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**Information, consultation and participation
of representatives of undertakings**

GLO.R.I
Globalisation and industrial relations.
Information and consultation rights in some chemical TNCs

Salvo Leonardi, Jurgen Kaedtler, Anna Kwiatkiewicz, Richard Pond

- *Istituto di Ricerche Economiche e Sociali (IRES) – Rome; Italy*
- *Soziologisches Forschungsinstitut (SOFI) – Gottingen; Germany*
- *Bernard Brunhes Polska (BBP) – Warsaw; Poland*
- *Working Live Research Institute (WLRI) – London; UK*

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Preface

The project GLO.R.I. has been realised within the framework of the budget heading 04.03.03.03, according to the priority about “*to monitor, analyse and assess the experience regarding the establishment of transnational representative bodies at enterprise level and the extent to which the objectives regarding information consultation and participation have been fulfilled effectively with such bodies*”. Its objective has been: “*to improve the social partners expertise, at European level and in comparative terms, through the promotion of an exchange of information and experiences among stakeholders involved in the industrial relations of four European member states*”.

The project has been promoted and coordinated by IRES and realised on mandate of workers organisations of the chemical and rubber/tyre sectors; the national federations of the Italian chemical trade unions (FILCEM-CGIL; FEMCA-CISL; UILCEM-UIL) and the European sectoral federation: the EMCEF. The countries directly involved in the project have been four: Italy, the United Kingdom, Germany and a new member State, from the Central and Eastern Europe: Poland.

The partnership was including the promoter, the *Istituto di Ricerche Economiche e Sociali* (IRES), the think-tank institute of the main Italian trade unions confederation: the CGIL, and the partners, the *Working Live Research Institute* (WLRI) – London; UK, the *Soziologisches Forschungsinstitut* (SOFI) – Gottingen; Germany, the *Bernard Brunhes Polska* (BBP) – Warsaw; Poland

The whole activity has been inspired by in the spirit of the mutual learning and by the purpose of the valorisation of the involvement of national and local social partners, throughout national/local workshops for the choice of the TNCs for the case studies; during the field work and the interviews; with the international final conference (the main event), where more than 50 participants have discussed – in a transnational milieu – the results of the research; its items; its perspective. A debate of a very high profile, with experts with academic backgrounds and important representatives of the sectoral European trade unionism, included – among the others – the General Secretary of EMCEF, Mr. Reinhard Reibsch. From this point of view the practical involvement of employees, workers’ representatives has been a constant feature of the whole project.

The GLORI project has been realised in two sectors/branches: the chemical and the rubber-tyre. Two productive realities with strong traditions of industrial relations in most of the countries, with a marked attention on the items of the workers participation; often more than in any other manufacturing branch.

Both sectors have seen major changes over the last 20 years as employers have reorganised and restructured and gone through a series of takeovers, mergers and de-mergers in response to competition at both European and global level. In fact, in line with other sectors that operate at a global level, tyres and chemicals face an almost permanent process of restructuring.

The European TNCs of the chemical and rubber/tyre sector played a quite crucial role in launching, from the beginning, the experience of the EWC. The GLORI project set out to investigate the role played by EWCs and national forms of consultation (works councils) in the restructuring process by focussing on the tyre and chemicals sectors in Europe. There is thus potential to link EWC activities to bargaining and company representation.

The GLORI project has been strongly rooted on the methodology of the fieldwork. At such an aim, a couple of TNCs was selected for each sector/branch and each of the four countries involved in the study. They have regarded eight important TNCs, with an European Work Council established. In fact: “With regard to the micro-economic consequences of collective bargaining, their specific nature means that they can only be studied seriously case by case” (European Commission, 2006).

The 7 case study were selected among some of the most internationally known and influential TNCs of the two branches. They were: Basf and Continental for Germany; Z.A. Pulway and Michelin for Poland; Solvay and Pirelli for Italy; GSK for the UK.

The study has been a qualitative investigation into the entirety of the processes of communication and interaction that condition and affect the industrial relation system either at national and international level (EWC). With this approach we’ve intended to cover not only formal arrangements, but also informal information and communication networks.

The fieldwork was realised during the months of the preparatory phase, and consisted in:

- Analysis of the documents and literature related to the sector and company, from the different aspects and profiles (business and internationalisation; employment and labour market; industrial relation; EWC; etc.);
- Interviews in depth with some privileged witnesses, as managers, employees, workers’ reps, trade unions officials, at all the different levels where they normally played their

role: plant/company, territorial, national, European (in the cases of the EWC delegates). In average no less than 7 persons, and in some case, even more than 12.

Every single case study has been much more than a sketch of the companies selected. It has been a work in depth, where the participatory machinery related to the EWC has been rooted into the wider and long lasting tradition of industrial relations, with a special focus and concern to the most recent development of globalisation and international challenges.

In each case study were investigated the general legal frame (legislation and collective agreements of the partner countries) and, even more, its effective functioning in the concrete industrial dynamics within the undertaken, as revealed by certain indicators (frequency and quality of the collective bargaining and participatory machinery; union density), and by the interviewed witnesses (social climate at the workplace level; industrial relations traditions; human resource management style; approaches and cultures of the parties).

The final study report is composed by a first part, including four different chapters where horizontal and wider theoretical items are tackled (basic concepts and the theoretical international literature, the so called *acquis communitaire*, the cleavages and international comparisons) and by all the different national case studies, in the second part.

Salvo Leonardi
Project Manager

WORKERS' PARTICIPATION IN ENTERPRISE MANAGEMENT

Salvo Leonardi – IRES, Rome

1. Workers' participation and industrial democracy

In an essay written some years ago, Macpherson outlined the following theoretical distinction between *industrial democracy* and *economic democracy*: while the former concerns, above all, the decisions in connection with production (working conditions as well as production methods and targets), the latter concerns, above all, the distribution of social goods for society as a whole¹; the distribution of a definite pay but also the distribution of powers and opportunities within the sphere of economics.

Although referring to differentiated areas of concern, the proposals in connection to economic democracy and to industrial democracy have assumed, in the long debate they have generated, a common departure point: the enterprise, as well as the market, are inadequate venues, as a general trend, to ensure the workers' direct participation in the processes that govern production and distribution of wealth. The rise, in the age of liberalism, to absolute sovereignty of private property in the means of production, and of the power of the entrepreneur, has for a long time impeded that the criteria adopted to define civil and political citizenship in modern democracies be also applicable to the economic sphere. As often pointed out, social citizenship and democratic rights have always come to an abrupt halt *at the factory gates*². Why? The reason lies in the fact that modern industry (and the capitalist one in particular) is not, for its nature – nor can it be – a democratic organisation in the sense we are used to attribute to this expression³. From a democratic organisation it lacks, first and foremost, the crucial requisite represented by the formal equality of all the members that belong to it. Inasmuch as they are the owners who bear the risk, entrepreneurs – according to classical economic doctrine – have the right, and the power, to determine the goods to be

¹ C. B. Macpherson, *Rise and Fall of Economic Justice*, 1990.

² The effects of this exclusion are both economic and political because it leads to a democratic deficit, to what Norberto Bobbio defined in many of his essays as an unaccomplished democracy ("*democrazia dimidiata*"). On these aspects see pluralist theorists, like – among the others – C. Lindblom, *Politica e mercato*, Etas, 1979 or R. Dahl, *A preface to the economic democracy*, Cambridge Polity Press, 1985.

³ H.A. Clegg, *Trade Unions as an Opposition which can never become a Government*, in "Industrial Democracy and Nationalization", Blackwell, 1951; pp. 19-28.

produced, and in what quantity, the contents of the work to be performed by others and the organisation of the productive process. From this point of view, labour subordination manifests itself as the exclusion of workers and their subjection to the executive, hierarchical and disciplinary powers of the entrepreneur-employer.

It is from this ontological and structural asymmetry of power that the historical discourse on industrial and economic democracy originates; on workers' participation in enterprise management. Their common objective is to try and balance the typical managerial prerogatives that in an enterprise are differentiated and asymmetric in terms of origins and functions.

Both sociological and juridical theories agree in retaining that the unifying character of participation lies in the enhancement of the quality of work by promoting the human and social value of workers, by reducing their alienation⁴ and by turning them into the active subjects of production, elevating them from the status of objects.

Generally speaking, a modern system of industrial relations can give a very important contribution to a good *governance*⁵ of a modern industrialised market economy.

A well structured industrial relation machinery, based on a good and effective mix of collective bargaining and participatory rights, contributes:

- to transforming social conflict (workplace disputes) into consensual agreements between the social parties
- to providing a socially acceptable framework for market and economic dynamics
- to reducing the uncertainty of strategic decisions
- to preserving the long-term stability of the political system
- to fostering the development, social harmony and cohesion of the group

High labour standards are necessary to promote productive efficiency, worker efficiency, consumption and employment growth.

As a leverage technique in corporate decision-making processes, the significance of workers' participation lies in those institutional practices and in those procedures that allow workers to collectively exercise a power in intervening on and in balancing the power entrepreneurs have in the running of the enterprise, in other words, in checking the so-called *managerial prerogatives*. The power to influence does not go to the extent as to directly and

⁴ Among the many others, Y. Delamotte, *Conflict industriel et participation ouvrier*, in "Sociologie du travail", n. 1/1959; P. Blumberg, *Industrial Democracy; the Sociology of Participation*, Constable, 1967; G. Friedman, *Problemi umani del macchinismo industriale*, Einaudi, 1971.

⁵ For *Governance* we here define the way societies organise and rule themselves in order to make and to implement choices of public interest.

immediately weigh on the merit of the entrepreneurial decision though it can affect the legitimacy of its exercise. Such a workers' participation can assume, and in fact historically has assumed, different degrees of intensity; from a mere information to consultation, to codetermination and even a power of veto.

According to EU Directive 2001/86: *information* means “the informing of the body representative of the employees and/or employees’ representatives by the competent organ of the SE on questions which concern the SE itself and any of its subsidiaries or establishments situated in another Member State or which exceed the powers of the decision-making organs in a single Member State at a time, in a manner and with a content which allows the employees’ representatives to undertake an in-depth assessment of the possible impact and, where appropriate, prepare consultations with the competent organ of the SE”. *Consultation* means “the establishment of dialogue and exchange of views between the body representative of the employees and/or the employees’ representatives and the competent organ of the SE, at a time, in a manner and with a content which allows the employees’ representatives, on the basis of information provided, to express an opinion on measures envisaged by the competent organ which may be taken into account in the decision-making process within the SE”. According to the two EU Directives 2002/14: *information* means “transmission by the employer to the employees’ representatives of data in order to enable them to acquaint themselves with the subject matter and to examine it”; *consultation* means “the exchange of views and establishment of dialogue between the employees’ representatives and the employer”.

Beyond all possible formal classifications – information, consultation, joint-decision making, co-determination – the ability to influence each other will depend, besides the balance of power that is established at specific moments of history, also on a number of factors:

- a) The *issues* for which workers’ participation is sought;
- b) The type or *class of decision* (operative, administrative, strategic)
- c) The *decision level* of participation (department, company, group);
- d) The *time* when the information is disclosed and consultations begin and if they will focus on problem setting or solving;
- e) The trade union players involved and the *functional prerogatives* they are empowered with;
- f) The *degree of formalisation* with which these prerogatives become regular, certain, pre-emptive and legally claimable.

To tackle the issue of workers' participation by starting-off with the decision class means taking into consideration the issues that entail workers' participation. Generally speaking, the acknowledged venues of workers' participation tend to widen when operative decisions are involved. On the other hand, this is a context where all studies on the new post-Fordian paradigms converge on. Nevertheless, it should also be observed that workers' participation has increased significantly on "micro", on specific, aspects of work and on the way it is discharged.

On the contrary, when strategic decisions are involved – decisions relating to productive strategies, investments, planning and technical or organisational changes – workers are merely informed. And that, too, in the best of cases. At these levels, the instruments or, more simply, the way workers are involved never really imply the existence of industrial democracy processes. The unilateral management remains unaffected when responsibilities are widened and workers involved but at the mere executive levels, in the workplace.

According to a recent research with the EWC members (Waddington, 2006), the information and consultation on crucial issues, like restructuring, mergers or take over, was rarely before decisions were implemented; normally they were not consulted or only after the decision was already made public⁶.

The situation is further aggravated by the increasingly multi-national structure of the modern corporate aggregation (Ramsey and Haworth, 1989), often making it impossible to identify the centres of power where the decisions affecting national/local units are taken.

The weakening of the national trait of enterprises diminishes the possibility with which trade unions and political power were able in the Seventies to discuss more advanced forms of industrial and economic democracy (see the British Donovan and Bullock Report; the Scandinavian and German laws on co-determination and economic democracy, the Auroux bills in France; the Italian Unions' proposals about the "*Piano di impresa*").

The picture outlined over the past two decades not only in Italy but also at a more general level is that of the demise of the idea on which the Keynesian-Fordist rested and the economic democracy it entailed: the idea, as an Italian sociologist – Enzo Rullani – put it, "that it is possible – that it is necessary – to plan through consensual political means the development of the economy, not only at a macro but also at a micro level, on the basis of a negotiation involving large social interests" (1997; p. 16).

⁶ J. Waddington, *How EWC members see it*, in "Mitbestimmung", no. 8/2006; p. 43.

Many international studies show that choices, strategic trends of firms, on microeconomic side, are strongly conditioned by global and integrated patterns, the 'Globalisation' indeed, as this process is called in literature, produces clear effects on industrial relations models at the national level (Supiot, 1999; Hoffmann, 2002).

It is well known that the increasing presence of transnational companies in different national contexts tends to influence productive and organisational models, which could strongly affect the social and regulative systems set up during long periods of economical development after the Second World War.

Due to functional differentiation of internal organisation and in a complex network of centralising and decentralising tendencies, firm power can be inclined to elude – to “escape” – from the traditional places of industrial relations in two ways:

a) *downwards* through productive and decision making decentralisation of new work organisation and also through the search for direct participation of individual employees or groups;

b) *upwards* through the protection of legal status, through the trans-nationalisation of big holdings. Relocation, at the international level, represent one of the biggest concern of many Western European employees and of their collective organisation (Leonardi, 2001).

A key factor in resolving issues is that of timeliness. Advanced models foresee the disclosure of pre-emptive information. Information, in other words, must be issued prior to the executive stage of the project, and it must be clear and comprehensible even for non-experts. According to the Directive 2002/14/EC: “Timely information and consultation is a prerequisite for the success of the restructuring and adaptation of undertakings to the new conditions created by globalisation of the economy, particularly the development of new forms of organisation of work”.

The question that must be asked at this stage is the following: which are the indicators workers and their trade union representatives must record to understand that a business project involving them directly is about to be implemented? The question is of crucial importance because in a labour negotiation trade unions must be put in the condition to stress the exact sequence with which the counterpart implemented the change.

True, there isn't a formal element that can define with exact precision the initial moment of a corporate change, making it extremely difficult to oblige the company to provide to the trade union representatives the mandatory information. Consequently, this issue will depend on the employers-workers relationship that exists in each firm.

The characteristics of the new global market, where information goes from the client to the sales outlets and from here to the manufacturing centres, spreading to related businesses, make it practically impossible to measure the time in which corporate decisions are made and implemented. When to defend themselves against charges of anti-trade union conduct or of not having provided information or called trade union for consultations, companies say that they “live by the day”, in the sense that they themselves are unable to make plans, they partly say the truth. But if a company gives up making plans or, better still, if the management of a plant is itself also affected by unexpected decisions at other company levels – changes dictated by the market or taken from the parent company abroad – how do we expect trade unions to be in a position to co-determine these decisions?

This primacy of economic compatibilities at every level where the political sovereignty of the decisions can be exercised is articulated through the hierarchic system of market forces where financial markets dictate the directives for other markets – including the labour market – establishing specific limits of systemic compatibility for the negotiation of working and wage terms (Altvater and Mahnkopf, 1995).

Even the traditional collective bargaining systems are subject to considerable stress by two on going trends, or shifts.

a) From sector to firm level. A general and widespread shift from central sectoral level toward the firm / company level.

b) From collective to individual dimension. An other shift is on the way from collective rights to a growing emphasis on the rights of workers as individuals (the “re-discovery of individual” in new labour law – Spiros Simitis), with the possibility to derogate – even *in pejus* – to the general norms of the collective contract.

These double shift is basically related to the employer’s search of flexibility and productivity, but risk to seriously undermine the role and the power of trade unions as “private legislators” (Schmitter) on wages or working hours

We do guess that a certain degree of centralisation is definitively necessary yet:

- to give common rights / standards at the national wide-level
- to prevent undercut of lower wages and the social dumping of the domestic competitors
- to avoid the multiplication of pay decision points, and their potential inflationary pay spiral

In most of the European countries, the pressures exerted by the economic context of industrial relations - which here, too, are forcing a move towards bargaining decentralisation - have not yet brought to an end the industry or category contracts. Indeed, sector and category

contracts are still maintaining at the moment the dominant level in almost all countries across the continent. Decentralisation, however, is within the context of a very specific and centrally or top-down co-ordinated process.

2. From participation to involvement

Nowadays, the de-concentration of work, its de-centralisation caused by social and technical change of firm organisation, redefine labour relations models, individual or collective, characterised in the Fordist age by: expansive demand policies, mass production, standardisation, industrial gigantism, high level of labour protections and institutionalisation of industrial relations.

A vast amount of studies carried out in the 80s and 90s, about the new post-fordist paradigm about work and production, shows that the impulse of the participatory experiments has now been widely determined by the strong and constant effort made by management to facilitate and foster their engagement (Burawoy, 1979; Kern and Schumann, 1984; Piore and Sabel, 1984; Hyman and Streeck 1988; Dore, 1990; Coriat, 1991; Gorz, 1992; Bonazzi, 1993; Hyman and Mason, 1995; Castells, 1998; Durand, 2004; Linhart et Moutet; 2005). The new models of production postulate some principles related to the work organisation; for instance: the workers' participation improves the access of the management to the information, that is a crucial resource of the modern enterprises; the enterprises decisions improve whether these must be justified before a well informed body of the workers' representatives; the enterprises decisions taken according the information, consultation and participation procedures can be more easily put in practice than those taken unilaterally; the industrial democracy increases the company efficiency, linking the management interest to the economic performances with the labour and union interest for workplace democracy.

There's a considerable body of theoretical and empirical literature dealing with the influence of different forms of industrial relations on performance in an internationalised world. A number of case studies demonstrating the potential for productivity and prosperity of a more participative work organisation and model of industrial relations. These studies do not indicate one model, only, as the best means of promoting performance. The *Open Method of Co-ordination*, as new form of "soft" law, is inspired by the worth of benchmarking, peers review, exchange of good experiences (Radaelli, 2003; Barbera, 2006). The idea is that: "A co-operative approach within a firm will improve industrial relations, allows a greater worker participation in decision and potentially lead to a better product quality. The latter in fact represents an essential component in any strengthening of the competitiveness of the European

economy". A higher degree of workers' participation is now considered as one of the main factor that might determine the quality of an industrial relations system. In other words: more equity in the employment relationships and more efficiency in the company's performances. The "*Quality* in industrial relations is determined by the capacity to build consensus on both diagnosis and ways and means to take forward the adaptation and modernisation agenda. This also includes coping successfully with industrial change and corporate restructuring" (European Commission, 2007).

This new attention to the participatory issues should be stressed, since any demand of participation put forward by workers and trade unions had always met firms' opposition up till recent time. In fact, employers were firmly entrenched in defence of their institutional prerogatives sanctioned by the Constitutions and law (freedom of enterprise, management right to organise and lead the work, etc.). Now it can be seen that there is a different trend in creating mutual relations based on co-operation, understanding and realizing each other rights and steaming from their points of view.

Significant parts of the old trade unions programmes on industrial democracy (mostly based on workers/unions rights of information/consultation at the different organisational level of a company), have now been taken up and integrated either into the national legal systems and into the new management strategies (Leonardi, 1996).

The reasons for this change are to be investigated taking into consideration the peculiar nature of the present period and the transition from the Taylor-Fordist models of firm organisation to the post-Fordist one (Lash and Urry, 1987; Murray, 1989; Harvey, 1990; Kumar, 1995; Jessop, 1999). The de-concentration of work, its de-centralisation caused by social and technical change of firm organisation, as well as increasing individualisation of products and/or services, redefine labour relations models, individual or collective, characterised in the Fordist age by: expansive demand policies, mass production, standardisation, industrial gigantism, high level of labour protections and institutionalisation of industrial relations.

Unlike as in the past, what strikes today is the corporate imprinting given in the current practice to workers' participation whose finality-objective is to increase the workers' sense of belonging, to boost output and to reduce conflict as well as the cost of command (Hyman and Mason, 1995).

By enlarging the spaces of informality and of decisional autonomy - spaces that in the past had been viewed by middle-management as dysfunctional factors to be individuated and removed – the new production paradigms are designed to obtain the active cooperation of

workers. From the *bond* it was considered to be in the Taylorist-Fordist epoch, work is becoming – or can become - a *resource* for entrepreneurs (Dore, 1990; Coriat, 1991; Bonazzi, 1993).

Beside the collective forms of industrial democracy, exerted through the role of work councils and/or trade unions shop stewards, experiences of “direct participation” (EPOC; Sisson, 1996; Regalia, 1997)⁷ are becoming more and more widespread, where employees are called to give their personal contribution in terms of involvement, responsibility and problem solving attitudes, as single individuals or as groups. In particular we refer to “new quality” of participation, introduced in the last twenty years with the concept of “lean production”, “Total Quality Management” and all those models of work organisation generally inspired by the Japanese experience (Dore, 1990). Today collective and direct participation are more and more related to profit sharing schemes, or other similar forms of co-relation between wages and economic results (productivity, quality, etc.). From the managerial point of view, the notion of *participation* coincides with that of *involvement* (Hyman and Mason, 1995) where a monistic organisational structure is envisaged, where the exclusive regulatory agent for labour relations is the enterprise itself. A semantic and political shift – from the old socialist theories and aims of the *workers’ control*, of the union *co-determination*, to the *participation*, until the individual or team *involvement* of today – that has to be taken quite seriously.

The most recent theorization on the themes of company organization and industrial relations have placed great emphasis on the transition to "high trust" relations, hence of collaboration, with the transition to orientations that address not only the consensual resolution of problems ("problem solving") but even their shared and timely individuation ("problem setting"). In this participatory logic it becomes indispensable to prevent and reduce to a minimum the risks of conflict and of unilateral deliberation, both of which are typical of the political dynamics of incremental and distributive negotiation.

Although they belong to different thematic spheres, vocational training and participatory industrial relations are strongly correlated in a theoretical framework that aims at mobilizing human potential through the direct and personal participation of the workers, of whom - unlike in even the very recent past – greater vocational preparation is demanded, together with capacities of diagnosis and coordination in the various production phases, and of self-control over the results of their work. The challenge of the global competition can be win only

⁷ See European Foundation of Dublin, *Useful but Unused – Group work in Europe (EPOC Survey)*; Dublin, 1999

through the innovation of process and products and, consequently, through a constant investment on the quality of work and of the industrial relations.

3. Trade union policies and the EU social law

Trade unions (Visser, 2006; Eiro, 2004; Boeri, Brugiavini, Calmfors, 2002; Waddington and Hoffman, 2001; Ebbinghaus and Visser, 2000; Blascke, 2000; Hyman, 1997)⁸ and national States (Albrow, 1997; Badie, 1999; McGrew and Lewis, 1992; Held and McGrew, 2002; Hardt and Negri, 2002; Beck, 2004) are both challenged and weakened in their historical and institutional role of representation and agents of social interaction as well as exercise of political and democratic sovereignty.

All the largest and traditional organisations of the social partners seem to meet serious problems in intercepting the new typologies of employment relationships, and in interpreting their identity profiles and the expectations of representation which rise either at individual and at collective level.

From this standpoint, the fact that today trade unions feel a vital need to tailor their organisations and functions – that have so far been mostly at national level – to new global challenges is natural and positive (Hoffman, 2002). A greater strategic and operational supranational convergence is expressly solicited by all trade unions, that rightly believe that national responses are insufficient to face the new challenges of global capitalism. This plan involves the strengthening of the ETUC and its sectoral affiliated federations, that now embrace almost the entire range of European union pluralism.

The challenge that European trade unions have maybe still too timidly decided to cope with is undoubtedly a complex one, but it cannot be avoided if the organisations that represent the workers' interests are to continue playing a major role in the post-Fordist world.

From the middle of seventies onwards, trade union international organisations have been engaged – namely ILO, OCDE, WTO – in the effort to force multinational companies to respect transparency, social clauses and fairness at work (Perulli, 1999; Kapstein, 1999).

⁸ Among the Western countries, the union density (membership) has fallen – in the last 25 years – below 40% in Italy, below 30% in Germany, Holland and in the United Kingdom, below 20% in Spain and below 10% in France (Visser, 2006). Very critical the situation also in most of the new member states, although the weakest point of those systems is probably the even smaller density on the employers' side, with a consequence of a really poor and worrying situation of the collective bargaining and its average coverage.

The only remarkable exception is represented by those few countries where the trade unions enjoy of the institutional prerogative of managing the unemployment insurance funds; the so called “Ghent system”, in force in Belgium, Sweden, Denmark and Finland (Kjellberg, 2001; Leonardi, 2006)

Rights of information and consultation have been the core of this approach. For “rights of information and consultation” of workers representatives we here mean:

- a) those related to the national legislation and industrial relations praxis (collective bargaining at the national/sector and company level) ;
- b) those related to the EU legislation within undertakings operating in more than one member State.

The main result up to now has been – after some decades of proposal and discussions, and after the issuing of volunteer documents like the *Declaration of ILO* (1976) and the *Guidelines* for companies in the OCDE area (1977) on the respect of some basic workers rights within the TNCs – the EU directive n. 94/45 (amended by the n. 97/74) about the *European Work Councils* (EWC), with the right to information and consultation within undertakings operating in more than one member state (Wills, 2000; Biagi, 2000; Gill and Krieger, 2000; Arrigo et al. 2000; Carley, 2001; Kerckhofs and Cox, 2002; Gilmann and Marginsson, 2002; Guarriello and Leonardi, 2003; Telljohann, 2005; Cox, 2005; Waddington, 2006; Kerckhofs, 2006; Arrigo and Barbucci, 2007).

The situation of the EWCs, after a decade, has been quite deluding and in fact the European Unions (ETUC) demands insistently for a revision of the EWC Directive. It makes reflect what emerges from a recent survey with the EWC members, according to which: “Information disclosure and consultation is not taking place on the range of topics identified by the Commission as key to a successful system of European employee participation” (Waddington, 2006).

Further opportunities are now offered by the EU Treaty, which together with the old Social Policy Agreement attached to the Maastricht Treaty, have given the chance to European social partners to deal with collective agreement at European level. The EU, considered as a whole, and in terms of its individual member states, is deeply rooted in the principle and practice of the social dialogue and of the “participatory democracy”. The representative associations of economic and social interest are recognised at all levels, as stable, qualified and valued partners within the democratic process of public decision making.

Other new important steps have been done at the level of the EU legislation; among them we want to emphasise:

- the art. 27 of the Charter of Nice⁹

⁹ Article II-27: *Workers' right to information and consultation within the undertaking*: “Workers or their representatives must, at the appropriate levels, be guaranteed information and consultation in good time in the cases and under the conditions provided for by Union law and national laws and practices”.

- the Directive 2001/86 on employee involvement in the terms of the new *European Company Statute*;
- the Directive 2001/14 about *improving information and consultation rights in the European*.

One the most recent and original approach to the matter is now the one related to the importance of a common European awareness about *Corporate Social Responsibility (CSR)*.

Also envisaged is the power to sign collective agreements at a European level between organisations representing social partners (Carley, 2001). But this continues to be a very difficult objective. European trade unions that are part of ETUC have changed the statute of the Confederation, giving it full power to negotiate at European level even for specific sectors. The same has not happened with UNICE, the European private employers' association, nor is it likely that it will. Trade unions still need to do a lot in the following years at the several European sectoral federation level.

Beside, a constant stimulus to the innovation, throughout vocational and continuous training and new forms of work organisation, has come in recent years from the European Union. We limit ourselves here to recalling the Lisbon Strategy, with its model of competitiveness focusing on the so-called "high road" and on the excellence of products and of production processes. It achieves: "To launch a wide debate on how the European Union could promote" such a CRS, in order to "become the most competitive and dynamic based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion" (as stated in the European Council of Lisbon; March 2000).

It is not in the costs of labour that global competition with the emerging countries and with our more traditional competitors (North Americans and Japanese) can be bested, but rather through investment in innovation and research, capable of valorizing the knowledge and the enormous capacities of European labour to the utmost. An example could be that of the Northern European countries which, despite some of the highest labor costs in the world, have long been world leaders in productivity and competitiveness, thanks to extraordinary and long-term investment in human resources, scientific research, social cohesion, and sustainable environmental development.

Finally, we believe that quite unlimited capital mobility, up to date sheltered from social cares and constraints, can support the development of historically depressed zones (Bhagwati, 2005), as for instance the near Central-Eastern European countries (CEECs). Nevertheless, if devoid of adequate "social clauses" and collective workers' rights – like those to information and consultation – such mobility can produce un-discriminated exploitation of human and

natural resources, putting at the serious risk measures of juridical welfare which, through the correct discipline of social clashing interests, have become part of formal and material constitution of the Western Europe countries (Crouch, 2000; Held and McGrew, 2002; Stiglitz, 2002; Castells, 2003;).

That's the reason why we consider crucial to foster, all over Europe, the development of information and consultation rights, in order to relate them to the management policies and their competitiveness strategies. Workers' participation can play a great role in the anticipation of economic change and to the prevention and resolution of disputes within multinational undertakings (company restructuring, mergers, acquisitions, takeovers and relocation).

Moreover, it is important not only to develop these rights, but also to strengthen the awareness of the concerned parties in order to ensure that these rights are effectively recognised, respected and exercised. If, in the light of the new socio-technical paradigms of entrepreneurial organisation, labour becomes for employers a key resource and no longer a shackle, then it will be up to trade unions to utilise this change to impose new contractual conditions and terms to the management. Organisational and technical innovations in the area of labour – of total quality and of human relations in the post-Fordist era – may thus become a new possible opportunity for the advancement of the demands of workers and their trade unions.

4. The project “GLO.R.I” and its aims

Each national system of industrial relations inevitably reflects a set of influences which only partly can be by comparative studies (Hyman, 2001; Traxler et al., 2001).

The value of comparison between national systems is connected to the problem of transferability between models.

In the international studies of industrial relations, since decades, there are two schools¹⁰;

- a) the *school of the convergence* between national systems, influenced by more intense globalisation of market, by the technical innovation, by the exchange of regulatory innovation.
- b) the *school of divergence*, according to which a model of industrial relation is always a sub-system of cultural and political of each national context.

¹⁰ On these issues, recently, W. Streeck, *Lo studio degli interessi organizzati: prima e dopo il passaggio del secolo*, “Quaderni di Rassegna Sindacale”, n. 1/2006.

Nowadays the problem of transferability of systems has become rather peculiar in relation to the creation of a “European Social Model”, that is going to be shared and relatively omogenous among the 27 member states of the EU. Let us recall what Otto Kahn-Freud had already noticed many years ago, about the difficulty in transferring models of union law, of collective protection of the workers’ rights, from one system to another, which are much bigger than in any other branch of the law discipline. Actually this is confirmed by the actual facts that the EU labour law shifted from the objective of harmonisation through the “hard law” of the Regulation and Directives, in the mid-70s (collective dismissals, transfer of enterprises, etc.), to the “soft law” of the *open method of coordination*, of the benchmarking, guidelines, the mutual learning, the value of the peer review and the best practices (Radaelli, 2003; Caruso, 2005; Trubeck et al., 2005).

With all this in mind, we’ve been working at the project GLO.R.I. Just in the spirit of the mutual learning; of the partial but useful role played by the best practices; or – at least – of the mutual learning and exchange of knowledge and experiences.

The project has been realised within the framework of the budget heading 04.03.03.03, according to the priority about “*to monitor, analyse and assess the experience regarding the establishment of transnational representative bodies at enterprise level and the extent to which the objectives regarding information consultation and participation have been fulfilled effectively with such bodies*”. Its objective has been: “*to improve the social partners expertise, at European level and in comparative terms, through the promotion of an exchange of information and experiences among stakeholders involved in the industrial relations of four European member states*”.

The project has been realised in two sectors/branches: the chemical and the rubber-tyre. Two productive realities with strong traditions of industrial relations in most of the countries (Kaedtler, 2006; Waddington, 2006), with a marked attention on the items of the workers participation; often more than in any other manufacturing branch. This has been particularly true in the chemical sector, for reasons which are either objective and subjective, related.

- To the peculiar characteristic of the productive process, subjected to strong socio-technical constrains;
- To the incidence of the environmental impact and of the health and safety factor at work, in favouring the participation of all the stakeholders (workers and their representative above the others);
- To the public or semi-public property of the company, with strong effects in the field of the management’s styles and of the industrial relations;

- To the average high levels of the workers skill;
- To a union membership and density, which are relatively high in this sectors, enhancing the potential for the mobilization of members;
- To a relatively high coverage of collective bargaining and, where applicable workplace representation.
- To a trade union culture, grown up around the constant necessity of the actors to find shared solutions to problems destined to interest and involve large communities, even beyond the walls of the factories.

From this viewpoint, the tyre sector presents more affinities with the evolution of the other major branches of the industrial manufacturing; in the passage from taylor-fordism to the flexible specialisation and to the new manners of productions imposed by the post-Fordism; from the traditional industrial conflict to forms of more or less genuine participation of the employees in the management of the innovation.

Furthermore, the European TNCs of the chemical and rubber/tyre sector played a quite crucial role in launching, from the beginning, the experience of the EWC. There is thus potential to link EWC activities to bargaining and company representation (Waddington, 2006).

Recent estimates suggest that there are over 400 companies within this area of coverage that fall within the scope of the Directive (Kerckhofs, 2006; Waddington, 2006). They do represent 209 out of the 754 EWCs already established in all the sectors¹¹. Of the chemical companies with EWCs, 94.4% have operations in Germany, 88% in the UK, 77.7% in Italy. 64.2% of the chemical companies with EWCs have operations in Poland (Kerckhofs, 2006)

In our study the eight TNCs have been:

- Basf and Continental for Germany;
- Z.A. Pulway and Michelin for Poland;
- Solvay and Pirelli for Italy;
- GSK for the UK.

The project has been promoted and coordinated by IRES and realised on mandate of workers organisations of the chemical and rubber/tyre sectors; the national federations of the Italian chemical trade unions (FILCEM-CGIL; FEMCA-CISL; UILCEM-UIL) and the European sectoral federation: the EMCEF.

¹¹ These figures were elaborated and quoted by M. Cilento, from ETUI-REHS, on the source of SDA data bank, during the final conference of the project GLO.R.I, Rome, October 29th, 2007.

The countries directly involved in the project have been four: Italy, the United Kingdom, Germany and a new member State, from the Central and Eastern Europe: Poland.

All the Institutes included are quite prestigious and with a good experience – either National and International – in the industrial relations studies and research projects.

The promoter:

➤ *Istituto di Ricerche Economiche e Sociali* (IRES), the think-tank institute of the main Italian trade unions confederation: the CGIL;

The partners:

➤ *Working Live Research Institute* (WLRI) – London; UK.

➤ *Soziologisches Forschungsinstitut* (SOFI) – Gottingen; Germany

➤ *Bernard Brunhes Polska* (BBP) – Warsaw; Poland

At such an aim, a couple of TNCs was selected for each sector/branch and each of the four countries involved in the study. They have regarded eight important TNCs, with an European Work Council established. In fact: “With regard to the micro-economic consequences of collective bargaining, their specific nature means that they can only be studied seriously case by case” (European Commission, 2006).

It has been a qualitative investigation into the entirety of the processes of communication and interaction that condition and affect the industrial relation system either at national and international level (EWC). With this approach we’ve intended to cover not only formal arrangements, but also informal information and communication networks. We will investigate about the general legal frame (legislation and collective agreements of the partner countries) and, even more, its effective functioning in the concrete industrial dynamics within the undertaken.

The following report is composed by some horizontal and thematic reports in the first part, and by the case studies, in the second.

The whole activity has been inspired by the purpose of the valorisation of the involvement of national and local social partners, throughout national/local workshops for the choice of the TNCs for the case studies; during the field work and the interviews; and in the international final conference (main event) – for debating the results of the research; its items. From this point of view the practical involvement of employees, workers’ representatives – but also employers’ and their associations – has been a constant feature of the whole project.

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INDUSTRIAL RESTRUCTURING AND WORKPLACE DEMOCRACY IN EUROPE: SOME OUTCOMES FROM THE GLORI FIELDWORK

Richard Pond – WLRI, London Metropolitan University

1. Introduction

Restructuring is a central issue for the European Union (EU) now and has been a key element of the European project since the establishment of the European Coal and Steel Community (ECSC) in 1951. The ECSC was about ensuring the growth and stability of two vital industries and dealing with their restructuring with financial aid available to cover redundancies, redeployment and retraining. By the 1970s the then European Economic Community (EEC) began to legislate in a number of areas in response to the challenges posed by restructuring.

The directive on collective redundancies was introduced in 1975 and revised in 1998. This laid down special obligations for employers (information, consultation and encouragement to set up social measures covering things from prevention to compensation) and required them to provide information to public authorities in the Member States. In 1977, (revised in 2001), the directive on acquired rights became law and regulated how employers should deal with employees following a merger, takeover or other form of restructuring such as outsourcing. This provided a certain level of protection for employment contracts and related rights. Legislation on employers facing bankruptcy or liquidation (1980, updated in 2002) covers issues such as the social guarantee funds that provide some protection for the affected workers.

While these directives aimed to regulate the process of restructuring the EU also legislated to improve the rights of workers to be informed and consulted about the process. The 1994 European Work Councils (EWC) directive provided employees with the right to negotiate the setting up of transnational bodies as a mechanism for consultation with management at a European level. This consultation covers a wide range of issues but including in particular the impact of restructuring. This European-level initiative was followed in 2002 by the directive on information and consultation giving employees at national level the right to establish consultative structures.

In 2001 the EU-funded European Foundation for the Improvement of Living and Working Conditions set up the European Monitoring Centre on Change (EMCC) whose tasks include

the collection of relevant information on the major trends and drivers of change in the European economy, the provision of up-to-date news and analysis on company restructuring, and research on change processes in specific economic sectors. More recently the EU has responded to the threat of globalisation by establishing the European Globalisation Fund to provide up to €500 million each year to help reintegrate into the labour market workers made redundant due to changing global trade patterns. This followed the setting up of a restructuring taskforce and forum in 2005. The taskforce brings together Commission officials from 20 directorates and agencies to co-ordinate the EC's work on restructuring. Six restructuring forums have taken place since 2005 bringing together representatives of the European Commission and other European institutions with the social partners and experts.

A communication on restructuring and employment from the Commission in 2005 (European Commission 2005) stressed the role of social dialogue as the best way to anticipate change and cope with restructuring. It urged the European social partners to be more proactive in tackling restructuring and to focus on adopting, applying and developing their best practice guidelines on restructuring and to look further at how the European Works Councils can improve their effectiveness and take a lead role in managing restructuring changes.

Although measures to soften the impact of restructuring on workers are welcome by the trade unions, for them the key challenge is being able to anticipate change and be able to respond effectively when faced with takeovers, mergers, outsourcing, large-scale job cuts and workplace closures. Employers also have a stake in the consultation and information process. If they want to cope with the increased pressures of globalisation it can be within their interests to reduce the prospect of conflicts with workers and their representative organisations by properly playing their part in the consultation process.

However, a survey of over 400 EWC reps published in 2006 (Waddington, 2006) found a very mixed approach to information and consultation by European companies when it came to restructuring. Less than a fifth of reps said that their EWC had been consulted before the decision on restructuring had been finalised and just under a quarter were informed before the decision was finalised. Overall 30% of EWCs were not consulted at all and 13% of reps said that they had received no information on restructuring.

A recent study by the European Commission found that restructuring was the most common subject of transnational collective agreements in European companies, reflecting the fact that both social partners see this as an important element of the work of EWCs. Its report (European Commission, 2006) of a seminar on transnational agreements includes a range of

opinions from social partners about these agreements and their contribution to dealing with restructuring.

Views from the employers' side included:

"We want to work with employees on adaptation to change, to motivate and commit them"

"Many employees were affected and worried, it helped to understand the need for restructuring, to define steps before redundancies, to precise replacement commitments we would have taken anyway", "it gave a safety net in case of failure of the alliance, that proved very effective".

"It established a coherent framework", "the process of steps in advance to avoid forced redundancies were described".

"It addresses measures of key concern to employees (employment opportunities, reasonable compensation, job fairs..)".

For the trade unions restructuring agreements are important for a number of reasons:

"Establishing rules in reorganisation (EWC, training, possibility to come back) after specific experience"

"Faced with different laws and rights, give a unified contract, to apply everywhere"

"It establishes important procedures on mobility"

"It creates a common international floor/base of commitments"

The ETUC and the European industry federations have been involved in a number of initiatives in recent years to improve the way they respond to restructuring and secure effective agreements with European employers. The TRACE project (Trade Unions Anticipating Change in Europe) was a major European initiative involving a wide range of European and national trade union organisations. Apart from the project's own handbook on restructuring (TRACE, 2006), the initiative also allowed industry federations and trade unions to develop their own material.

The European Metalworkers' Federation (EMF) has been at the forefront of initiatives on restructuring and used the TRACE project to develop a detailed handbook (EMF, 2006) on restructuring that it published in 2006. The EMF has been working to put elements of the handbook into practice by securing agreements with some of the major companies in the sectors it is involved in.

In one of the most recent examples, the Federation signed an agreement with the Schneider electronics group in 2007, laying down a framework for anticipating change. The agreement says that it: "lays down the minimum joint principles that may be used as the framework to which all European units should refer for the purpose of managing changes in its general

environment and any impact they may have on the situation of Schneider Electric's employees".

It goes on: "The group wishes to anticipate such changes with a view to developing its employees' career paths. It points out that today a high-quality social dialogue is a decisive factor for Schneider Electric's progress".

The specific aims of the agreement are to:

- safeguard the competitive level of the companies concerned and promote the sustainable development of its existing production activities;
- preserve and develop the employability of its employees; and
- develop the necessary competence and skills of its employees so as to enable them to adapt to the new economic and strategic challenges.

2. Restructuring in the case study companies

The GLORI project set out to investigate the role played by EWCs and national forms of consultation (works councils) in the restructuring process by focussing on the tyre and chemicals sectors in Europe. Both sectors have seen major changes over the last 20 years as employers have reorganised and restructured and gone through a series of takeovers, mergers and de-mergers in response to competition at both European and global level. In fact, in line with other sectors that operate at a global level, tyres and chemicals face an almost permanent process of restructuring. In 2007, for example, both the tyre manufacturer Michelin and the pharmaceuticals group GlaxoSmithKline (GSK) announced three-year plans to reorganise operations and cut costs. The Michelin project aims at achieving €1.5 billion in cost savings and €700-€800m in productivity improvements, while GSK launched a new phase of its "operational excellence" programme, involving substantial cuts to its manufacturing operations. In commenting on the plans GSK chief executive Jean-Pierre Garnier said: "We restructure all the time". GSK itself is the result of a merger in 2000 between Glaxo-Wellcome and SmithKline Beecham both of which were only created in 1995 and 1989 respectively.

The German tyre producer Continental has closed five of its 11 Western European manufacturing locations since the second half of the nineties. Over the same period the company has set up four new low-cost locations in Eastern Europe and South Africa, and developed two existing sites into the largest low-cost locations worldwide. Italian tyre company Pirelli has seen some similar developments although the most dramatic change for

the company came in 2005 when it disposed of its cable, telecommunications and energy businesses which then accounted for around 60% of group turnover. Earlier restructuring in the tyre sector took place in the 1990s and involved the closing down of factories in Greece, Thailand, United Kingdom as well as in Italy.

The ZAP chemicals company does not currently operate at European level but has been through substantial restructuring since the early 1990s. In 1992 the company employed 5,500 workers but now employs 3,300. It has so far avoided collective dismissals with reductions in employment mainly the result of outsourcing of services indirectly related to the production, and a natural retirement process.

The four countries in the study – Germany, Italy, Poland and the UK – have a range of collective bargaining and social dialogue structures that impact on the way they deal with restructuring at national and local level and the way they interact with European-level consultation. Germany has a long tradition of sectoral collective bargaining and although this has been under strain in recent years with an overall decline in the percentage of workers covered by collective agreements, bargaining arrangements in the tyres and chemicals sectors have been more or less maintained with higher than average levels of unionisation and collective bargaining coverage. A combination of sectoral and company bargaining has been the norm in Italy since the major reform agreed by the unions, employers and government in 1993. In contrast, the UK has seen a significant erosion of collective bargaining coverage over the last 25 years with company bargaining replacing sectoral agreements across most of the private sector. Trade union density has fallen from around 50% to less than 30% in the same period although unionisation in the tyres and chemicals sectors remains above the national average. In Poland, in common with most other former Communist countries, the trend has been towards company-level bargaining and trade union membership has fallen rapidly since the Communist period. However, again the tyre and chemicals sector are better organised. Around two-thirds of the employees of the Zakłady Azotowe Pulawy (ZAP) chemicals group are members of one of the four trade unions that operate in the company, this compares to a general unionisation rate of 16%.

Social dialogue arrangements also vary markedly between countries. In Germany, the establishment of the works council system of co-determination was a central element of the post-war reconstruction and works councils, usually dominated by trade union representatives play an important role in industrial relations. In Italy the 1993 agreement also established the current arrangements for workplace representation with local inter-union committees (RSUs) responsible for negotiations and consultation over issues like restructuring. Neither the UK

nor Poland had any legislation providing for information and consultation rights until they implemented the European directive. Individual companies may have taken the initiative to establish works council arrangements although these were few and far between in the UK and usually seen by trade unions as attempts to undermine trade union influence. There remain some suspicions about the role of works councils and this is certainly the case in Poland where a trade union rep interviewed for the case study of ZAP said: “Setting up workers’ councils is in reality a slow process of eliminating trade unions”

Tab. 1 - Collective bargaining coverage and trade union membership

	<i>Collective bargaining coverage: % of all employees</i>	<i>Trade union density; % of all employees</i>
Germany	64	22
Italy	80	34
Poland	35	16
UK	34	28

Source: ETUI-REHS (www.worker-participation.eu)

3. National arrangements for consultation and how they deal with restructuring

What is also apparent from at least two of the company case studies is that employers are using a range of methods to consult with employees, often with a view to direct contact without trade union intervention. GSK, for example, in its annual report lists a number of ways it keeps its employees informed including its global intranet site; web broadcasts from senior management; an internal magazine sent to around 34,000 employees four times a year; confidential feedback mechanisms; regular employee surveys; and “town hall” sessions where employees have the opportunity to discuss the progress of the business, raise questions and give feedback. Similarly, in Pirelli there is a great emphasis on internal communication, through forums, workshops, e-learning, team work, as well as through such initiatives as knowledge mapping, performance assessment and talent attraction/retention, which are all aimed at improving working methods and from which trade union representatives are barred.

In contrast, the practice at Solvay, the Brussels-based chemicals multinational operating in Italy, reflects a particular well-established form of information and consultation. Since the

mid-1970s, trade unions¹² in the chemicals sector have placed great emphasis on workers' participation in corporate management, so much so that commentators often highlight the industry as an example of good practice when referring to the peculiar contractual model that has developed in this sector.

The industry-wide agreement for the chemicals sector signed in 2002 foresees that the "Observatory – without prejudice to the autonomy of enterprise and the respective responsibilities of entrepreneurs and trade union organisations – analyse and evaluate, with the periodicity demanded by the problems raised by the issues under discussion, those questions that may bear an impact on the sector as a whole, with a view to single out, as early as possible, growth opportunities, and the means to stimulate it, as well critical points, and the means to overcome them". Besides providing a common perspective for the definition of the negotiating framework, the 2002 industry-wide agreement foresees at a national-, company- and international-level a series of points that require "to be jointly discussed", among which domestic and international outlook and the consequences on the organisation of work, significant restructuring and the effects on employment.

These aspects were significantly strengthened when the industry-wide contract was renewed in 2006, with social partners "jointly committed to single out and implement common action aimed at promoting and sustaining (...) industrial policy that, against a backdrop of sustainable development, can provide adequate and timely response to critical situations".

In some senses the Continental in Germany was part of a similar industry-wide social partnership based on long-term mutual trust between employers and trade unions. However, this relationship has been under severe strain in recent years. The company had been implementing a strategy of low-cost manufacturing with an impact on several sites in Western Europe. In 2005 the company agreed a closure plan for its factory in Hannover-Stöcken that then employed 320 workers. Although final closure was due in 2007 the agreement allowed for a possible extension until 2008 or 2009 and, in case of financial urgency, the possibility of early closure. Continental did indeed step in early and pushed for complete closure of the plant in mid-2006 despite healthy sales of, and profits from, the car tyre sector. In response, the chemicals sector union IG-BCE and the works council launched a high-profile media campaign backed up by demonstrations and strike action, mobilising in a way that had not been seen in the industry since the 1970s. The campaign was successful in as far as the

¹² The Unitary Federation of Chemical Workers (*Federazione Unitaria dei Lavoratori Chimici* – FULC) gathers together the initiatives of the major chemical trade union organisation (Filcem, Femca e Uilcem) that are part of the Cgil, Cisl and Uil, the trade union confederations.

company signed a new agreement that reinstated the original timeframe for closure. However, it remains to be seen whether this has helped re-establish the social partnership that had existed before the conflict.

At the BASF chemicals company in Germany there had been a long tradition of consultation through the work council system, but this began to come under increased pressure in the 1990s. Management strategy shifted to focus on generalised cost-cutting programmes based on financial targets and implemented from the top down without any clear motivation in terms of a corporate strategy. This began to undermine the foundations of social partnership at the firm level. The BASF works council responded by signing an agreement in 1997 that set a fixed target for job reductions over a three-year period mainly to achieve some stability for their own policy. As a works council representative explains in the BASF case study: “We just wanted to get some continuity and stability into the process. So that we might be able to process things systematically, instead of just having to react on management’s initiatives without being sufficiently clear of the implications”. The distance between top management and employee and union representatives grew but so did the gap between top and large parts of middle management, with top executives seen as primarily responding to pressures from shareholders and financial markets rather than having a broader and clearer corporate strategy.

There were also specific conflicts over loyalty bonuses (1994), sick pay (1996) and end-of-year bonuses (2000) that severely tested the relationship between the company and works council. The confrontation in 2000 was sparked by a company announcement that the annual bonus would be cut by 10% even though profits and dividends for the year were at record highs. As the BASF case study explains: “Alienation between management and workers had become endemic and the results of the regular survey on employees’ opinions on company and management became so bad that they were not published any more.” However, since then the works council and management have been able to re-establish a better working relationship and have concluded a series of agreements based on a clearer management strategy with a move away from the concentrated focus on cost-cutting.

In GSK in the UK, Michelin in the UK and Poland and ZAP in Poland, consultation arrangements are very recent and reflect the fact that very few employers in each country had established such structures on a voluntary basis before the European directive on information and consultation came into effect. Major companies are now setting up these structures with works councils in GSK in the UK and Michelin in Poland meeting for the first time in 2006.

4. European Works Councils and restructuring

A member of the European works council (EWC) of the Michelin group was quoted in a 2005 case study by *European Foundation for the Improvement of Living and Working Conditions* as saying that the EWC: “should become a place for unions to monitor and collectively prevent risks of ‘social dumping’ between the group’s entities, at least on the European level. It should become a place of regulation and European harmonisation of *socially correct* practices in the management of restructuring and adaptation to major change.” This is perhaps an optimistic view of what an EWC can and should do and the case studies in the GLORI project certainly uncover some of the major challenges that EWCs face when trying to deal with restructuring.

One of the main issues is the amount and timing of information. If employee representatives on EWCs are not getting adequate information about planned restructuring at the earliest stage in the process then it becomes very difficult for them to take part in proper process of consultation. These questions were at the heart of a dispute between the European Employees’ Consultative Forum (EECF) and management at GSK.

In general, GSK was seen as providing a very good level of detail about its strategy and planned projects. This was certainly the opinion of the two trade union officials from the EECF’s operating sub-committee interviewed for the case study and was also reflected in the feedback reported from EECF members after Forum meetings. In fact, senior management also keep in regular contact with chair of the organising sub-committee, often informing him of global issues that might not necessarily have a direct impact on European businesses.

Two developments in 2006 led to EECF reps raising their concerns about the level and timing of consultation over restructuring. A reorganisation of GSK’s European Medical Service had been discussed at a special meeting of the Operating Sub-Committee in September. However, the employee representatives argued that consultation over the EMS changes should have begun earlier. In a separate matter, the employee reps complained that information on the takeover of Domantis had not been provided to EECF reps until after an announcement on the deal had appeared on GSK’s intranet. The employee reps acknowledged that in this particular case the takeover did not affect the situation of employees in at least two countries in Europe, as stipulated in the EECF Constitution. However, they argued that it would be more appropriate to provide them with information in advance so that they could then see for themselves what the potential impact would be.

Employee reps on the EECF thought that there “had been a deterioration in the supply of timely information and consultation over the recent period and expressed a desire for this

situation to be corrected.” As a result the Operating Sub-Committee sought expert advice and sent an official grievance GSK chief executive Jean-Pierre Garnier. The issue was discussed at the normal Sub-Committee meeting in January 2007 and at an additional special meeting the following month.

GSK management claimed that it had consulted properly and fully. However, they did agree in future to explain the strategic intent behind current business and “to ensure that, insofar as it as possible, information would be obtained about future company announcements...so that due consideration could be given to inform the EECF, in order to discuss any possible implications for Europe.”

Employee representatives on the Sub-Committee welcomed “the move as a small step but one that should improve the situation.” They also requested that any information provided as part of a consultation should be available at least one week before a meeting and that with future company announcements, “even those based on global decisions, such as the decision to create an R&D presence in China, full consideration would be given to the possible impact on the businesses in Europe.”

At German chemicals company BASF, reps on the European works council (Euro-Dialogue) commented that an important influence on the company’s response to demands for information was the European Court of Justice’s ruling in the *Vilvoorde* case. This case involved the Renault, the French car manufacturer and its failure to provide specific information about the planned closure of its plant at Vilvoorde in Belgium. A Euro-Dialogue rep said: “So this Renault judgement has really given us a lot of help, it’s a positive example of participation and has helped us along. That they said: now we want to know [...]. With Renault, that was a thing that helped us along enormously in the European work”.

Surprisingly, the evidence from Solvay is that the company takes a different approach to the way it deals with restructuring at European level compared with the national-level consultations that are part of a long-standing industry agreement. The company’s European management argue that strategy and outlook are strongly dependant on the market, restructuring is viewed by the corporate centre more as an operational than a “political” necessity – so this issue is not one that calls for direct involvement of workers, who are merely informed rather than consulted.

This approach from management was also seen at Pirelli where one EWC delegate commented about the delay in getting the EWC to meet after two years and then: “when it did meet the impression our representative got was that management was there simply to provide information.”

The other major challenge for employee reps on EWCs is being able to work together effectively, particularly when restructuring plans may have a different impact in different countries. One rep's view of the way the Euro-Dialogue worked at BASF was that it makes rivalry between sites objective and does not try to hide it: "We have never covered it up and that's why we had this point at the second meeting. We are colleagues but also rivals [...]. Let's hope that the employees' representation is kept from having to decide on investments. We would come armed to the teeth. The last one left over gets the investment".

The view from at least one EWC delegate from within Pirelli was pessimistic about the possibility of the EWC being an effective mechanism for regulating restructuring. He felt that: "delegates from other countries were attending simply to mind the interests of their plants back home." He added that: "There is truly very little Europeanism with the EWC...I feel there is a long way to go before this attitude changes." Similar views were echoed from a delegate of the EWC at Continental who thought that: "competition inside the group is much stronger than the competition with other companies, which we don't notice so much". The impression was that some EWC delegates were of the view that other companies should be left to go under so that remainder can better survive. This is an absolutely fundamental challenge for EWCs and one highlighted in other studies. Hancké's investigation of the automobile sector. Hancké, for example, describes how, "In practice, local unions in the different countries therefore use the EWC as a means to further their individual interests in securing employment rather than as a forum for international cooperation" (2000). He contrasts the trade union approach with a management attitude that actually sees EWCs as potentially useful tools in communicating restructuring strategy. "Whereas trade unionists use EWCs primarily as an extension of local (or national) industrial relations, management engages the EWC as a tool in industrial restructuring. For local unionists, the EWC is a mechanism to obtain information from management on company-wide investment and product market strategies and on working conditions in other plants. Management, by contrast, uses its agenda setting power to organize EWC activities around strategic issues that have to do with broader restructuring, such as product development, marketing, capacity allocation or investment guarantees."

The overriding effect of interplant competition was also reflected in comments about keeping local company information confidential, even from other parts of the company in Europe. At Michelin Polska: both unions and management agreed that: "our company is closed for outsiders, we are very careful as to what information can see the light and we tend to prevent too much information on our internal situations leaking to the external world."

While in the UK a major firm within the tyres and chemicals sector was approached to take part in the GLORI project but refused to participate unless its anonymity was guaranteed. The view from the local management was that debating the issues of local consultation, the impact of the EWC on UK consultation and the impact of restructuring would expose the UK operations to scrutiny to the company's European management and other parts of the company in Europe. Such was the perceived competition between plants in Europe that management in the UK felt too exposed to contribute to the project's discussions.

From a trade union perspective there were positive outcomes from EWC activity but these were mainly about improved links between unions rather than specific impacts from the way the EWC dealt with restructuring. For example, Italian delegates on the Solvay EWC felt that there had been progress within the EWC and they had a better understanding of how their colleagues worked. At GSK the UK and Irish reps interviewed for the project said that without a tradition of social dialogue within each of their countries, they had benefited, in particular, from the contributions and advice of their French, Belgian and German colleagues. So while this reflected a positive process in terms of trade unions from different Member States working together, what is still missing from the evidence of these case studies is a clear European perspective and approach to working within European works councils. This is something that the industry federations, particularly EMCEF within the tyres and chemicals sector would aim to achieve but it remains a major challenge. This is mainly in terms of the extent to which national trade union structures are willing and able to cede responsibility and resources to European level federations and allow them a more strategic role.

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THE INDUSTRIAL RELATIONS IN THE EUROPEAN CHEMICAL INDUSTRY

Jurgen Kadtker - SOFI

1. Introduction

I will try to focus these few pages of general introductory considerations on what is or, in a strict sense, could be really *European* in the European industrial relations of the chemical industry.

The points which I'd like to tackle are, summarizing, the following:

- The positions of power which do not exist, or which have been lost in the national framework of industrial relations, can't be got back at the European level.
- It is only those employee representatives who can box something through at the European level who can count on local support in the first place.
- Where these conditions are fulfilled, the European level can be used to strengthen existing positions locally, and from there to improve the minimal level on representative standards for employees in trans-national companies (TNCs).
- So the decisive question in dealing with the European level of industrial relations is not: *What can be achieved at this level?* But rather: *How can coordination on this level be used to maintain or improve the general possibilities of employees' representation in the local and national sphere?*
- In sum: the perspective of European industrial relations (not only) in the chemical industries lies in combining efficiently "soft" regulation on the European level with "hard" regulation on the national and local level.

When we talk about European industrial relations there are two different areas to be taken in mind:

- a) industrial relations as a matter of bargaining or at least of institutionalised contacts between unions and employer organisations;
- b) industrial relations in multinational or trans-national companies, focussed on European Works Councils (EWC's).

I will discuss these two areas separately and begin with industrial relations as a matter of unions and employer organisations.

2. Social Dialogue and Industrial Partnership

The chemical industry was indeed the first important industrial sector – besides the building and construction industries – where unions and employers’ organisations started some sort of industrial relations on the European level.

In December 2002, the European Mine, Chemical and Energy Workers’ Federation (EMCEF), and the European Chemical Employers Group (ECEG), concluded an agreement on a permanent and organised Social Dialogue of Social Partners. This agreement became possible only after an important shift in the European Chemical Employers Policy.

Until then the European chemical industry and their European Organisation CEFIC had always categorically rejected any engagement in social or labour relations on the European level. Defining common interests and coordinated policies were strictly limited to economic and industrial questions, simply because positions in questions of social and labour relations were too controversial between chemical employers and employer organisations across Europe.

On the union side, the background was quite different, not only because defining common goals and defending them in trans-national campaigns had a long tradition in the international labour movement since the eight-hour-day-movement in the 19th century. By the 1980s structures of European Chemical Workers Unions had become more organised, when a permanent Secretariat of the EMCEF was created at Brussels. It was the German Chemical Workers Union (IG CPK), meanwhile the Miners, Chemical and Energy Workers Union, as by far the largest among European chemical workers unions, which had played a decisive role in politically framing the new organisation and in appointing the new General Secretary of EMCEF.

The organisational profile was that of a diplomatic mission or a lobbying organisation at the European Commission in the first place, and of a service organisation of national chemical unions at Brussels without any political significance of its own. Correspondingly the elected General Secretary was chosen not by political, but by technical criteria: broad linguistic abilities, competences in communication and negotiating, no political background. To quote an union official engaged in the project:

“When that [General Secretariat] was established, there was a situation when all who were engaged in the establishment said: We need a General Secretary who can make conversation in four languages, and who must be able to take up office promptly in the European Commission through the back door just after he was thrown out through the front door of another, in order to get information”.

The political dimension was brought in by the political secretaries who were delegated by national unions. As delegates without a political mandate by election they rested strictly dependent from their national organisation in political as well as in occupational terms. In consequence the EMCEF with respect to political dimensions was just a transmission belt to bring national unions’ initiatives to the European level. It was by no means a political stimulator or sensor for unions’ policy in its own right.

In the 1990s the main activity of the General Secretary was to take the initiative and to give technical and organisational support to the building up of European Works Councils. And it is as a result of these centralised activities that there is a high rate of potential companies that really have an EWC. According to the character of the Organisation, building EWCs was not primarily treated as a political project, where specific conflicts or problems of workers representation in particular companies were in focus. It was passing through the Directive n. 45/94 in a global and technically efficient manner. However, the high rate of early realisation of potential EWC’s should be seen as an important outcome of these activities

Against this background the opinion of German works council members on EMCEF, service activities varied according to their individual contacts among political secretaries. The evaluation was completely negative, when general political demands were addressed, that go beyond practical support in specific cases on the company level.

Just to illustrate this by a statement of a works council member from one of our case studies: *“Employers run around with positions on flexible or varying payment, and European unions don’t even take note of that. In 1999 I asked them: Didn’t you receive the signals, I could name you eight corporations where employers march forward with nearly identical projects, and you don’t take note of that? You should have collected this information and processed it for the national unions so that they could think about what it means when employers begin to take a course of this kind. You would have had an interesting job doing this. It is by doing your job that you would get significance, not by just getting positions”* (BASF, BR1).

It should have become clear by what I said before that this personalisation misses the point, because the organisational aspects are left out. Finally it was the national unions who created

an organisation with just a small budget and staff, where people were not urged to engage in this type of initiative. So electing another General Secretary with a clear political background and profile, who had been responsible for international union politics within the German union, explicitly stood for a significant change of strategy. This new strategy focuses on two main topics that were seen as having been neglected in the past: “*undertaking steadily more systematic political coordination on the level of European corporations and initiating a discussion in order to “arrive at something like social relations or social dialogue”*” (IG BCE, HA1).

The importance of the first point has been made sufficiently clear by the interview statement just quoted. The second point – and the ECEF-ECEG agreement as its outcome – in my view attempts to transfer a political strategy of Industrial Partnership or Industrial policy to the European level, a policy that has been developed in the German context since the 1980s. Industrial Policy means comprehensive cooperation between social partners in order to define common sectoral interests and to defend these in public and in the political arena in a coordinated manner, with industrial relations being an integrated part of this sectoral cooperation. Conflict of interests between capital and labour are not denied, but they are perceived as an integrated part of *Industrial Partnership*, and bargaining in this field has to be conducted in a way that will not negate the principles of partnership and dialogue.

Industrial Partnership was primarily a project of the union. It was presented when in the mid-1980s the chemical industry was under severe pressure because of environmental debates in general and a series of spectacular accidents. The intention was an arrangement of political exchange: Industrial policy as a common project to promote the development of the industry and industrial partnership as a style of industrial relations where workers would get a fair share of the economic effects. We, the union, help you, the industry, to regain acceptance in the political arena and the general public and you, the employers, agree on wage standards and labour conditions – then we can live with you without conflict. An additional implication of this was of course that the union would not take issue with the economic strategies of the companies. Union representatives would confine themselves to influencing company decisions as far as possible in negotiations beforehand and then accept compensation for any negative outcome.

The general results of this strategy, compared to other German unions, are not so bad. The wage level in the chemical industries is relatively high. This holds especially for the lowest wage category in the collective wage agreement. Moreover, the chemical employers’ organisation has a strict commitment to collective agreement and does not accept members

opting out. So chemical employers' organisations are important defenders of the social partnership and the established structures of the collective regulation of labour in Germany against political intentions of deregulation and in strong contrast to employers in other industries.

There are important similarities between the situation in the 1980s, when 'industrial policy' and 'industrial partnership' were 'invented' in Germany and the beginning of the 21st century, when the agreement on Social Dialogue was made on the European level. Again, the chemical industry is under severe pressure, this time from part of the EU commission and its directives on evaluating all chemical products and intermediates. And again, unions initiate a common project of continued, formalised collaboration, where issues of labour relation are to become an integral part of a common industrial strategy for the chemical industries, now on a European level.

However, beside these similarities there are also important differences between the two situations. And these differences in my view will limit possibilities of transferring principles of industrial partnership to the European level or developing them in a different form on this level.

So Henning Voscherau, Vice-Chairman of BASF-Group and Vice-president of CEFIC, when the ECEG was created, made it quite clear where employers saw priorities and definite limits to the common project: *"For many reasons the future of the European Chemical industry is at stake. It is time for us to move a step further to strengthen our co-operation with our social partners". And: "It has been formally agreed that the dialogues organised through the new Group will not lead to any contractual arrangements or collective bargaining"*

So it is not really clear whether founding the ECEG stands at least for the beginning of a real shift in European chemical employers' policies, or if the old policies with respect to industrial relations have just been put into new clothes. The first, positive, alternative would imply that the European Employers had overcome their important differences on this subject since we made our CEFIC-Interviews in the 1990s. I must admit that I have not done any new fieldwork on this subject in the last few years. But as far as I can see by secondary information, there is no strong evidence of such a development. But without a substantial common denominator with respect to industrial relations on the part of each of the partners involved (not necessarily between the partners) perspectives for substantial social dialogue are rather limited.

A second important difference between both situations has to be taken into account. It refers to the common denominator between the employers' organisations and the unions. In the

German case cooperation between both sides as social partners has not been an outcome of industrial partnership but an important precondition. Industrial relations in the German chemical industries had already been very cooperative for many years. The project of Industrial Policy and Industrial Partnership was bringing together separate fields of cooperation that had existed long before. The unions' intention was to get more out of this cooperation than before, not by changing power relations but by creating a positive-sum-game. This type of social partnership has its main pillars in high trust between persons and organisations and in similar conventions on what is rational and legitimate in an industrial economy. Conflict is, if there is conflict, about wages and working conditions in a distributional perspective, but not on the basics of economic strategies.

It is obvious that these conditions do not exist on the European level. And not at least: Programmatic upgrading of EMCEF is not covered by respective investment of European national unions in EMCEF capacities. EMCEF is still a very small and rather poorly equipped organisation compared to demanding strategic perspectives to be pursued on the European level.

So all these aspects, lack of integration on the employers' side, lack of trust and conventional perspectives between employers and unions, and lack of resources will prevent the new Social Dialogue from becoming a really important element of industrial relations and workers' representation in the EU. Of course, it is always good when people speak to each other and exchange information about their respective perspectives and intentions etc. And this may effectively lead to some practical effects at single points. But these practical effects at least in the short and middle perspective will be rather limited. That's by the way also what I read in the reports of EMCEF-Presidency, where the accent is always on successful political lobbying for the industry, whereas working conditions, questions of training etc. are the points to be addressed more seriously on the future agenda.

3. The European Works Councils (EWCs)

The European Works Councils (EWCs) are, by virtue of their legal foundation, purely information organs. But they also – and in my opinion: above all - offer opportunities for employee representatives of from different national sites of a company to meet regularly. This does not mean just the opportunity of exchanging information and consulting together on the information. It also offers the opportunity of getting to know one another and establishing relationships.

The essential potential of this institution lies, as I see it, in the opportunity of establishing relationships and building up networks. Trusting relationships between employee representatives from different countries arising in this way offer the preconditions for the creation of mutual transparency. So they are an effective way of making sure that people are not played off against each other by deliberate false information on the part of the company. And they also open the door to concerted action in certain matters. Here we see the beginnings of an effective trans-national employee representation. The extent to which these opportunities are used depends partly on the objective conditions, but above all on the perspectives and interests of the workers' representatives concerned.

I want now to explain this by way of examples and I will base my remarks mainly – but not only - on firms with a German background. On the one hand I know them best and on the other I think that one can treat the important general questions with these few examples. For the choice of these examples speaks the fact that the German IG BCE has at an early stage pursued the establishment of European works councils as a strategic aim and worked actively in this regard, years before the EU directive was passed.

The leading role in the founding of Euro works councils was played by the two largest German chemical companies after the trade union and the employers' association had agreed on joint guide-lines on this topic in 1990. As soon as this agreement had been reached the works council and the management of Hoechst announced that they had agreed on the foundation of a "Hoechst European Information Meeting". A year later came the foundation of a "European Forum" at Bayer. The practical consequences on which the union had been counting were not really brilliant. There was one meeting per year, and when European questions became really important in these companies, the European bodies had no relevance at all:

In the process of winding up the Hoechst company at the end of 1997 a comprehensive restructuring of the pharmaceutical activities took place, which affected all European sites very considerably and so gave rise to massive protest on the part of the employees at many of them, but at that time there was no European body at all. As a result of some segments being split off it had been disbanded and no one had seen fit or even felt the necessity to set it up once more. The chair-person of the works' council and the former EWC at Hoechst saw here a task which he wanted to take up when the process of restructuring had been completed. There was no thought given to the notion that the European body could itself be useful in dealing with the restructuring throughout Europe.

Likewise in 1997 the works' council at Bayer in Germany used internal information and the good terms with management to overturn a decision on an investment already passed in favour of a French Bayer site and it left the French colleague with a *fait accompli*. So the advance information was not passed on but used deliberately to serve particular interests. And the result of this was presented as an important success by the works council as well as by the union in Germany.

*

Seven whole years of communication and of occasions of getting to know one another had evidently not produced much in the way of trust and cooperation.

The reasons for this sobering result lie in the fact that the European level for workers' representation at the headquarters of both companies was completely irrelevant. In both cases this power rested on a highly centralised, exclusive and informal modus of agreement between the chair of the works council and the board. Mobilisation of the workforce played no part and for decades it was not necessary. The power of the central workforce representative in the national framework lay therefore in exclusiveness. And as long as it remained intact on this basis there was no call for an opening, and certainly not in the trans-national framework. The European information bodies were used as secondary information organisations. For the workforce representatives from other countries these proved to be to a certain extent quite helpful, because, for example, the direct meeting with members of the company's board in the framework of such European meetings could improve their status at home, or because one could get into contact with the powerful head of the works council at headquarters, whom one could ask for support. But for the main sites employee representation remained a purely German business, to which the European level could bring from the point of view of the central actors nothing new.

The situation was rather different in the development of the Euro works council structures at in other Companies like German based BASF and Swiss based Roche¹³.

At BASF, the third of the (former) 'Big Three' of the German chemical industry, a Euro works council (called a "Euro-dialogue") was not set up until 1995, i.e. after the coming into force of the guide-line. It was not created as a joint project of the German works council and the management of the company. Instead the suggestion for an agreement was brought into

¹³ And it has to be said that meanwhile there have been also important changes in the EWC-policies of German works councils at Bayer and the new companies coming from Hoechst. But these changes are the outcome of the fact, that premises of the old stand alone strategy have definitively gone.

force by the consent of employees' representatives from the different European sites of BASF.

Characteristic for the mode of operation of the body is apart from the obligatory annual meetings, which take place in rotation at European sites, from the outset a relatively large number of special meetings of the Euro Dialogues' management body on economic matters of the firm which affect at least two countries. In the first term of office from 1995 till 1999 there were seven, in the second till 2003 twice as many. Apart from the delegates from the countries affected there are representatives from the works or fields of operation actually affected if they are not represented by the official delegates. This practice was not established completely without pressure, in which the works councils could, quite apart from their own potential for pressure, profit from the upheaval caused by the conflict over the Belgian Renault site in Villevorde¹⁴. To quote an EWC and works council member: *"This Renault judgement has really given us a lot of help, it's a positive example of participation and has helped us along. That they said: now we want to know [...]. With Renault, that was a thing that helped us along enormously in the European work (BASF BR B, 04/1999)"*

The last step for the time being in the building up and extension of European information structures is the joining of the German corporate works council's economic committee and "Euro-dialogue" for the communication of economic measures of international importance, practised for the first time for a joint venture with importance for Ludwigshafen and Antwerp, *"where we just took the Belgian colleagues into our economic committee [...]. The experience with Antwerp showed us [...] that we were more efficient with outsiders in discussion than if we had done that separately"*.

The positive results of the work of the "Euro-dialogue" can in the light of this background be seen in the following:

- a) The far-reaching neutralisation of certain company initiatives by early transparency of the factual room for manoeuvre of management in the different countries greatly reduced the pressure on the employees' representatives at the individual sites (as in the attempt of the central personnel management department to push through a degree of profit-linked remuneration);
- b) The initially informal, now formal establishment of nationwide representation structures in various countries, as a foundation for the "Euro-dialogue", which are now used also as coordination bodies in the national setting, not least the development of direct paths of

¹⁴ The French concern had manoeuvred itself here on account of a piece of information which had not been passed on into a difficult legal position, resulting in a spectacular public conflict.

communication between those involved from the same work area, without the managing body being involved, if necessary being informed later.

The development of a European works council is also the central theme of the present negotiations on employee representation in the framework of a European company (SE) at BASF with the main focus on an intensification of the opportunities of information and consultation. The central demands here are for more regular meetings and a kind of European economic committee and not the consolidation of binding rights of participation of this body. I will come back to this point.

At Swiss based Roche, employees' representatives met specific difficulties when they engaged in creating a EWC, because the central management and the company's main site are not under the jurisdiction of the EU. The initiative for a meeting of Employees' representatives from the European sites came from a German works council, when there was the impression that employees in Europe were played off against each other by selective disinformation. But a suggestion for a EWC structure, that had been prepared with the assistance of an EMCEF official, was rejected categorically by management. Moreover, management presented an own suggestion that barely met the minimal requirements of the EU directive. And they were successful in getting the consent of employees' representatives from three countries in bilateral negotiations, with the most important national workforce among them. The other employees finally decided not to boycott the poor body but to join it in order to get the opportunity to develop it further. And they were rather successful in doing so:

- They could establish a Coordination Committee with delegates from five countries with quarterly meetings that finally has become accepted as an official dialogue partner by the corporate management.
- This Coordination Committee has become a sort of economic committee on the European level, where the corporate management presents information on corporate projects and strategies with European implications.
- They were able to create a very efficient system of mutual information on the European level, so that there is transparency on wages and labour standards. When the German works council is able to defend its position against management's requirements for the extension of working hours since the beginning of this year, it is only because of this transparency on details of working time regulation at all European Roche sites.
- Finally employees' representatives were able to initiate coordinated political action in some cases, referring to their European relations based on EWC contacts.

Now what makes the difference between these two cases and the two discussed before? In my opinion it is two points:

- At BASF and at Roche employees representation never was based on cooperation and trust between core members of works councils and top management alone. To be clear: Corporate social partnership especially at BASF for many years was not so different from that at Bayer and Hoechst. However, there was always a stronger unionisation and employee representation was not the exclusive matter of a small group of works council members, but a lot of shop stewards were engaged. So when the management wanted to change the balance of interests significantly in the 1990's, the works council and the union really had going into conflict as an important second option. A first important showdown between workers and management happened in 1994, the year before the Euro-dialogue was established. At Roche employees and their representatives had also gone into open conflict with management successfully.

- At BASF and at Roche workers representatives found it necessary to develop European structures and networks of information in order to do efficiently their original job of employees' representation at home. Too many of corporate functions have become organised on a European if not a Global level, so that negotiating not only on the outcome of corporate strategies and projects but on these strategies and projects themselves makes a European perspective indispensable, even for pursuing local or national workers' interest.

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Generalising these examples and further analyses of Euro Works Councils I consider three conditions to be essential for Euro works councils to be built up or used as effective representational institutions:

➤ The ability to cope with conflict situations and significant positions of power of the workers' representatives at important sites, especially at the headquarters of companies. Companies most strongly depend on the collective competences of the workforce at these sites, and unions or employee representation in general must be able to use this dependency as a power resource effectively.

➤ In addition Employee representatives must be ready not to use their position of power exclusively for their own site, but to invest at least parts of it for European cooperation, and they should do this not (or at least: not only) as the outcome of a moral understanding of international solidarity, but in a perspective of their own practical interest.

➤ Finally there must be the possibility of being able to build up mutual trust over long periods of time, on the basis of personal continuity and without being prematurely overstretched by explosive and conflict-ridden problems. Or put it the other way round: In those cases, in the chemical industry and beyond, where we find EWC's that successfully engage in this type of conflict, there has always been a long time of learning trust in each other, dealing with limited conflicts on marginal subjects at first.

4. Conclusion

Strength of European employee representation, if there is strength, relies on combining efficiently 'soft' forms of regulation – rights for information and consultation, rights to meet each other regularly, resources to keep into contact etc – on the European level with 'hard' regulation in the national framework. Efficiency on the European level means networking and building of trust relations between employee representatives from different countries, but not getting rights for 'hard' regulation for EWC's. To quote a works council member who has been for long and rather successfully engaged in building up EWC structures in his company: *"Let us hope that the [European] employees' representation is kept from having to decide on investments. We would come there armed to the teeth. And the last one left over would get the investment"*.

To be clear at this point: The argument is not, that EWC's could not be able to exercise influence on investment in a coordinated manner. And there are (up to now: few) examples of EWC's that effectively did so, even by mobilising employees. However, this ability will not come from rights to do so, but from mutual trust as the indispensable foundation or practical solidarity across national borders. And 'soft' regulation or procedural rights on the European level meet the requirements of developing this foundation best. Perspectives on developing EU-regulation on EWC's further should focus on this procedural dimension.

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VOCATIONAL TRAINING PROGRAMS AS A FACTOR UNDERLYING WORKERS' ACTIVITY

Anna Kwiatkiewicz – BPI Polska

Introduction

One of the methods of implementing the European Employment Strategy (EES) is vocational training process that can be realized within an enterprise framework or in a close cooperation with an enterprise. Vocational training programmes allow for updating workers' skills – it increases not only adaptability of enterprise human resources, but also strengthens their ability to participate in the enterprise life and actively contribute to its management. Vocational training programmes are also a mean to raise employability of workers and increase the value of their competences on the labour market. More and more often these competences are portable competences: such competences that can be used by a worker in different professional contexts.

Knowledge and skills which workers can acquire during vocational training programs allow not only for promotion and career development, but also provide them with means to exercise their worker rights. This is especially important for worker representatives- unionized or non-unionized- and for their activity in representation bodies such as the Council of Workers or the European Work Council. Trained worker representatives mean better educated partners for dialoguing with an employer which results in a more advanced level of negotiations and better cooperation. Negotiation skills, conflict resolution, basic management and financial management skills and knowledge of foreign languages seem to be especially important skills in this context. Such skills as intercultural sensitivity, proactivity and flexibility also positively influence the effectiveness of worker representatives.

It is important to note that universal models for organizing vocational training do not exist in the EU countries: the employment field, including vocational training policy, is a subject of independent decisions of the member states. As a result, models for organizing vocational training programmes in the EU countries vary a lot. In this light, it seems interesting to analyze functioning models and define what challenges they can be potentially faced with in the nearest future.

1. Trends in the vocational training

At present two distinctive trends characterizing vocational training field are observed: making training process flexible (by organizing it in modules for example) and involving all stakeholders of the process (workers, employers, local authorities, training institutions, etc.).

Making training process flexible means that different methods of acquiring skills than the formal ones are valued. *Memorandum on Lifelong Learning* defined three basic types of the learning process: formal, non-formal and informal.

Formal learning: learning typically provided by an education or training institution, structured (in terms of learning objectives, learning time or learning support) and leading to certification. Formal learning is intentional from the learner's perspective.

Non-formal learning: learning that is not provided by an education or training institution and typically does not lead to certification. It is, however, structured (in terms of learning objectives, learning time or learning support). Non-formal learning is intentional from the learner's perspective.

Informal learning: learning resulting from daily life activities related to work, family or leisure. It is not structured (in terms of learning objectives, learning time or learning support) and typically does not lead to certification. Informal learning may be intentional but in most cases it is non-intentional (or "incidental"/ random)¹⁵.

It is expected that the last two methods of acquiring professional qualifications will continue in growing in importance. As a result there is a new challenge for the vocational training policy: recognition and certification of skills and knowledge acquired in different settings, sometimes very different from the traditional training programmes.

Stakeholders of the vocational training process are social dialogue partners – workers' and employers' representatives. Their roles in the enterprise are different and their goals linked to the vocational training process also differ. Apart from workers and employers there are many other players claiming their interest in (or in some cases demand for) vocational training programs. These include labour offices, employer representation organizations, trade unions, public administration, both from the country and the regional level.

¹⁵ European Commission, *Memorandum on Lifelong Learning*, SEC (2000) 1832, Brussels 2000, pp.32-33.

Table 1. Vocational training program: workers and employer

Stakeholder	Stakeholder characteristics	Demand characteristics
Workers	Group directly interested in updating and acquiring new qualifications with a view to maintain its competitiveness on the labour market, ensure professional mobility and enhance employability.	<ul style="list-style-type: none"> • Training needs analysis is conducted with a view to define qualification requirements typical for certain posts. • Induced demand: demand “forced” by the employers’ requirements in relation to the qualifications of their future workforce. • Individual demand: derived from worker interests and need for development and acquiring new skills. • Mixed demand: is partly a result of the career development, partly a result of a voluntarily decision of a worker concerning realization of a certain model of a career.
Employers	Group that generates most visible demand for qualifications; its role is a very important one they are depositories of significant training budgets and decision-makers as to their allocation.	<ul style="list-style-type: none"> • Demand for qualifications corresponds to the present and the future needs of an enterprise. • “Active” demand: enterprises influence the shape of the training vendors offer and the market of training programs. • “Passive” demand: enterprises profit from the ready-to-implement training market offer, while the training market is shaped by more active enterprises.

Source: author’s own analysis on the basis of A. Andrzejczak, *Czynniki kształtujące popyt na szkolenie*, „Edukacja Dorosłych” 1995, n. 4 – 5.

The above characteristic clearly shows that demand for training program is different in case of workers and in case of employers. Worker is predominantly interested in acquiring new skills which strengthen his/her position on the labour market, so these skills are usually attractive to the maximum number of employers¹⁶. Employer, on the contrary, is interested in such training programs that enable workers acquiring skills that can be immediately transferred to work and can translate into increasing profits. Employer, from the definition, is not very keen on financing these training programs that are not directly related to the company needs and increase employability of an individual¹⁷. For the enterprise the most comfortable situation is when the “common part” of the demand for training program is the biggest possible: in such a case training needs of a worker and an employer overlap and the individual training needs become identical with the company training needs. As a result, a worker fulfils his/her private training needs in the framework of training programs organized by a company, which is a sign of a good fit between a worker and an employer.

¹⁶ J.H. Bishop, *Incentives to study: can we find them?*, ILR Report, 1990, p. 15.

¹⁷ More in: J. Gęsicki, *Polityka edukacyjna a rynek pracy. Problemy, podmioty, rozwiązania*, „Edukacja” 1996, nr 2 (54).

2. The European models for organizing vocational training

One of the controversial issues in a discussion on the vocational training models is the state's role in the process¹⁸. Some support the idea of a rather strong state's involvement in the process, some are for leaving the vocational training areas to the market forces, others believe that the best way of organizing the process is shared responsibility between public administration and the social partners. A. Green defines three basic models of the vocational training process organization in Europe¹⁹. These are the following: dominating influence of the state, dominating influence of the market and important role of the social partners in the vocational training system organization.

2.1. Dominating influence of the state

Supporters of an active role of the state are convinced that without intervention of the state, vocational training process will always be underinvested. Both employers and individual workers have a tendency to a rather moderate investment in vocational training which does not allow for fulfilling all training needs. The table below presents some reasons for underinvestment in the vocational training process by employer and by workers.

Table 2. Reasons for underinvestment of the vocational training process

Workers	Employers
<ul style="list-style-type: none"> • Lack of financial means to invest in vocational training. • High training costs. i.e. in case of the professions using advanced technologies. • Uncertain value of ROI of the vocational training programs. • Relation between future profits and the total cost of investment (real cost + alternative cost) is not favourable. • Lack of long-term analysis of investment in the vocational training. • Lack of information on possibility of vocational training and its real cost as well as information on how the acquired qualifications can be applied to the company operation. 	<ul style="list-style-type: none"> • Uncertainty of ROI. • "Stealing" trained workers by other enterprises – especially in the case of workers who have undergone general training courses. • Uncertainty of effectiveness of a transfer of acquired skills to everyday work, therefore of the training programme influence on the productivity growth. • Costs linked to ensuring appropriate conditions for a worker to apply newly acquired skills to his/her job, i.e. investment in new technologies.

Source: author's own analysis.

¹⁸ More in: G. Eliasson, *The Markets of Learning and Educational Services*, OECD, Paris 1996.

¹⁹ A. Green, *Lifelong learning ad the learning society: different European models of organization w: A. Hodges (ed.), Policies, Politics and the Future of Lifelong Learning*, Kogan Page, London 2000.

The above listed reasons result in limiting willingness of a worker and an employer to invest as they are not certain to the value of ROI of this investment. The supporters of the state involvement in the process believe that it could be a factor limiting uncertainty of investment, and, in the long run, increase interest of workers and employers in investing in the vocational training programs²⁰. There are different proposals as to what activities could be exercised by the state:

- Conducting qualifications analysis and preparing long-term forecasts through monitoring of the human resources qualifications.
- Creating and implementing active employment policy that stirs demand for labour and, as a consequence, for certain qualifications.
- Introducing system of requirements as to the number of training days that have to be executed in enterprises, for example by introducing a licence system, which will be conditioned by the realized number of training days.
- Financing certain type of training program by transfers and subventions.
- Organizing training programs by public institutions and offering them to enterprises, or in cases of some programs, obliging enterprises to participate in these trainings²¹.

It is also worth underlying that the described model with a dominating role of the state does not have to be identical with a centrally managed system of financing the training. Dominating role of a state is understood here as responsibility for creating appropriate conditions to ensure realization of a certain number of training days/type of training programs. It can be exercised through appropriate legal regulations and monitoring of its implementation as well as other, “softer” means such as, for example, promotional campaign.

Table 3. Advantages and disadvantages of the state intervention in the vocational training process organization

Advantages	Disadvantages
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²⁰ More in: A.G. Mitchell, *Strategic training partnerships between the State and enterprises*, „Employment and Training Papers”, no. 19, ILO, Geneva 1998.

²¹ N. Barr, *Ekonomika polityki społecznej*, AE, Poznań 1993, pp. 57 - 59.

<ul style="list-style-type: none"> • Harmonized and coordinated way of taking up decisions in the long-run. • Coherence and complexity of the proposed solutions. • Transparency and wide recognition of acquired skills. • Equal chances for participation in the vocational training process for all citizens. • Reduction of the time necessary to adapt training program content to the demand for skills – effective balancing of the skill demand and skill training supply. • Reduction of the social costs linked to the training program market adaptation to the skills demand. 	<ul style="list-style-type: none"> • Bureaucratic process of preparing prognosis and qualification planning slows down the pace of changes, sometimes makes them ineffective. • Sometimes these prognosis and forecast are not corresponding to the need of the labour market and give a false impression as to what is needed. • Training programs are less diverse and less flexible; most often these are standard training programs that do not correspond to the specific needs of the labour market.
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Source: author's own analysis.

Besides advantages, vocational training organisation model based on the dominating influence of the state has its negative side effects. In the extreme cases this model may turn to be a central planning model typical for the totalitarian systems, where the market forces are eliminated and the relation between skill demand and training program supply is rather weak.

2.1.1. France: vocation training system driven by the state influence

The French vocational training organisation model cannot be described as a system centrally steered by the state as it does imply a significant role of the social partners. However, the framework for the vocational training organization is defined by the state regulation, therefore in the literature of the subject France is treated as an example of the state dominated approach²². There is a variety of law regulations in this field, for example legal regulation of 1984 on participation in the vocational training programs (so-called “the EDDF” law), which was aimed at securing financial support for training activity for the small enterprises²³. According to this law the initial reimbursement of the training cost was at the level of 40% of the training cost, gradually it got reduced to 30%. Moreover, the firms involved in the training programs lasting longer than 3 years were entitled to tax reductions.

²² See: C. Greenhalgh, *Adult Vocational Training and Government Policy in France and in Britain*, Oxford University Press, 1999; K. Drake, J and P.Germe, *Financing continuing training: what are the lessons from international comparison?*, CEDEFOP Panorama, Office for Official Publications of the European Communities, Luxemburg 1994; J. Sheldrake, S.A.Vickerstaff, *The History of Industrial Training in Britain*, Avebury, Aldershot 1987.

²³ The EDD Law (la loi EDD: *les Engagements de développement de la formation*) has a form of the article L.951-5 of the Code of Labour.

The role of social partners grows in importance while voluntary sectoral collective agreements, which impose certain obligations on employers, are being concluded. One of such regulations is, for example, the law of 1971 which obliges the employers to contribute 1,5% of the total payroll to the training fund and makes them consult with the council of workers all decisions concerning training needs and accepting training leaves. Another solution initiated by the contact with the social partners, and obligatory to all employers, is conducting the competence screening (*bilan de competences*) at the enterprise²⁴.

In France, the above described system of organizing vocational training resulted in establishing close relation between such factors as recruitment and selection, promotion, salary and training programs. Moreover, organized training is in compliance with a regularly conducted training needs analysis and training plans prepared on the basis of this analysis. Training plans are at least consulted with the social partners, if not worked out in close cooperation with them. Another result of this regulation was an increased number of training programs in small enterprises. Additionally, the French enterprises organize more training programs than firms from other UE countries. Having stated that, it is important to note that the discussion point is still whether this situation is an outcome of the vocational training organization system in place or is it independent from it and is a result of the French vocational training culture (*formation professionnelle permanente*). However, it seems that a positive influence of the system is a growing number of employees from small enterprises participating in the training programs, which otherwise would not be as high as it is²⁵.

2.2. Dominating influence of the market

The key assumption of this model is that only employers and employees are able to take up optimal decisions concerning necessary content of the training programs. Supporters of this model of vocational training organization system are usually against any kind of state intervention arguing that modern economies are too complex, the changes of the business environment are too dynamic and that the centrally governed systems are not flexible enough to react to the dynamics of the environment with an appropriate pace. Moreover, this kind of

²⁴ More in: V. Gasskov (ed.), *Alternative schemes of financing training*, ILO, Geneva 1994.

²⁵ More in: F. Pyke, *Learning and training in small and medium - sized enterprises*, Paper for the ILO, Tripartite Asia and Pacific Meeting on Training for High Performance in Enterprises, Bangkok, December 2000.

state intervention would violate independence of the entrepreneurs and employers as to investment in training programs²⁶.

Table 4. Advantages and disadvantages of the market systems

Advantages	Disadvantages
<p>Emergence of a diversified training system.</p> <p>Growing competitiveness of the market: a bigger number of training vendors competes for training contracts.</p> <p>Growing flexibility of the system and, as a consequence, quick adaptation to emerging qualification needs.</p>	<p>Fulfilling only current qualification needs.</p> <p>Lack of long-term qualifications planning at different levels: individual employee, enterprise and at the national economy level.</p> <p>Lack of transparency and lack of equal access to information on training possibilities, and, in the consequence, lack of equal access to training.</p> <p>Lower quality of the acquired qualifications and learning process due to the lack of transparency of the market and sufficient information.</p> <p>Trade off threat: lowering training costs for lowering quality of the training programs or training standards.</p> <p>Underinvestment, both from the employer and the employee side.</p>

Source: author's own analysis.

Supporters of this vocational organization system suggest introducing different activities aimed at reducing potential disadvantages of the market-driven system. To avoid lack of transparency, they suggest creation of a good quality information system on available training initiatives and creation of counselling system for entrepreneurs and employees. Another instrument for reducing unequal access to training programs could be the system of guaranteed state loans that would finance individual investment in training. Similar results have tax reductions, both for employers and individual employees. Moreover, introducing public system of qualification standards or training program quality control could be a preventive measure to decrease of training programs quality. In such a case the discussion point would be whether this is still a system based on the dominating influence of the market forces or whether this is already the mixed system – to a significant extent subject of the market forces, but allowing for state intervention within precisely defined framework.

²⁶ More in: J. Bishop, *The incidence of and payoff to employer training: A review of literature with recommendation for policy*, „ Working Paper”, no. 94 - 17, Cornell University, New York 1994.

2.2.1. The United Kingdom: vocational training system driven by the market forces

In the 80ties the conservative government of Margaret Thatcher closed almost all Industrial Training Boards (ITB) that were responsible for collecting training fees from enterprises with a view to promote and finance vocational training programs²⁷. The ITB abolition was caused by the belief that the vocational training organization system was too expensive and too bureaucratic. Since that time training program market has become free from a direct state intervention and the basic rule governing its functioning is cooperation among training vendors; there is also an increased interest in delegating the responsibility for training programs to the regions and the state intervention is limited to the maximum²⁸.

In the United Kingdom there are not any solutions imposing obligation on employers to finance employee vocational training, however it is worth underlining that, due to the recession, there is more interest in training programs addressed to employees threatened with unemployment. Sectoral and regional collective agreements are not very popular and, if at all concluded, are not incorporated to the existing law system. As a result, both employees and employers were not very keen on taking up training initiatives, therefore the government started to introduce counteracting solutions²⁹. One of them is the National Vocational Qualifications System (NVQS) that is aimed at increasing transparency and portability of the already acquired competences and at building information systems on training opportunities such as, for example, initiative *Learning Direct*.

Despite the above mentioned initiatives, continuing vocational training in the UK is left to a great extent to a free will of employee and employer. The result of such a situation is not only limited funding provided by employers for training purposes, but relatively low level of public spending on training initiatives. According to the available statistical data, the recent government spending on training reached the level of 0,1% of the GDP in comparison with 0,38% of the GDP in France.

Concluding, in the UK, an example of the market driven vocational training process, there is a significant degree of decentralization of the vocational training process and diversity of training methods is used. The consequence of such an approach is focus of the vocational training process on acquiring and accreditation of qualifications necessary to executing

²⁷ More in: Y. Venna, *State intervention policies in the field of work-oriented additional training*, "European Journal of Vocational Training" 1998, no. 13.

²⁸ DfEE, *The Learning Age: A renaissance for a new Britain*, London 1998; also in: A. Munro, H. Rainbird, *The new unionism and the new bargaining agenda: UNISON - employer partnerships on workplace learning in Britain*, „British Journal of Industrial Relations" 2000, vol. 38, no. 2, pp. 223 - 240.

²⁹ In fact, a „pure" market driver model without any state intervention does not exist.

professional tasks³⁰. Observing present trends it can be stated that the vocational training process in the UK will continue to be organized according to the market driven model and the only state intervention will be creating effective information system, which is aimed at stirring the interest and increasing investment in training programs.

2.3. Dominating influence of the social partner organizations

Vocational training model based on cooperation with the social partners is called *the negotiation model*³¹. This approach allocates the state a role of a partner and an arbiter who is charged with delegating the responsibility to each partner of this process. Organization of this model is based on coordinated interactions between partners involved at the national, local and enterprise levels. In order to make this cooperation effective, the maximum possible representation of the partners involved in the process and an effective information flow are required.

In this model incentives used by the state with a view to increase investment in training programs are the same as in the market driven model. These include: tax incentives, obligatory contributions or subsidies for certain type of training programs. A specific feature of the described model is a practice of negotiating detailed conditions at the national, local and sectoral level. The results of these negotiations are later incorporated into national or sectoral collective agreements. The procedure of reaching the consensus guarantees active participation of the involved partners in the decision process. On the other hand, the biggest threat for the effectiveness of this model is certain inertia of the procedure and lack of flexibility. These two drawbacks can be clearly seen while there are problems in reaching the consensus: each lack of agreement makes the decision process longer as it requires consultations with all partners.

2.3.1. Germany: vocation training system driven by social partners influence

Germany is the most often quoted example of a country where the vocational training system is driven by social partners influence. Such organization of the vocational training process is influenced by the German model of the vocational education (dual system). Vocational

³⁰ K. Symela, *Integracja kształcenia zawodowego i rynku pracy w Wielkiej Brytanii* in: U. Jeruszka (ed.), *Efektywność kształcenia zawodowego*, IPiSS, Warszawa 2000, p. 172.

³¹ A. Andrzejczak, *op.cit.*, pp. 49 - 55.

training process typical for the negotiation model starts relatively early as vocational education foresees traineeships (initial vocational training). This traineeship system is controlled by the state at the local level through local authorities and social partners' representatives – employer organizations, trade unions, teachers and trainer's representatives. Traineeship system is supported, to a significant extent, by employers as it enables educating, at a relatively low cost, a certain number of young people having professional experience, and not only theoretical knowledge. Additionally, this system is strengthened by federal law regulations, which oblige employers to co-finance and/or co-organize vocational training for young, unskilled workers. Sectoral agreements strengthened by national and federal law regulations guarantee that, thanks to a fair distribution of training costs among involved parties, the threat of “stealing trained employees” is reduced and training itself is perceived as a good of both individual and collective nature. Effectiveness of the dual system is additionally enforced by the national standards in the field of vocational traineeship, which were worked out jointly by trade unions, employers and government representatives³².

The model of active involvement of the social partners implemented in Germany has certain drawbacks. These are: long time required for reaching the consensus, sometimes inability to reach it, rigidity of proposed solutions, sometimes overregulation of a training plan that deprives certain groups of access to training (for example women, immigrants). In the present conditions of globalization and economy slow down financial burden linked to such rigid organization of vocational training system can turn out to be too demanding for the German enterprises and can negatively influence their competitiveness.

³² More on dual vocational education in Germany in: A. Kwiatkiewicz, *Edukacja zawodowa w niemieckim systemie dualnym*, „e-mentor” 2006, nr 1(13), http://www.e-mentor.edu.pl/artukul_v2.php?numer=13&id=245.

Table 5. Vocational training and the state intervention

Areas	State driven model	Negotiation model	Market driven model
State role	<ul style="list-style-type: none"> • Dominating 	<ul style="list-style-type: none"> • Cooperation with social partners 	<ul style="list-style-type: none"> • Regulatory
Autonomy	<ul style="list-style-type: none"> • Lack of autonomy 	<ul style="list-style-type: none"> • Creating procedural framework 	<ul style="list-style-type: none"> • Significant
Property	<ul style="list-style-type: none"> • State or quasi-state 	<ul style="list-style-type: none"> • State, private 	<ul style="list-style-type: none"> • Private
Financial mechanisms	<ul style="list-style-type: none"> • Direct instruments 	<ul style="list-style-type: none"> • Indirect instruments, grants and subsidies 	<ul style="list-style-type: none"> • Paid services, motivational instruments
Administration mechanisms	<ul style="list-style-type: none"> • Direct instruments 	<ul style="list-style-type: none"> • Control of results (standards, norms, professional certification) 	<ul style="list-style-type: none"> • Regulatory instruments

Source; author's own analysis on the basis of: A. Andrzejczak, Modele szkolenia zawodowego w warunkach gospodarki rynkowej, AE, Poznań 1999, p. 60.

Conclusion

Independently on the chosen model of the vocational training organization, each country has to define its own vocational training policy and create its institutional framework. Appropriate policy and institutional framework should ensure equal access to learning, also for defavorised groups such as disabled people or single mothers. This policy should make use of a variety of tools and mechanisms such as financial incentives or other solutions tailored to the needs of individual persons taking up vocational training. The accessibility of vocational training process depends to a significant extent on involvement (also financial) of the state, enterprises and individuals. It is necessary to create favourable environment for cooperation for a wide variety of partners and stakeholders of the vocational training process. Such cooperation translates into increasing resources available for investment in human resources and into a possibility of a better recognition of training needs, also in the regional contexts, and designing appropriate training.

Another challenge is designing institutional framework, which would allow for mutual recognition and comparison of qualifications acquired in different training programs as well

as in formal and informal settings. Possibility to compare and recognize qualifications is a factor determining individual willingness to learn as it increases employee professional chances and promotes mobility – geographical and professional – of the EU human resources. A very important step is also creating appropriate guidance and counselling service which is a necessary condition for effectiveness of the vocational training process³³.

At present a general tendency is to introduce reforms aimed at strengthening permanent solutions in the field of vocational training. There are three basic types of introduced reforms: reforms aimed at decentralization of institutional system (for example in Italy, but also in France and in Spain), reforms aimed at organizing widely accessible training initiatives (for example in Finland) and reforms aimed at promoting mobility of workers (for example in the Netherlands)³⁴.

Concluding, it is very hard to indicate a dominating model of vocational training process organization and list universal institutional solutions for all EU member states. Up till 80ties there were two basic models for vocational training process organisation: the state intervention driven model (the Scandinavian countries, France and the Mediterranean countries) and the negotiation model (Germany, Austria, Switzerland and Denmark). The market driven model for vocational training organization did not function at that time. Significant changes took place in the vocational training process organization at the EU level in the last 15-20 years. The Scandinavian countries more and more often function according to the decentralized model, with delegating the decision power to local centres. The same tendency can be seen in Spain and Belgium, but these changes take place along the lines of regional and language disparities. The state driven model - a centralistic approach- can still be seen in France, Luxemburg, Greece and Portugal. Moreover, the market driven model of vocational training organization appeared³⁵. It is typical for such countries as the UK or the Netherlands and some of its characteristic features can be found in the Northern and Central European countries. The negotiation model still functions in the same countries as previously, but some changes regarding implemented solution can be observed.

All member states individually choose model for vocational training process organization, but, as this is a very dynamic process, the chosen model has to be altered from time to time. Therefore it can be stated that the concerned member states move along the scale between the

³³ ILO, *Learning and training for work in the knowledge society*, report IV(1), Geneva 2002, p. 23.

³⁴ Interview of A. Revechon with M - J. Maurage, *Au sein de l'Union , on ne met plus l'accent sur alternance*, „Le Monde”, Section Emploi, 24.09.2003.

³⁵ It is important to underline that term „market model” used in the text is not identical with the notion of “free market”; the market model of vocational training process organization is a subject of some legal regulations due to its specific nature and role it plays in an organization of the social life of a given country.

two borderline solutions for vocational training organization: market driven and state intervention driven models. In this approach, the negotiation model will be placed somewhere in the middle of the scale. On the basis of this observation it is possible to state that the negotiation model will not be the only solutions found in the middle between the two borderline models. Another version of the negotiation model is “mixed’ model of vocational training process organization, with a balanced participation of different types of partners: state, employees, employers and social partners. It is probable that in the nearest future different solutions for vocational training model will function in parallel in EU member state. The social partner organizations interest is to ensure maximum participation in the process in order to be able to create the most effective framework for professional education. It seems to be especially important in case of trade unions as representatives of employee interest: vocational training process allows not only for career development within the structure of an enterprise, but also for employability in general. As a result, it strengthens employee position on the labour market and secures employment opportunities as well as allows for active participation during the employment period.

Second part
The case studies

BASF AND CONTINENTAL
ALTERNATIVE PERSPECTIVES OF SOCIAL PARTNERSHIP IN THE GERMAN
CHEMICAL INDUSTRIES IN A EUROPEAN PERSPECTIVE

Jurgen Kadtker - SOFI

1. Introduction: foundations of Social Partnership in the German Chemical Industry³⁶

In order to put the cases of BASF and Continental in an adequate context, some brief remarks on German industrial relations in general and in especially in the chemical industries are necessary. German industrial relations have most adequately been analysed by the concept of conflictual partnership (Müller-Jentsch, 1999) in industrial relations research. The concept refers to the fact that unions and employers' organisations in reality and, despite sometimes belligerent rhetoric, work basically as social partners, effecting and developing collective labour regulation by cooperation. In this context open industrial conflict is the exception and not the rule in collective bargaining. When it happens from time to time, it happens primarily in order to readjust the terms of cooperation. Depending on how often this happens in an industry or within a jurisdiction of collective agreements there is some variation between more or less conflictual versions of conflictual partnership.

The chemical industries stand for the most cooperative version, with open conflict happening very rarely on single plant level and (with the exception of 1971) never on the sector or national level. "Chemical partnership" since the 1980s explicitly stands for a highly integrated arrangement of sector regulation, where the employers' organisation and the trade union stand side by side for social regulation and industrial policy in the industry. While in other industries the coverage of collective agreements is shrinking and most employers' organisations have introduced a status of membership that does not imply commitment to the organisations' collective agreements with unions: this does not happen in the chemical industry.

The coverage of collective agreements is high and stable, and the employers' organisation declares itself strongly committed to the system of collective regulation of labour relations by industry-wide collective agreements on the regional or national level. It is true that this institutional stability goes along with an increasing internal differentiation as the result of

³⁶ For a more profound analysis and for more detailed presentation of the development of the case study companies since the 1990s see Kädtker, 2006.

opening clauses within collective agreements. And one may argue that in the long run internal differentiation and formal erosion of collective agreements could have similar effects. However, for the time we would emphasise the difference and the stability of the institutional arrangement.

The development of this highly inclusive and stable arrangement of social partnership is strongly connected to the role that BASF, Bayer and Hoechst, former parts of 'IG Farben', have played in this context. For many decades, these 'Big Three' made up the focus of the German Chemical Industry not only economically but also with respect to labour regulation. They were able to represent the industry as a whole because they were the classic examples of highly integrated conglomerates in chemicals and pharmaceuticals, based in the economical-technological paradigm of "*Verbundchemie*" (lit.: 'interconnected chemistry')³⁷.

This paradigm made a virtue of necessity in disposing of by-products that occur with any chemical reaction. Production systems were developed in order to recycle by-products and release energy by taking them as inputs for new reactions. The outcome was: highly integrated systems of production, linking a vast and continually developing range of basic chemicals and intermediate and final products for many different market segments. The focus was not on optimising production of one product category for one market sector, but on refining and developing the ability to manage a highly integrated system of production for a vast range of products and market sectors that already existed or still had to be developed. We will use the term "*Verbund*" or "*Verbundchemie*" as a technical term for this technical-economic paradigm in the following.

Organisational structures and systems of production and manufacturing based on this technical-economic paradigm were early vaulted by a sophisticated system of company welfare policies, in order to tie employees to the companies. At the outset it was focussed on technical and scientific 'industrial officials' ("*Industriebeamte*"). This was because "*Verbundchemie*" developed as a very special connection between general basic chemical research and highly specified stocks of knowledge and experience that were produced and reproduced in long-term cooperation and organisational learning in companies' R & D and manufacturing. This core competence³⁸ developed as a collective good, where employees

³⁷ In this paper we will use "Verbund" or "Verbundchemie" as technical terms for this economical-technological paradigm and for production and organisational arrangements based on this paradigm. By doing this we proceed in the same manner as the German based BASF Group, the one which explicitly refers to this paradigm as its core competence.

³⁸ Our understanding of 'core competence' here refers to the individual and collective competences of persons which make up a specific resource of a company. So it is opposed to that of management discourse in the financial sphere, which should more adequately be named the 'core business field'.

would engage in collective and organisational learning without being able to keep their part of positive effects for themselves. So company welfare and high-trust relations between company and employees became an important element of the ‘company projects’(Bernoux, 1995) of big chemical companies, so that employees would see themselves as increasing their own capabilities by increasing those of the companies. This policy has early been applied to blue-collar workers too. At the beginning this was simply in order to get them to the new chemical sites that predominantly developed in scarcely populated regions, and to keep them staying there despite dangerous and extremely unhealthy working conditions. But for blue-collar workers too aspects of organisational learning and core competences as a collective good became more and more important when industrial aggregates became more and more complex and sophisticated (Schumann, Baethge-Kinsky, Kurz, Constanze, Neumann; 1994).

As we pointed out, it was not the knowledge required by single products, but by highly integrated technological systems that made companies depend on the willingness of white and blue-collar employees to engage in collective action and organisational learning. The focus was on developing and manufacturing goods for a broad range of market segments with high efficiency overall. So company welfare did not make a distinction between employees in different segments but referred to general criteria such as qualification, years of employment etc. So, as big chemical companies comprised the whole range of chemical industries, they defined generic ‘chemical’ standards.

The “Big Three” stood more or less for the chemical industry as a whole. So, Bayer and Hoechst were at the same time the biggest companies in chemicals, dyes, and pharmaceuticals. In addition, they were engaged in many other companies by ownership or by majority or minority holdings. As a result of this omnipresence, the general outlines of their policies became benchmarks for the whole industry. As a result of this, employers were able to establish a strong, highly centralised employer organisation, whereas unionisation has always been rather weak in all but one of the big chemical companies, so that the trade union severely lacked bargaining power for the industry as a whole. However, this lack of bargaining power was compensated considerably by the interest of organised employers in well ordered industrial relations. As in the big companies they pursued a strategy not of marginalising but of integrating workers’ representatives. As far as the union is concerned, it engaged in intensifying this cooperation, taking the opportunity that the industry severely lacked public support when environmentalism became an important political movement, not least as an effect of disastrous accidents in chemical plants. Against this background,

employers and union agreed on 'Chemical partnership' as the most cooperative version of German social partnership since the 1980s.

As we mentioned above, the institutional arrangement of Chemical Partnership is still stable, but significantly changing its content. It develops as an institutional framework for differentiation and procedural regulation where general standards for the whole industry used to prevail. As former homogeneity was strongly connected to economic structures and social policies at BASF, Bayer, and Hoechst, nowadays diversification is by no means an outcome of change in these companies. To put it in a nutshell, with Hoechst and Bayer dissolving their conglomerate structures and definitively abandoning the economical-technological paradigm of "Verbundchemie" and its social implications, main parts of the traditional foundations of Chemical Partnerships are abolished. They have to be replaced and the content of Chemical Partnership has to be defined in a new way. This is not just a question of partial renovation. Because what has happened at Bayer and Hoechst and other major chemical companies is a radical shift from an economic paradigm which was in industrial and technological terms to a paradigm defined in terms of an economy dominated by finance. So the task of redefining Chemical Partnership is looking for stable foundations of such an institutional arrangement in an economy dominated by finance.

BASF: A CASE OF 'NEGOTIATED GLOBALISATION'

Jurgen Kadtker - SOFI

1. The company

There are at least two reasons for looking at BASF in this connection. Firstly, BASF stands for a strategy of not abolishing but of further developing the logic of “*Verbundchemie*”, and this strategy is extremely successful even under the conditions of financialisation. Secondly, it stands for a case where a strong position of labour representatives is not eroded by the pressure of globalisation or financial markets, but where workers and their representatives are able to take influence on the company’s strategy to deal with these pressures. We will demonstrate that these two aspects are strongly connected.

BASF was founded in 1865. Like most other chemical companies of that time it started as a producer for dyes, sodium and agrochemicals. The Haber-Bosch-Synthesis of ammonia was invented and developed as an industrial technology here at the beginning of the 20th century. Following the logic of “*Verbund*”-Manufacturing BASF developed as a full-range supplier for chemicals, like Bayer and Hoechst. From 1926 until the end of Second World War the three companies and others were part of the *IG Farbenindustrie* (lit.: Paint Industry Inc.), by far the biggest chemical company in the world, and one of the core elements of the Nazi war economy. It was put under the control of the four allies, and in 1952 it was split up into its original components. BASF was re-established in its former organisational and geographical structures and with its former business profile.

The general business profile of BASF, Bayer and Hoechst was that of integrated chemical and pharmaceutical companies. The pharmaceutical industry in Germany came to being as a part of the chemical industry. And as said above, until the 1980s Bayer and Hoechst were at the same time the world’s biggest companies in chemicals and pharmaceuticals, with pharmaceuticals being of secondary importance in terms of economics for most of the time. Within this general paradigm the specific feature of BASF was to be the most chemical and the least pharmaceutical among the ‘Big Three’. Its main site at Ludwigshafen is the biggest integrated site of chemical industry in the world, so that “*Verbund*”-Manufacturing has been developed more efficiently here than elsewhere. On the other hand the pharmaceutical business always was a peripheral activity for BASF, established fairly late in the day by buying some pharmaceutical companies in the 1960s and 1970s. This marginal position of

pharmaceutical business was also reflected by the fact that it was not organised as an integrated part of BASF AG, but as a separate company, Knoll AG. Although BASF was the first mover in establishing research facilities in medical biotech in the US in 1986, BASF was a world champion in chemicals and a secondary player in the pharmaceutical business.

Like the German chemical and pharmaceutical industry in general, BASF was an early internationalised company, compared to the average of German industries. In 1977 Fröbel et al. (Fröbel, Heinrichs, Kreye, 1977) entered 30 foreign manufacturing sites, 25 of which outside Europe. However, compared to Bayer and Hoechst, internationalisation at BASF was significantly weaker. 75 per cent of BASF employees were in German sites in 1980, and still 65 percent in 1990. Another 12 per cent appeared in other European countries. And 67 per cent of all BASF sales in the past year took place in Europe. So at the beginning of the 1990s BASF was still primarily a German company in terms of employees and primarily a European company with respect to its economic focus.

2. Economic development of BASF since the 1990s

Like other big companies BASF has changed its business organisation and structures of management since the 1980s. There has been a general shift from production-driven to market-driven organisations. Divisions were given more autonomy where competences used to be highly centralised before, with little room for manoeuvre for management of business departments. Business strategies are developed and implemented now primarily by divisional management, with countries and sites as mere units of implementation, at least in principle. This organisational restructuring has gone together with a general refocusing of the general strategy of the group. The main points of this strategy, explicitly proclaimed as 'Vision 2010' in 1994 are:

- changing from a German-based company with an international, primarily European, business to a real trans-national company with proportional involvement in all important regions in the world - actually this would mean expanding in the US and above all in the developing and newly industrialised regions in Asia;
- focussing on businesses that yield high margins and are not exposed to business cycles: investing in new products and de-investing mature business lines; expanding in life sciences and giving up dyes, standard colorants, standard plastics etc;

- commitment to Shareholder Value and Value-Based Management (VBM) and to the requirements of financial markets – actually a commitment to deliver at least 10 percent as the minimum rate of returns on capital employed (ROCE).

This last point actually became the integrating principle of the general strategy – not only at BASF. Corporate strategy would no longer aim at efficiently exploiting and developing given resources in the first place, but at meeting the requirements of financial markets. The resource base and the business profile of companies have become the dependent, and financial targets the independent variable of corporate strategy. Portfolio management has got priority compared to organic or internal growth. For example, between 1992 and 2001 BASF sold parts of the company with a sales volume of about 11 billion € and bought new business with a sales volume of about 9.5 billion € each about 30 per cent of total sales of the BASF Group in 2001. So divisionalisation has not only brought business strategies nearer to the markets. It has also made portfolio management easier by separating different business areas more clearly. Put in a nutshell, corporate strategy is no longer based on internal capacities but on financial targets and has resulted in two main consequences: restructuring has become a permanent process without specific reasons derived from options or requirements in operations; and the organisational structure of companies and sites became more fluid or instable.

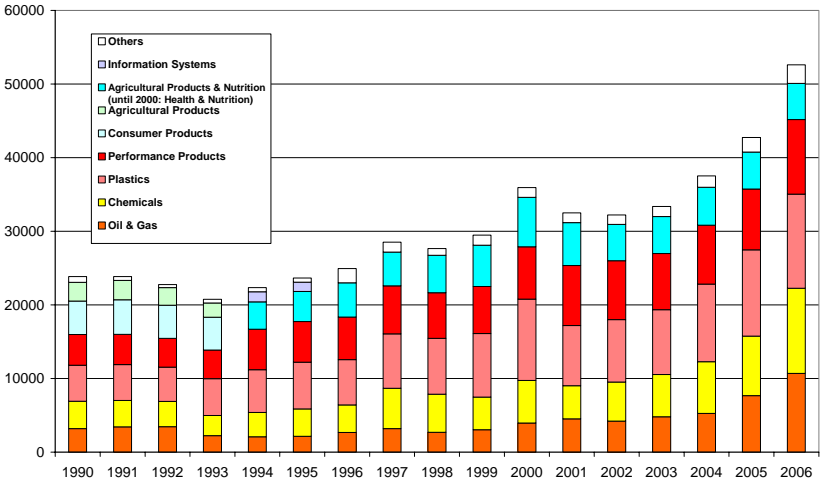
However, this strategy met important difficulties at BASF, because there were at least two built-in dilemmas that could not really be avoided, but could be balanced at best. The first dilemma resulted from the fact that the objective of geographical expansion did not really go together with the objective of concentrating on non-cyclical business. To become a major player in newly industrialising Asian countries BASF had to focus on its technological excellence in manufacturing standard chemical in the first place, and not on highly sophisticated specialities. So, in order to meet the requirements of developing markets BASF had to maintain and even to intensify its engagement in business areas that should have been scaled down in order to achieve independence from cyclical business.

The second dilemma obviously resulted from the fact, that giving autonomy in business strategies to divisions or business units and keeping “Verbundchemie” as a strategic core principle were two alternative strategies that cannot be realised each at the same time. Against this background labour representatives at BASF expected that the board’s policy of decentralisation with its focus on global business units would develop a momentum of its own and at least go against “Verbund”-structures, which are always locally integrated. However, this questioning of the “Verbund”-paradigm has had implications for industrial relations at

BASF because the BASF corporate culture of social commitment and corporate social policies had its very foundations in “Verbund”-structures. As a result of these dilemmas business strategies became significantly more short-winded and instable, and industrial relations became significantly more conflict-ridden and fragile.

The activity of BASF in the pharmaceutical business, or *Life Sciences*, is an outstanding example of the company’s strategy of a shift to non-cyclical markets and innovative products with high margins as well as of the discontinuities in this strategy. One of the main strategic perspectives in the 1990s was to build up strength in pharmaceuticals. BASF acquired Boots, a British pharmaceutical company. And when “*Life Sciences*” became a most popular business model in the second half of the decade, BASF placed pharmaceuticals, high tech agrochemicals, and some fine chemicals in one business unit and committed itself to “*Life Sciences*” as a strategic core competence that was to increase its importance within the business profile of BASF. However, after a series of short-lived and not very successful restructurings BASF sold its complete pharma business to American Home Products (AHP), and focussed on “*Crop Sciences*” or high-tech crop-protection and nutrition, taking over AHP’s business in this field. However BASF withdrew from business areas such as dyes, chemical fertilizers, standard fibres etc., in the case of dyes, only after important efforts towards restructuring. Table 1 shows changes in business segmentation and in the economic importance of different business segments in terms of sales.

Table 1: BASF – Sales by business segments 1990 – 2006:

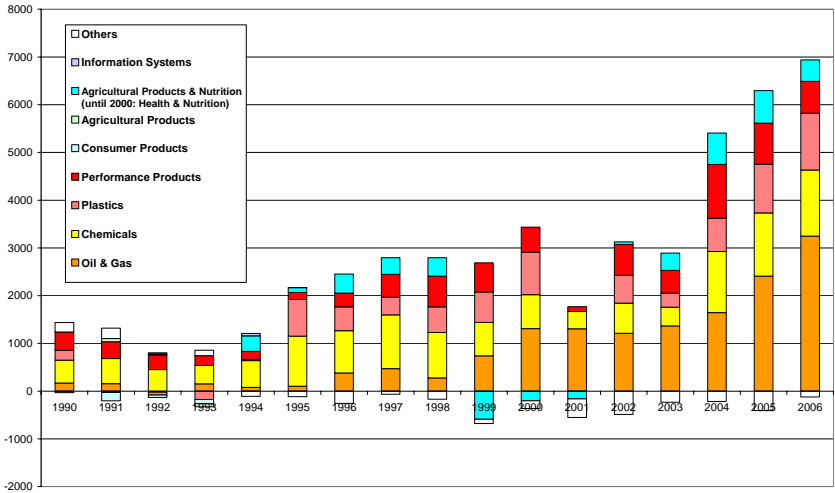


The quintessence of this development is that BASF has become even more clearly focussed on chemicals and related businesses during this period. Two thirds of the company’s sales

come from chemicals and products of industrial chemistry. The share of health care and nutrition and since 2001 agricultural and nutrition products declined from 19 per cent before the split off of the pharmaceutical business to less than 10 per cent in 2006. At the same time oil and gas sales increased significantly

Figures on operating profits in Table 2 tell the same story, with some specific accentuation however. The share of industrial chemicals and chemicals products in overall profits is higher than their share in overall sales in most years. Chemicals and not agricultural biotech is the continual backbone of the company’s profitability, and has become still more important by acquisitions in recent years. Another important trend is the development of profits in the oil and gas business of the company. Here it becomes clear that having its own oil and gas resources is not only a crucial element of the “Verbund”-strategy, but that it also provides a sort of built-in stabilising mechanism for profits. The general problem of chemical companies is that profits in chemicals shrink when costs of energy increase is balanced by profits in the oil and gas business – and vice versa.

Table 2: BASF – operating profits by business segments 1990-2006



BASF is not only a highly profitable company in an “old” industry, but it is profitable despite the fact that the most of its manufacturing is situated in the old industrial countries. Tables 3 and 4 show the development of geographical distribution of sales and employment at BASF since 1990.

Table 3: BASF – Sales parts by regions 1990-2006

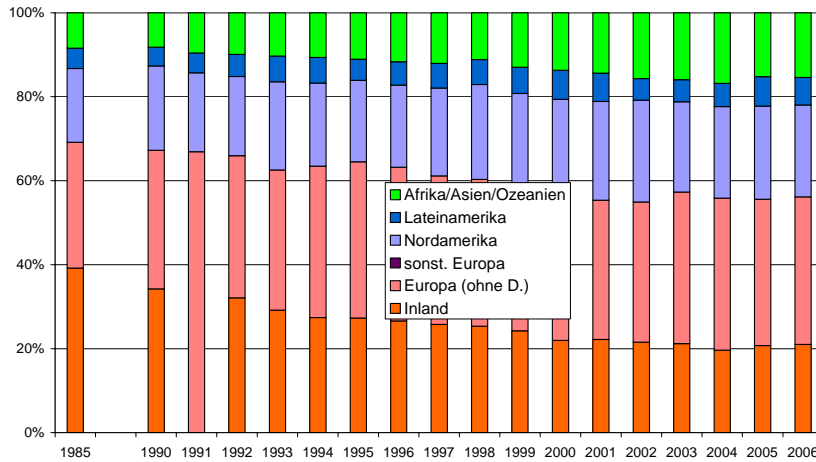
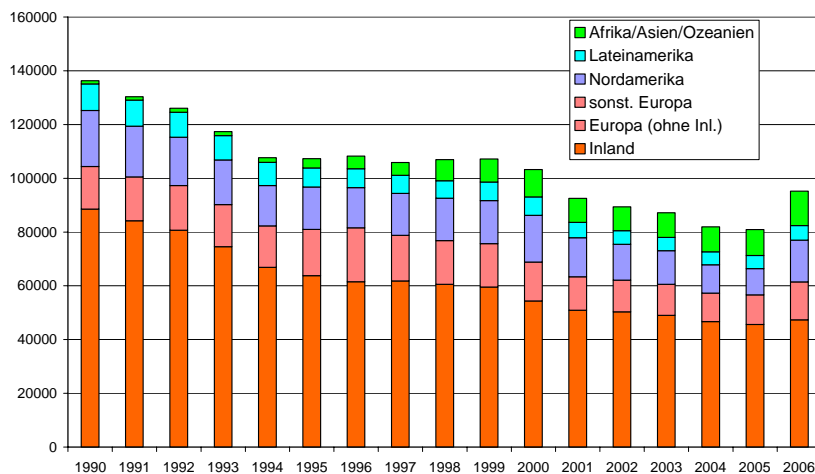


Table 4: BASF – employees by regions 1990-2006



Two main trends can be clearly identified: compared to 1990, BASF has become significantly more international in terms of sales and employment. The part of domestic sales in all sales has shrunk from nearly 40 percent to about 20 per cent. In the same period domestic employment dropped from about 80.000 to some 46.000; the share of German employees of all BASF employees shrunk from 65 per cent to scarcely 50 per cent in 2006. At the same time the share of employees from other European countries has increased from 11.5 to 15 per cent, the share of employees from Asia/Pacific from below 1 per cent to more than 13 per cent.

However, there is no simple relation between globalisation and shrinking domestic employment. It is true, in some areas losses in domestic employment are the immediate effect of geographical relocation. This is the case, for example, for the dyes business where

domestic decline is directly connected to expansion in Asia. On the whole, however, the relation between globalisation and domestic employment is the other way round. This becomes evident when we compare the regional distribution of sales by location of the company with the regional distribution of sales by location of the customer.

Table 5: BASF – sales from the region / sales in the region

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Germany		1,7	1,8	1,9	1,9	1,9	1,8	1,7	1,8	1,8	1,9	1,9	2,0	2,1	1,9	2,1
Europe	1,2	1,1	1,1	1,1	1,1	1,1	1,1	1,1	1,1	1,1	1,1	1,1	1,1	1,1	1,1	1,1
Europe (without G.)		0,6	0,6	0,6	0,6	0,6	0,6	0,7	0,6	0,6	0,6	0,5	0,5	0,5	0,5	0,5
North America	0,9	0,9	1,0	1,0	1,0	1,0	1,0	1,0	1,0	1,0	1,0	1,0	1,0	1,0	1,0	1,0
Latin America	0,8	0,8	0,8	0,8	0,8	0,8	0,8	0,8	0,8	0,9	0,8	0,8	0,8	0,8	0,7	0,7
Asia/Pacific/Africa	0,3	0,3	0,3	0,3	0,4	0,4	0,4	0,5	0,5	0,6	0,7	0,8	0,8	0,8	0,9	0,9

As Table 5 shows, both German and Asian sites have increased their positions significantly. The German sites, in the first place the main site at Ludwigshafen, have even extended their position as a net supplier for the rest of the company, for Europe in the first place. In 2006 German BASF production covered more than twice the BASF sales in Germany. On the other hand, while in the 1990s only a minor part of Asian BASF sales came from Asian production, sales in Asia and from Asia are nearly in balance in 2006. North American production and sales are in balance, while Latin America's internal trade balance becomes even more passive. Over all, there is a general tendency towards balanced relations within the Triad regions as a result of the "Verbund"-strategy. Market supply is organised on a continental level around highly integrated "Verbund"-sites (Ludwigshafen and Antwerp for Europe, Freeport and Geismar for North America, Nanjing and Kuantan for Asia). This technological option strengthens the position of existing Verbund sites, and it is at the expense of individual plants. And consolidation of capacities means shutting down single plants and transferring production to "Verbund"-sites in the first place. Thus, as far as European employment at BASF has been concerned by relocation strategies of the company, this has not been a question of globalisation, but of redistribution within Europe. And on balance German sites and to some extent Antwerp in Belgium have been the winners in this redistribution.

3. Industrial relations at BASF: general principles

The structure of industrial relations at BASF, as in the other big chemical companies in Germany, was that of company focussed social partnership, with the leading figures of the works council at the main site at Ludwigshafen being the centre of power, strategy and decisions. Whereas the situation in the rest of the big chemical companies was described by a union official with the words “they [the main figures in the works councils] were members in our union, but we [the union and its officials] in fact were only tolerated here”, leading works council members at BASF did not found their own influence within the company exclusively in cooperation with top management, at the expense on unionisation and union structures. In addition to influence by informal top level cooperation they always could draw on independent power, based on a highly unionised company workforce and on strong structures of workers’ representation within the company. The strength of these structures is based on an organisational arrangement combining legal resources of the works council with organisational resources of unionisation in a highly efficient manner.

The foundation of this arrangement is provided by a sort of more or less friendly takeover. In the large German chemical companies there has existed since the 1920s a tradition of ‘Corporate shop stewards’. These corporate shop stewards have been an important element in companies’ policies of patriarchal social integration, working as an institution of transmission between company and workers, which is provided by the company. They were elected by all workers and given some privileges. And they made it very difficult for unions to establish efficiently their own shop floor organisation. The companies’ strategy not to confine themselves to union-bashing, but to combine it with establishing a company-dominated system of workers’ ‘representation’ was one important source of the traditional union weakness in most companies of the German Chemical industry. These structures did not change fundamentally under the conditions of post war democracy, when union-bashing was abolished and companies kept up more cooperative relations with union representatives. The unions’ own shop stewards lived in the shadows of those of the corporate if corporate shop stewards were not simply taken as union shop stewards too³⁹. Where unionisation is weak, as in most of the large German chemical companies, this resulted in union shop stewards being elected by a majority of non-union members. However, where unionisation was strong, as at BASF (and also Continental), there has been the opportunity to take advantage from the institution of corporate shop stewards in order to strengthen the unions’ structures within companies.

³⁹ This was possible, because workers most of the time **elected** union members as corporate shop stewards.

At BASF this opportunity has been realized in an extraordinary efficient manner. By formal corporate agreements between company and works council many of the tasks and opportunities for participation that German legislation gives to works councils have been delegated to the shop stewards. So most of the everyday business of works council members is actually done by shop stewards in their respective departments. Works council members are in a way the institution of second instance for these questions. Or, as one of them explains, “If I have to come there myself [for standard questions], then we have real trouble”. There are at least five important implications of this arrangement:

There are not just 53 works council members to exercise workers’ representation according to the Works Council Constitution Law (BetVG), but in addition about 1200 shop stewards. So the job in general is done much more efficiently because work can be distributed on so many shoulders. One important aspect of this is that individual aspects of situations and persons can be taken much more effectively into account.

The union’s shop stewards are de facto recognised as an integrated part of the codetermination procedures at the company and site level, while keeping them out there is one of the main implications of the German dual system of workers’ representation.

As an integrated part of codetermination procedures the unions’ shop stewards are continually engaged in effective workers representation on the company level. They are not marginalised by the works council, as is the case in most German companies. And they do not have the problem of tailing off because of lack of practical relevance and activity.

New works council members are no newcomers to this job, as nobody becomes a candidate for the works council who has not been a shop steward before. So every new works council member has already had some time of practical experience before in what a works council member has to do. And the workers who have to decide on making him/her a candidate can draw on practical experience to get an impression of his ability to do the job.

Last but not least: As every works council member (with the only exception of the chairman) is responsible for a certain area in the company, and as he has to be (re)nominated by the shop stewards of this area, there is a rather strong and efficient mechanism of control of works council members by the union’s shop stewards.

As a result of this institutional arrangement works council and shop stewards at BASF together can be seen as one of the most powerful worker representations in large German companies. However, it is important to see that this organisational power does not necessarily imply a conflict perspective on company and management. On the contrary, it has developed as part of a corporate culture that has always been based on strong mutual commitment and

commitment to the company. When BASF workers went on strike for the first time after the Second World War, it was in order to get the chairman of the company back from imprisonment by the Four Allies. And to address BASF-Workers as the ‘Anilin-Worker’ (“Aniliner”) has always been an emphatic point of reference for both management and workers, expressing respect by management and collective awareness of self on the part of the workers, both through identification with the company. Thus it is not only self-interest but in the first place commitment on a common view of the corporate culture that is at stake, when open conflict appears between management and workers about corporate strategy, as it has done since the 1990s, and when latent power becomes manifest and is brought effectively into play by workers’ representatives.

4. Industrial relations at BASF since the 1990s

When industrial relations at the BASF main site became more strained and conflictual during the 1990s it was obviously not about the main lines of corporate restructuring presented above. Respective decisions in the supervisory board were always made unanimously with the consent of labour representatives.

So selling the pharmaceutical business also was a solution for a dilemma. Because becoming a prime league player in pharmaceuticals or Life Sciences would have demanded important financial resources that would have been not available then for further developing other business fields. And labour representatives in the BASF supervisory board represented the interests of BASF workers in the first place and those of Knoll workers in the second. On the other hand, becoming part of AHP seemed to be also an attractive option for Knoll workers and their representatives. While they had always been a marginal business at BASF they would now become key player in the European strategy of a US-based global player in pharmaceuticals with only weak European facilities until then. So the transfer was supported by all German labour representations involved.

A more delicate subject was hiving off parts off parts of traditional chemical businesses, the dyes business in the first place. BASF like other big chemical companies in Germany had its historical roots in the dyes business, and until the 1980s this had always been an important cash cow for BASF. About 1700 workers at Ludwigshafen alone were employed in the dyes business unit, most of them in manufacturing. In the 1990s BASF made several attempts to restructure in order to make the business profitable again. The principal logic was a sort of internal globalisation, with standard products being located in low wage countries in Asia

while traditional sites in developed industrial countries were focussed on specialities promising higher margins. As far as restructuring resulted in plant closures individual plants in UK, Italy, Portugal, Mexico and Brazil were concerned, while German facilities were protected by their position as part of the highly integrated “Verbund”-configuration at Ludwigshafen. Nevertheless, since restructuring did not bring profitability BASF finally decided to transfer the business to DyStar, a joint venture founded by Bayer and Hoechst in 1995 in order to split of dyes businesses. So dyes facilities remained physically part of the “Verbund”-structure, but became part of another company. In this as in similar cases workers’ representatives in the works council and on the supervisory board did not fight against management strategies, but focussed on getting agreements that provided as much security as possible for workers affected by restructuring. In any case dismissals were excluded. In general, workers losing their jobs by restructuring were transferred to an internal pool that worked as a sort of internal temping agency as long as workers could not be transferred to another permanent job within the company. In addition, possibilities of early retirement were used extensively throughout the company, based on collective agreements and company agreements that improved the respective legal conditions. And workers were also offered reasonably generous compensations in case of voluntary dismissals. Similar arrangements were established for those cases where parts of the company were brought into external joint ventures as in the dyes and similar cases.

There was also no real conflict in those cases, when questions of where to place new investments in new manufacturing capacities were at stake. In these cases effective site competition within industrial relations simply did not occur, because wage costs or labour standards never were the critical point. Thus management did in no case make decisions on investments a subject of concession bargaining between workers at different sites. If there was latent conflict behind such decisions, it did not refer to the placement of single investments. Instead, it was about generalised cost-cutting programmes derived from financial targets and implemented top down without any specific motivation in operative business. As in other companies this affected the very foundations of social partnership at the firm level. This is because dealing with permanent restructuring without a consistent focus in real economy is expecting too much of works councils. So, when the BASF works council made a first site agreement in 1997, accepting a fixed target for job reductions within three years against disclosure of involuntary dismissals, it was simply in order to get some stability and perspective for their own policy: “We just wanted to get some continuity and stability into the process. So that we might be able to process things systematically, instead of just having to

react on management's initiatives without being sufficiently clear of the implications" (BASF BR). Thus distance between top management on the one hand and employees and labour representatives, but also large parts of middle management on the other hand increased, while top management was perceived as representing the pressure of shareholders and financial markets in the first place, without real implication in the operative business of the firm.

At BASF this general problem became really explosive with respect to the general commitment of (top-)management to the main site. The critical point was, that the main site at Ludwigshafen was on the one hand the subject of cost cutting programs of all business units, but on the other it was the only site without a site management of its own. Of course the board of the company and the management of most of the global business units were situated there. But at the same time as their strategic focus became more delocalised and global, their commitment to the home base became weaker and there was no strong representation of the main site's specific interest in top management. At least workers and workers' representatives were afraid that there might be a gradual, continual deterioration of the quality of the main site as the outcome of global strategies of business units that would neglect the development of "Verbund"-structures at Ludwigshafen. Now it is important to take into account what has been said about the traditional corporate culture at the BASF main site above. Against this background it becomes clear that questions of commitment were not just questions of economic rationality or of specific investments. Commitment of top management to the main site and its 'Anilin-workers' ("*Aniliner*") was the most fundamental principle of social integration at the BASF main site. So when workers and workers' representatives felt this commitment becoming weakened these very principles of social integration and workers' commitment at BASF were at stake. Thus open conflict between workers and company did occur when concrete investments or relocations were at stake. All such decisions were finally made with the consent of workers' and union representatives on the supervisory board. Open conflict came up instead about some subjects whose implications on wages, working condition and employment were rather limited, but which had an important symbolic impact as indicators for management's lack of commitment to the workers at the home base of BASF.

There were three important conflicts between BASF workers and management within seven years that have had significant influence not only on industrial relations in the company, but also on the company's strategy and business profile:

In 1994 employers at Bayer, BASF and Hoechst engaged in a coordinated initiative to abolish traditional systems of specific payment by the firms which were far beyond the agreed

scale from the chemical industry's collective agreement, with a lot of very special elements like an effect of the firm's traditional social policies. The intention was not to abolish payment beyond the industry's generally agreed scale in general, but to replace the traditional system with a system of incentive pay, focussing mainly on the length of employment at the company. Management and labour representatives at Bayer and Hoechst reached an agreement of this kind without significant difficulties, while conflict escalated at BASF. The stumbling block was a loyalty or fidelity bonus paid to employees at BASF for ten years and more. Compared to the overall volume of the company's additional payments the amount of that fidelity bonus was of limited importance. But for the workers it was of highly symbolic relevance and one day about 15,000 of them stood in front of the BASF main building and booed off the CEO "without mercy", as works councils' members say. As a result, negotiations on changing the internal wage system were stopped for about three years. And while management and works council have finally agreed on a new performance-linked system for payment above the contracted pay scale, the fidelity bonus has been left untouched. And actually it is recognised as *de facto* untouchable by management.

When in 1996 the German government changed legislation on the continuation of payment to sick workers, lowering the legal obligation from 100 to 90 percent, BASF – together with Daimler Benz – was among those big firms which saw themselves as pilots in putting the new rules into practice. Again the top management faced an explosion of protest and abandoned the attempt. Employer organisations and union agreed on 95 instead of 90 per cent in a collective agreement. At BASF like in many other firms the rate is still 100 per cent. But the legitimacy of top management that had already been damaged severely by the conflict about the fidelity bonus suffered another blow by this new confrontation.

Relations between top management and workers hit rock bottom in spring 2000. Top management had for months been announcing a record profit and a record dividend. Traditionally this would also mean a record extra bonus for workers because this extra annual bonus always been used to develop in the same sense as dividends. However, after the supervisory board had decided unanimously on the raise of dividends, the board of directors decided to cut the bonus for workers by 10 per cent, compared to the year before. They argued that the record profits came primarily from business abroad, while the profitability of German business and the main site at Ludwigshafen lagged behind. After some internal discussion the works council decided to put out a flyer against this and to distribute it to workers at the gates and the factory canteens when workers went to lunch. The flyer called workers to take part in a protest demonstration in the next few days. From the perspective of a works council

member: “When we came back from the gates, everybody on the works council knew that we had done the only thing we could do. If we had decided not to make that flyer and not to call them to protest, the movement would have steamrolled us. We would have been put on charge together with management”.

This cumulating dynamic of conflict and its effects must be seen against the background of traditional corporate culture at BASF. Alienation between management and workers had become endemic and the results of the regular survey on employees’ opinions on company and management became so bad that they were not published any more. However, it is important to bear in mind that this corporate culture was not just a matter of social climate. The belief in reciprocal commitment was crucial for the core competence of the company as long as this core competence is defined by “Verbund”-production. “Verbund”-productivity has strong similarities of a public good, where people engage in producing the good without being able to keep their part of the positive results for themselves. Therefore the employees’ belief in general equity and reciprocity as being generally realised in the company is crucial under these conditions. So the erosion of management’s legitimacy threatened the very foundations of the company’s economic performance. The other side of this erosion of top management’s legitimacy was an important gain of legitimacy by labour representatives. While top management was seen more and more as representing the external interests of financial agents, it was not only the workers who perceived the works council as the position that represented the interests of the company.

However, it is also important to see that none of these conflicts really escalated or resulted in long-term trench warfare. Instead, top management has always reacted immediately when employees’ protest really exploded, taking back their measures as in the cases of fidelity bonus and continual payment, or by going into negotiation with the works council in order to re-establish a sufficiently broad common basis with the company’s workforce. So top management is aware of the impossibility of focussing on “Verbund”-chemistry as core competence *and* pushing through a business strategy against the company’s workforce. Against this background the conflict of the year 2000 became the starting point not only for rebalancing industrial relations at BASF but also for finding a new balance between conflicting targets in the business strategy of the company.

Works Council and trade union developed four central points in the framework of the workers’ protests:

- abandonment of the policy of blanket guidelines for the cutting back of personnel;

- retention of the complex, internal infrastructure and service areas at the site, so no farming out as in other companies;
- a strategy oriented towards the future and corresponding investment for Ludwigshafen;
- suitable forms of participation by employees in the success of the company.
- the decisions taken on the direction of future organisation and strategy bear these out to a high degree. Four points must be underlined:
- entrusting the labour director on the board with the new function of a site manager for Ludwigshafen and the creation of an additional post of a works manager for the production site of Ludwigshafen, i.e. of those areas which are directly and indirectly concerned with production at the site;
- conclusion of a works agreement on employees' participation: apart from the above-mentioned option for acquiring shares with its strong emphasis on attachment to the firm this agreement contains the entitlement to five BASF shares free of charge for every employee with an unlimited contract or on signing an unlimited contract;
- decisions on staffing levels are taken with reference to the site, i.e. not just according to the interests of the individual branch of the firm and with reference to numbers they are taken no longer in accordance with blanket guidelines for the cutting back of personnel, but on the basis of concrete specified individual projects;
- a site concept passed in the autumn of 2002 for the production site of Ludwigshafen which takes regard of the "unique spatial proximity of research, development, marketing, technology and production", i.e. the connection between "a broad knowledge network and [...] material link" (BASF (2002)) as strategic strengths and their strengthening and further development. Important aspects of this site concept: the strengthening of market mechanisms being aimed at between the production and service units is under the guiding principle "Overall interest goes before individual interest"; the development of both European Verbund sites Ludwigshafen and Antwerp takes place in a deliberate complementary way with the option "of integrating installations at other European BASF sites, which do not exhaust the synergy [...] in the long term at both sites" (BASF (2002)).

A further element in the policy of a cooperative site development thus introduced is the research pact agreed in the spring of 2006, which is concerned with the increase of efficiency of internal research, particularly through the change in work and management structures and

with the active involvement of employees and employees' representatives. Works agreements on the implementation of concrete partial projects were concluded in the spring of 2007.

The site concept accepted demonstratively as a joint project by the chairperson in the person of the labour director and the employees' representatives in the works council and on the board does not remove the tensions between the different economic goal dimensions and guiding principles; rather it readjusts the relations of power and negotiation in dealing with them. The position of the employees' representative seems to be for the time being considerably reinforced. The dependence of the company on the collective competence and readiness to cooperate of a site team is demonstrated in conflict and emphasised in the strategic consequences drawn. The revaluation of the site management, the link between site responsibility and the staff responsibility of the committee mean a considerable enhancement of the negotiation arena in which the works council interacts with the firm. And the focussing of the European strategy on a division of labour of the two most complex, but most expensive sites in the Verbund causes the considerations of site rivalry, which in any case do not play here a large role, to drop further into the background. The other side of this Verbund consolidation strategy is the weakening of the position of the smaller, less complex individual sites. It is at their cost that the capacity adjustments take place in the down phases of the economic cycle, as in the 90s, as in the enhancement of the central Verbund sites.

The great weight – compared with the development of the two other large traditional German chemical companies – of the economic aspects of product and production in the frame of the BASF strategy does not mean any disadvantage at the finance markets.

For the claims of the shareholders at BASF are taken into account through direct distribution by dividends and share buy-backs. The BASF is the large German company which with its comprehensive programme of buying back shares uses the second distribution channel most resolutely. This is quite in keeping with the corporate governance concepts which are geared to the finance markets, according to which capital is “given back” to the shareholders if in the frame of the company strategy no satisfactory channels of investment can be found with the corresponding rates of interest.

5. The European employees' representation at BASF

In contrast to the other large German companies, a European Works Council (called “Euro-dialogue”) was not set up until 1995, i.e. after the coming into force of the guide-line and not as a joint project of the works council and the management of the company. The employees'

representatives with their relatively early initiatives were at first not for a long time able to get through to management. Instead of the world company councils propagated by the International Federation of Chemical Workers more attention was paid in the 1980s already to more intensive relations with the European employees' representatives in the company, first of all by personal approaches, then by using the EU funds for the relevant meetings on the European level. Institutionalisation at the company level failed with the fundamental rejection on the part of the management, which under the pressure of the foreseeable EU guideline eventually took up the line pursued by Hoechst and Bayer to gain an advantageous position with a favourable settlement. The contradiction in the works council became evident in three points:

- There was no intention of establishing the European representation through a purely German agreement between management and works council.
- There was no wish for a joint body comprising representatives of employees and management (as it existed at Bayer).
- Apart from a separate preparatory meeting there had to be a meeting for the employees' representatives to discuss on outcome and consequences under the immediate impressions of the meeting with the management representatives.

And as long as management categorically rejected these requirements works council members saw no pressure to take any further initiative to get a formal agreement on a European body of Information etc: *"For this reason we didn't get anywhere and we said: that doesn't worry us. The directive will be implemented in European law and so pressures will emerge. The firm will have to react at the very latest when this all gets converted into national law. And then we'll go with a "special negotiation body" of thirty about the difficulties and can talk at very low cost about what the body will look like"* (BASF BR B).

Against this background there came finally a fundamental agreement on the procedure for setting up a European employees' representation in respect of the guideline which had in the meantime been passed. At the end of this process there was a suggestion of agreement worked out with recourse to the elected representatives at the KBR⁴⁰ level, which was brought into force by the national representatives. In the Euro Dialogue there are four German and fourteen other members. It is led by the KBR chair person who is also the deputy chairperson of the advisory board. The deputy chairperson of the Euro Dialogue is a non-German representative, typically from Belgium as the second most important European country at BASF, with the

⁴⁰“ KBR” stands for “Konzernbetriebs”, that is the works council of the group, with delegates of the works councils from different sites and enterprises of a group.

second largest Verbund site at Antwerp. The manager of the Euro Dialogue is at present the chairperson of the economic committee⁴¹ in the KBR, who is also an elected member of the Euro-dialogue.

Characteristic for the mode of operation of the body is apart from the obligatory annual meetings, which take place in rotation at European sites, from the outset a relatively large number of special meetings of the management body on economic matters of the firm which affect at least two countries. In the first term of office from 1995 till 1999 there were seven, in the second till 2003 twice as many. Apart from the delegates from the countries affected there are representatives from the works or fields of operation actually affected involved if they are not represented by the official delegates. But even this practice was not established completely without pressure, in which the works councils could, quite apart from their own potential for pressure, profit from the upheaval caused by the conflict over the Belgian Renault site in Villevorde⁴². To quote a works council member who is also a member of the Euro Dialogue: *“We were able to force these meetings because we said: if we come to a solution in this way then we may well have to get a court judgement to check this: competent or not competent”*. *“So this Renault judgement has really given us a lot of help, it’s a positive example of participation and has helped us along. That they said: now we want to know [...]. With Renault , that was a thing that helped us along enormously in the European work”* (BASF BR B, 04/1999).

The last step for the time being in the building up and extension of European information structures is the joining of KBR, economic committee and “Euro-dialogue” for the communication of economic measures of international importance, practised for the first time for a joint venture with importance for Ludwigshafen and Antwerp, *“where we just took the Belgian colleagues into our economic committee [...]. The experience with Antwerp showed us [...] that we were more efficient as outsiders in discussion than if we had done that separately”* (BASF BR).

The precondition for this mode, on which the approval of the firm was obtained, was the competence of the chair of the KBR and the economic committee to fix the agenda of the

⁴¹ The economic committee is a committee of works councils at sites or companies with more than 300 employees, where the management has continually to present economic information and data on the development and strategies of the company, and where the members have the right to ask questions and to debate the economic situation and strategy. The information rights of this company are based on law and therefore legally enforceable. It is one of the most important sources of information in German companies, especially in large ones, where a significant number of works council members is exempted from ordinary work and become highly professional and specialised. So it is one of the crucial questions of EWC’s in German based companies what German members do with the information they can get from this economic committee.

⁴² The French concern had manoeuvred itself here on account of a piece of information which had not been passed on into a difficult legal position, resulting in a spectacular public conflict.

economic committee with the background of their knowledge from the advisory board. That the “Euro-dialogue” appears *“as host for a newly instituted meeting of this kind, which deals with a benchmark system to be used throughout Europe for the fields of production and technical storekeeping, specifically intended as a political signal to emphasise the independence of the body”* (BASF BR B)

A central function of the body consists in making the site rivalry objective and not in removing it: *“We have never covered it up and that’s why we had this point at the second meeting. We are colleagues but also rivals [...]. Let’s hope that the employees’ representation is kept from having to decide on investments. We would come armed to the teeth. The last one left over gets the investment”* (BASF BR B, 04/1999).

The fact that nevertheless a stable cooperation and corresponding trust between the employees’ representatives could be built up is apart from the lacking decision competences due to the fact that practically no influence can be exercised on the site strategy of the company on concessions in work and remuneration conditions. Management itself does not bring up these dimensions and the explanation of the decision-making criteria at the second meeting mentioned go to prove this, as well as the fact that no investment is finally worked out, but is decided upon. With this background the stabilisation of the relations inside the body was to a considerable extent assured by the fact that during the two first periods of office the central site in Ludwigshafen, regardless of its employees’ representation, had to face by far the largest number, absolutely and relatively, of dismissals.

The positive results of the work of the “Euro-dialogue” can in the light of this background be seen in the following:

- the far-reaching neutralisation of certain company initiatives by early transparency of the factual room for manoeuvre of management in the different countries greatly reduced the pressure on the employees’ representatives at the individual sites (as in the attempt of the central personnel management department to push through a degree of profit-linked remuneration);
- the initially informal, now formal establishment of nationwide representation structures in various countries, as a foundation for the “Euro-dialogue”, which are now used also as coordination bodies in the national setting, not least the development of direct paths of communication between those involved from the same work area, without the managing body being involved, if necessary being informed later.

In summary: The “Euro-dialogue” has evolved at BASF from the outset as an independent, political working body of the employees’ representatives and not as a joint meeting of

employees' representatives and companies in Germany. Its origin and subsequent development can be seen to a considerable degree in the independent position of power of the central employees' representatives at the central site and in their readiness to place this position of power at least in part at the service of this European⁴³ negotiation structure.

To be sure, this takes place in self-interest since under the conditions of a production structure which is increasingly geared to Europe and a loss of contact with the grass-roots in economic terms on the part of top management the consolidation of information and certain common grounds on the side of the employees it also seems increasingly important that site rivalry as a way of exercising pressure on the conditions of work and remuneration play here hardly any role. In this point even inside a rather short period observed at the end of the 1990s directly by ourselves among the central works council members, who tossed off first of all the whole business as "officials' tourism" within a short time the picture was seen in a very different light (BASF BR A, 02/1998; 11/1998).

On the other hand the fact that the product strategy justifies a strong dependence of management on the employees precisely at the large, complex and expensive sites is also a helpful precondition for the regulation of rivalry on the side of the employees. So the function of the "Euro-dialogue" in the justification of coordinated collective representation of interests lies beyond the bounds of country and site for the foreseeable future. Rather it consists in the creation of a joint information basis, which is generally recognized as such, where site rivalry exists in individual cases and on what basis this occurs in these cases.

The development of a European works council is also the central theme of the present negotiations on employee representation in the framework of a European company (SE) at BASF. The main focus on the side of the leading agents in the German works council is on an intensification of the opportunities of information and consultation. The central demands here are for more regular meetings (maybe 3 per year) and a kind of European economic committee and not the consolidation of binding rights of participation of this body. So the main focus is on investing in networking and transparency.

⁴³ There are also the beginnings of trans-national information and coordination of employees' representatives in South America and Asia, which originally go back to the politically motivated private activities of individuals. Besides the revaluation of the trans-national level the personal commitment of the works council chairperson, who has served for many years, using his position as member of the board to lend support in the matters concerned at headquarters and – at least as important – against management at the site.

CONTINENTAL A.G.

Jurgen Kadtker – SOFI

1. The company

The stock corporation Continental AG has traditionally been a manufacturer of rubber articles, which since the Second World War has increased its concentration on the production of tyres and technical rubber articles for the automotive industry. Limited mostly to German locations up to the second half of the seventies, the company has developed into a producer at an international level by taking over other tyre manufacturers; at first in Western Europe and the USA, and in the 90s then mostly in Eastern Central Europe and Eastern Europe.

In the sector of the subsection for technical rubber articles ContiTech, the internationalisation started much later beginning with the focus on Western Europe. A substantial change in the business profile became evident in the taking over of the brake manufacturer Teves by ITT in 1998, with which Continental became the world market leader for hydraulic brakes and number two worldwide for electronic brakes. This and the taking over of the automotive electronics specialist TEMIS of Daimler Chrysler in the year 2000 changed the profile of the tyre manufacturing company into that of a specialist for complex running gear systems. The sector of the group Automotive Systems, with only 130 employees in the spring of 1998 has become by far the second biggest segment by the end of 2002 with approximately 19,000 employees and thus achieves the highest profits in the group⁴⁴.

Table 1: Share of the employees at German locations of the whole number of employees (as at the end of 2002)

<i>Group</i>	<i>Passenger Car Tyres</i>	<i>Utility Vehicle Tyres</i>	<i>Technical Rubber Articles</i>	<i>Automotive Systems</i>
42	26	29	54	57

Source: Company report, statements of the company (as at the end of 2002)

Of the 64,379 employees of the whole group at the end of 2002, 42 per cent still work in Germany and so their share is almost as big as in 1997. However, this apparent continuity is owed to the purchase of Teves. Referring to the rubber sectors alone the share of the local

⁴⁴ However, in the year 2005 the tyre sector is also in this point ahead of the sector Automotive Systems. So you can't actually speak about a significant change in the view of the relevance for the profit of the group.

employees has been reduced by seven per cent down to approximately 36 per cent, nevertheless with marked differences in the single segments.

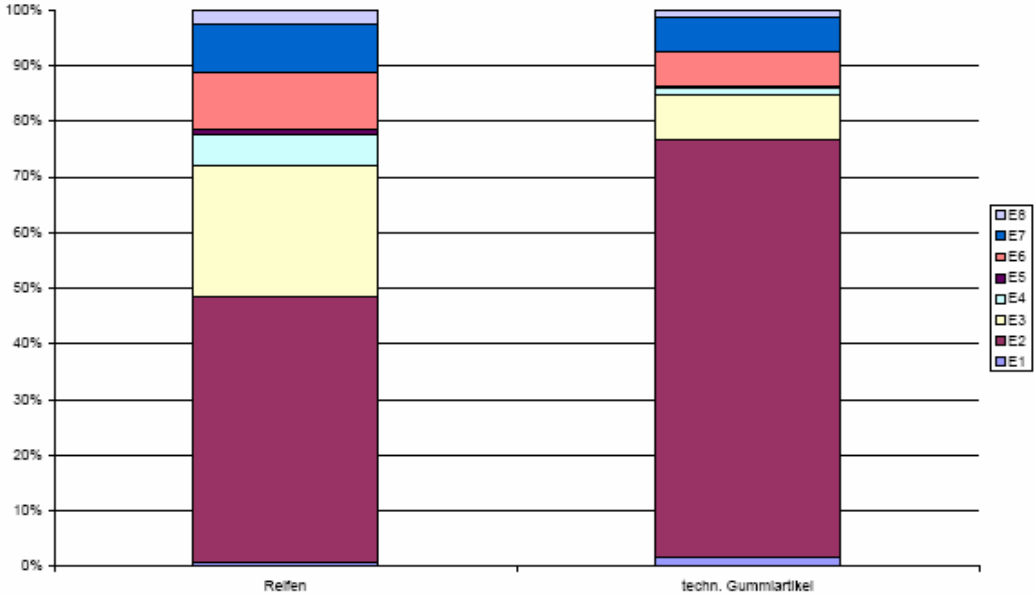
In the following, we will concentrate on the traditional business sectors and above all on the manufacture of tyres. The argument is that the integration into one combine does not lead to a new, unified structure of the company and interest representation. The branches of Automotive Systems remain in the metal-working industry with reference to the tariff and the business policy. Furthermore there is no integration even at the level of the product strategy: or more precisely the realisation of the integrative product strategy is executed in a way which hardly affects the manufacturing conditions in the rubber sectors. Inside the rubber sector the tyre segments formed the focus of the new strategy at the global level in the nineties.

The product strategy in the rubber sectors is based on a high product and process expertise, which is concentrated in a central development sector in Hannover-Stöcken⁴⁵, and on the manufacturing of the products in high-grade, standardised, robust production processes.

Referring to the expertise this production is still a semi-skilled occupation. The training periods necessary to bring newly employed people to normal performance level have been reduced, according to the statements of works councils. In the German locations the relevant professional training is an important condition for leading positions in sectors connected to the production, but is not important for production itself. Higher qualifications are traditionally limited to the maintenance departments. The conditions of the technical installations are standardised and hard wearing to an extent, that state-of-the-art-installations can be run at a normal level of productivity and quality at locations without any specific, territorialized expertise prerequisites, at least in the sector of standard tyres which amount to more than 50 per cent of the global tyre markets. This has an impact on the staff structure which differs completely from the one in the modern chemical industry, as is shown in the following overview:

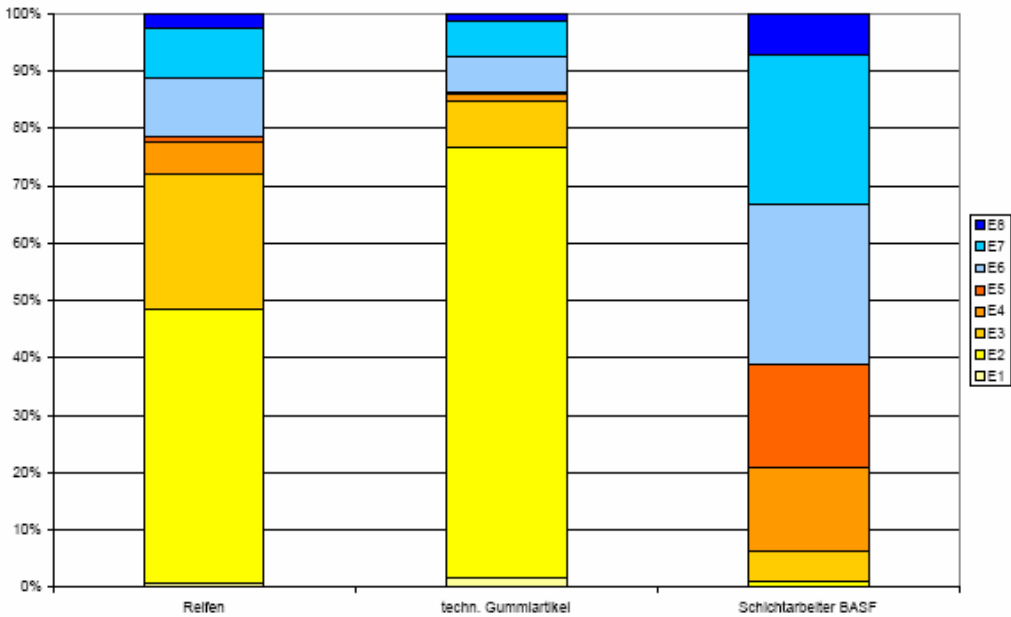
⁴⁵ The former development departments of Uniroyal in Aachen and of Semperit in the Austrian Traiskirchen have been dissolved after the takeover or have been transferred to Stöcken.

Figure 1: Distribution of salary in two firms of the rubber industry



Source: statements of the company

Figure 2: Distribution of the groups of salary in the industrial sector: rubber and big chemical plants



Source: statements of the company, own calculations

Other than the chemical industry the rubber industry is one of unskilled or semi-skilled workers. The difference is especially noticeable when you concentrate on those remuneration groups, to which the industrial workers belong (compare table 2). Although in the figures for the rubber sector the white-collar workers (classified E1 – E8) are also included, whereas the reference values from the big chemical industry deal exclusively with shift-workers, there is an almost mirror-inverted distribution. The wage earners in E1 – E3 who manage without any

training or with a training period of fifteen months as a maximum, and who represent only approximately six per cent of the shift-workers in the big chemical industry, represent more than seventy per cent in the tyre manufacturing and almost 85 per cent of all wage earners⁴⁶ in the companies producing technical plastic products

On the basis of generally available, industrial standardised expertise, relatively simple production processes and over-capacities on a worldwide level, there is a pure cost competition in the tyre business on the world markets. Slightly different are the relations in the special and high power tyres, the production processes and technical installations which are more challenging and therefore more profitable. However, the borders between the standard and the speciality segment are not so fixed, because also the production in the latter segment remains semi-skilled, even though the quality and safety standards are at a markedly higher level. Correspondingly the aim, communicated in the middle of the nineties, to increase the share of low-cost locations⁴⁷ to 30 per cent has been continuously revised and the figure raised within a shorter time frame. By the end of 2002 approximately 50 per cent of the tyre manufacturing of Continental takes place in low cost locations.

The following overview shows the development of the European, or rather refers to European⁴⁸ tyre locations of the group. Five out of eleven Western European tyre manufacturing locations have been closed down since the second half of the nineties: Dublin, Newbridge and the automotive sector of Traiskirchen during the first wave in the nineties, Hersdal, Gislaved and the location for the manufacturing of tyres for lorries Traiskirchen during the years 2001/02. Parallel to this four low-cost locations have been newly erected in Eastern Europe and South Africa, and the two already existing, Lousado and Ostrokovice have been developed to by far the largest low-cost locations worldwide. With 14.8 units in 2002 Ostrovice produced more than the two French locations, and almost as much as the two German locations, combined together for each country, with 14.3 or rather 15.2 million units. In 2003 a further increase to 17 in Ostrokovice, in Lousado from 10.2 to 13.4, in Timisoara even a doubling from 4 to 8 million units was planned.

⁴⁶ It is not possible to transfer the value for the sector of technical rubber articles, as the one for the tyres, to the whole business sector, because ContTech is a subsidiary of eight independent companies with very different areas of production and staff structures. For the partial segment mentioned here the same trends apply in principle, which are presented for the tyre manufacturing in the following table.

⁴⁷ Here We use the terminology of low-cost and high-cost production locations, usual in the company.

⁴⁸ The South African location – as opposed to the American one - is always mentioned in internal company discussions in connection with the market of European locations.

Table 2: Continental AG – Tyre manufacturing locations in and around Europe

	1996	2003
H.-Stöcken	Utility vehicles (U.V.)	U. V.
Korbach	Passenger Cars (P.C.), Motor Cycles (M.C.)	P.C., U.V., M.C.
Aachen	P.C.	P.C.
Sarreguemines/F	P.C.	P.C.
Clairoix/F	P.C.	P.C.
Herstal/B	U.V.	-
Newbridge/UK	P.C.	-
Dublin/IR	P.C.	-
Traiskirchen/AU	U.V., P.C.	-
Lousado/P	P.C.	P.C.
Gislaved/SV	P.C.	-
Ostrokovice/CR	P.C.	P.C., U.V.
Timisoara/RU	-	P.C.
Barum/SL	-	U.V.
Puchov	-	U.V.
Pt.Elizabeth/S.Af.	-	P.C., U.V.

Source: statements of the company

These shifts establish a new quality of competition, where the different locations mainly compete inside the company: *“The competition inside the own combine“*, says a member of the works committee, *“is much stronger than the competition with other companies, which we don’t notice so much”*(Conti BR2). Even though there is a clear connection between the cutback of high-cost locations and the establishment or expansion of low-cost locations, as for example in the shift of the installations for car tyres to Ostrokovice, dismantled at Traiskirchen, there is primarily a competition between the high-cost locations for the capacities remaining in their catchment area. On the other hand, the location competition incited by the expanding of low-cost locations does not exist between high-cost and low-cost locations. According to the perspective of the German works councils, the strategy to secure the different locations cannot consist in fighting against the shift of standard production to low-cost countries – referring to the production. In fact, it deals with getting rid of those standard products and winning the race for technically sophisticated products.

In the year 2003 Hersdal and Traiskirchen were already closed, and the works council of the remaining factories in Hannover-Stöcken had approved an agreement in the spring of 2001, which contained very far-reaching concessions to the demands of flexibility by the company,

especially referring to a permanent capacity buffer up to more than 25 per cent of temporary workers. After all the agreement contained a considerable influence of the works council on the choice of the temporary employment agency, its judicial competence for the temporary workers during their work in the company, as well as the salary of the remuneration group E1 of the BETV of the chemical industry as a minimum salary for temporary workers. Works councils at other locations that had first criticised these concessions as going too far, later also switched to this line, but were never able to impose the clause of a minimum salary contained in the former agreement or never wished to do that. As a result there also arises here a permanent shield of employees with fewer rights around the regular staff, for which there is no demand of being treated in the same way⁴⁹, but only an attempt made at limiting worse treatment and this with an ever lower intensity.

2. Location agreement 2005: a conflict about the basics of social partnership

The development up to this point may be seen – as well as on the firm and company level as on the tariff and confederation level – as an adoption of the local chemical partnership to altered economic and primary power conditions. Tariff standards are reduced under the pressure of the shifting dynamics, the job losses combined with this are dealt with in a “bloodless“ way against accordant concessions and are carried out over a longer period of time – both in the frame of the existing arrangement of institutions and regulations. Even though the borders between protection and erosion of such systems are difficult to draw in the case of a cutback of standards; as far as an efficient limit of losses and risks for the affected workers and in this sense a reliable adjustment of material and procedural standards between companies and their staff result, we see first of all⁵⁰ the aspect of the elasticity of adjustment in the centre. However, especially these conditions were at a risk in a conflict that arose at the end of 2005/beginning of 2006 about the question of the time perspectives for the car tyre manufacturing in Hannover-Stöcken.

With its 320 work places and an annual production of almost 1.5 million tyres in the year 2005 it is by far the smallest car tyre manufacturing plant of the group (compared with:

⁴⁹. The late efforts of the German trade unions to establish a generally valid tariff regulation for temporary workers have led to the first tariff agreements for different branches, backed up by the equal pay clauses of the new version of the AÜG (German Law on Labour Leasing) modified in 2004. However, as the tariff agreements in this case form the prerequisite for the legal departure from this principle, this means the tariff regulation of unequal treatment. Without the previous assurance by the trade unions to really approve tariff agreements with this effect, however, the equal pay principle would never have been legalised.

⁵⁰ You don't have to be a supporter of the scheme “Shift from quantity into quality” - to point out that also a big number of small, incremental modifications combined together may lead to fundamental structural interruptions.

Korbach and Aachen: 8 million respectively., Timisoara/RU: >10 million, Otrokovice: > 18 million). Its preliminary preservation was a subject matter of a location agreement in May 2005, in which the works council and the IG BCE conceded the increase of the weekly working hours to 40 hours without compensatory wage increases, against the assurance of an annual tyre production of 1.36 million for the plant utilisation for 2006 and 2007. The agreement also allowed for an extension option for 2008 and 2009, as well as a special right of cancellation by the company in case of economic emergency.

The company made use of this special right of cancellation already six months later, referring to market expectations not fulfilled and regardless of the fact that record returns of the tyre branches were reported at the same time and predicted for the future. Now they wanted to close down the factory in the middle of 2006. While the chairman of the board personally and actively argued for this decision and its realisation and dismissed protests against it as the “results of a local morality“ and “fear, incited by the trade unions and artificially produced insecurity“ (Wennemer 2006), he did not only contribute to a strong personalisation of the conflict. He embodied so to speak basic rationality and legitimacy principles of entrepreneurial activity, which are held to be not negotiable.

The question was not the fact of the closure of the factory. The location agreement of spring of 2005 contained only a guaranteed continuance until the end of 2007 and an extension option for two more years. Its content thus was not the prevention of the reduction of staff, but the fixation of a binding time frame for its realisation. A directly involved member of the works council comments the perspective of the employee representation: “This is not about the shift itself. However, it is about how to treat the employees during this process. It is about how to manage the structural change without whole areas becoming impoverished. What can we do to help people with a lower qualification, often without any professional training to be further employed? It is not enough to make a social compensatory plan, it must enter our heads.“(Conti BR4, 07/2006).

Against this background the location agreement was in the core an exchange of material concession in the standards of working hours and remuneration against time for the development and implementation of staff and qualification concepts, from the point of view of the workers council and trade unions. In the conflict about the premature cancellation of the agreement, questions were important which affect the principles of the bargaining relationships between capital and work at the company in a fundamental way, in fact on two levels:

- At the level of material regulations the question was whether and to which extent the companies should participate in the social coming to terms with the negative effects of its economic success strategy. In other words: It dealt with the obligation of the fundamentally social partnership and the agreement formula for the economic progress, support of economic modernisation and rationalisation by the workers' representations against a (partial) compensation by the companies and the public authorities, under the conditions of extremely bad chances on the labour market for the affected employees and a markedly good economic situation of the company. If the Continental AG in its brilliant economic situation was able to elude this demand so abruptly, which other company could not do the same?

- An additional difficulty arose from the fact that the traditional approved routines for such problems – “bloodless” staff reductions at the cost of the social security fund – are not acceptable any more.

- On a second level the problems were to deal with the elementary prerequisites of well-ordered social relationships between companies and workers' representations, beyond the immediate contents of regulations. Because the use of the special right of cancellation by the company and its justification touched basic conventions, without which contractually guaranteed relationships are not possible – to quote Durkheim: what is – in Durkheim's sense – not contractual in a contract. Contracts do only make sense when one assumes a minimum of agreement about how to interpret and apply them. And this necessary minimum was at risk when a comparatively limited shortfall in original sales forecasts, which affected the earnings trend of the company only marginally, was taken by the management as a reason to make use of a special right of cancellation, even if this right was rather worded in general clauses. What looked to the workers' representation as a reliable contract and after all former experience could be also considered like that, emerged secretly as a declaration of intent subject to change, in which the management committed itself to nothing

Under these two aspects the behaviour of the board of Continental presents us with a far reaching cultural break, not only at the management level. At the same time it radically challenged essential conditions for the chemical partnership. It is this specific type of social partnership which is based on an extremely distinct stock of conventional background agreements. The association cooperation which has been propagated on both side as a socio-political showcase model, is founded on continual mutual trust. Those involved have to be sure they can rely on the fact that their cooperative position will not be used against them in a concrete case, and that the respective other party will feel bound to a common basic understanding in dealing with the margin of interpretation and action. This also presupposes

that the change which takes place at the association level is also covered at the management level. The whole system of social partner contracts and other formal and informal agreements would hang in the air if employee representation, at the level of central business had to reckon with a solely opportunistic dealing even with formal contracts, of those responsible in the company. If this example became the norm, the foundations of the “building of the chemistry partnership”, which has already been adversely affected by the increasing orientation of large companies towards financial markets, will definitely be in quicksand.

Pertinently the employees committees and IG BCE reacted strongly to the announcements made by the companies. Special works meetings, demonstrations, a short term blockade of factory entrances, strikes in connection with demonstrations, information workshops, and an aggressive media campaign intended for mass effect were organised all over Germany. This was a measure of conflict-oriented mobilisation which the organisation of the IG BCE has not seen since the 1970's.

In this the media campaign played a central role. A strike at one factory, in which the management shortly intends to start dismantling and relocating their production units, will hardly prevent this undertaking.

Realistically more than a demonstrative closing of ranks from the other inland and foreign factories was not to be expected. The publicly effective threatened dismissal of in total 12 other location agreements, resulting in annual additional costs of 40 million € for the company was not a realistic option, considering the own interests of the individual works councils, not to mention the short term “not yet” visualised European strikes. The practical repercussions of the threat were however that analysts lowered the value of the Continental AG shares. The campaign aimed at extending the limits of personal primary power through mobilising the power of the media. The demonstrative actions of the workers adapted to this framework. The fear of permanent damage to the company image, with its negative economic consequences was intended to cause an intervention to prevent more negative headlines. At the same time the managing director of the Continental AG, the type of manager interested only in profit margins who explicitly denied any responsibility for concrete locations and work forces was to be made an example of and placed in the stocks. In this way it was hoped to underpin the traditional model of the socially responsible business entrepreneur.

The workers council and the trade union were largely successful at least in the first aspect – the conflict regarding the premature dismissal of the location agreement. In January of 2006 a nationwide agreement was made which revived the old (minimum) timeframes. The final closure of the factory will take place at the end of 2007, all be it with several stages

throughout the latter half of 2006 and the whole of 2007. The employees whose job will be lost during these stages will be either offered a job in another of the company's factories within an acceptable travelling distance, or the right to 2 years work in a training company. This is extended by the proportionate time at the cost of the company. The training company, which takes on all workers who haven't been placed elsewhere and those with voluntary redundancy for a period of 2 years after closure, is conceived specifically as an alternative to a conventional transfer company in which the previously employed workers are temporarily kept for the length of time they have a claim to transfer short time payments.

Demanding and differentiated assessment and qualifying procedures have been agreed upon which are geared to the individual potential and should enable the build up of qualifications which can lead to the attainment of a normal vocational qualification. The details of the implementation of the supporting social plan will be negotiated in mid 2006. It can be noted that with regard to the period of time of employment, and the time factor for the development of staffing concepts the minimum conditions of the original location contract has by and large been adhered to.

In how far the second aspect – the effective exclusion of the managing director's attitude to the fundamentals of the chemistry partnership – could also be realised, is less apparent.

In the short term it is definitely the case. However the lasting consequence of this success will depend on whether the trade unions will be able to react to similar cases with a comparatively efficient combination of mobilising the employed in the area and reacting with an aggressive media presence, which relates to the common understanding of what is just in the majority of the population and activates it. To the extent in which the fundamental conventions of the relationship between employers and employees are questioned, which is a prerequisite for all negotiating relationships, it becomes one, if not the decisive power resource of employee representation to mobilise the public at large to defend those aforementioned conventions.

In sum: The conflict regarding the prematurely terminated location agreement in the year 2005 led to a fundamental change in the relationships of the different interests of pressure groups at Continental. *"Crockery was broken from which we could still have eaten together"* (Conti BRA,07/2006). If the attempt to revise the principles of industrial relationships in the sense of a rigorous company values and finance market orientation has been permanently warded off or just put off for the present time remains to be seen. Independent of this it can be noted that the employee representatives in the Continental AG notwithstanding their extremely high rate of organisation, compared to other large enterprises – over and above the organisational field of the IG BCE – and despite a long tradition of confrontational

implementation of their interests have been more or less continuously standing with their backs against the wall since the nineties, just being able to regulate but not to avoid the erosion of former standards of a powerful workers' representation.

3. The European Works Council at Continental. Permanent location competition as a blockade to trans-national co-ordination of interests

The European works council of the Continental AG was set up in 1993, based on a voluntary agreement, prior to the coming into force of the EU guidelines. Apart from the annual meetings there are four sittings of the steering committee, to which three German and two representatives from other countries belong. Chairman is the KBR- chairman. Representative of the Czech Republic and Hungary were included early on, because of the foreseeable importance of these sites within the framework of the company strategy. The central function of the committee is to let the employees representatives in sites outside of Germany, participate in the level of information the German works councils have gained through the economic committee. From the chairman's point of view an amalgamation of KBR and EBR forming an economic committee at EBR level would allow the possibility of an equality of information, question and commentary within a European framework. In the foreseeable future such a perspective is not acceptable for the majority of the German employee representatives. Bilateral contacts between EBR chairmen and other EBR members also take place outside the meetings.

The development of the committee must be seen against the background of the fact that the dominant and ever present problem of the representatives throughout the whole time was the location competition of the "high-cost locations" in which the size of production was the continuous theme in this sector. Under these conditions even the communication with the EBR chairman with representative of those sites threatened by closure were considered problematic: *"Regarding the question of the [European location] those at the [German site] were watching me, listening exactly to what I said. They asked me what was going on in [...] and said let them drown, we want to survive"*.

More than the arrangement of a talk with the responsible member of the board was not possible under these circumstances: *"I didn't go there during the time of the huge disputes, which they had there. I wouldn't have known how to behave"*. Corresponding to another case:

“we signed solidarity declarations, [the factory x] has to be kept going etc, but everyone said let them go under, then at least they are gone. Then the others can survive” (Conti BRA, 04/1999).

At a solidarity meeting which was held by the IG BCE with the Swedish factory due to close and the Swedish sister trade union at the company head office, a number of German members of the works council were personally presenting, but they didn't have the formal support of the European works council.

Against this background the question of possible developmental perspectives for a functioning committee has to be answered with a decisive no: *“I find it very difficult to imagine”* (Conti BR4). As possible themes to be considered are, safety at work, and support of women or protection of the environment; but to begin with these are no more than abstract possibilities.

It is questionable if the employee representatives in Western Europe could have notably influenced the company strategy through an alternative coordinated action. What is clear is that this influence could only have been exerted if there had been a much longer time frame in order to build up trust between the employee representations. All examples of such far reaching influence – and there are not many – go back to such longer periods in which means of cooperation in second or third level themes were tried in order to slowly enable a relationship which could sustain the necessary pressure. This possibility was not given at any point in time for the case in hand. Here the potential victims and beneficiaries of site closures sat opposite each other and neither had the smallest reason to trust the other. Another perspective could have resulted if the cascade of closures would have ended and the high and low cost areas could have found a relatively stable coexistence. After all the relationship between the representatives of these differing sectors is more relaxed today and the earliest possible involvement of representatives of Eastern Middle Europe has never been an issue. If such a stable status can be reached and if the removal of expectations, which were permanently too high, on the cooperative skills of the actors involved leads to a development of wider reaching perspectives remains to be seen.

MICHELIN POLSKA S.A.

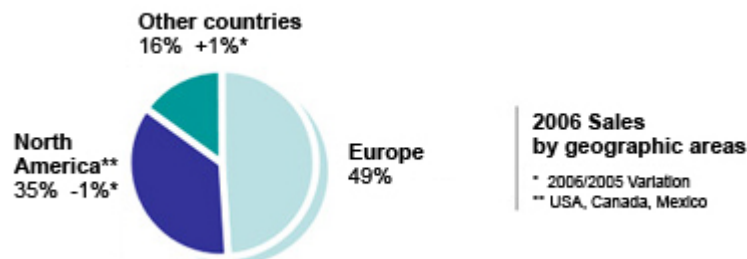
Anna Kwiatkiewicz – BPI Polska, Warsaw

1. Michelin Worldwide

Michelin was set up in France in 1889 by two brothers, Andre and Edouard Michelin. At present Michelin is one of the World's leaders in the tire production sector. The products of this Group include passenger car and truck tires, airplane tires, motorcycle tires, industrial and agriculture as well as tourist and gastronomic guides, maps and car atlases and digital navigation systems. Michelin also provides Internet tourist services.

According to the Global Tire Report 2006 Michelin had a share of 17,7% of the world tire production. It was the second biggest share after Bridgestone (18,2%), the third was Goodyear (17,3%), followed by Continental (6,3%) and Pirelli (4,5%). In 2006, Michelin produced 190 million tires and 15 million of maps and guides.

Diagram 1. Sales breakdown



The replacement tire market, in the Passenger Car-Light Truck and the Truck markets, represents some 70% of the total Michelin sales in volumes.

Michelin has 8 production lines (LPs): Light Truck Product Line, Truck Product Line, Specialties Product Line (including Aircraft, Earthmovers, Agriculture, Two-Wheels and Components) and Other Product Lines (including Maps and Guides, ViaMichelin, Michelin Lifestyles Limited Business Units). Technological Center provides scientific and technical expertise to the above Product Lines. There are 6 geographical zones to make the operations worldwide most effective: North America, South America, China, Asia-Pacific, Africa and Middle East and the EU. The company is organized around 9 Group Services and 3 Performance Departments. The Group Services include: Purchasing, Audit, Finance,

Information Systems, Corporate and Communication, Legal, Personnel, Quality and Supply Chain Management. The Performance Departments include: Prevention and Industrial Performance, Marketing and Sales Performance and Corporate. There are 2 distribution networks: Euromaster (Europe) and Tyre Centres Incorporated (the USA).

Michelin has 69 production plants in 19 countries. There is also the 5-bases technological center located at 3 continents: in Europe, Asia and in the North America and 6 plantation of caoutchouc in Brazil and Nigeria that total to 24 000 hectares. Michelin is present in 170 countries, employing over 129 thousand of people.

Table 1. Michelin sites

Geographical Zone	Country	Location
South America	Brazil	Resende, Grande; HQ*: Rio
	Colombia	Bogota, Cali
North America	Canada	Pictou, Waterville, Bridgewater
	United States	Indiana, Kentucky, Oklahoma, Alabama, South and North Carolina (total 11 sites)
	Mexico	Mexico City, Queretaro
Africa	Algeria	Hussein Dey
Europe	Germany	Solingen, Bad Kreuznach, Bamberg, Trier, Hamburg, Karlsruhe
	Spain	Lasarte, Vitoria, Aranda, Valladolid; TC**: Almeria
	Italy	Torino Stura, Alessandria, Fossana, Trento, Cuneo
	France	16 locations, including HQ: Paris and Clermont (also TC)
	United Kingdom	Dundee, Stoke on Trent, Ballymena
	Hungary	Budapest, Nyiregyhaza
	Poland	Olsztyn, HQ: Warsaw

	Romania	Zalau, Floresti
	Russia:	Davydovo
Asia	Japan	Ohta, HQ:Tokyo
	China	Shenyeng, Shangai
	Thailand	Laem Chabang, Nong Khai, Phra Pradaeng, Dayong
	Singapore	HQ: Singapore

* HQ: headquarters, the remaining locations are sites.

** TC: organizational units of the Technological Centre.

1. Management Structure

At the very beginning of its operation Michelin was incorporated with the legal status of “*société en commandite par actions*” (SCA) – Partnership Limited by Shares. The result of it is that the company is managed by independent from the owners management team and is supervised by Supervisory Board. Within this organizational framework there are two categories of partners: “*les associés commanditaires*” (Limited Partners) – the shareholders – and “*les associés commandités*” (General Partners).

Limited Partners are only responsible for the company debt up to the amount of their contributions. At the shareholders meeting their appoint the managing Partners, whether General or Non-General, the Supervisory Board members- chosen from among the Company shareholders.

General Partners are both the Managing Partners and the shareholders. The Managing Partners in their capacity as General Partners are jointly liable for Michelin’s debt. Only the shareholder may approve the resignation of a General Partner.

The Group has two General Partners: one of the Managing Partners and Société Auxiliaire de Gestion (SAGES), a simplified Joint Stock company, whose sole purpose is to act as Managing Partner in the absence of any acting Managing Partner.

The *Managing Partnership* is Michelin’s top executive body. It is made up of one or several physical persons who may be General Partners or not, but enjoy the same powers. They report to the Supervisory Board and the Annual Shareholders Meeting. The Managing Partners are appointed by Extraordinary Shareholders Meeting and have to be unanimously approved by the General Partners. Michelin may have one or more Managing Partners. Since May, 11,

2007 the Michelin Group is led by 3 Managing Partners who define Group's strategic orientations in consultation with the Group's Executive Council (CEG).

The Supervisory Body acts on behalf of the shareholders and continuously monitors the management of the company. The composition of the Supervisory Board ensures that the management and the control functions are separated. The Supervisory Body also performs the functions of a Remuneration Committee responsible for reviewing the employee shareholder and stock option plans. The Supervisory Body has also appointed an Audit Committee that is responsible for preparing its account review and audit sessions

II. Michelin in Poland

It has been argued that it is vital to recognize "Solidarność" role not only as a trade union, but also as a quasi-political party and a social movement⁵¹. This observation is true for the whole trade union movement in Poland and bears serious consequences for the employer-employee relations: the government-employer was perceived as enemy to the trade unions- an opposition. Therefore there are still these sentiments of "fighting" and opposing to the employer and this attitude has to be changed to prepare grounds for modern labor relations based on negotiations and participation of workers.

1. History of Michelin Polska Sp z o.o.

In Poland Michelin has acquired a formerly state-owned enterprise, which was opened in 1967 as a decision taken up at the central level. The Olsztyńskie Enterprise of Rubber Industry "Stomil-Olsztyn" (pl. "Olsztyńskie Zakłady Przemysłu Gumowego") used to produce tires and rubber components required for the car production as well as other products such as preservatives.

From the beginning of 1995 till May, 2004 the enterprise was listed at the Warsaw Stock Exchange Market as "Stomil Olsztyn SA". In December 1995 Michelin bought 52% of shares in the state-owned "Stomil-Olsztyn". The investor started to buy shares of the remaining shareholders and has withdrawn the enterprises from the Stock Exchange Market. Meanwhile, in 1994 Michelin Polska Sp. z o.o. was set up in Warsaw. It was the first branch office of the Michelin Group in the Central and Eastern Europe. In January 2005 Michelin Polska S.A. was created as a result of merging the "Stomil-Olsztyn" production unit in Olsztyn and the

⁵¹ A. Rennie, J. Hardy, *Desperately seeking capitalism: Solidarity and Polish industrial relations in the 1990s* [in:] "Industrial Relations Journal", Volume 26 No. 4, December 1995; quoted after *Industrial relations in Poland: the emergence of a new model of labour relations?*, EIRO on-line: (<http://www.eurofound.europa.eu/eiro/1998/02/feature/eu9802184f.html>).

Michelin Polska S.A. Sp. z o.o. The two units have different functions: Olsztyn has remained the production unit, while Warsaw has become the Michelin Polska S.A. Sales Department. There is also the Michelin Training Center in Warsaw that offers training to sales forces of the rubber products from Poland and from the Baltic States. The production of the Michelin brand passenger car and truck tires started in 2001.

There were not any cases of collective dismissals when the foreign investor took over the company. There were some separations, but the reasons were natural, e.g. externalization of certain functions and their outsourcing as well as retiring of some workers. At present Michelin Polska S.A. employs 4300 people - out of which approx. 19% are employees (800 people) with higher education, and is one of the biggest structures of the Michelin Group in Europe. Despite the fact that the plant was quite modern already while Michelin took over, there are still many investment initiatives carried out and it is supposed to be one of the most modern plants in the Group. The plant does not face the problem of delocalization, which sometimes is a serious problem of the Western branches of the company.

2. Structure of the Michelin Polska production

The Michelin Group in Poland consists of the Sales Department in Warsaw and the composed out of 6 units production plant located in Olsztyn. The Sale Department is responsible for marketing and sales of the Michelin Group products in Poland and in the Baltic States.

The 3 production units are the following:

- Passenger Car and Delivery Car Production Unit
- Truck Tire Production Unit
- Agriculture Tire Production Unit

The 3 component production unit are the following:

- Cord Production Unit
- Form Production Unit
- Semi-Manufactured Article Production Unit.

The Michelin Group is 39th in the ranking of the biggest foreign investors in Poland and its market share has reached the level of 33%. Between 1999 and 1995 the company has invested in the Olsztyn production plant 151 mln USD. Since 2005 the government investment is carried out with a view to increase employment by 500 people. The company exports its products to 60 countries world-wide, 89% of the export goes to the European countries, out of which more than 70% is sent to the European Union countries.

Before we examine industrial relations at the Olsztyn Michelin plant, a general remark has to be made that access to any data related to this enterprise in Poland is a rather complicated task. Both HR Director himself and trade unionists agreed that “*the enterprise is closed*” and that there is an unwritten rule that says “*what happens at the enterprise, stays within enterprise*”.

3. Representation of workers in the Olsztyn Michelin plant

There are different forms of representation of workers in the Olsztyn Michelin plant: trade unions, the Council of Workers, representatives of the EWC, representatives of the Social Labour Inspection⁵². There are two trade union organizations at the Michelin plant: NSZZ “Solidarność” and MZZ “Chemik” (“The Chemist”), a division of the OPZZ⁵³. Out of 4300 employees 1240 people belong to trade unions, NSZZ “Solidarność” has 840 members, the remaining 400 belongs to the MZZ “Chemik” trade union⁵⁴. At present there are 4 full-time trade union representatives in the Michelin Polska S.A: 2 are from NSZZ “Solidarność” and the other 2 from OPZZ. Trade union members are mainly recruited from production workers. According to the trade union representative it is not very well received by an employer when

⁵² The Act of 4 February 1950 established “social labor inspection” (Spółeczna Inspekcja Pracy) as a structure to be established by company-level trade union organizations. The aim of the inspectors is to protect employees’ rights and ensure proper working conditions. The activities of this institution were later regulated by the Act of June 1983 on social labour inspection. Social labour inspection is a 'social service' rendered by employees, with the aim of ensuring the maintenance of safety at work by employers and the protection of the employee rights specified by labour law. Inspection is managed by company trade union organisations, but should represent the interests of all of a company's employees, regardless of whether or not they belong to trade unions. If an employer does not commit to actions recommended by the inspection with a view to improve conditions of work, he can be penalized by the inspection. The inspector is selected out of all employees; there should be one inspector per 150 employees mandated. Although the scope of the institution of social labour inspection is limited, it has influenced methods of exercising social control and influence over employers. Moreover, despite fundamental changes to the structure of the Polish economy in recent years, this institution has survived and is accepted by employers without reservations. (on the basis of “Social labour inspection examined”, *EIRO online*, <http://www.eurofound.europa.eu/eiro/2002/09/feature/pl0209106f.html>).

⁵³ The name “NSZZ Solidarność” means Independent Self-Governing Trade Union “Solidarity” (www.solidarnosc.org.pl); “OPZZ” means Poland-wide Agreement of the Trade Unions (www.opzz.org.pl). These are the biggest trade union organizations in Poland, historically opposed to each other that at the moment try to normalize their relations. Both of these organizations are taking part in the negotiations of the Tripartite Commission along with the third trade union Forum Związków Zawodowych (The Trade Union Forum; www.fzzz.org.pl).

⁵⁴ The composition of trade union organizations reflects the situation typical for Poland, where the two largest trade union organisations are OPZZ (the Polish Alliance of Trade Unions) with headquarters in Warsaw (www.opzz.org.pl) and NSZZ "Solidarność" (the Solidarity Independent and Self-Governing Trade Union), with a national committee in Gdańsk (www.solidarnosc.org.pl). Both organizations are affiliated at the European level and are members of ETUC. The tensions between NSZZ Solidarność and OPZZ led to the emergence in the early 1990s of a specific model of Polish trade unionism, with “conflicting pluralism” as its most conspicuous feature. A key element of this model was the existence within most companies of at least two competing trade unions, neither of which was most often able to prevail over the other or genuinely represent the workforce as a whole. The situation in the Michelin plant is a perfect example of this specific model of trade unionism.

an employee promoted to the managerial position maintains his/her trade union membership. The structure of the “Solidarność” trade union is regulated in the statute and is the following: there is a President, a Deputy-President, the Presidium, the Enterprise Commission and the General Assembly of Members.

The works within trade unions are organized in the following way: there is a permanent, 7-person – presidium. There are 20 people working in the Enterprise Commission, they come from different organizational units. Additionally, each organizational unit has its president. The Enterprise Commission gathers in average once per month-6 weeks depending on the number of issues that have to be taken care of. The Presidium has its meetings more often: usually once a week. It is responsible for preparing materials for the Enterprise Commission works that has a power to pass the law or transmit information to trade union leaders in the organizational units.

The Council of Workers has been functioning at the enterprise since September 2006 and comprises of 7 people as it is stipulated in an appropriate regulation. The two trade unions have signed the agreement stipulating that 4 posts and the secretary function will be allocated to “Solidarność” and 3 posts will be allocated to MZZ “Chemik”, as a consequence of its smaller number of members. The President function is to be rotated between the two unions on the yearly basis. The main purpose of the Council of Workers is to obtain information from an employer and it is an important support mechanism for trade union functioning. The Council can ask for financial and operational information, however it does not have prerogatives to conduct negotiations: negotiations can only be conducted by trade unions, while the Council has consultative-informational functions. Information obtained by the Council are more detailed and cover more subjects than information provided to trade unions; sometimes they are used by trade unions, for example for the purpose of salary negotiations. So far the agreement regulating cooperation between an employer and the Council has not been signed, so it is based on the appropriate law regulation. An agreement that is to detail and put into timeframe regulations from the law is being worked out at the moment; it is a.o., to precise what kind of information is to be automatically transferred to the Council and in what time. It should be signed within still in June 2007.

Despite the fact that the agreement on functioning of the Council of Workers has not been signed yet, its functioning is formalized to a great extent. According to one of the trade union representatives it is caused by the fact that when at the beginning relations were rather informal, it has happened a couple of times that the employer showed some documents and

later pretended that they were consulted with the Council. It is worth noticing that formalization of relations with an employer did not destroy an good climate of cooperation. It is worth noticing that the National Commission (pl. *“Komisja Krajowa”*) provided its branches with an example agreement on cooperation, what to expect, what should be included in the agreement and what should not be approved. The National Commission also provided training to its members. This training was highly evaluated by them and provided necessary knowledge to change profile of a negotiated agreement.

According to trade union representative the Council of Workers is somewhat new both for an employer and for an employee. As it has already been stated, it is a supporting mechanism for trade unions, while for an employer it is an additional obligation⁵⁵. Before the law on the Council of Workers was passed, an employer did not have to share the info with employees, but now he is obliged to do so and an institutionalized form of contacts exists. At the very initial stage the employer at the Michelin plant wanted to ignore the institution of the Council of Works, argued that the Council will be doubling trade union role and pleaded that trade unions have sufficient capacities to participate in the social dialogue and there was no need for additional body.

According to trade union representative, there are certain drawbacks of the law regulation on the Council of Workers: it is mainly financing of functioning of the Council. If the Council is established by trade union, the latter is responsible for financing it; while the Council is set up by an employer, he bears financial burden linked to its operation. The Council is very helpful in the trade union activity, but at the same time by stipulating that it is to be set up by trade unions, the impression employees may get that it is “Council of Trade Unions” and not “Council of Workers”, especially when the level of unionization is low and there are many more employees who are non-trade union members. This is not the case of Michelin Polska as 1/3 of employees is unionized.

Before Poland’s accession to the EU the Olsztyn plant representatives were taking part in the European Work Council meetings as observers. In 2004 the representatives of the Olsztyn Michelin plant joined the EWC: the presidents of the two trade unions are representatives of the Polish Michelin branch in the EWC. The Michelin Group comprises of 80 plants from all over the world. Representatives from all plants receive the same documents and information. There are different issues brought to the EWC meetings, they largely depend on the specificity of a single country. The EWC is a forum to exchange information on different

⁵⁵ It is interesting to note that our interlocutor used the word: “burden”, not “obligation”.

branches operation of the Group. There is a permanent presidium of the ECW that can take up an intervention in case it is needed.

4. Industrial relations in the Michelin Polska S.A.

According to the HR Director trade unions are treated as important partners, despite the fact that they are not representative for the total workforce. Industrial relations are described as “constructive”, usually leading to reaching consensus without any “taboo” subjects. According to one of the trade union representatives the relations between employer and employees’ representatives are not partnership: *“it is a clearly business relation where each partner takes care of his particular goal, so they are more a series of compromises than a real partnership”*.

HR Director believes that industrial relations in the Michelin plant are better while compared to the average climate of industrial relations in Poland. It is caused by favorable work conditions: health and safety norms are really high, salaries higher than average, the performance evaluation system and the retirement scheme is transparent). One of the interviewed trade union representatives agrees that relations with the employer are *“rational and constructive”*. According to this person the operation of the company has to be analyzed taking into consideration that it is a business operation and its unlimited goal is to make profit and *“if this perspective is adopted, the relations within the Michelin Polska enterprise should be perceived as better than the average relations between employer and the trade unions at the enterprises in Poland”*.

The effectiveness of cooperation between employer and employee representatives is constantly improving. At the very beginning there was a certain degree of mistrust, but gradually it has become easier to schedule meetings and work out solutions to important issues. The smoothness of the cooperation is greatly conditioned by the nature of the negotiated subject. There are regular meetings held between the HR Director and trade union representatives - usually presidents of NSZZ “Solidarność” and OPZZ - every Wednesday. There are different subjects discussed within the framework of these weekly meetings. At present, the most important subject are negotiations concerning compensation system. The weekly meetings last approx. 1 hour, have a semi-formal character and are followed by minutes including decisions that have been taken during the meetings. As one of the trade union representatives puts it: *“It is better to have minutes to avoid slipping of some subjects from the agenda later on”*. The practice of working out common action plans by the Council of Workers and an employer is practically non-existing; their cooperation means coordinating

dates as well as exchanging documents and information. Moreover, these meetings may be treated as the “climate barometer” that allow to detect potential area of tensions before they grow into serious conflicts. Additionally, there are also monthly meetings with a bigger number of participants. It is also possible to meet the HR Director in person on an ad-hoc basis – these meetings only depend on the availability of the HR Director. Trade unions presidents have the HR Director mobile phone and can call whenever the need arises.

The company management does see the value added of this constructive dialogue. The HR Director believes that it is a healthy situation when there is a partner for negotiations in the enterprise, it is easier to negotiate when there is an employee representation than when there are dozens of different trade union organizations. When there is an employee representation it is possible to have a constructive social dialogue valuable for the employer.

The HR Director evaluates very negatively transfer of the country-wide trade union policy down to enterprises as the general situation in Poland is very different from the situation within individual enterprises. The recent case of country-wide campaign aimed at salary increase is an example of cascading down general subjects, not necessarily applicable to individual firms. He believes that most likely trade union activists get a recommendation from their headquarters and are obliged to organize local actions. *“I perceive it as very destructive as our situation is very different from the average situation at the enterprises, therefore these actions are not appropriate”* the HR Director comments.

The Michelin Polska “in-site” unionization level is approx. 33% and it can be regarded as very high while compared with the unionisation level of the French site and very low while compared with the Danish site. However, it is important to take country specificity into consideration while analyzing “raw” data. For example in France there is a relatively low level of unionization at the enterprise, but the national structures are strong; in Denmark the level of unionization is 80%, therefore they do not need labor code as the collective agreement has taken over its role. So far, there have not been any attempts taken up to create new trade union at the Michelin plant. In general people are not interested to join unions. It is caused by the fact that emergence of trade union organisations is usually not very well-received by an employer and employees want to avoid confrontations with employer, especially on the labour market with a limited number of jobs.

There are not any representatives of the Michelin Polska in the Board of Directors or Supervisory Board - the enterprise statute does not foresee this type of representation.

To conclude, a relatively stable situation of the Michelin Olsztyn employees can be illustrated with Janusz Śniadek words, the President of the NSZZ “Solidarność” country-wide: *“You are*

really lucky as you just have to face every day problems, typical for the operation of an enterprise. But you do not have to fight over being or not being paid”.

5. Information and consultation practice

Both employer and employees’ representatives are trying to find the most effective way to exercise the right of information and consultations within the framework of cooperation with trade unions, Council of Workers and the European Work Council (EWC). The process of passing information and documentation is being formalized at present and the agreement regulating this sphere was to be signed in June 2007.

There are certain overlaps as far as the Council of Workers⁵⁶, the EWC and trade unions activity are concerned. The president of the NSZZ “Solidarność” trade union is also a delegate at the European Works Council, and is a member of the Council of Workers. The same concerns President of the MZZ Chemik (a division of the OPZZ), who is President of the Council of Workers and the delegate for the EWC. Trade unions indicated their representatives for the Council of Workers, whereas there were elections organized of the representatives to the EWC.

Potentially there may be some problems linked to the overlap of different bodies’ responsibilities. One of our interlocutors stated: *“It is really hard to find the right place for the Council of Workers at the enterprise like ours. There are trade unions that are entitled to obtaining the information, and later the same people meet within a different organizational framework and discuss the same issues, but from a different perspective”.*

Up till recently legal basis for passing information and documentation was the Polish law regulating trade union activity at the enterprise. According to the present regulation whenever employees ask for information, the HR Director submits this information to them. Representatives of employees believe that the information is transferred timely and there is enough time for consultation of the received material. There are not any regulations concerning information and consultation rights in the collective agreement. One of the trade union representatives observes that the collective agreement signed in 2001 (and still in force)

⁵⁶ It is worth noticing that there are two names functioning to describe representation of workers: “rada pracowników” – Council of Workers that functions in the private enterprises and „rada pracownicza” – Worker’s Council that functions in the public-owned enterprises. This institution is created on the basis of the Polish transposition of Directive on information and consultation rights.

was precisising the regulation on the trade union activity and has concentrated more on the employee rights, but not quite on information and consultation process.

There are training programs organized for trade union representatives, for this year training in negotiation skills is planned. HR Director says that *“Of course, training programs for trade union representatives organized and financed by employer may seem a bit controversial, but we [Michelin S.A. management] care for the educated social partners as this is more profitable for the company in the long-run”*. These training programs are more and more often co-financed from the UE funds. There were rare cases when employer denied participation of a trade union representative in the training programme: it was usually the case when training required too much time, for example took place on a weekly basis.

6. Limited contacts with stakeholders

There is no tradition of networking with the representatives from umbrella organizations, such as a confederation or a branch organization. NSZZ “Solidarność” belongs to the Country Chemical Section of the trade union and most likely this level of organization has contacts with the European umbrella organizations. However, there are not any contacts with the European-level umbrella organizations. This situation is strengthened by lack of knowledge of foreign languages and lack of funding for representation, for example possibility to finance visits of foreign guests.

There are good contacts established with the local authorities: Michelin in Olsztyn is the main employer in the region and is an important partner for the local authorities., especially the regional Labour Office.

HR Director is the President of Polish Association of Human Resources Management (the warmińsko-mazurski region branch) and a Member of the Board of Warmińsko-Mazurski Business Club. However, it seems to be linked to his private interests and not to the official responsibilities of the HR Director at the Michelin company.

7. Social dialogue at the enterprise and the Group levels

At present the most often discussed subject between social partners and employer is salary increase. Works on this subject lasted the last 6 months. Other current subjects include: re-qualification, change of norms and standards and changes in the internal work regulations. According to the representatives of employees the most controversial subjects at this moment are salary negotiations and defining framework for relations between the employer and employees (agreement on the Council of Workers functioning). Another important issues are:

internal work regulation, regulations concerning health and safety at work or social matters, for example allocation of the Enterprise Social Fund⁵⁷. It seems that the same subjects are important for employer and employees, there are not any visible conflicts in this regard.

Atmosphere of the social dialogue depends on the country where the Michelin branch is located. There are not any common subjects of negotiations that are being tackled at the Group level, but similar groups of subjects can be defined. There are specific local subjects important for social partners from different countries. According to the trade union representatives if anything takes place at the Group level, it is more passing the information than consulting employees.

According to the HR Director there are significant differences as regards to the national character, which result in differences in the negotiation style. For example the French social partners are said to be very tough negotiators. *“It has to be remembered that in 1999 our country introduced 4 reforms at one shot. In France 1/5th of the scope of reforms would not be accepted. We are naturally used to changes, open for changes, which can not be said about the Western countries. It is also a serious drawback of our situation, as we, Poles function much better in a “revolution-type” of situation than in a well-defined environment when the systematic work is necessary. It is more a question of difference of the national character than a characteristic of social partner organization”* comments HR Director.

8. European Works Council

Participation of the Polish representatives in the EWC allows for consulting issues important for the operation of Michelin in Poland and at the Group level. It is also possible to see the activities carried out in different branches from the Group level. According to the HR Director *“participation of the Polish representatives in the EWC has changed their attitude to social dialogue carried out in Poland, they became more constructive and it is easier to dialogue and negotiate with them”*.

- Effectiveness of the social dialogue within the EWC

HR Director believes that it is very hard to evaluate effectiveness of the EWC as there are different subjects that an enterprise has to deal with and the employer does not necessarily need to consult with employees' representatives all of them: *“In case of such sensitive*

⁵⁷ Enterprise Social Fund (pl. “Zakładowy Fundusz Świadczeń Społecznych”, ZFŚS) is a special fund created in the enterprises that employ minimum 20 employees (calculated as full-time jobs). Firms employing fewer employees are not obliged to create this funds. It is composed of specific tax deductions and a defined percentage of the payroll. In order to calculate it the average monthly salary in the previous year is used (in 2006 it was 2059,92 PLN). This Fund can finance such activities as holidays allowance, sport activities, housing allowance, social assistance, kindergartens or cultural activities.

subjects as, for example, salary increase it is better to implement final solution without any consultations". The requirement to consult certain issues is a kind of limitation for an employer. From the point of view of an employer there are "*subjects that need to be consulted with the employees and subjects that are minor, but still need to be consulted due to the law regulations*". One of the trade union representatives reports that the effectiveness of the EWC in Michelin is above the average as it results in working out appropriate solutions and obtain necessary information.

Trade union representatives have various opinions on effectiveness of the EWC: starting from neutral ("*a platform for passing information, but with limited execution role*") to very radical ones ("*it is an espionage for the European Commission and a place where people are observing each other*"). According to the negative opinions "*the employee representatives from Western Europe observe how their counterparts from the CEE countries take over their jobs, and the representatives from the CEE countries envy their counterparts from the Western Europe for their well-being, wealth and better conditions of work. The real problem of Western Europeans is accelerating technological and organizational competition, whereas for their CEE counterparts low salaries*". These differences result in different approaches to proceedings within the EWC structure. According to one of the Polish trade union representatives "*the representatives from the "old" EU countries do not enquire enough, while the Polish representatives to the EWC know precisely what issues they want to learn about, what issues they want to receive information on and consequently work towards realizing these two goals*".

- Lack of foreign language skills

Lack of foreign languages skills hinders significantly active participation of the Polish employee representatives to the EWC. The level of knowledge of French of the employee representatives to the EWC is basic. According to the law regulating the EWC functioning translation to all countries delegation languages has to be provided. Moreover, the employer is obliged to enable courses of a foreign language in which the EWC meeting are held. The Polish employee representatives to the EWC participate in the French language course financed by the employer (along with other 300 employees).

Documents received by the representatives to the EWC are translated to native languages of the representatives; in the Michelin Polska there is a person responsible for managing cooperation within the framework of the EWC, including translating documents sent from the EWC.

It is worth pointing out that the language barrier is a very serious obstacle to effective participation of the trade unions representatives from Poland - and the new MS countries in general - in the EWC works. This problem should not be ignored as it is not just a minor obstacle, but a condition that significantly reduces chances for international cooperation. Moreover, lack of foreign language skills renders impossible maintaining any informal contacts during (discussions) and between meetings (email or phone call exchange).

- Relations between “old” and “new” EU member states

According to one of the trade union representatives at the very beginning of their participation in the EWC meetings the Polish representatives were treated with a certain distance, sometimes as competitors. Trade union representative believes that it was caused by lower labor costs in Poland and transferring some of the assignments to the Polish branch which threatened branches located in the “old” member states with job losses and delocalization.

The Polish and local problems, for example a 30%- unemployment rate in the region- were not interesting for EWC representatives from the “old” EU countries. So on one hand there was lack of interest in the Polish specificity, and on the other uneasiness about loosing jobs in favor of the Michelin branch in Poland. The representatives from the “old” EU countries were not aware that the Polish plant is one of the biggest Michelin plants, one of the most innovative ones and that a significant number of the Polish employees has higher education.

It can be stated that openness in relations and common interests within the EWC are relative. Whenever there is a case of planned delocalization, the common grounds dissolve. The Polish representatives call for solidarity in working out and presenting common position as well as in offering mutual support in issues specific for one country.

Another observation of the Polish representative to the EWC is that the Polish branch does not have their representatives at the EWC Presidium. The feeling of one of the Polish representatives is that “*the presidium of the EWC is the “enclave” of the representatives form the “old” EU countries and is somehow reserved for them. It was also striking that there are not any women at the presidium*”. The Polish representatives hope that in the future election a representative from the “new” EU countries will be elected to the Presidium. There is one

post foreseen for a representative from these countries. In this case negotiations with the Hungarian and Romanian representatives and forming a coalition with them will be necessary.

Sometimes it is said that the representatives from the “new” EU countries are more liberal and willing to accept further going solutions to discussed problems. The Polish representative comments: *“It is likely to be a right judgment as the representatives for the “new” EU countries aim at getting some more rights, whereas the representatives from the “old” member states are concentrated on preserving their already existing rights”*.

In general, the EWC is perceived by the Polish trade union representatives as a forum for meeting, discussing, obtaining information and raising questions, but cooperation within the EWC framework does not lead to taking up common actions, for example protest actions at the Group or the EU level. According to one of the interlocutors, the EWC in Michelin is *“just a realization of the EU directive: we are not struggling for future existence of the concern as Michelin is in a very good shape. When we see these good financial results, we realize it would be a pity to organize strikes and, as a consequence, to destroy the company well-being. However, it would be good if we could participate in the prosperity of the company...”*.

The same interlocutor stresses the fact that, thanks to functioning within the framework of the EWC, the supranational identity of the concern employees is created: *“Thanks to the EWC meetings there are points of reference and it is possible to learn what is going on in different branches of the company. Recently we were bringing good news about further investment in the Olsztyn plant and the colleagues from Italy, France and Spain were reporting about closing down their plants”*.

- Subjects discussed at the EWC

Subjects discussed in the framework of the EWC immediately become general knowledge of the company and can become a “threat” subjects for the employer: these subjects are treated more seriously than those discussed only locally. This rule seems to be especially important in the Polish context: the Olsztyn branch of the Michelin company is “closed to outsiders” and does not want to see internal issues getting out to the Group level: the employer prefers to cope with them at the enterprise level.

Recently, especially “hot” subject is delocalization as all representatives are interested in securing jobs at their plant. Delocalization can be potentially a threat for the Western European countries, whereas it is an opportunity for the Polish plant – one of the sites where

these jobs get transferred. One of the interlocutors observes that *“ensuring competitiveness is a strategic goal of the company; sometimes reductions in one country can prevent from reducing a few times more employees in the future and/or in another country”*.

- Organization of works at the EWC

The works within the EWC are organized in 2 parts: the preparatory one where employee representatives can discuss issues important to them and have a chance to work out common positions and the plenary one where the questions are asked, the answers are given and the information is transferred. The EWC usually meets 3 or more times a year. The Michelin specificity is that the presidium of the EWC often meets in the countries where Michelin sites face challenges, for example serious employment cuts.

There are hardly any trainings for the employee representatives at the EWC. At the beginning of each 3-year-term of the EWC there is an introductory training program. This training program comprises also less formal elements such as study visit in a chosen site or an excursion. At the beginning of the plenary meetings the representatives introduce each other.

It seems that this number of training programs and events facilitating contacts among people is rather limited; enriching the list of available training programs could increase effectiveness of the cooperation within the EWC.

- EWC influence on exercising rights on information and consultation

Since the Council of Workers functions only a year, the EWC was the first addition to a traditional bi-partite social dialogue practice (employer - trade unions negotiations) at the enterprise. According to the trade union representative: *“participation in the EWC has widen the horizons of the employees and enabled them to realise that they are a part of a bigger Group. Now it is possible to learn what can be expected and/or required from the employer, what are working conditions in other countries, were are the most favorable working conditions and how is the social dialogue conducted in different branches of the Group”*.

Employees are aware of the EWC works as there is a company newsletter published every two months with articles on the EWC proceedings written by one of the Polish representatives. Moreover, employees' level of awareness concerning their rights and practices of dialoging with the employer has increased significantly.

- Cultural differences at the EWC

There seem to be important cultural differences among employee representatives from different countries. These differences are represented, among others, in adopted negotiation approaches: the representatives from the “old” member states seem to be more balanced in their speeches and proposed solutions than their counterparts from the “new” EU countries. One of interviewed trade union representatives believes that the “*confronting behavior of the representatives from the “new” EU countries is a tradition of the historical past and the role the trade unions played in the fight against the political system*”.

8. Future challenges of Michelin Polska S.A.

The biggest present challenge and priority for the enterprise from the perspective of the company management board is its further development. The Michelin plant in Olsztyn is still developing very intensively - it is one of the most modern plants in Poland, both from the investment point of view and from organizational and management point of view. As a result of this challenge there is a need for continuous human resources development, recruitment of employees with appropriate skills. At present 60 employees are getting “hands on experience” working in the Michelin branches outside of Poland. Our interlocutors agreed that study visits in foreign production sites enable to strengthen the relations and willingness to cooperate.

At the same time it has to be stated that Council of Workers is informed on the regular basis on the undertaken investments, however they are not consulted about or involved in investment decision making process. There are not any discussions concerning expanding the Michelin site or introducing new technological processes.

The second biggest important issue is improving safety at work. This is especially important in the case of Michelin – a production plant with a quite big number of people employed.

The third subject is recruitment and selection. Michelin Olsztyn is perceived as a good employer, therefore it does not encounter any problems with recruiting personnel. For the last 3 years approx. 1000 employees have been recruited. The recent migrations of young people to the UK and Ireland are slightly influencing the supply of workers in the region. Employees who stayed in Olsztyn compare their situation and are wondering whether they have made a good choice. Additionally, there are fewer candidates for work than in the past.

Conclusions

The law on information and consultation of workers is relatively new in the Polish law system. It was passed on April, 7, 2006⁵⁸. On the basis of this law the Council of Workers (in the private enterprises) or the Worker's Council (in the state-owned enterprises) are established. The Polish specificity is that the same people are in power in trade unions and act as representatives at the Council of Workers, and if the EWC exists- as it is the case in the Michelin plant in Olsztyn- also act as representatives to the EWC. The Polish specificity seems to be the fact that there are not any cases of non-unionized employee representatives at the enterprises and, as a consequence, sitting at the EWC.

The general perception of the Council of Workers and the EWC are positive: both bodies are perceived as institutional arrangements supporting trade union activity. They enable asking employer for certain information and guarantee that employer will submit these information to employees. Quite often the EWC representatives seek advice from the Council of Workers as to what questions should be asked at the EWC meeting.

Based on our findings it can be stated that most often the significance of the right on information and consultation is underestimated in Poland. Most often the employee representatives are informed about the enterprise situation, but hardly ever consulted. The EWC activities seem to show how the right to information and consultation can be exercised to the benefit of the employees.

The effectiveness of the cooperation within the EWC is hindered by lack of foreign language skills. It concerns both formal channels of cooperation (at the EWC meetings) as well as informal ones (through emails, phone calls, seeking expertise, etc.). This seems to be an important obstacle to an effective functioning of the employee representatives from the CC countries at the European level.

Current subjects of the social dialogue are very basic ones, and there are two dominating subject: compensation and conditions of work, compensation being the more important one and usually identified with salary increase. More advanced subjects, important to the enterprise functioning, are discussed very rarely.

The particular observation on the Michelin Polska in Olsztyn is that both trade unions along with the management of the enterprise agree that *“our company is closed for outsiders, we are very careful as to what information can see the light and we tend to prevent from leaking too much information on our internal situation to the external world”*.

⁵⁸ Dz. U. z dnia 10 maja 2006r, nr 79 poz. 550, *Ustawa z dnia 7 kwietnia 2006 r. o informowaniu pracowników i przeprowadzaniu z nimi konsultacji.*

ZAKŁADY AZOTOWE PUŁAWY SA

Anna Kwiatkiewicz - BPI Polska

1. Chemical industry in Poland: an overview

In 2005 the total value of sales of the chemical industry in Poland reached the level of 17.562 mln EUR (growth by 6,9% in comparison with 2004). This made up 10,2% of the sales value of the whole Polish industry and 12,9% of the sales value of processing industry. The chemical industry in Poland employs 212,2 thousand workers.

Table 1. Average employment in the chemical industry in 2003–2005 in thousand of persons

Industry – specification	Average employment		
	2003	2004	2005
Production of chemical products	95,0	95,5	96,4
Production of rubber and plastic goods	103,3	109,0	115,8
Total	198,3	204,5	212,2

Source: Central Statistical Office "Expenditures and results of industry in 2005 – April 2006"

The table below presents information of employment and labour efficiency, generated income and net profitability index as well as ownership structure of the 10 biggest Polish chemical companies.

Table 2. The 10 largest Polish chemical companies in 2005 (in income)

No.	Company name	Employment		Total income in million EUR	Labor efficiency in thousand EUR per person	Net profitability index in %	Ownership structure
		in total	incl. those with higher education				
1.	Polski Koncern Naftowy Orlen SA	21175	n/a	10233,04	483,254	11,1	On Warsaw Stock Exchange; the State Treasury as the largest shareholder.
2.	Grupa Chemiczna Ciech SA	n/a	n/a	548,571	n/a	4,9	On Warsaw Stock Exchange; the State Treasury as the largest shareholder.
3.	Zakłady Azotowe „Puławy” SA	3277	n/a	509,267	153,118	9,7	On Warsaw Stock Exchange; the State Treasury as the largest shareholder.
4.	Zakłady Chemiczne „Police” SA	2796	563	414,36	148,198	5,2	On Warsaw Stock Exchange; the State Treasury as the largest shareholder.
5.	Anwil SA	1448	337	366,832	253,341	8,8	On Warsaw Stock Exchange; 85% owned by Polski Koncern Naftowy (PKN)
6.	Polimex-Mostostal SA	2752	671	333,416	121,142	2,6	
7.	Zakłady Azotowe Kędzierzyn SA	1676	246	331,602	197,863	4,2	Owned by the State Treasury.
8.	Zakłady Azotowe w Tarnowie-Mościcach SA	2506	386	308,819	123,52	7,1	Owned by the State Treasury.

9.	Firma Chemiczna Dwory SA	1560	345	260,149	166,757	2	On Warsaw Stock Exchange.
10.	Basell Orlen Polyolefins sp. z o.o.	427	97	252,124	590,459	1,6	Owned by Polski Koncern Naftowy.

Source: "Chemical industry in Poland. Annual Report 2005", Polish Chamber of Chemical Industry, Warsaw 2006 (http://www.pipc.org.pl/pl/download/raport_roczny/2003/raport_roczny_2003_cz1.pdf)

Analysis of the above table allow to state that the majority of the Polish chemical companies generating the biggest profit usually remains the State property. The privatized sectors are the following ones: pharmaceutical, cosmetic production, rubber products as well as paint and varnish production⁵⁹. In all state-owned companies trade unions play a significant role in shaping company's future.

2. Zakłady Azotowe „Puławy” SA – company profile

For over 40 years Zakłady Azotowe “Puławy” SA has been the leader of the Polish chemical-fertilizer production industry. The company has the biggest level of sales of chemical and fertilizer products. The plant was constructed between 1960-1966 and is the biggest employer in the relatively low economically developed *lubelskie voivodeship*.

Till 1992 the company was state-owned, in 1992 the company was transferred into the State Treasury company – the State Treasury being a single owner of the majority of shares. In 2005 company was first noted at the Warsaw Stock Exchange. At present 50,75% of shares belongs to State Tresury, 9,9% of shares belongs to another state-owned company (Kompania Węglowa SA), 10,5% of shares is owned by employees, and the remaining 28,85% belongs to those shareholders whose total share does not have more than 5% of shares. In 2006 income of the “Puławy SA” was at the level of approx. 520 mln EUR, whereas net profit was at the level of 32 mln EUR.

In 1992 “Puławy” SA employed 5,5 thousand employees. At present there are 3,3 thousand employers. It is important to mention that the company has not experienced collective dismissals. Reductions in employment were caused by outsourcing of services indirectly related to the production, and a natural retirement process.

⁵⁹ All these companies employ fewer than 2500 workers.

Products of the company are present on the European, Eastern and American markets; they are exported to 50 countries of the world. More than 50% of the income comes from export. At the very beginning „Puławy” SA was aimed at producing fertilizers for the agriculture sector; over the time the production of chemical products has been growing. At present sales of chemicals is 40% of the total production and still continues to grow. One of the priority direction of the company development was constructing new lines for melamine production (Melamina I – 1977, Melamina II – 2001, Melamina III – 2003). The third melamine production line has enlarged “Puławy” SA production capacity to another 30 thousand tons per year. It is important to note that investment in new production lines and a long-term export experience has enabled “Puławy” SA an easier and smoother transformation from centrally-planned economy to free market economy. At present, “Puławy” SA is the only in Poland, and the third in the world melamine producer (92 tons/year). It produces 10% of the world and 20% of the European demand for this product.

3. Management structure of Zakłady Azotowe „Puławy”

As an introductory remark it is important to note that all state-owned companies are battle field for political influence. As many chemical production plants constructed before 1989 „Puławy” SA is a single-unit, big production plant. The biggest shareholder, State Treasury, aims at incorporating “Puławy” SA into another chemical company with a view to consolidate the chemical sector in Poland. Management of the company and trade union representatives prefer that “Puławy” SA remains an independent company and be itself an initiator of the chemical sector consolidation process. Recently the State Treasury, the majority shareholder, canceled from the Supervisory Board this employee representative who opposed its plans; the State Treasury also wants to cancel president of the company. It can be a beginning of the battle over legal status of the company. This is just to stress out that the political influence over “Puławy” SA is still very strong and sets the framework for the employee-employer relationship.

Supervisory Bard. Since 1992 Zakłady Azotowe “Puławy” is a joint stock company, with the Supervisory Bard and the Management Bard. Supervisory Board is appointed during General Assembly of company shareholders; it consists of 5-12 people. As long as the State Treasury is a company majority shareholder, one member of the Supervisory Board is appointed by the State Treasury. 2/5 of the Supervisory Body is appointed by company employees. Employee

candidates to the Supervisory Board are these people who, during elections, received 50% of votes + 1 vote (under the condition that election attendance was over 50% of employees). Employee representatives for the Supervisory Board does not have to fulfill requirements for other remaining members of the Supervisory Board; these requirements are higher education and at least a 5-year employment history.

Management Board. According to the charter of „Puławy” SA until the State Treasury is a shareholder and the company does not employ more than 500 employees, which obviously is not the case, the Supervisory Board appoints one person previously chosen by employees as a candidate for the Management Board. Management Board consists of 1 to 6 people. The conditions for employee representative to the Management Board are the same as for the employee representative to the Supervisory Board.

4. Employee representation at “Puławy” SA

In „Puławy” SA there are trade union organizations and workers’ council. According to information of NSZZ Solidarność trade union representatives approx. 2/3 of employees is trade union members. There are four trade union organizations at „Puławy” SA: Związek Zawodowy Pracowników Ruchu Ciągłego (ZZPRC) (*Trade Union of Shift Workers*), NSZZ “Solidarność” (*the Independent Trade Union “Solidarity”*), Związek Zawodowy Pracowników ZA Puławy (*Trade Unions of “Puławy” Company, a branch of the All-Poland Alliance of Trade Unions*) and Związek Inżynierów i Techników (*Trade Union of Engineers and Technicians*). It is difficult to estimate precise unionization rate at the company as trade unions are not keen on revealing data on their membership.

According to the data available from the ZZPRC website, this union has approx. 950 members. The NSZZ Solidarność trade union representatives are convinced that “Solidarność” trade union has fewer members. The two remaining trade unions together have approx. 450 members. It can be stated that there are 2 strong trade unions at the company and 2 minor ones.

The oldest trade union at „Puławy” SA is NSZZ Solidarność. The first “Solidarność” union was set up at the beginning of 80-ties, and was made illegal after introducing of the martial law. Instead, Związek Zawodowy Pracowników ZA Puławy was established. The „Solidarność” trade union was re-established after 1989.

The biggest trade union (ZZPRC) is addressed to one group of employees: shift employees. The status of this trade union does not allow its members to become members of another trade union organizations. According to their internal data, their membership is constantly growing⁶⁰. Another union concentrated on a chosen groups of employees is Związek Inżynierów i Techników – its members are line and top managers. At present it runs recruitment campaign addressed to employees without higher education. Both ZZPRC and Związek Inżynierów i Techników are members of trade union umbrella organization: Forum Związków Zawodowych (*the Trade Union Forum*).

Trade unions representatives of NSZZ „Solidarność” observe that joining trade unions is less popular than before. They believe that such a situation is caused by the fact that employees have become comfortable and expect that trade unions will regulate all employee-related issues: *“They believe that if trade unions exist, they do not have to do anything themselves. But this resembles a bit situation of a general without an army...”*. NSZZ “Solidarność” representatives believe that multi-trade unionism - 4 trade unions in one company - results in lack of solidarity among employees and their willingness to cooperate. They especially blame ZZPRC that addresses its activities to only one group of employees which results in deteriorating employee unity.

The second reason for decreasing trade union popularity at “Puławy” SA is, according to the interviewed trade union representatives, former and present governments and actions they have taken up. Trade union representatives believe that alterations of labour law and law regulations of trade union activity have resulted in reducing trade union influence over company operation, limiting their co-decision capacity and even limiting their power as consultative body. They point out that employer organization rights are extended at the same time. The speed of reducing trade unions influence depends on actions taken by each government⁶¹.

In case of “Puławy” SA 2/3 of employees are trade union members. In comparison with other companies of the sector, the average unionization rate is usually 1/4 or 1/3 employees. There is no data available on unionization rate in the chemical sector in Poland – trade unions organizations themselves are not willing to reveal data on their membership.

Both trade unions representatives and employer representative stress that “Puławy” SA has a good financial standing and is a stable company, especially while compared with other

⁶⁰ ZZPRC is the only trade union at “Puławy” SA having website and running internet forum for its employees (www.zzprc.pulawy.pl).

⁶¹ It is worth noticing that trade unions in Poland, not only from the chemical sector, believe that it would be a good idea to make trade union membership mandatory. At present unionization rate in Poland is approx. 18%.

chemical companies from the region. Salaries are said to be approx. 50% over the average salaries in the region. “Puławy” SA is perceived as a stable and reliable employer – as an example interlocutors cited 2000 candidates sending their application for a job.

5. Industrial relations at „Puławy” SA

According to the rules regulating workers’ council each month there are meetings of management board, the workers’ council and trade unions management. The format of these meetings is the following: trade union representatives ask questions and the management answers them. Apart from a regular calendar of meetings, trade unions management can always ask for a meeting with the representatives of the management board. This meeting should be organized within 6 days from placing a demand for organizing a meeting.

At present all costs generated by operation of the workers’ council are covered by trade unions. In case when there is a need, for example for a legal expertise, employer can agree to cover some costs of this service (usually 50%). It is important to note that the workers’ council functions in a very close cooperation with trade unions: it uses their premises and equipment. In the opinion of trade union representatives, transferring all costs linked to the workers’ council operation to trade unions causes that it functions in its minimum form and its activity is rather limited.

Four different trade unions and their representatives being members of the workers’ council may possibly result in clashes of interests within the framework of this representation body. As far as matters of a general interest such as salary level or employee interest are concerned, trade unions usually attempt to work out mutually satisfying solutions. However, there are differences among trade unions’ positions concerning, for example, working time. For now it is 33 hours/week for shift employees and 40 hours/week for regular employees. The proposed solutions are making it equal for regular and shift employees or introducing compensations for regular employees for longer working time. Despite the fact that there are some clashes of interest, officially there has not been any conflicts within the workers’ council. As one of interviewed trade unionists puts it: *“The main goal for creating workers’ council was effective defense of workers’ rights and securing appropriate organization of work. This is the main subject and such subjects have to be taken up together. For the very moment there was no controversies, so we are not biased against each other”*.

It is interesting to point out that trade union representatives of NSZZ “Solidarność” were not very supportive to the idea of setting up workers’ council. They wanted to follow the “Police” chemical plant example: “Police” signed collective agreement that better protected trade unions’ information and consultation right than general legal regulation on information and consultation. The initiator of setting up the workers’ council at „Puławy” SA was ZZPRC.

According to our interlocutors the degree of formality in relations between trade unions and the management is not very high. Trade unions and workers’ council representatives meet on a regular basis with the Supervisory Board members (especially with the employee representatives), the Management Board members (especially with the employee representatives) and the company president. It is important to note that the management and trade unions seem to cooperate and to be partners in managing the company. Trade unions treat “Puławy” SA as the organization that belongs to them, for which they feel responsible and co-manage.

According to the management representative employee representatives are important partners in the decision process, they are informed and consulted on current matters: *“In order to be consulted, one has to have an idea and a vision; this stage is responsibility of the management”*. This statement allows to draw a conclusion that employee representatives are not present in designing company strategy, they become involved only at the implementation stage. The final decisions are taken after consulting trade unionists; usually they have a form of a compromise. This way of proceeding characterizes working out solutions important to employee relations matters. However, while designing company collective agreement, employer and trade unions representatives have worked together from the very beginning, even at the conceptual stage.

The discussed subjects and the way in which trade unionists are involved, depends on the workers’ competences. They do not participate in implementing new technology or designing new company structure. The employer representative states: *“Among trade union members there are not any specialists in the field of new technologies or new directions of investment. These type of projects needs to be worked out in the quiet offices of the management”*.

According to the employer representatives the right to consultation with employee representatives does not always allow for quick solutions. At present a discussion on new organizational structure proposed by the management takes place at “Puławy” SA. This change has been planned for some years now, but each time employees opposed as they believed that there was no need for a change as the operation of a company was smooth and

profitable. It took half a year to convince trade union representatives that the change is necessary: *“Such a suspicious attitude was caused by a general fear towards change”*.

Employer representatives believe that through workers' council employee representatives can exercise a significant influence over the company operation. Employer is aware of the fact that sometimes employees/trade unionists obtain information in an informal way: *“Sometimes we pass the information to employee representatives too late. There are cases when rumors or fragmented information are known to the employees before management as an employer issues its official position”*.

Representatives of trade unions believe that the scope of information and consultation right is too limited. They would like to have a bigger influence on company operation: *“One is really important- both in the case of collective agreement as well as in consultation process- we do not talk “reaching the compromise” over a certain issue, but “give opinion” on it. We all know what it means to give opinion on something, no one really cares...It would be different if we were obliged to reach the compromise”*.

It is worth to point out a certain contradiction in the trade union representatives' opinions. On one hand they want to influence a company strategy, but on the other they say: *“dealing with a company strategy is not our role. At present 70% of the issues trade unions deal with is not their cup of tea. We have to watch out for the company interest all the time, follow the hidden plans of management. We commute to Ministries, approach the Prime Minister through our deputies in order to fight for the company well-being, whereas we should be taking care of employee matters and social issues and stay away from a company strategy”*.

Concluding, it can be stated that in the information and consultation process trade union representatives adopt the approach of approving solutions that do not harm employee interest and do not result in employee dismissals: *“We agree that we [the company] have to develop and keep the pace with progress”*.

6. Company collective agreement and the right for information and consultation

The collective agreement in force is the second one in the history of “Puławy” SA. The previous collective agreement was spoken out by the management in 2002. The reason for speaking out the agreement were financial difficulties of the company. According to trade union members: *“Previous agreement was an example agreement for other companies. Its stipulations were very modern”*. Apart from regulating employee-related issues, the collective

agreement defined procedures for consulting and reaching agreement between the management and employee representation – it guaranteed more extensive rights for trade unions than the present law on information and consultation. Despite that fact that it has been spoken out, the old agreement is still in force and will be in force until the new one is signed.

Besides precisising labour law stipulations, the new collective agreement will:

- guarantee at the company premises office for trade unions and some funds for running the office;
- finance trade union activity;
- enable trade unions making use of the company broadcasting station;
- guarantee access to information on quarterly reports, balance sheet, changes in employment, internal legal regulations on employee-related matters as well as on rules for employee compensation at each post;
- guarantee right for meetings with management in relation to collective and employee rights;
- make mandatory seeking employee representatives opinion on planned individual and collective dismissals.

7. Information and consultation process

According to trade union representatives workers' council has a right to give opinions on the management decisions. There is a 4-week consultation process: workers' council has 2 weeks to issue its opinion on a given subject and the Management Board has 2 weeks to issue their answer to the workers' council opinion. After this exchange of opinions there is usually a meeting organized, during which employer presents its solution and tries to convince workers' council to accept it.

Trade union representatives complain that very often information that should be consulted are passed to them too late and they do not have sufficient time to work out their position and, if needed, take up necessary counter-actions. Employer representative has also mentioned the problem of delays in passing on information for consultations to workers' council.

Trade unions are satisfied as the European directive on information and consultation of workers transposed to the Polish labour law guarantees them access to information, to which normally they would not have access. There is, however, also the second side of the story: according to the law on information and consultation workers' council representatives have access to secret information and are obliged to keep them secret. If such an information is

made public, the case can be event sent to the prosecutor's office. Additionally, members of workers' council are obliged to a secrecy as "Puławy" SA is noted on the Stock Exchange Market. If the secret information is made public and this influences value of the shares, the case can also be sent to the prosecutors' office. Trade union representatives claim that if one knows well the company, one knows ways to obtain necessary information: *"There are "spy interview techniques" that can be used. We have to monitor what is going on in the company, read between the lines and foresee what can happen. Otherwise, the decisions would be sometimes taken without our input and the only thing we are left with in such a situation is organizing a protests. We have our methods [to get information], but they are secret"*.

It is important to note that along the official information flow there is also the unofficial one, which is based on networking and is somewhat complementary to the official information flow. In reality, trade unions know more than what is passed to them officially. The conclusion that can be drawn is that the information and consultation process is not always very timely and open and this situation results in attempts to obtain the information unofficially.

8. Relations with the State Treasury

It is worth to underline that trade unions are perceived as an important player by the State Treasury. Their opinion is always taken into account, independently on the political affiliation of a party in power. Introducing any changes is rather difficult without prior agreement from the trade union representation. Employer representatives states that: *"trade unions at "Puławy" SA are strong organizations and they are demanding. Their demands usually concern keeping present level of employment, maintaining status quo of the organization and increase salaries"*. Trade union representatives are against selling company to a foreign investor: *"We have been fighting so the State Treasury keeps its shares. The State owns the company, company is Polish and is located in Poland and it should stay this way"*. Trade union representatives constantly monitor plans towards the company: *"We participate in all meetings of the Parliamentary State Treasury Council or the Economy one, if it is related to our industry. We participate and actively contribute, for example through interventions of deputies from our region. We have to be always ready and follow the ideas of the decision-makers"*.

Trade unionists stress that the State Treasury has also problems and there is a certain degree of incertitude. Each newly appointed government has its own ideas for the future of "Puławy"

SA. After parliamentary elections, there are always changes in the Management Board of the company. *“When there is a new management board, related usually to a new political option, there is a certain tendency to take it over and prepare nice posts for their friends. And they try to find an investor [foreign] who would buy the company and it would allow them to introduce their friends into management posts. We [trade unions] are the only ones who really care for the company”.*

9. Workers’ Council and the European Works Council (EWC)

The four trade unions functioning in “Puławy” have agreed that they should have the same number of posts at the workers’ council. The law on information and consultation of workers stipulates that at the companies employing more than 500 employees, workers’ council consists of 7 members; in order to guarantee the representivity at “Puławy” SA there are 8 members of the workers’ council (2 representatives for each of 4 trade unions). Trade unions are responsible for indicating their representatives to workers’ council. Workers’ council has been in operation since 2006 and according to one of trade unions representatives: *”This year it’s been setting up procedures and mechanisms for functioning, but nothing serious, subject-related has not been done yet”.*

It is important to note that trade unions in “Puławy” SA were not very keen on setting up workers’ council in the first place: *“Setting up workers’ council is in reality a slow process of eliminating trade unions. Workers’ council is a good solution when there are not trade unions at the company, or trade unions do not have majority and are not representative, otherwise the council is not needed”.* Some trade union representatives believe that workers’ council prerogatives should be, by law, delegated to trade unions. They are also convinced that setting up workers’ council results in creating organizational chaos.

Trade unions are convinced that they have a strong position at the company. As one of the interlocutors stated: *“We do not need EWC, we already have an employee representatives at the Supervisory and the Management Board, 2 representatives from our trade union side, 2 representatives at the Tripartite Commission Team, 2 representatives at the Tripartite Chemical Council- it gives us a possibility to consult and negotiate with our owner, the State Treasury. We also have our representatives within the framework of National Section for the Chemical Industry of our trade unions, we really do not need European Works Council”.* The level of knowledge on EWC and its functioning is rather weak among the interviewed trade

union representatives, they believe it is a very new formula, which has not yet achieved a significant level of development in Poland.

It is also important to note that trade union members in “Puławy” SA are not interested in establishing and maintaining contacts with other trade union organizations or umbrella organizations from the European or worldwide chemical sector: *”So far there has not been such a need, therefore we have not addressed anyone. They are competitors, anyway. Each organization secures its own interest”*. They are aware of the fact that there are ways to contact European organizations, for example the NSZZ “Solidarność” section from “Puławy” SA is a member of the Country-wide Chemical Sector Secretariat, which belongs to the European umbrella organizations⁶². However, contacts with them are very rare.

10. Conclusions: challenges: “hot issues” at „Puławy” SA

According to trade union representatives at present there are not any hot issues that are subject of discussions or even disputes between employer and employee representatives. The most recent and important subject is designing new company structure. Employer and employee representatives work together on reaching a compromise solution.

Another subject discussed with trade union members is a company strategy. They have agreed upon the strategy, the only problem may be implementation of it, which depends not only on the will of internal players, but is also a subject of external conditions, for example changing the ownership of “Puławy” SA within the State Treasury. Trade union representatives worry whether “Puławy” SA would be able to find a niche on the market between state- controlled players.

Zakłady Azotowe “Puławy” SA has been chosen as one of the companies for a case study despite the fact that there is no European Works Council at the company. The company is Polish and the majority shareholder is the State Treasury. However, in the author’s opinion, it was interesting to compare the company being a part of the international group (Michelin Polska) with the biggest Polish chemical company noted at the Warsaw Stock Exchange (“Puławy” SA): their approach to consultation and information process, attitudes towards the European Works Council and awareness of exercising information and consultation right within its framework.

⁶² It is important to note that interlocutors were not even able to name “the European umbrella organization” - it was ETUC.

It is important to note that in case of state-owned companies or companies where the State is the majority shareholder, political influence, especially, on the composition of its Management Board, remains significant. This situation sets the framework for industrial relations and social dialogue and tends to change with the change of the government.

It can be stated that relations with trade unions remain rather traditional in such companies as “Puławy” SA and the unionization rate is high above average unionization rate in Poland (approx. 18%). In the case of “Puławy” SA the unionization rate is approx. 60%, whereas a typical unionization rate for the chemical company in Poland is 25%-30%.

Trade unions at “Puławy” SA were not very keen on setting up workers’ council as they believe it is taking over power from them and results in overlapping of competences. They are convinced that workers’ council prerogatives should be delegated to trade unions. This example confirms what has been discovered while working on the Michelin case: usually the same people constitute trade union management and are representatives to workers’ council. There are not any cases that there are other employee representatives sitting at the workers’ council than trade union representatives. Trade union representatives at “Puławy” SA are even less supportive towards the European Work Council – they believe that the EWC is not needed as “Puławy” SA is not a European company, but the Polish one and the Polish company needs Polish solutions, not the European ones. In general trade unions at “Puławy” SA are against introducing foreign investor to the company. It has to be pointed out that the level of awareness as to the functioning of workers’ council and the EWC and its importance for improving information and consultation process is very weak at the big Polish companies. The same concerns need for cooperation at the European level, affiliation with the European level umbrella organizations and seeking contacts with foreign counterparts.

Trade union representatives at “Puławy” SA perceive themselves as involved in the company management and feel responsible for the company. Their overall evaluation of the information and consultation process is positive, however, they complain that sometimes the information is passed with a delay that renders impossible preparing trade union’s position on time. In order to be ensure that they are updated on time, they use some informal methods to obtain information. As a result, there is an official and unofficial information process within the company.

THE SOLVAY CASE STUDY

Riccardo Sanna (IRES)

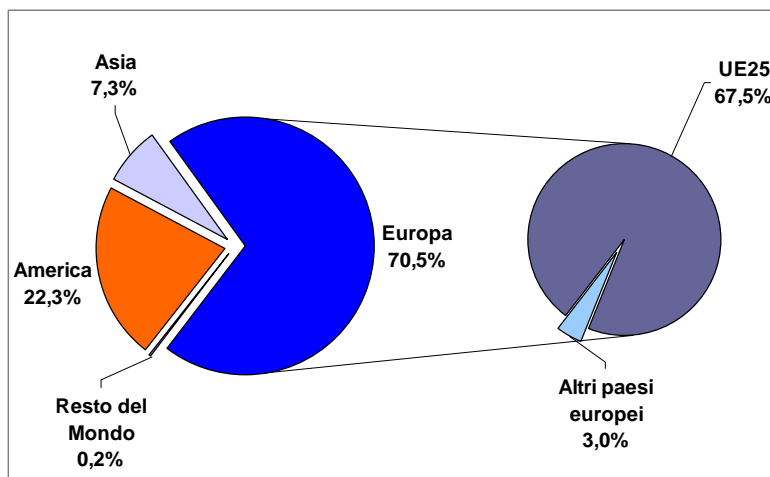
1. The company

Solvay S.A. is currently one of the principal European multinationals operating in the areas of chemicals, pharmaceuticals as well as in the production and transformation of plastic materials. Headquartered in Brussels, Solvay is present in Italy with 13 manufacturing plants. Its Italian head office is based in Milan, while its R&D centre, *Soelxis (Solutions for Excellence In Science)*, at Bollate, in Milan province.

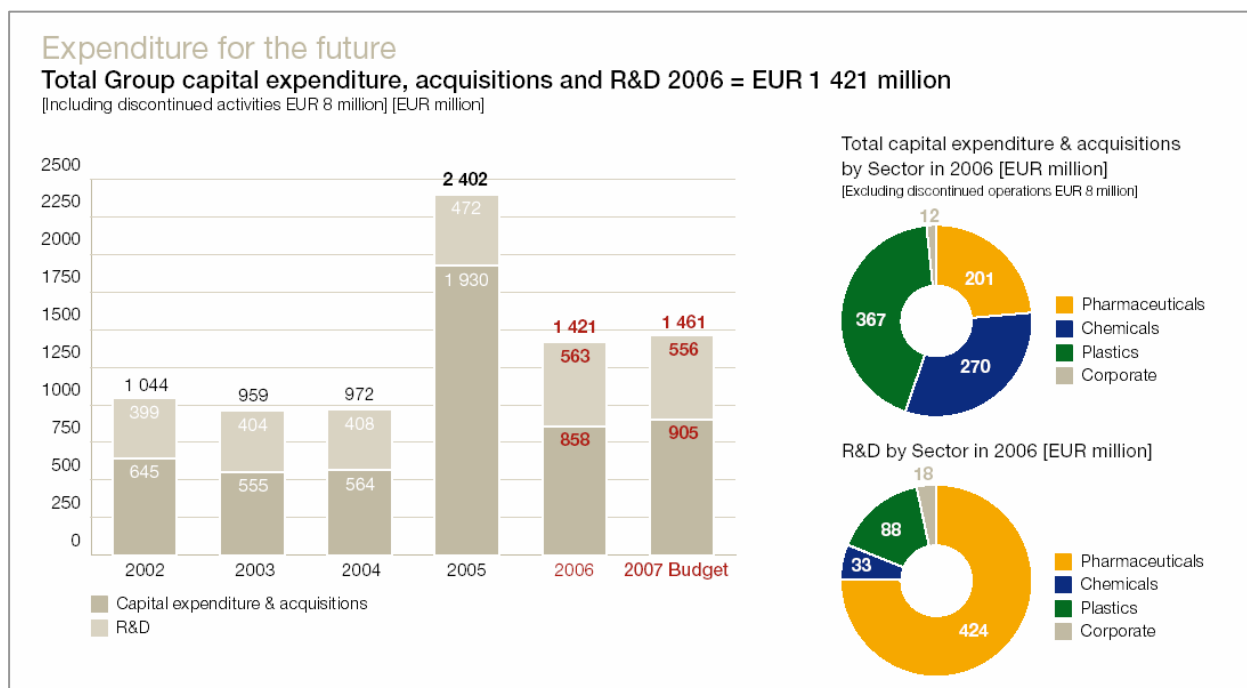
1.1 Historical remarks and current organisational structure

The history of the Solvay Group goes back to April 15, 1861, when Ernest Solvay, a man with a passionate interest for scientific innovation, patented the industrial production of sodium carbonate thanks to a revolutionary process with soda and ammoniac.

The Solvay Group, founded in 1863 to fully exploit this new procedure, soon grew into an aggregation of chemical and pharmaceutical industries specialising in four sectors (chemicals, plastics, transformation of plastic products and pharmaceuticals). It is currently a multinational with 400 operations across 50 countries, employing 29,258 persons, 2,500 of whom working in research. In EU-25, Solvay employs approximately 19,671, while workforce in non-EU Europe is 880 (70.2% of total workforce is employed in Europe as a whole); 2,142 are employed in Asia and the Pacific (7.3% of total workforce); 4,967 in the NAFTA zone and 1,550 in the MERCOSUR (22.3% of total workforce is in the Americas); 48 in the rest of the world (0.2%).



Solvay S.A. closed 2006 with a consolidated turnover of € 9.4 billion, up 18.7% from 2002. Gross fixed investments as well as those for R&D rose four times (respectively by 33% and 41%), up € 55 million only in 2006. In that same year, the Group recorded a net profit of € 817 million, rising over 60% compared to 2002. Group ROE⁶³ reached 19.4%, ahead of target by 4.4 percentage points. ROE in 2002 was approximately 14%, jumping to a record high in 2005 when it reached 22%.



Between 2002 and 2006, the Group's added value rose 14.7% (in nominal terms), compared to an 11.9% rise in labour cost (also considered in nominal terms): this variation may be partly attributed to a reduction of headcount, which fell by approximately 3.4% in the four years under consideration. However, nominal productivity in the Group's plants recorded over the same period an average growth of 18.8%, approximately 4.7 p. p. annually.

Turnover composition at Solvay sees substantially similar quotas (30%) in the chemicals, plastics and pharmaceuticals sectors, with some 10% generated by the transformation of plastic materials. A closer analysis, however, revealed that there was a slight preponderance of the pharmaceutical sector in terms of workforce. Notwithstanding the fact that the proportion of investments and acquisitions in the sector represented approximately 24%, the pharmaceutical segment alone absorbed 34% of total workforce (over 10,000 jobs), also considering R&D expenditure, which amounted to 75% of the total.

⁶³ Return On Common Equità is the company's global performance index.

In terms of industrial and commercial presence, 59% of the Solvay S.A. network covered Europe, 35% the Americas and 4% Asia and Oceania (2% the rest of the world). Corporate policy focused on a limited number of productive sectors where the company can leverage a high degree of technological knowhow besides a large commercial experience to gain international leadership. Solvay is a world market leader in a number of products: three products in the chemical sector (nine at a European level), one in the plastic material, two in the plastic transformation (two at a European level), three in the pharmaceutical.

Production is strongly diversified, with a highly articulated product portfolio comprising some 1,500 registered brands in a range of sectors. Some of the principal typologies of products include sodium products for glass- and metalworks, water depuration agents, chemical industry products, basic detergents, plastic materials and medicines for the cure of the nervous system and heart-related and gastroenterological disorders. This implies huge R&D investments as well as a highly qualified research team of specialised technicians and university graduates that currently is made up of over 3,000 persons.

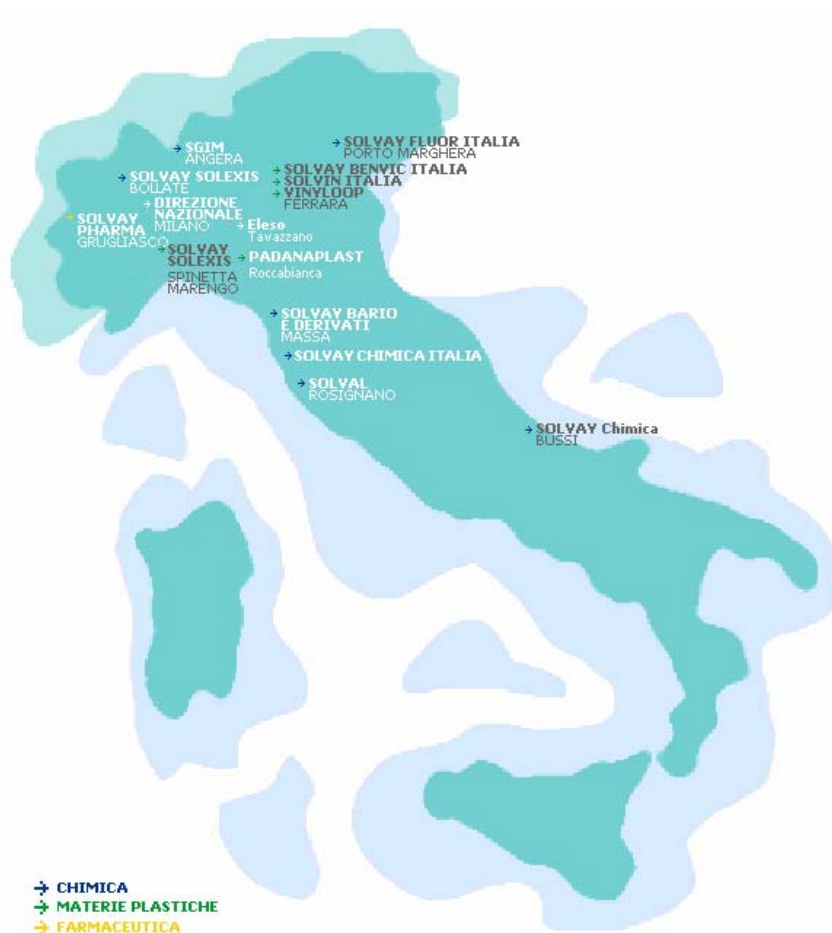
1.2 Solvay in Italy

The Group's first Italian plant was established in Tuscany at Rosignano, Livorno province, in 1912. A company town that has ever since maintained a strongly symbiotic relationship with its Solvay factory, which specialised since 1917 in the production of caustic soda, bicarbonate and sodium carbonate.

Solvay Chimica Italia is based on four strategic business units: soda ash, E.D.S., peroxides, detergents. The Rosignano plant currently produces sodium carbonates, sodium bicarbonate also for pharmaceutical use, calcium chloride, chlorine, chloride acid, chloromethane, plastic materials and hydrogen peroxide.

On an average, annual business volume at Rosignano Solvay alone amounts to approximately € 335 million, thanks also to the volume of investments and maintenance costs amounting to approximately € 46 million p.a.

Solvay's industrial network in Italy – which includes the partner companies Ineos, Rosen, Officina 2000, Roselectra – employs a total of 1,801 workers, including the indirect workforce. Working at Solvay are 745 full-time employees with open-ended contracts, out of whom 428 in production, 285 in services, 16 in R&D, 16 in corporate services.



Trade union presence at Rosignano has always been significant. Trade union density rate historically stands around 50%. Filcem-Cgil alone accounts for approximately 80% of trade union enrolled workers. The unitary union representative body (RSU) is made up of 14 members, out of whom 8 from Filcem-Cgil, 3 from Uilcem-Uil, 2 from Femca-Cisl and 1 from Ugl.

2. Industrial relations

2.1 Collective bargaining and participation rights

Over the years, the Italian trade union movement has seen much of its claims policy endorsed in the chemical sector where contracts have constantly improved, allowing for greater workers' participation in the corporate decision-making process and in contributing to the

definition of strategy. Already since the mid-1970s, Italian chemical trade unions⁶⁴ had been laying great emphasis on workers' participation in corporate management, so much so that observers have been talking about the "Chemical Formula" when commenting the peculiar contractual model that has developed in this sector.

Negotiation practice over the past thirty years has determined the development of the so-called "first parts" in industry-wide agreements, which are based on a system of trade union rights aimed at enhancing information, consultation and participation of workers with regard to a number of issues: industrial strategies, investment policies, organisation of work, training, safety, equal opportunities. Direct or indirect fallout on jobs and wages have led to the definition of shared instruments at a sectorial, group and plant levels, involving in the process the corresponding trade union levels. Such instruments are to be relied upon to define specific choices, when jobs are concerned, and to jointly analyse issues agreed by the social partners. These shared instruments are essentially industry-wide observatories, bilateral organisms and joint-commissions, and should also be considered alongside the agreements reached at Group level on performance premiums, which are defined according to modalities and methodologies referring to the company's profitability and productivity. These "incentives" provide an opportunity of dialogue for social partners who can thus meet to discuss not only the indicators to be utilised to measure corporate performance but, consequently, also the way the company should be run.

The industry-wide agreement for the chemicals sector signed in 2002 foresees that the "Observatory – without prejudice to the autonomy of enterprise and the respective responsibilities of entrepreneurs and trade union organisations – analyse and evaluate, with the periodicity demanded by the problems raised by the issues under discussion, those questions that may bear an impact on the sector as a whole, with a view to single out, as early as possible, growth opportunities, and the means to stimulate it, as well critical points, and the means to overcome them". Besides providing a common perspective for the definition of the negotiating framework, the 2002 industry-wide agreement foresees at a national-, company- and international-level a series of points that require "to be jointly discussed", among which domestic and international outlook and the consequences on the organisation of work, significant restructuring and the effects on employment.

⁶⁴ The Unitary Federation of Chemical Workers (Federazione Unitaria dei Lavoratori Chimici – FULC) gathers together the initiatives of the major chemical trade union organisation (Filcem, Femca e Uilcem) that are part of the Cgil, Cisl and Uil, the trade union confederations.

These aspects were significantly strengthened in the industry-wide contract that was renewed in 2006, were “social partners are jointly committed to single out and implement common action aimed at promoting and sustaining (..) industrial policy that, against a backdrop of sustainable development, can provide adequate and timely response to critical situations”.

As indicated in the industry-wide agreement itself, issues concerning workplace safety as well the eco-compatibility of corporate activity, continue to be negotiated at plant level (2nd level bargaining).

Against this backdrop of industrial relations in the chemical sector, the situation at Solvay is often more innovative with regard to the issues discussed at company-level and the way these are addressed – issues, it should be observed, that emerge following a joint analysis of the situation on the part of the social partners.

Solvay claims it has always been committed “to developing human resources with a view to developing the Group”. In formulating an investment strategy in human capital, both in the domestic and international markets, Solvay has opted to promote and develop the system of industrial relations, as amply documented in the protocols it has signed since 1969. A “continuous dialogue” has been kept up in Italian plants between the management and the workers’ representatives with a view to enhancing involvement in decision making and to improving corporate performance. All Solvay group company agreements in Italy comply with this framework, and are based on the principle that human resources constitute a crucial element for the quality of production, besides being a factor of success in consolidating quotas held in the markets of operation.

The relations that are referable to such processes are, substantially speaking, the contribution workers can give to output (shifts, working hours, “continuous” or “discreet” production cycles) and to productivity, and are mainly regulated by formal agreements. That which can be ascribed to processes of industrial democracy and, therefore, to greater participation in corporate policy, remain, on the other hand, within the informal sphere, although regulated by specific agreements regarding investments in the company’s social capital (for example, in terms of permanent education). Crucially, this exchange is based on reciprocal esteem and consideration even when conflicting lines of action are chosen. A Solvay official commented: *“At Solvay, the trade union representative is well prepared and responsible, he or she responds perfectly to the Group’s rationale of transparency and attention by addressing potential conflict and handling debate without overriding concrete*

necessity. There have been no instances, for example, of strikes declared without reason or that have not been thoroughly debated” (MAN).

The latest protocol of understanding (March 6, 2007) – which also outlined the progress in the implementation of the guidelines relating to the Rosignano Solvay industrial park set down in the Protocol of July 7, 2000 – lists the following targets: to lower environmental impact and to create conditions more conducive to the activities of the chemical centre; to improve the competitiveness of the products made at the plant and to create new activities, hopefully producing a spillover effect for both the local community and the workers.

The basic idea is that to safeguard employment and, therefore, the future of the company, it is necessary to be part of the process and not bear the brunt of it: it is necessary to intervene in the company’s strategic choices well in time. It is for this reason that trade unions in the chemical industry have insisted on the “quality of the agreements”: to define action aimed at strengthening the involvement of workers in corporate management and decision-making, for example, by favouring the development of industrial relations and encouraging the diffusion of an efficient industrial democracy.

Lately the debate on participation in Italy has been rekindled by the issuing of new EU regulations governing European Works Councils (EWC), the statute of the European Company and the right to information and consultation and the obligation to transform them into national law. Thanks to a series of agreements between social partners, in Italy these regulations have successively been transformed into law.

2.2 The European Works Councils

As Directive 94/45 expresses more the need to state a principle and an objective than to impose a single organisational form, EWC features, as well as the structure of information and consultation for workers, are therefore strongly influenced by the historical characteristics of the industrial relations in each country. The Solvay EWC in Italy has developed an internal as well as external dimension. The former is expressed by the degree of formal and informal cooperation existing between EWC members and by the ability of EWC and management to communicate and interact with each other and EWC with workers representatives. The latter is substantially expressed by the degree of interaction between EWC and the workers’ representative structures at a national level.

The EWC at Solvay S.A. was established following the implementation of the European Directive in 1995 with the “accord portant creation du comite d’entreprise europeen du

groupe Solvay”. As set down by the Group’s corporate centre, this first agreement, written in French, established that the trade union “formation” should be composed by a number of representatives for each country that is directly proportional to the distribution of plants in the various countries of operation⁶⁵. Naturally, the number of EWC representatives was again changed following EU enlargement to 25 and then 27 members.

By statute, the EWC is a body within the Group’s workers’ representations whose task is to provide information and consultation to workers on economic, financial and social matters that, considering the Group’s international reach, may affect the interests of workers throughout the EU. Besides underlining that information must be provided about the Group’s financial situation and strategy (bearing in mind the different business sectors and contexts), the statute also sets a number of guidelines regarding the transparency of the Group’s investment and expansion policies.

The EWC comprises:

- The Solvay CEO, who takes up the EWC chair
- The general secretary
- The head of human resources
- Workers’ representatives, chosen among the staff of Solvay group companies, and including at least one member for each EU country where Solvay employs a minimum of 150 workers. Italy is represented by three delegates from Rosignano Solvay and one for Solexis.

The statute also establishes the delegate designation procedures as well as the organisation and the functioning of the council. At the beginning, meetings would take place annually in May and would last three days during which workers’ representatives discussed the issues that were then presented to the management. Instituted right from the outset, an excellent practice consisted in distributing, one month prior to the meeting, a list of issues to be discussed with the corporate centre. Taking part in the meetings is a Solvay representative (the head of human resources of the French plants) whose task is to coordinate the works while ensuring that facilities and resources are available to enable the meeting to take place, from the presence of interpreters to logistics.

Generally consisting in joint analyses and proposals, information and consultation essentially concern: mergers and acquisitions especially if these foresee the setting up of joint ventures; outsourcing of services; workplace health and safety.

⁶⁵ In reality, there are two EWC within the Rosignano Solvay industrial park: the EWC of Ineos, a producer of plastic materials, is an altogether different entity. In fact, Ineos took over Solvay’s plastic production business in 2004.

As for restructuring operations deliberated by the Solvay S.A. corporate centre, a full-fledged European debate does not take place and only information is provided: *“Paradoxically, the issues raised by the restructuring is handled locally with the exclusive involvement of local workers’ representatives, therefore outside the framework of overall strategy”* (DCAE).

Starting 1998, a working group was established within the EWC to tackle initially the issues raised by the critical situation of PVC production and successively by other materials. Comprising five members (one delegate from Italy), the working group has some negotiating room with regard to a number of issues: accounts relating to business development; social and environmental impact; workplace health and safety. As for the latest point, a specific accord was signed (HSE Project).

Besides the annual one, meetings are held three or four times a year with a view to ensuring a constant dialogue between the social partners. The EWC was renewed last June 2007 for three years (expiry: May 2010). An innovation has been introduced: besides changes in the composition of the council ensuing EU enlargement, the accord foresees the presence of an “observer”, chosen among the workers’ representatives coming from one of the EU countries where Solvay employs less than 100 workers. The observer is chosen on a rotational basis among these countries and is indicated by the corporate centre after consultations with the EWC secretariat.

Currently three agreements have been signed at a European level. While this is a significant achievement, there are doubts as to the concrete possibility of applying the normative framework introduced. The Solvay Group corporate centre continues to play a dominant role in deciding strategy in the various territories of operation. Significantly, trade union representatives have emphasised the need to *“negotiate with the corporate centre before initiating the international coordination of EWC with a view to achieving equal rights and treatment everywhere in the interest of the Group.”* International strategic options, in fact, continue to be strictly connected to “corporate necessity”. As Group strategy and outlook are strongly dependant on the market, restructuring is viewed by the corporate centre more as an operational than a “political” necessity; thus, formally speaking, this issue is not one that calls for the direct involvement of workers, who are merely informed.

2.3 The Ethical Code

The Solvay Group applies an ethical code containing essentially five basic guidelines: focus on the client; ethical conduct; respect for individuals; sense of responsibility; and teamwork. According to the Solvay management, these five guidelines are of strategic relevance: *“The strategic objective is to bring to account the professional skills of our human resources as well as to strengthen team spirit in a proactive environment. To this end, we periodically organise conventions to motivate staff and update their skills, while training and retraining is priority at all corporate levels”* (MAN).

However, the presence of an ethical protocol throughout the Group is not in itself a guarantee for universally equal treatment. Solvay Italia EWC members we interviewed believed that while *“considering human resources as a key strategic factor is certainly important, it would, nevertheless, be more useful to create the conditions that would enable workers to participate more actively in the application of such principle”* through constant dialogues and a widening of the bargaining platform, both quantitatively and, above all, qualitatively.

3. Some considerations on the EWC and on workers’ participation

Generally speaking, EWC tend to reject the role as mere information providers, demanding for themselves a role as proactive advisers. When they succeed, there is an improvement in the quality of information as well as in the resources invested in the structure itself and, therefore, in company-level bargaining.

There is no doubt that enormous steps forward have been made since the establishment of EWC thanks also to the progressive acceleration in the internationalisation of the Group’s structure and commercial network. From the workers’ point of view what seems to matter most is the need to learn as thoroughly as possible both the company’s overall structure and the way industrial relations are developed and handled in the various business sectors and territories of operation. A stronger interaction between international representatives leads to a better understanding of corporate problems and, therefore, to the ability to find solutions in the interest not only of the workers but of the company itself. After all, exchange enhances relations – both formal and informal – as well as the familiarity with the agreements designed to improve working conditions.

Italian workers’ representatives (EWC members) have noticed a number of cultural differences. The history of industrial relations in each territory of operation directly reflects on the *modus operandi* of the different EWC members. Italian delegates believe that there is

better understanding with fellow delegates from Spain, Portugal and France than with those coming from *Core Europe* countries (such as Germany, Poland, Bulgaria) and from northern Europe (United Kingdom and Holland). An exception are the relations with Belgium: delegates have discovered over the years a lot of common ground both in terms of targets and means to achieve them as well as in their approach which is very similar to that adopted by the Italians – an approach characterised by a shared synthesis (internal) and unity of intent (with respect to the management). Italian delegates feel that each meeting is highly formative thanks to this exchange.

Another element that Italian delegates constantly highlight is the key role played by the national trade unions. Clearly, a stronger interaction and coordination is required between EWC and the confederations – especially Cgil – while maintaining separate spheres of action. This occurs because the tradition and structure of the workers’ representatives, on one hand, and the financial structure of the Italian corporate system, on the other hand, determine the connotations of the relations that are produced through the EWC.

As new economic democracy needs have combined in recent times with demands for industrial democracy, the possibility of enforcing information and consultation rights for worker, while acknowledged as being positive, is no longer sufficient. The problem appears to have shifted not only on the possibility – whenever possible – to sign agreements at both a local and international levels but, rather, on the actual possibility to fully implement those agreements. A trade union delegate commented: *“To demand the application of these protocols of participation seems to be the key issue nowadays. If workers continue to be unaware of their rights, there is no point to sign agreements”* (DS).

Indeed, Solvay Group EWC delegates have clearly realised that the demand for the application of the agreements is a key problem – an issue that seems to have been fully understood only by the Italian and German representatives. It follows that the starting point is, once again, represented by reciprocal responsibility, by the need of an international coordination.

From a structural point of view, the limits of the EWC system probably lie in the multinational nature of the company itself: *“having as a framework of reference a different legislation each time, and therefore different contracts and work relations, ultimately prevents the establishment of a system of relations that is beneficial to all. Until a single European legislation is in place, activity will be limited to providing information and to safeguarding workers’ right to access it, while EWC could actually be contributing to unifying labour at a European level* (DCAE) .

THE PIRELLI CASE STUDY

Salvo Leonardi - IRES

1. The company

1.1 Historical remarks and current organisational structure

The origin of the Group goes back to 1872 when Giovanni Battista Pirelli established Pirelli & C. in Milan, where a factory was set up the following year specialising in the manufacturing of rubber items. The first car tyre was made in 1901. During the 1900s Pirelli gradually emerged as one of the principal operators of Italian capitalism, cutting for itself a major role also in international markets, becoming the fifth largest tyre maker with a turnover that in 2006 amounted to € 3,940 million and a 6% share of the world market, a percentage that rises to 52% as far as products for sport and off-road vehicles is concerned.

For many decades, manufacturing at Pirelli was divided in three large sectors: tyres, cables and “diversified products”. Following a phase, culminating at the beginning of the Nineties, when the cable sectors surpassed the production of tyres, Pirelli decided in 1991 to exit initially the diversified products segment (13,000 employees across the world) and, successively, the cable and telecom systems businesses, where it had risen to fourth place in the world ranking in the 1990s. The Pirelli system, thus, continues to hinge on tyres, the manufacturing segment this brief study focuses on.

Following the expansion phase of the 1950s and 1960s driven in Europe by rising consumption and by the strong growth of automotive related industries, the 1970s were characterised by a serious energy crisis that produced a period of economic stagnation that heavily affected the entire car sector. All major car and tyre makers were forced to implement sweeping changes. In the tyre sector, Pirelli had fallen significantly behind in terms of the technological contents of its products, seriously jeopardising its presence in the market itself.

During that phase, the Group, on the one hand, focused on the search for markets that were more dynamic than its Italian and European outlets, implementing, on the other hand, a strategy aimed at manufacturing diversification and at delocalising productive plants in various sites. Involving the scrapping of multiplant structures, the latter saw the closure of the historic Milano-Bicocca factory. The productive and organisational restructuring implemented at that time had gradually assumed by the 1980s the post-fordist characteristics

of a “flexible specialisation”, whose ultimate aim was to position Pirelli products in the upper bracket of the international market.

There would be another turning point in Pirelli’s strategy in the 1990s. Leopoldo Pirelli, who had been at the helm since the 1960s, masterminding the restructuring of the 1970s and 1980s, relinquished the chairmanship for his ex son-in-law, Marco Tronchetti Provera, who had been working in the company since many years holding increasingly higher responsibilities. The basic tenet of the new chairman’s strategy was to concentrate exclusively on products having high innovative contents, focusing operations in markets showing highest potential in terms of profitability. The Pirelli & C. Group continued to concentrate on the traditional industrial sectors: tyres, cables and energy/TLC (ranking respectively 5th, 1st and 4th at world level). The Group, nevertheless, pursued diversification, setting its sights on activities not related to its tyre and cable core businesses, namely real estate.

Pirelli Spa is currently the Parent Company of a network of interests and operations in 22 countries across the world. Another key sector the Group targeted in its expansion and diversification drive was telecommunication. In 2001, the Pirelli Group acquired through Olimpia a shareholding in Olivetti (successively merged in Telecom Italia). Thanks to this operation, Pirelli gained a significant stake in Telecom Italia, one of Europe’s principal TLC operators.

In 2005, Pirelli sold its entire cable, telecommunication systems and energy business to Goldman Sachs, the American merchant bank. The ensuing new cables and system company was called Prysmian. At the time of its divestment, the cable business represented nearly 60% of Pirelli’s industrial output, with 52 plants across the globe (10 in Italy), approximately 13,000 employees (over 2,000 in Italy) as well as a presence in 14 European countries. Justified by the enormous debt arising from the acquisition of the controlling stake in the telephone giant, Telecom, the exit from the cable business, while substantially unheeded by the country’s political and trade union systems, was denounced by rubber-plastic sector workers’ representatives. Today the share prices of Pirelli’s former cable business has doubled with respect to what Pirelli earned in 2005.

However, Pirelli has partially succeeded in rebalancing its accounts. While debt in early 2000 amounted to € 1.56 billion, the Group is today € 1.3 in the black, an amount that is set to rise further with the divestment of its Telecom shareholdings. In September 2006, Tronchetti Provera resigned as Telecom Italia chairman. Meanwhitem the Board of Directors devaluated Olimpia shares by some € 2 billion, reducing book value from € 4 to € 3 per share. Following the devaluation of Telecom shares, the Pirelli Group was forced to declare a loss of € 1.4

billion in the third quarter of 2006, down from a profit of € 316 million in the corresponding period in 2005. From 2002 to 2005, workforce at Telecom went down from 101,000 to 85,000 employees and at Pirelli from 37,350 (2002) to 28,617 (2006).

1.2 Internationalisation: plants and occupation

Pirelli's geographical expansion started very early, with the setting up of cable manufacturing plants in Spain (1902), Great Britain (1914), Argentina (1917). Besides its traditional focus on Europe, where 40% of earnings was being generated (Italy excluded), a strategy aimed at increasing business abroad was further pursued, not only in South America, where it already held significant interests, but above all in the strategic markets of the USA and Asia. The objective of achieving scale through agreements and mergers with some of the biggest players in the industry so as to be able to compete through volumes and quality of products, was attempted without success several times. As part of this framework of initiatives were the setting up of Union, the short-lived partnership with Dunlop in the 1970s (1969-1981), as well as the failed takeover bids of the American and German companies Firestone (1988) and Continental (1991). Pirelli, however, did successfully acquire in 1988 Armstrong Tyre, a US maker.

The restructuring in the 1990s took place at a group level across Pirelli's international footprint and involved the closing down of factories in Greece, Thailand, United Kingdom as well as in Italy. There was also growing insistence concerning the sale of the tyre segment either to Michelin or Continental, rumours promptly denied by Pirelli.

Currently, the Pirelli Group has 24 plants in 25 countries. The tyre sector on its own can rely on 22 factories spread in Argentina, Brazil, Egypt, Germany, Italy, Spain, Turkey, United Kingdom, United States, Venezuela, combined with a worldwide commercial network covering over 120 countries.

As to December 31, 2005, the tyre sector employed 23,673 persons (tab. 1); 26,827 if the Group as a whole is taken into account. In 2001, tyre sector employees at worldwide Group level totalled nearly 20,000 (19,984).

Pirelli's biggest Italian plant is located at Settimo Torinese, with 1,170 employees. Next comes the factory at Bollate (Milan), with nearly 500 employees. The largest European plants include those located at Breuberg, Germany, with 1,650 employees, at Carlisle, England,

with 750 workers and at Manresa in Spain. Outside the EU, a significant plant is in Turkey at Izmit (Lastikleri), with just over 1,000 employees.

Tab. 1 – Workforce description

Workforce composition	Corporate	Tyres	Women
Officials	105	188	17%
Employees	1247	4700	36%
Industrial workers	23	18,785	2%
Total	1,375	23,673	
Workforce by geography			
Europe	1347	12,661	
North America	14	226	
Latin America	13	9,123	
Asia, Africa, Oceania	1	1,663	
Typology of working contract			
Open-ended		88.4%	
Fixed-term		8.8%	
Temporary work		2.8%	
Part-time		0.7%	
Stage/Other		615	
Repartition by gender			

Source: Pirelli, 2006

On November 29, 2006, Pirelli signed in Romania a ground lease for the construction of a plant specialising in the manufacturing of antiparticle filters for equipment. Located at Slatina, in south-western Romania, the plant is due to begin operations in the second-half of 2008 along two productive lines. The new manufacturing unit will employ approximately 1,200 employees. The export quota of Romanian-made tyres is expected to exceed 90%. For the first time ever in a Pirelli plant, the Romanian unit will also manufacture steel cord, which generally does not take place in the factories where tyres are made.

2. Industrial relations

2.1 Collective bargaining: levels, players and contents

Pirelli has represented a key laboratory for industrial relations in Italy. Since the end of the 1950s, workers at Pirelli have played a leading role within the country's trade union movement. Trade union density at Pirelli factories has been consistently high and workers have shown an extraordinary capacity for mobilisation expressed through original forms of struggle, such as the self-imposed reduction of work rhythms or the setting up of representative advisory organisms – the so-called CUB (*Comitati Unitari di Base* or “rank-and-file unitary committees”) – that contributed significantly to developing trade union democracy in Italy in 1970s and 1980s.

Thanks to the key role it plays – both within the chemical sector trade unions and the employers' association – Pirelli is in a position to condition the contents of industry-wide contracts, which may be defined, from this viewpoint, as company-oriented. Leopoldo Pirelli played a leading role in developing employers' association in Italy. From the trade union perspective, it was Pirelli's national coordinating body that for years compiled the draft package of requests for the renewal of industry-wide contracts in the rubber-plastic sector. Sergio Cofferati, CGIL's general secretary from 1994 to 2002, came from Pirelli, where he was a white collar employee.

Company- and plant-level bargaining in those years was intensive. In fact, as many as 102 agreements were signed between 1969 and 1980. Pirelli became a model for Italian industrial relations, in which the trade union, on the basis of its extraordinary presence among workers, emerged as an acknowledged counterpart for the corporate management. As the latter could not afford high levels of industrial conflict at a time of profound corporate restructuring, it chose to keep a strong control over the entire process by consulting, informing and involving the trade unions and by seeking a dialogue with the government and other public institutions. Well aware of the crisis underway in the industry during the 1970s, trade unions opted to cooperate with a view to give new impetus to the Group. Headcount reduction went ahead in a relatively soft manner through voluntary redundancy, early retirement, mobility, staff turnover freeze, negotiations with trade unions.

As from the mid-Eighties, the company accelerated its restructuring process, keeping well in focus the need to keep up production levels and to recuperate profitability rapidly. Although negotiated and agreed with trade unions, the transformations occurring in the course of the previous decade laid the structural foundations for a sudden change in corporate policy,

giving no options for workers' organisation but to act defensively. The impact on the internal system of industrial relations was clear as contracts were modulated on business sectors and plants. This phase was followed by the transformation of the Bicocca plant, which was turned into an administrative headquarters, and the transfer of manufacturing to Bollate, thereby separating factory workers from employees, the elder from the younger and more motivated and, therefore, less inclined to enrol in and support the trade union.

Also as a consequence of the fragmentation of the trade unions, bargaining was decentralised with the splitting up of the old Bicocca Workers' Council in three separate councils (tyres, cables and diversified products) and the election in 1993 of the RSU (*Unitary Work Council*) in various Group plants. The old national coordinating body – which played a crucial role in promoting the centralisation of bargaining within the Group – was replaced by national industrial federations.

The RSU currently in office at Bollate comprises 9 members: 6 from Filcem-Cgil, 2 from Femca-Cisl and 1 from Uilcem-Uil. Trade union density is approximately 50%, down from nearly 70% some fifteen years ago. At the Bicocca headquarters, where there are now only offices, trade union density is approximately 15%, while the RSU is made up of 12 members, 11 from Filcem-Cgil and one from Uilcem-Uil.

As for the contents of company-level bargaining in the period between 1986 and 2001, they essentially focus on two main issues: flexibility of working hours and the reduction of labour costs through wage equalisation and the implementation of entry wages for newly hired staff.

The negotiation policy of trade unions is to exchange higher flexibility of working hours with an increase of paid leave. The industry-wide contract signed in 2000 established a “time bank”, in which excess hours can be compensated either with time off or with training. The firm, on the other hand, is interested in exchanging full and non-negotiated working hour flexibility with salary increases substantially granted on an individual basis. The relationship became even more confrontational during the 1996 contract renewal when Bollate also applied the 7-day productive cycle after it had been introduced in the Group's German plant.

As for labour costs, the most delicate passage was represented by the revision of the qualification system (1992) and the institution of a lower entry salary for newly hired staff (2000). The Pirelli plants at Bollate and Settimo have increasingly relied on temporary workers (through job placing agencies), who amount to 8% to 10% of total workforce. The temporary workers called up are generally non-EU migrants, who are given the heaviest work loads.

The company, on the other hand, also leverages individual forms of salary reviews, granting benefits especially for officers and employees..

The latest agreement, signed in 2005, introduced the concept of performance-related pay. The criterion is the following: 42% is related to the volume produced, a further 42% to the quality and the remaining 16% to presence. The social partners have agreed to meet on a monthly basis to assess the agreed parameters after having verified the following: a) expected result trends, b) the definition of new targets and related parameters.

In Group companies, and especially in the tyre manufacturing units, the number of accidents is worryingly high, recording a frequency index between 3 and 4 that has even increased in recent years. According to 2005 data, staff training amounted to an average of 2.8 working days per person.

2.2 Participation and information and consultation rights

Pirelli companies that manufacture tyres apply the rubber-plastic industry-wide contract. Contract provisions were last renewed in 2004. Industrial relations at a national and corporate levels are regulated in the first part of the document where ample treatment is also given to issues concerning participation rights. That document obliges market-leading industrial groups, with plants spread across the national territory, to provide trade unions, during the specific meetings called by the signatories, with an updated overview of business outlook, technological innovation, organisation of work, situations of crises, corporate restructuring and training. The information and consultation procedure will take place through a “joint examination” on the part of the social partners.

The organisation of work has represented for many years the central issue of industrial relations at Pirelli. The transformations underway in the company since the end of the 1970s were aimed at reabsorbing these margins of knowledge and control workers had, by saturating execution time to the full. Contributing to achieving this target were a wide restructuring based on fragmentation and on the delocalisation of manufacturing in various units, besides the diffusion of automation and clerical work, generational turnover of workers, the implementation of organisational models of participation aimed at enhancing decentralisation of responsibilities and line management autonomy. The 1980s also saw the development of team work and quality clubs where the individual and/or collective involvement of workers started to take up models that were different, if not alternative, to those defined by trade union.

Trade unions nowadays complain that they have to threaten open conflict in order to access information and timely consultation. Unlike other Italian manufacturing companies, Pirelli has not set up a joint technical commission.

Pirelli lays great emphasis on the centrality of human resources, which, it believes, must be constantly motivated by leveraging internal communication, namely through forums, workshops, e-learning, team work, as well as through such initiatives as knowledge mapping, performance assessment and talent attraction/retention, which are all aimed at improving working methods and from which trade union representatives are barred.

2.3 The European Works Commission (EWC)

The development of the EWC at Pirelli should be considered in two different phases: prior to and after the sale of the cables as well as telecom and energy systems sectors in 2005. With the signing of the agreement of June 23, 2005, the EWC at Pirelli & C Spa exclusively comprises representatives of tyre sector workers, following the signing of an agreement dated April 12, 2006 whereby Prysmian Srl and a special negotiating team (*Delegazione Speciale di Negoziazione – SND*) set up an EWC representing the 7,480 Prysmian workers in Europe employed in the cables business.

Both agreements acknowledged the general framework of the accord of November 3, 1998, in which Pirelli Spa and the then DSN had agreed to establish an EWC for Pirelli Group companies operating in the EU. Drawn up on the basis of article 6 of Directive 45/94 and the inter-confederation agreement that acknowledged its implementation in the internal system (27/11/1996), the EWC included both tyre and cable sectors representatives. The total number of delegates was 20, all representing workers; that number rose to 22, starting August 31, 2000, 12 and 10 representatives respectively from the cable and tyre sectors. On the basis of the criteria adopted for its composition, the agreement established that one member should come from each of the countries where the Group employs at least 100 employees. Should the number of employees in a single country amount to at least 10% of the total number of employees in the EU, that country will be allotted an extra member, with the addition of another for each further 5%.

By virtue of the total number of workers employed, Italy was the country with the largest representation in the old unitary EWC. EWC members hold office for three years. Five delegates – elected on a majority basis within the EWC – make up the restricted committee. So far the secretary has always been Italian, according to what had been previously agreed.

The restricted committee meets in coincidence with the plenary meeting, prior to the meeting with the management. Traditionally, the latter is represented in the annual EWC meetings by the general manager of human resources. While meetings are generally held on an annual basis, a number of extraordinary meetings were convened in recent times (three) following the announcement of key restructuring initiatives within the Group. The possibility to convene extraordinary meetings is expressly stated in the EWC statute, specifically when there are “important corporate changes (ownership and organisational structure), and the opening, restructuring and closure of offices, plants and manufacturing units”.

Generally speaking, the agenda is defined in the first day of the meeting. Issues are debated and voted within the EWC and relayed to the management during the plenary session. The latter replies either off hand or with slides after having previously, and more formally, illustrated the accounts and provided an overview of the Group’s occupational situation. It will be up to the company to handle all secretarial work as well as take down minutes of the meetings, for whose organisation the company sets aside € 30,000 for each meeting. When approved, the minutes may be divulged to trade unions national representatives. Premises, secretarial office or IT connectivity have not been specifically foreseen for EWC activity. The training of delegates is not included among the company’s obligations and may be provided by the trade union organisation itself. Experts may be called in at the expense of the company (limited to one person). So far Italian delegates have done so only once.

Following the sale of the cables and telecom and energy systems to Prysmian, and the consequent downsizing of plants and workforce in Europe, the number of EWC delegates had to be adapted to the Pirelli Group’s shrinking size. The original number of 20 members was reduced to 12, in representation of the 12,470 workers employed in just four countries: Italy, Germany, United Kingdom and Spain. In compliance with the agreement of June 23, 2005, out of the 12 EWC delegates 5 come from Italy, 3 from Germany, 2 from the UK and 2 from Spain.

Tab. 2 – EWC Pirelli

Country	Employees	% of the total workforce in the UE	N° EWC delegates
Italy	6.120	49%	5
Germany	2.965	23%	3
UK	1.842	15%	2
Spain	1.268	10%	2
Others	275	3%	0
Total	12.470	100%	12

It should be observed that notwithstanding a significantly lower headcount (7,480), albeit in a number of countries that is four times bigger than Pirelli's, Prysmian set up a EWC comprising 17 members, 5 of whom from Italy.

Besides the number of delegates, the social partners have confirmed, in the 2005 agreement, the provisions set down in the November 1998 accord. Since 2005 – when changes were initiated following the sale of the cables business – the new and leaner Pirelli EWC has yet to meet. Clearly this is the principal critical factor concerning the functioning – or, rather, non-functioning – of this organism.

By virtue of its international dimension, Pirelli has defined an ethical code, in which it prohibits child labour, grants scholarships to the children of workers and launches health prevention campaign in Argentina, Venezuela and Brazil.

3. Trade unions reps and officers evaluation

In November 2005, Pirelli launched a survey involving all Group units aimed at gauging satisfaction levels among the workers of tyre manufacturing. 69% of managerial and professional staff and employees responded to the questionnaire, showing that on an assessment scale ranging from 1 to 10, average satisfaction level was 7.4. Best ratings came from staff in Venezuela (8.1) and Brazil (7.2), while the worst from employees in Italy and Turkey (7) and the United Kingdom (6,9). The unitary union representative body (RSU) at Bicocca also carried out in 2007 a survey among its workers. The outcome was highly critical especially with regard to management and to human resources investments (wages, career, training). This survey, in addition, revealed that workers were very concerned about the future of Italian plants, which they believed were under pressure because investment was going elsewhere, namely in countries such as Romania where labour was cheaper.

Trade unions, too, expressed major concern for the future of Italian plants, especially the one at Bollate. What they fear most is the break-up of what is one of the last Italian-based multinationals, as the sale of the cables business could be followed by the decision to also exit the tyre manufacturing sector in Italy. A trade unionist and former unitary EWC delegate who was interviewed believed the problem was strategic: *“The temptation is for the company to continue investing in low labour cost countries. We all perfectly know that the ‘historical’ phase is over, but what continues to be unclear is where we are heading”* (S2). The recent divestment of its TLC interests should herald the return of Pirelli to tyre manufacturing, its historical core business. What continues to be unclear is where the earnings generated by the divestment will be put. A trade union delegate of the Bollate unitary union representative body said: *“We would like to understand the manufacturing specialisation the company intends to give to each plant before providing an assessment on the investment policy it wishes to implement successively”* (DS1). While another trade unionist believed that *“from an exquisitely theoretical point of view, an industrialist should invest the earning from the TLC sale in the only industrial sector remaining. In other words, investments should focus on technological contents and on R&D. But if I observe Tronchetti’s history, this not likely to happen* (S2).

Mr Tronchetti Provera’s declaration about giving new impetus to the Settimo Torinese plant is viewed positively, but trade unions are cautious. *“Let’s see what happens in concrete terms. The company should, in any case, empanel a negotiating table to discuss this appreciable intention. The key issue continues to be that the Romanian plant will be able to produce annually 6 million tyres by 2008, which is the productive output of all Italian plants put together. It ultimately all boils down to the following equation: either Pirelli sells 12 million pieces, which is double the amount it sells currently, or a lot of jobs will be lost, naturally in Italy”*. The trade unionist added: *“Should Pirelli delocalise manufacturing, Michelin announced it would bring manufacturing back to France from elsewhere in Europe; Michelin will not transfer manufacturing to Romania, but bring it backl to France. Is the problem exclusively related to labour costs?”* (S1)

As for industrial relations at Pirelli, the underlying idea is that *“of a big multinational, capable of maintaining a strong presence in the world market. A brand that sells well. But it seems to have forgotten the importance of industrial relations. What is still in place comes from old style bargaining, and nothing new has emerged. Of course, nobody gets fired here and we always find solutions that are socially less traumatic when restructuring or downsizing occurs”* (S1). A similar view is also shared by S2: *“The industrial relations*

system is largely unsatisfactory, and this depends exclusively on the management's (..) Relations are difficult. We carry on with the ordinary stuff, but as soon as negotiations deal with more substantial matters, it takes months and months before we find solutions that had been agreed to previously but which were not implemented because the boss didn't give the go-ahead" (S2).

The picture is different in the other Pirelli plants in Italy: *"At the Bollate plants we have maintained and consolidated contractual practices relating to performance premiums, difficult working hours and organisation of work. The results achieved have been comforting and have brought about positive change for workers, as testified also by the number of workers who joined the trade union"(S1).* Nevertheless, there is little trade union representatives can do about the organisation of work. *"We know that in the German factory a worker is in charge of only one machine, while here in Italy that same factory worker is in charge of two" (DS1).*

Conflict, rather than participation, continues to be the most efficient instrument to achieve results. *"Whatever we manage to obtain, we obtain it through strikes (or by threatening to go on strike). It's always a question of power. Even when dealing with such issues a safety and health. A perfect example was the issue regarding the implementation of toxic fume aspirators" (DS1).* This was a concept also emphasised by another trade unionist: *"Conflict has always been the only element that can solve controversies, find solutions. We also observed that conflict also flared between human resources managers" (S2).*

As for EWC, following the exit from the cables business, a critical point is represented by the delay in revising the charter, with regard to the change in the number of delegates, and in convening a fresh meeting. *"The Pirelli EWC has not met since two years. Yet when it did meet, the impression our representative got was that management was there simply to provide information and that delegates from other countries were attending simply to mind the interests of their plants back home" (DS 1).* The former Pirelli unitary EWC (currently Prysmian EWC delegate): *"The Pirelli EWC now has a new secretary, but the meeting convened for June was postponed for health reasons. Following the exit from the cable sector, changes to the agreement were unanimously agreed by all delegates. It is urgent to update the agreement and when that happens it will be crucial that national structure contribute in more active way than in the past" (S2).* At an international level, the trade union does not seem to be in a position to maintain a unitary stance, revealing a deeply entrenched nationalism and parochialism.

The EWC also shown this weakness, as each delegate is concerned only about the future of the plant he or she represents. Every delegate brings to these meetings his or her own brand of industrial relations. *“The impression I got was that the Germans were the most accurate, while the Spanish the weakest. And, similarly, colectiove bargaining continued to be weak in the UK as well. Whenever we meet English delegates they are always keen to know more about our pension system, probably because theirs is so different. When the EWC still had French delegates coming from the cables business that has since been sold to the Americans, their presence was much felt, with their always very precise queries. Then there are the Romanians and the Turkish, who participate at EWC meetings as guests because their countries are EU candidates. They are better inclined towards the company. In particular, they appreciate its social system, where Pirelli pays into the complementary workers’ health fund” (S1).*

A delegate who has been in both the Pirelli and Prysmian EWC said: *“There is truly very little Europeanism within the EWC. Delegates are much more concerned about plants back home and sadly lack a broader vision. I feel there is along way to go before this attitude changes. It would be better if we worked out changes to the current Directive, envisaging for these organisms a broader and more efficient representation, going beyond the task of providing information and consultation” (S2).*

GLAXOSMITHKLINE – GSK

Richard Pond - WLRI

1. Company background

GlaxoSmithKline (GSK) is one of the world's leading pharmaceuticals companies with its headquarters in the UK. By market value it is one of the biggest five companies in the UK and in the top 25 worldwide. Some of the companies that currently make up the group date back to the middle of the 19th century, however, GSK was created at the end of 2000 through a merger of two major pharmaceuticals and consumer products groups – Smithkline Beecham and Glaxo Wellcome. Both were themselves relatively recent creations. Smithkline Beecham was the result of a merger in 1989 between the US-based Smithkline Beckman group and Beecham Group of the UK. In 1995 the two UK companies Glaxo Holdings and Wellcome Trust merged to form Glaxo Wellcome. These developments reflect the nature of the global pharmaceuticals industry with companies competing at high profit margins and requiring substantial resources to invest in the long-term development of new products.

GSK produces a range of pharmaceuticals that treat six major disease areas – asthma, virus control, infections, mental health, diabetes and digestive conditions. Vaccines are also an important element of the company's production and it is developing new treatments for cancer. However, GSK is also well-known for a range of consumer products such as the Ribena, Lucozade and Horlicks drinks and Aquafresh, Macleans and Sensodyne toothpaste brands. The company manufactures over-the-counter drugs such as the Panadol painkiller and Gaviscon indigestion treatment. Nicorette and Niquitin are two of its smoking control products. Its main pharmaceutical products currently include *Seretide/Advair* for asthma and chronic obstructive pulmonary disease (worldwide sales of £3.3bn in 2006), the *Avandia* group of products for diabetes (worldwide sales of £1.6bn in 2006), *Coreg* for heart disease, *Lamictal* for epilepsy and bipolar disorder, and *Valtrex* for herpes.

With 6.3 per cent of the world pharmaceuticals market, GSK ranks second behind Pfizer of the US which has around 8 per cent. It is the third largest company in the world in terms of over-the-counter medicine and oral hygiene products.

Total turnover increased by nine per cent in 2006 to £23.2 billion with pharmaceuticals accounting for £20.1 billion and consumer healthcare for £3.1 billion. Profits were up by 14% to £7.8 billion, taking the profit margin to 33.6 per cent. Overall Europe accounts for just

under 60% of GSK's £24bn turnover. Since 2000 turnover has increased by 28% and pre-tax profits by 30%.

In October 2007 the company announced third quarter turnover and profits slightly down on 2006 but also revealed that it was setting aside £1.5 billion in restructuring costs in plans that will affect all three main divisions – manufacturing, sales and research and development. GSK said that problems with its Avandia diabetes drug in the US and increased competition from generic drug manufacturers in the near future were the main reasons behind the restructuring programme. The company would begin a new phase in its operational excellence programme that would mean a different approach to sales and a streamlining of global manufacturing. The company has been piloting projects that have demonstrated that levels of sales can be maintained or even improved with a smaller sales workforce. In manufacturing a further rationalisation of sites is foreseen. In 2000 the company had 108 sites worldwide. This had been reduced to 80 by 2006 but a further substantial reduction is planned to take place by 2010.

GSK has a corporate head office in London and operational headquarters in Philadelphia and Research Triangle Park, USA. Its main research and development facilities are in the UK, the USA, Japan, Italy, Spain and Belgium while there are manufacturing facilities in 37 countries. The major markets for the Group's products are the USA, France, Japan, the UK, Italy, Germany and Spain.

The company has pharmaceutical and consumer healthcare sales and administrative facilities in virtually all European countries. There are specific vaccine operations in Hungary, Germany and France while the centre of the company's vaccine research is based at Rixensart in Belgium. There are 19 general research and development facilities in Europe with 12 in the UK, three in Spain, two in France and one each in Belgium and Italy. The Global Manufacturing and Supply division has 28 sites in Europe – 10 in the UK, three in France, two each in Spain, Ireland, Belgium, Germany and Italy and one each in Poland and Romania.

2. Employment

GSK employs over 100,000 people in 117 countries. This number has fallen by just under 5.9% since 2000 with the largest percentage fall in manufacturing with a 10% decline. The group has operations in 44 European countries including all the 27 European Union member states.

The average number of persons employed by GSK – 2000 and 2006

	2006	2000	% change
Manufacturing	32,403	36,177	-10.4
Selling, general and administration	53,665	55,365	-3.1
Research and development	15,734	16,659	-5.6
Total	101,802	108,201	-5.9

These figures include contract and temporary staff.. According to GSK's 2006 Corporate Responsibility report there are around 44,000 staff in sales and 9,000 in administration.

The company's publications and reports focus in particular on employee satisfaction, communication and diversity as key employment policies. Its 2006 Corporate Responsibility report states: "A workforce with diverse backgrounds, cultures and outlooks helps us to better understand the needs of different patients and customers. Only by delivering genuine equality of opportunity can we be sure that we have the best people in the right jobs." Worldwide women make up 39% of management, up from 34% in 2003. In the UK just over 18 percent of GSK employees are from minority ethnic groups compared to 12.5 per cent of the total UK population. The company also has a number of employee networks that support professional growth and provide a forum for employees with similar backgrounds to meet and discuss issues of shared concern. Each employee network has an executive sponsor who helps in setting and achieving goals, obtaining resources, and promoting network objectives among senior management. Networks for Asian, African American, Hispanic, Gay, Lesbian, Bisexual or Transgender employees are currently in operation.

GSK ranked fourth in a survey, Britain's Top Employers 2007, run by Corporate Research Foundation and the Guardian newspaper.

3. Social dialogue and collective bargaining

GSK's 2007 Corporate Responsibility report says that: "Good internal communication is important in achieving our business objectives as well as creating an open and inclusive work environment." The report goes on to mention several ways in which the company communicates with employees listing in the first place a range of methods of direct contact including:

- myGSK, a global intranet site providing news and updates and a question and answer section where employees can put questions directly to the chief executive and senior executives;
- web broadcasts from GSK senior management, including 16 during 2006 from executive team members, for employees at major sites;

- the internal magazine, *Spirit*, reaches around 34,000 employees throughout the company four times a year – many sites also produce local newsletters;
- confidential feedback mechanisms enabling employees to raise concerns, such as an Integrity Helpline;
- regular employee surveys; and
- 44 ‘townhall’ sessions during 2006 where employees have the opportunity to discuss the progress of the business, raise questions and give feedback.

The report then refers to social dialogue mechanisms such as the European works council, known as the European Employees Consultative Forum and, where it is normal practice, national arrangements such as the new information and consultation forum established in the UK in 2006.

The Corporate Responsibility report doesn’t mention trade unions specifically but the GSK website does include a statement that: “We also recognise trade unions for consultation - as well as collective bargaining - in many countries worldwide.” The website also refers to freedom of association and reveals that the company believes most of its 33,000 manufacturing workers are organised by trade unions. In the UK trade union membership certainly extends beyond this category with Unite, the largest trade union in the UK, organising also among research and administrative staff.

Unite was formed in May 2007 from the merger of two unions Amicus and the Transport and General Workers Union (TGWU). Both these unions organised in GSK with Amicus mainly concentrating on scientific and technical staff while the TGWU organised manufacturing and administrative staff. The GMB general union and USDAW distribution workers’ union also have a presence in the company, although smaller than Unite.

As is usual in the private sector in the UK there is no sectoral collective agreement for the pharmaceuticals or chemicals industries and in the case of GSK collective bargaining takes place mainly at plant level. So there are separate agreements for the main manufacturing plants. However, some research and development staff in the South East are covered by a collective agreement that applies across five different locations.

With no national level collective bargaining and, until 2006, no national works council system in place, consultation in the UK had taken place through staff committees for the various divisions of the company – House and Corporate Staff, Pharmaceuticals, Pharmaceuticals Research and Development (R&D), Consumer Healthcare R&D and Global

Manufacturing and Supply (GMS). In fact, the GMS division had site consultative committees as well as a GMS UK Coordinating Committee to coordinate feedback from site committees.

On the trade union side a national committee of employee representatives (shop stewards) has existed for some time and meets twice a year. So this has provided a mechanism for European works council matters to be discussed and disseminated down through to local level.

Both the employee and management representatives interviewed for this case study acknowledged that the French, Belgian and German members of the European Employees' Consultative Forum and Organising Sub-Committee had had an important influence over how it operated. With no real works council tradition in the UK, the UK and Irish members of the Sub-Committee said that they had benefited in particular from the greater experience of their continental colleagues.

Industrial relations within GSK have been relatively peaceful with no major disputes or industrial action. The management representatives interviewed for this case study characterised industrial relations in the UK as generally good with the trade unions, they believed, having a positive view of the company.

Unions have organised campaigns opposing plant closures in Speke in the North West and Montrose in Scotland. The Speke closure went ahead but GSK decided to reverse its decision on the Montrose plant. The closure of the Montrose plant which employed 300 people had been announced in 2004 and was to take effect in 2006 as part of the company's global manufacturing strategy. However, GSK decided to retain 250 jobs and pump more investment into the site following a review of its need to maintain supplies of treatments for diabetes, prostate and heart problems.

In fact, probably the most controversial national issue in recent years was when Amicus (now Unite) attacked what it regarded as excessive pay for GSK's directors and in particular a pay and severance package for chief executive Jean-Pierre Garnier. The union managed to mobilise a substantial level of support among some of GSK's larger shareholders and in 2003, Garnier's pay package was rejected by the GSK annual general meeting and the company had to revise the way it drew up directors' contracts.

4. The GSK European Employee Consultative Forum and its Operating Sub-Committee - background

Both GSK’s predecessor companies had European works councils. Smithkline Beecham’s European Employee Forum had been established in 1998 and Glaxo Wellcome’s European Communication Forum agreement was signed in June 1997. The merged companies set up the European Employee Consultation Forum (EECF) in May 2001 with the main amendment to its constitution coming in January 2004 to take account of the enlargement of the European Union.

Details of representation on the Forum are set out in annex one. The UK with just over 40% of total employment in Europe has seven (21%) of the 33 seats on the Forum (the UK’s representation also covers Malta and Cyprus). France, Italy and Spain each have three seats while Belgium’s three seats include representation for Luxembourg. Poland has two seats while Spain’s two seats include representation for Portugal. Austria, the Netherlands, Greece and Ireland each have one seat while the rest of the seats are shared between countries with one for Sweden and Denmark, one for Hungary and Slovenia, one for the three Baltic states, one for Iceland, Finland and Norway, and one for Romania and Bulgaria.

The formula for distribution of seats is as follows:

Number of employees	Number of EECF seats
up to 1,500	1
1,501-3,000	2
3,001-6,000	3
6,001-10,000	4
10,001-15,000	5
15,001-20,000	6
more than 20,000	7

The Constitution specifies 33 as the maximum number of employee representatives and if the above formula means there are more than 33 representatives then it is up to the Operating Sub-Committee to agree changes to keep to the 33 maximum.

The EECF constitution follows a fairly standard pattern for most European works councils making clear that: “the purpose of the Forum will be to share information and to provide an opportunity for timely consultation, with elected representatives of the countries covered by this agreement, on the Company’s strategy and transnational operations as they affect the interests of employees in at least two countries covered by this agreement.”

The Constitution sets out the areas that the Forum will cover|:

- the strategy, structure, economic and financial situation of the business in Europe;
 - the probable development of the business, production and sales in Europe;
 - the situation and probable trend in employment and investments;
 - substantial changes concerning the organisation;
 - the introduction of new working methods or production processes;
 - transfers of production;
 - mergers, cut backs or closures of undertakings, establishments or important parts thereof;
- and
- collective redundancies insofar as they affect the businesses' operations within Europe.

The Forum meets once a year but has an Operating Sub-Committee that meets four times a year. The Sub-Committee consists of five employee and up to five management representatives. There are joint chairs – one employee representative and the chair of the Forum itself who is a management representative appointed by the company. Employee representatives get to meet without management in advance of the Forum and Sub-Committee meetings.

The five employee representatives on the Sub-Committee currently come from the UK, Belgium, France, Germany and Ireland and the employee chair is from the UK.

The Sub-Committee agrees the topics for the agenda of the Forum as well as the information to be provided and the timing, duration and location of Forum meetings. The constitution also requires that the Sub-Committee is provided with information in “exceptional circumstances – ie where the Company intends to implement decisions, which may significantly and substantially affect the employment interests of employees within at least two countries.”

5. The GSK European Employee Consultative Forum and its Operating Sub-Committee - in practice

The Operating Sub-Committee meets at least four times and year and there were additional meetings in 2003 and 2005 to deal with special matters. In early 2007 the Sub-Committee met in both January and February in order to discuss in detail an official trade union grievance over consultation (see below). However, apart from the formal meetings the trade union officials interviewed (the UK and Irish members of the Operating Sub-Committee) for this

project also indicated that there is regular contact between management and the employee chair of the Sub-Committee.

The trade union officials explained that when a restructuring issue arises the employee chair of the Sub-Committee is normally contacted and he will initially consult with the other employee Sub-Committee members and then the EECF members. At the end of the consultation he will then recommend whether it is better for the matter to be dealt with by the Sub-Committee along with employee representatives from the affected country or countries or whether it is necessary to convene a full meeting of the Forum.

The view of the two trade union officials and indications of feedback from EECF members after Forum meetings is that GSK provides very detailed information, both in terms of updating reps on regular developments within the company with a range of senior managers attending the forum to provide annual reviews of the parts of the company for which they are responsible or to give briefings on new projects that they are about to implement. In fact, there is now some pressure to try to get two EECF meetings a year, even if the second meeting involves employee representatives only, in order to deal with the full range of topics that need to be discussed.

Each Forum meeting allows for adjournments at appropriate points so that employee reps can consult among themselves and decide how to respond to management presentations.

The union officials interviewed indicated that the Forum and Sub-Committee were able to discuss a wide range of matters and that there was, in effect, a recognition that within a global company like GSK it was often difficult to say that a new policy or investment or restructuring would only affect a particular area. For example, takeovers in the USA had been raised and questions answered by the company in full acknowledgement that major developments in the USA could have knock-on effects on operations in Europe. At a recent meeting of the Operating Sub-Committee it was pointed out that management were in contact with the joint chair of the Sub-Committee “to ensure that he was made aware of announcements even when they did not impact directly on Europe.”

Generally, the employee reps believe that the Forum and Sub-Committee to quiz senior managers about projects and company strategy. However, they also see this as quite a challenge because the company is often seen to set out all the main arguments for a project with detailed figures in support and it is difficult for employee reps to respond and offer any alternative proposals. At a special meeting of the Sub-Committee convened in September 2006 to discuss a planned restructuring in Europe, the employee reps were minuted with the view that: “as always, it was difficult to challenge the rationale behind the proposal as the

management had thought it through thoroughly before presenting to the Operating Sub-Committee. At the same time, the employee representatives understood and appreciated having been given such a detailed presentation of the proposals.” In fact, both the two trade union officials and two management representatives who were interviewed for the project agreed that one important effect of the EECF was to put pressure on management to think through their policies in detail as they knew they would have to justify them under close scrutiny from employee reps.

Immediately after the merger that created GSK, the role of the newly merged European works council and the Organising Sub-Committee was particularly important as they provided opportunities to discuss the strategy of the new company and to monitor the restructuring process that had a significant impact on manufacturing sites across Europe. The joint meeting of the Glaxo Wellcome and Smithkline Beecham European works councils in 2001 was generally given a positive assessment by employee representatives but they: “indicated that whilst they appreciated the various commitments to further consultations they also felt that additional information could possibly have been provided at the present time in connection with the implications of the merger, the proposed GMS [Global Manufacturing Supply] network redesign and the three-year R&D review.”

More recently several major European projects have been raised within the Sub-Committee and Forum. In 2005-06 the company reorganised its distribution and supply chain and kept employee representatives informed while carrying out the required and specific negotiations at national level when these were required. In this case, it involved in particular the closure of a site in Belgium and the creation of new distribution centres in France and Germany. A comprehensive presentation was given to the full Forum meeting in 2005 and then the Sub-Committee was able to monitor further developments.

At the Forum meeting in 2005 employee representatives had raised some concerns about the timing of the announcement and the consultation process. The director responsible for the project had presented the proposals to the Forum and said that: “the company remained open-minded about the situation and would be prepared to give consideration to any alternative views that were presented.”

In another case, IT services in Europe were affected by a global management decision to standardise service processes and to take advantage of economies of scale. The outcome was closure of a support centre in Hamburg. Employee representatives at European level were briefed on the project, the reasoning behind it and the proposed phased closure of the Hamburg site. They were also informed about the consultation that would take place with

works council representatives in Germany with communication also with the wider organisation in Germany and other relevant staff in Europe.

In this particular case the employees' side was concerned about the timing of the consultation and whether or not the company had really begun the consultation with a view to getting employee reps' responses and taking them into account when implementing the policy. Management argued that they faced a difficult decision as to when it was best to consult. They were particularly concerned that any discussions at European level should coincide with, and not pre-empt, consultations at national level at the workplaces directly affected by the restructuring proposals. This was to ensure that there were no conflicts between the various levels of consultation. In this specific case management also maintained that they could not have consulted earlier because the feasibility of the project was still under review.

Two developments in 2006 led to EECF reps raising their concerns about the level and timing of consultation over restructuring. A reorganisation of GSK's European Medical Service had been discussed at a special meeting of the Organising Sub-Committee in September. However, the employee representatives argued that consultation over the EMS changes should have begun earlier. In a separate matter, the employee reps complained that information on the takeover of Domantis had not been provided to EECF reps until after an announcement on the deal had appeared on GSK's intranet. The employee reps acknowledged that in this particular case the takeover did not affect the situation of employees in at least two countries in Europe, as stipulated in the EECF Constitution. However, they argued that it would be more appropriate to provide them with information in advance so that they could then see for themselves what the potential impact would be.

More generally the employee reps also restated their wish to receive more information about GSK's future strategy, giving as an example of good practice recent briefings provided on the strategy in the global manufacturing and supply division. Overall the employee representatives felt that there "had been a deterioration in the supply of timely information and consultation over the recent period and expressed a desire for this situation to be corrected."

The Operating Sub-Committee decided to seek expert advice on the EMS case and raised an official grievance through a letter sent to GSK chief executive Jean-Pierre Garnier. The letter, sent in December 2006, led to the discussion at the Sub-Committee in January and to an additional special meeting in February.

Although GSK management maintained that they had consulted properly and fully in line with the EECF constitution, they agreed to try to improve things in two ways. Firstly, they said that: “at future meetings of the Operating Sub-Committee, the Management Representatives, in addition to reporting on current business activities, would seek to explain the strategic intent.” They also said that they would try “to ensure that, insofar as it as possible, information would be obtained about future company announcements...so that due consideration could be given to inform the EECF, in order to discuss any possible implications for Europe.”

Employee representatives on the Sub-Committee welcomed “the move as a small step but one that should improve the situation.” They also requested that any information provided as part of a consultation should be available at least one week before a meeting and that with future company announcements, “even those based on global decisions, such as the decision to create an R&D presence in China, full consideration would be given to the possible impact on the businesses in Europe.”

The outcome of the meeting was that the employee representatives were happy that the company had dealt with the grievance in good faith and thus far the matter had been resolved. However, they also made it clear that they would be proposing some amendments to the EECF’s constitution in order to clarify the question of information and consultation.

The management representatives interviewed for this case study were conscious of the need to consult at the right time. In particular, with so many projects and potential projects likely to have an impact on European operations, they were concerned that only “firm proposals” should be put forward for consultation. Although they did acknowledge that there was scope for earlier indications of what might be coming up.

Overall they took the view that the EWC had a number of positive benefits for the company. It certainly meant that employee representatives were provided with more and better information and that it was a way of getting them “on board” in terms of company strategy. They also thought it was important in providing an opportunity to explain the rationale behind company policies that were usually part of a global strategy and reducing the risk that employee representatives at local and national level would be suspicious of decisions that might otherwise be seen to emanate from the UK head office.

In terms of the consultation process itself the management representatives thought that the Organising Sub-Committee was very important in the way that it provided a more regular forum for the exchange of information and establishing a link between senior management and employee representatives at European level.

6. Conclusions

Despite the recent grievance raised by the employee representatives on the EECF, the impression gained from the UK and Irish employee reps on the Organising Sub-Committee and the two UK managerial representatives was that the Forum was making a positive contribution to industrial relations within GSK. Trade union and other employee reps are better informed about company strategy and new developments and senior managers are put in a position where they now have to stand up and explain and justify key company decisions at a European level.

Although management and employee reps disagree as to the extent to which the company has met the requirement to inform and consult in good time, there has been some initial agreement on what can be done to improve this process and further changes may be forthcoming if employee rep proposals for amendments to the Forum's constitution are agreed. With GSK announcing in October 2007 that they were about to undertake a major global restructuring project, it will be interesting to see how the information and consultation process develops over the next couple of years.

Appendix One: Employee Numbers and EECF Representation

Appendix to GSK "EECF" Constitution Entitlement to Representation – by Country (3.4 refers)					
Country	Businesses	* Approx. No. of Employees	Representation		
			Pre-May 2004	From May 2004	From 2007
Iceland	P	9	1		
Finland	P, R, CH	153	1	} 1	1
Norway	P, R, CH	244	1		
Estonia	P, R, CH	72	-	} 1	1
Latvia	P, CH	57	-		
Lithuania	P, R, CH	126	-		
Czech Rep.	P, R, CH	259	-	} 1	1
Slovakia	P, CH	107	-		
Hungary	P, B, R, CH	434	-	} 1	1
Slovenia	P, CH	78	-		
Sweden	P, R, CH	203	1	} 1	1
Denmark	P, CH	168	1		
Austria (inc. Switz.)	P, R, CH	420	1	1	1
Netherlands	P, R, CH	503	1	1	1
Greece	P, R, CH	501	1	1	1
Ireland	P, M, CH, R	1574	1	1	1
Poland	P, M, CH, R	1847	1	1	1
Portugal	P, R, CH	354	-	1	} 2
Spain	P, M, R, CH	2361	2	2	
Italy	P, M, R, CH	3254	3	3	3
Germany	P, M, R, CH, B	2408	3	3	3
Belgium (inc. Lux.)	P, B, M, CH, R		3	3	3
France	P, M, R, CH, B	4288	3	3	3
Cyprus	P	30			
Malta	P	11	-		
UK	P, M, R, CH, Corp	19004	7	} 7	} 7
Romania	P, M, R, B, CH, D	972	-		
Bulgaria	P, CH, R, D	183	-	-	
TOTALS		24488	31	33	33

* These figures will approximate to the average number of employees during recent years

Key to Businesses; P = Pharmaceuticals; R = Research & Development; M = Global Manufacturing & Supply; CH = Consumer Healthcare; B = Biologicals; Corp = Corporate; D = Distribution

Appendix Two: Map of GSK European operations from GSK in Europe brochure 2003

