum standards are observed at the stage of implementing the restructuring measures, and inform each other on the evolutions of the process in their countries.

Reaching this agreement on minimum standards has also been a very important step for the internal dynamics of the EEF. It was important to formalise the outcome of a common platform, illustrating the cohesion between EEF members. This relatively new EWC therefore started quite well, and it was said

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<sup>33</sup> RWE Energy, *Agreement on the application of minimum Standards for restructuring*, February 2007.

<sup>34</sup> RWE Energy, *Agreement on the application of minimum Standards for restructuring*, February 2007.

that it is partly due to the fact they have benefited from other EWCs' experiences. Members have indeed not only learned to collaborate in this EWC, but have managed to develop **close relationships based on trust**.

## **Dim Branded Apparel**

### **Background**

DIM Branded Apparel (formerly Sara Lee Branded Apparel Europe) markets a global portfolio of basic apparel brands in the intimates, underwear and sportswear categories. Well-known brands own by the group include DIM, Wonderbra, Playtex, Lovable, and Abanderado.

In 2005, Sara Lee's chief executive officer announced the selling of the European branded apparel business, with the aim of pushing further Sara Lee's strategy to simplify its portfolio and focus on growing its core food, beverage and household and body care businesses. In 2006, the acquisition of the European branded intimate apparel business of Sara Lee was completed by an affiliate of Sun Capital Partners Inc., a leading private investment firm specializing in leveraged buyouts of market-leading companies. The business is now known as Dim Branded Apparel (DBA).

DBA is headquartered in Paris, France. The company has manufacturing plants in France, Spain, Tunisia, Morocco, Romania, Bulgaria, Poland and the Philippines, and works with suppliers in the Far East (mainly in India, Indonesia and Vietnam) delivering finished goods. It manages 13 finished goods warehouses for its sales regions (Business Units) for Northern, Central and Southern Europe businesses. The group employs a workforce of 5.500 in Europe and its turnover was over 1 billion euro in 2005.

### **The functioning of the DBA EWC**

The DBA EWC is run according to an updated version of the agreement establishing the Sara Lee Personal Products EWC, created in 1996 under French transposition of the EWC Directive (basis of (Article 13 agreement)). It includes 30 members, representing the workforce of sites in France, Spain, Italy, UK, Germany and Romania.

A very structured and frequent communication has developed among members of the steering committee, which facilitates the overall management and running of the EWC activities. Communication between the steering committee and management was also reported to be good, with the secretary of the EWC, a French representative, playing the continuous intermediary role, although in an informal manner, and therefore allowing the EWC to have a constant interlocutor.

An interesting element to be noted in the DBA case is that the agreement establishing the EWC contains a provision according to which it may set up ad-hoc working groups for fixed periods of time. As described in Article 1 (concerning the missions of the EWC) of the agreement, the tasks of these working groups would be, among others, to draw up proposals for joint opinions in areas such as employment, training, the application of trade union rights, equal opportunity, safety and working conditions.

This possibility of creating working groups was put in practice on a few occasions with the collaboration of the European Trade Union Federation for Textile, Clothing and Leather (ETUF-TCL), illustrating the pro-activeness of this EWC.

The EWC created a group whose mission was to tackle the issue of occupational health and safety in the group's undertakings, and in particular on management's duty to provide training on health and safety. The group's action was useful, since it managed to highlight, after circulating a questionnaire among employees, that only 17% of the workforce had actually received a training on this issue, as opposed to what management originally claimed.

A working group on social responsibility and trade union rights was also set up to contest the codes of conduct adopted by the group. With the assistance and the expertise of the ETUF-TCL, reports were made in countries where the group has manufacturing plants. These studies showed that the situation was far from being acceptable in Morocco, for instance, as these rights were violated by local management. Central management has therefore had to take measures to correct and improve the local practices. Moreover, since then, a Moroccan trade unionist even attends all the EWC meetings as an observer.

The use of external experts is frequent in the DBA EWC, and they are not only used to analyse accounts and economic situation of the group. Health and safety experts of the ETUI-REHS, as well as legal experts in the case of a take-over, were also called upon.

Almost all EWC members are union members, but the coordination of national level unions and the assistance provided to "their" members could be more structured in some of the countries covered by this EWC. It was indeed stated that there is communication between EWC members and national level trade unions, but, in some cases, this communication takes place only in times of crises.

A DBA European trade union coordination committee was created, under the coordination of the ETUF-TCL, just after the announcement by Sara Lee US to sell its textile and clothing European operations in 2005. The coordination group has been convened on other occasions, as we shall see below. This committee is composed of the 6 members of the EWC's select committee, of 1 representative by national trade union federation concerned by the restructuring measures, of the ETUF-TCL coordinator and of a representative of the ETUF-TCL secretariat.

### **The 2006 cost-cutting restructuring at DBA**

In May 2006, DBA management informed the EWC that it was planning to carry out a restructuring exercise consisting in outsourcing and cost-cutting measures, which would cut-down staff in DBA subsidiaries of five European countries. These measures were to affect 950 jobs, therefore 15% of the workforce, with France (450 jobs), Spain (300) and Italy (140) to be the hardest hit, but also involving subsidiaries in Germany and the UK. The restructuring would also affect the economic and social development of most of the regions concerned. As a matter of fact, the announced job cuts were the result of bad management and a lack of foresight by Sara Lee Branded Apparel, with regard to events such as the end of the textile-clothing quotas applied at EU customs on 1st January 2005<sup>35</sup>.

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ETUF-TCL, *DBA European Action Day*, press release, 21 June 2006.

While still under the ownership of Sara Lee, the group had already faced restructuring measures after its take-over of Courtaulds Textiles Group, in 1998, and at that time, management had failed to inform the EWC. The workers side reaction was strong as the EWC and the ETUF-TCL requested an immediate extraordinary meeting, as well as requesting to be heard by the European Commission on this take-over (which they did) and eventually threatening to take legal action against management for not having complied with its obligation to inform and consult the EWC. It was stated that it is most probably because of this experience that management has not made the same mistake in 2006, and actually informed the EWC on time about the restructuring planned.

### **A coordinated response**

An extraordinary meeting of the EWC was requested, in order to draw up a common response of workers representatives, and **the ETUF-TCL coordinator played a very useful role in advising the EWC on the strategy to adopt and the common response to formulate. The important elements of a coordinated reaction were initiated in the framework of the DBA European trade union coordination committee**, which was convened consecutively in Brussels and in Paris. This coordination committee did not dispute the need to increase DBA's competitiveness, but highlighted the fact that it is intolerable that the workers should be the only ones to pay for this restructuring, which resulted from mismanagement. Indeed, the first measures announced by management focussed mainly on relocation, increased outsourcing and cost-cutting measures, whereas “socially responsible restructuring could create the conditions for DBA to be viable and to develop and save the remaining jobs.”<sup>36</sup>

The committee assessed the social situations and the legal possibilities in each country involved to coordinate a common response, and agreed on a series of priorities including, among others, the **negotiation of a “method agreement” on measures to accompany the restructuring and avoid redundancies as far as possible.** This demand was to be **backed-up by the organisation of a European industrial action day.**

**The initiative to aim at reaching a European method agreement came from the ETUF-TCL**, and an agreement proposal was **drafted by the EWC coordinator.** This agreement proposal includes both procedural and substantive provisions guaranteeing that DBA establishes a **genuine, constructive, social dialogue with the trade union organisations concerned** (at the local, national and European levels), in a climate of confidence and complete transparency. It states that DBA must take every measures required at the appropriate levels to accompany the restructuring and anticipate its social impact, with a view to avoid forced redundancies.

The **negotiation mandate** concerning the contents of this agreement **was given by the trade unions to the EUTF-TCL** in the framework of the trade union coordination group (the EWC steering committee is composed of trade union members), where decisions were taken by consensus.

In June 2006, a **symbolic trade union day of action therefore took place** in the subsidiaries of DBA in the five European countries concerned in protest at DBA's restructuring plans and to support the demand of the European trade union committee to negotiate this method agreement with management. This cross-border action was a success in terms of following, transnational solidarity and press coverage, due to a **strong coordination role played by the European trade union coordination**

<sup>36</sup>

ETUF-TCL, *DBA European Action Day*, press release, 21<sup>st</sup> June 2006.

**group**, where all representatives of the various trade unions involved committed to mobilise “their people”.

On the other hand, one could not say the DBA day of action exerted a real pressure on management, since it kept ignoring demands, **refusing to start negotiations with trade unions at the European level in order to start negotiating at local level**. They opted for this strategy in order to avoid unions in countries with less protective legislation from obtaining the same conditions as their more protected colleagues.

Trade unions had reached, in the coordination group, an unofficial consensus on not starting negotiations at local levels, but as time passed and management showed no possibility of starting discussions at European level (by putting forward legal problems related to the hierarchy of negotiation, between national and European levels), national unions were pushed to start negotiating social plans with management. Quite satisfactory agreements were reached in Germany and the UK (where measures involve nearly no forced redundancies), as well as in Italy, but negotiations in France, the country expected to be hit the most by this restructuring, have not yet finished.

This DBA case therefore illustrates that having a relatively pro-active EWC, well coordinated by the EIF, is not enough to ensure results. The full involvement of all national trade unions concerned and their cooperation is crucial to face the restructuring of multinational companies. This case also highlights the need to create a European legal framework for cross-border bargaining at company level, so as to ensure negotiations take place at transnational level when they concern transnational processes.

## METHODS OF ACTION FOR EWCs

EWCs are “recently created bodies characterized by their combining different national industrial relations cultures and, above all, by the fact that they meet very infrequently. Proper functioning, enabling them to get the most out of these meetings, therefore represents a decisive challenge.”<sup>37</sup>

This challenge is all the more decisive since EWCs are bound to play an increasingly important role, as the high cross-border capital mobility in Europe causes, and will keep causing, a growing number of transnational corporate restructuring operations.

The statutory role of EWCs is one of information and consultation, and we need to make sure that they are finally given the right tools for this role to be played efficiently. Ensuring this implies a revision of the legal framework in which they operate. But we also need to identify the most efficient ways to work with the current tools, in the current context.

EWCs offer the potential of providing a useful forum for information exchange among employee representatives in multinational companies, and, as illustrated by some of the cases analyzed in this report, for fostering cross-border trade union collaboration.

Trade union involvement in EWCs seems to be a key factor in providing EWC members with the necessary expertise. It also facilitates the ability of a common workers platform to react promptly in cases of crises. This requires close cross-border cooperation among trade unions, and consequently, EIFs must play a strong coordination role in order to ensure the good running of such collaboration. As the EMF states, “the time when national solutions alone can save jobs is past, since multinational companies can only be pushed into a socially acceptable way of cross-border restructuring when a strong European trade union movement can be coordinated efficiently”<sup>38</sup>.

The good practices as well as the limitations highlighted by the cases analyzed allowed us to identify various recommended methods, or modes, of EWC action in dealing with restructuring, which we shall set out according to the different stages of the process: the first stages of **information** and **consultation**; the stage of drawing-up a **coordinated reaction**; the potential **negotiations** with management; and the final stages of **following-up and monitoring** the implementation of restructuring.

### 1<sup>st</sup> stage: information

**Anticipation and preparation** are the key issues for managing corporate change in the most socially responsible way. To be provided with the relevant information on time is therefore crucial, since this is what determines one's capacity to anticipate.

access to information about the company and its plans is the central right of EWCs, but many will

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<sup>37</sup> CCOO Catalunya, TUC, FNV Formaat, Alpha conseil, “European Works Councils – cases of good practice”, published in the framework of the EC co-funded project “EWCs: Research Circles”, 2001.

<sup>38</sup> EMF, “*GME Restructuring and Framework Agreements: An Example of EMF European Company Policy*”. Brussels: EMF Focus N 1, 2005.

agree with the fact that it is a right which must be fought for everyday. Although it is important, it is not only what is written in the EWC agreement that determines the efficiency of an EWC and the success of its action. As previously mentioned, the dynamic aspects count to a great extent. The key factor is what you make of the EWC, in other words, the **pro-activeness of the EWC**.

• ***Ensure compliance with your rights to be informed***

The pivotal role played by the EWC steering committee is essential, in the sense that it can take the responsibility for monitoring management's compliance with the rights of EWC members to be informed and consulted, and denounce management if it fails to do so. The role of the steering committee is also of great importance in establishing a structured communication with management and identifying what information is relevant. The more pro-active the select committee is, the more it increases the opportunities of getting the relevant information in good time.

• ***Ensure a structured communication exists among EWC members***

A successful and efficient EWC implies the continuous and timely sharing of information among its members. Structured communication among EWC members is therefore crucial. Building the capacity to work together means developing independent communication networks (e-mail lists or the use of intranet, for instance), guaranteeing more continuity of communication among members. When important information reaches an EWC member, it is crucial that he/she knows how to share the information with fellow EWC members. If a rumor arises, efficient means of exchanging information are necessary to confirm its accuracy as fast as possible.

This structured communication is not only important for the anticipation of change, but it is also important in minimizing its consequences. When for example a certain country is hit by restructuring first and negotiates a good social plan, as the Belgian Unions did in the InBev case, EWC members of this country may communicate this and send the plan to their fellow EWC members from sites or plants in other countries, so that they are better armed to face potential subsequent restructuring. The logic behind this is to let the others benefit from your strengths.

• ***Develop communication channels with lower levels of employee representation***

It is important that local levels of employee representation are aware of the activities and the purpose of the EWC. Clarifying the relations between EWCs and national or local worker representation bodies is sometimes necessary so that they understand that their actions are complementary and to ensure synergies at all levels. Circulating reports and minutes of EWC meetings is one way to do this, but setting up communication tools such as newsletters or an internet blog (as in the GME case) are alternative ways to reach other levels of employee representation and, ultimately, the workforce the EWC represents.

• ***Be agenda-oriented: set-up working groups, organize training seminars***

As we have seen, some EWCs (such as the DBA EWC), have provisions in their agreement concerning the setting-up of working groups. However, not having this option provided for in the EWC agreement should not impede the development of own initiatives. EWCs which have adopted an agenda-oriented approach and set up working groups on specific issues of relevance (such as the Delta working group at GME) have increased their capacities not just to be aware of the situation in the company and to analyze evolutions in the business, but to create a common platform of demands in case a situation arises.

Calling upon experts to deliver training seminars on a specific issue facing the EWC, or on more

general topics such as the different systems of worker participation in Europe, has also proven to be useful in increasing the capacities and the cohesion of the EWCs.

- ***Develop an early warning system***

Because experience has shown that one cannot just rely on getting the information on time, EWC members need to be able to have fast and efficient exchanges of information so as to allow for a faster and better informed reaction on the workers side. Moreover, setting-up some sort of an early warning system which can work efficiently in situations of crisis is also important. It is crucial to be prepared: if local level employee representatives are informed of a specific measure, they should know who to contact – the EWC select committee, the EIF coordinator, the EIF secretariat – so that the process of a coordinated reaction can be activated as fast as possible.

- ***Ensure that transnational issues are considered as such***

Define the notion of transnationality. Management often uses the argument that some issues are not transnational to by-pass and therefore avoid informing the EWC. But issues that apparently concern one country might, in practice, have consequences affecting more than just this country. This problem is even recognized by the European Commission, since it has changed (and made more accurate) the definition of transnational issues in the Directive on the European Company Statute. Here transnational issues are defined in the context of management structures to which consultation structures should relate, stating that “matters which exceed the powers of the decision-making organs in a single member state are considered transnational (standard rules part 2a)”<sup>39</sup>.

- ***Demand extra-ordinary meetings***

When a restructuring situation arises, it is necessary to demand an extra-ordinary meeting of the EWC or of its select committee, and to ensure the presence of appropriate management representatives. This gives the opportunity to gather more information on the measures (management has to present a report on the situation) and to ensure a coordinated response from the employee side.

## **2<sup>nd</sup> stage: consultation**

Along with information, consultation is the other main right of EWCs, but many EWC members find that they are weaker on this point. A majority of EWCs having faced cases of cross-border restructuring claim that they were informed after the decision was taken. This right of EWCs to be consulted should therefore be fought for and made the most of.

- ***Request a real consultation procedure***

In the event of a restructuring announcement, if consultation is to be effective, it is important that the parties attending an extraordinary meeting can reconsider their positions in the light of the discussions held during the meeting, if they are unable to come to a agreement in the first instance. It is recommended that the EWC requests to be “officially” consulted in a future meeting. This allows the EWC to gain time and to increase its - crucial - capacity for formulating a common opinion and proposing socially responsible alternatives to the original restructuring plan.

- ***Ensure all levels are involved***

Close communication between the various actors at different levels is essential before the EWC can

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<sup>39</sup> CCOO Catalunya, TUC, FNV Formaat, Alpha conseil, “European Works Councils – cases of good practice”, published in the framework of the EC co-funded project “EWCs: Research Circles”, 2001.

formulate an opinion and suggest alternatives suitable for all. It might be interesting to have representatives of the sites affected attending the EWC or steering committee extraordinary meeting.

- ***Ensure your access to trade union expertise***

Access to expertise and trade union support are crucial elements for the efficiency of EWC action. The key is not just being informed, it is knowing what to do with the information once received. It is important that EWCs are able to call upon well-chosen experts (whether it is in the economic, financial, legal, or social fields), so that accurate analyses of company information are undertaken before embarking in discussions regarding the appropriate strategy to adopt. Best practices have shown that EWCs which have achieved better results share the common characteristics of “being trade union based, with worker representatives working closely with their union organizations, and with a well-chosen expert who is able to provide analyses of company information and discuss strategy with the EWC in order to anticipate changes.”<sup>40</sup>

### **3<sup>rd</sup> stage: coordinated reaction**

If workers are going to confront multinational companies and influence the way corporate restructuring is carried out, international coordination is necessary. This is especially the case in those situations where production plants and sites are being played off against one another. In such cases, **the EIF coordinator has a key role to play in promoting a European approach and preventing national interests from taking precedence over European interest.**

In this respect, the involvement of EIFs, in a **coordinating and mediating role, is a crucial factor, in the sense that it facilitates, by aggregating the different national or local interests, the creation of an employee side common platform.**

- ***Develop a common platform of demands***

To be influential in such situations, it is crucial that the workers side is able to present a united front to management. Cohesion of the EWC and cooperation among the trade union actors involved under the umbrella of the EIF will lead to the drawing-up a common platform of demands.

- ***Set-up a European trade union coordination group***

The cases where the EIF coordinator set up a trade union coordination group have proven to be successful, since they ensured a close cross-border trade union collaboration and the creation of a common platform, a united front, to support the EWC worker representatives' demands vis-à-vis company management. It is important to ensure that all trade unions and plant level representatives are represented in this group (with a particular emphasis on ensuring the involvement of unions and representatives from the new EU Member States), so that it can form the basic forum to consolidate all levels of trade union and employee representation.

- ***Envisage collective action under the coordination of the EIF***

Some cases analyzed in this report have shown that there are ways to exert pressure on management, that some kinds of leverage have lead to possibilities of influencing decisions on corporate restructuring. Among other options, a European day of action and demonstrations are ways of sending

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<sup>40</sup> CCOO Catalunya, TUC, FNV Formaat, Alpha conseil, “European Works Councils – cases of good practice”, published in the framework of the EC co-funded project “EWCs: Research Circles”, 2001.

a strong message to management that there is cross-border solidarity, that a common platform has been created. Such actions of solidarity and mobilization at European level surely require a strong coordination from the EIF, and need to be worker-based.

- ***Commit to solidarity***

In cases where different sites are put in competition with one another, the actors involved must agree to share all information, and to refuse to negotiate individually at local level. Avoiding local concession agreements to attract activity is necessary for a European coordinated trade union strategy to work. The solidarity pledge signed by unions involved in GME is an illustration of such commitment to remain cohesive. As mentioned on various occasions by the GM EEF chairman, solidarity is not just nice to have, it is a necessity, a prerequisite to manage the mobility of multinational companies, to accompany change in a socially responsible manner.

- ***Develop a communication strategy***

Bad publicity can sometimes hit harder than a strike. Workers demands should therefore be relayed to the press as much as possible. EWCs should develop public relations, e-mail campaigns, contacts with the political sphere, build alliances, and be heard by institutions such as the European Commission, who can influence outcomes in cases of mergers or take-over, for instance.

## **4<sup>th</sup> stage: negotiations**

As illustrated by the cases analysed, the practice of negotiating at European level with management on the way to carry out restructuring measures is becoming increasingly frequent. As a matter of fact, approximately 100 joint texts have been concluded with multinational companies in Europe until now. That said, **the procedures for running negotiations and their outcomes are very diverse**. Usually, ad-hoc negotiation teams are set-up to be the counterparts of management. The results of such negotiations have included joint positions, social charters, framework agreements, agreements on minimum standards, which in most cases need to be transposed at national level in order to gain legal value.

The current situation therefore raises two key issues which will have to be tackled in the future if we are to manage industrial relations within multinational companies. The first issue is **the lack of a legal framework for European company agreements**, although the European Commission has envisaged the initiative of developing such a framework in its Social Agenda 2005-2010. and the second is **the lack of internal procedures in EIFs for activating negotiation mandates**, although some EIFs have already adopted such procedures. This activation of mandates for negotiating at transnational level needs to go through a democratic and transparent process, and requires a discussion on the balance of responsibilities between national and European trade unions.

- ***Reach a common decision on requesting negotiations***

The initiative of requesting negotiations with management needs to involve all actors on the workers side (the EWC steering committee, the EIF coordinator, national trade unions concerned and the EIF), and such a decision should preferably be taken by unanimity in the framework of a trade union coordination group meeting.

- ***Run negotiations under the coordination of the EIF***

The negotiating team might be selected on a case-by-case basis, and must include a representative from

the EIF, a representative from the trade unions involved, trade union members of the EWC select committee, and the EIF coordinator for the EWC. When involved in a bargaining process, negotiations must be coordinated by a representative of the EIF, since he/she can ensure that all trade unions and employee representatives are kept involved in the process. Despite the current diversity of procedures, we can indeed identify a trend whereby EIFs increasingly take the responsibility of managing and signing such transnational level agreements.

- ***Include a non-regression clause in the agreement***

Any agreement should include a non regression clause, to avoid the negotiations from resulting in the lowest common denominator among agreements already concluded at national level.

## **5<sup>th</sup> stage: follow-up and monitoring of the implementation**

- ***Transpose at national level the agreements reached***

The legal value of these European agreements is unclear, since there is no legal framework for European company-level bargaining. This is why they are usually negotiated and implemented at national levels, according to national systems and practices. Nevertheless, European agreements should set the standards and form the basis for all follow-up agreements at local level.

- ***Monitor the implementation of restructuring***

Signing a European agreement does not provide water-tight protection for workers. It is open to management to breach the gentlemen's agreement, and attempt to play off different locations against each other during national negotiations. In such cases, EWCs are in an optimal position to play a leading role in the follow-up and monitoring stage. EWC members should, on the one hand, monitor the evolutions in the implementation at local level and, on the other hand, inform their fellow EWC members if the agreement is breached by management in carrying out restructuring.

## CONCLUSIONS

Four different cases of EWCs facing situations of restructuring were analysed in this report, and each have illustrated, in different ways, good practices as well as limitations and room for improvement. From these experiences, we were able to draw some key methods of action and to identify ways of interacting among the various actors involved in this multi-level system of industrial relations, which should allow EWCs to be more efficient in accompanying the mobility of multinational companies.

To succeed in this challenge of accompanying change, EWCs need to be proactive, cohesive and coordinated. Close relationships among EWC members must be developed, leading to a continuous communication among them. This requires a high level of mutual trust, which can only be achieved through transparency. As the GME EEF chairman puts it, “in the EEF, 20% has to do with hard facts of the company, 80% is a question of getting to know each other and setting-up a trust-based culture of transnational cooperation”. The pivotal role played by EWC steering committees is also important, as it should allow EWCs to establish structured communication with management, and ensure they are provided with the relevant information and consultation to which they are entitled.

The involvement of trade unions in providing the necessary coordination, support and expertise, is crucial to enhancing the ability of EWC members to fulfill their role. National trade unions need to cooperate across borders at company level, so as to achieve cohesion and formulate common demands. The prominent role of EIFs is important in coordinating the reaction of workers, whether these take the form of cross border mobilizations or negotiations with management with a view to reaching an agreement on the way restructuring is carried out.

The synergy between the European, national and company level is a key factor in reaching a coordinated Europe-wide response by trade unions and workers representatives to the mobility of multinational companies. The objective is to get all the actors to work as a team in this multi-level system of employee representation, where each player – whether it is the EWC members, national unions or EIFs – is required to know its role and make the most of the available resources to play this role efficiently, so that a strong common platform can be built.

The cases analysed show that the actions and the potential of EWCs can be made the most of when **integrated into a comprehensive trade union strategy**, involving the various players, from all different levels, to cooperate in the various stages of the process of facing transnational corporate restructuring. **This calls for the integration of EWCs into wider industrial relations networks, for the creation of truly European systems of industrial relations.**

Indeed, successful outcomes can only materialize in cases where the local interests and national lines are overcome by a real European behaviour, allowing for the creation of a common platform of demands through strong coordination and trade union collaboration for the benefit of all workers. It is crucial to apply to the transnational level the basic trade union principle of uniting and meeting management collectively.

In a recently published report, the European Foundation for the Improvement of Living and Working Conditions states that “as an institution, EWCs were born out of restructuring and it can be argued that how they deal with this issue is the acid test of whether or not they are achieving their stated

purpose”<sup>41</sup>. It is crucial that trade unions throughout Europe deepen their involvement in EWCs so as to give them the opportunity to live up to the challenge. It is just as crucial that the EU institutions fully discharge their responsibilities and empower EWCs by adapting the legal framework in which they operate, enabling them to play the role to which they are assigned.

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<sup>41</sup> Carley, M.; Hall M., “*European Works Councils and Transnational Restructuring*”, European Foundation for the Improvement of Living and Working Conditions, 2006.

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