



EUROPEAN WORKS COUNCILS IN THE FOOD AND AGRICULTURE SECTOR

Experiences, practices and
possibilities.

EUROPEAN COMMISSION



Employment and Social Affairs



EUROPEAN WORKS COUNCILS IN THE FOOD AND AGRICULTURE SECTOR

Experiences, practices and
possibilities.

EUROPEAN COMMISSION



The progressive integration of Europe's economies and the workings of the great internal market lie behind changes and adjustments that are sweeping through the European Union's economic and production systems at an ever swifter pace. Moreover, market integration is taking place against a backdrop of internationalisation, globalisation of economies and worldwide trade liberalisation. These phenomena are fuelling a tendency towards concentration of the means of production and its management, cross-border mergers and takeover operations.

The impact of those processes on the social front is both diverse and complex. For instance, the increasingly widespread form of organising companies in business groups tends to move decision-making centres much further away. That process is likely to lessen the influence of worker participation systems or, at the very least, downgrade the status of that participation so that it is below the level on which strategy for the whole group is decided. This is a tough challenge to deal with, especially for workers' organisations which find it so much harder to adapt to the new international dimension of market and production processes after working on a national or local scale for so long now. However, the social effects of the internationalisation of the economy that are becoming apparent have now rendered this national dimension insufficient for the interests of workers in transnational groups and companies to be adequately represented.

On the one hand, the growing international dimension of the economy, market integration and the transnationalisation of companies hamper industrial relations systems as a whole. On the other hand, these phenomena tend to widen the differences between the different national systems devised to protect workers.

There are various reasons why such differences exist between systems. Firstly, the way labour is organised and regulated in the Member States is deeply rooted in each country's social and cultural traditions and has been consolidated in an environment of equally diversified institutional contexts. This diversity primarily concerns the structural elements of trade union configurations

in Member States, unionisation rates and the way unions are organised and act on behalf of their members, collective bargaining structures and contents, the degree of conflicts and types of participation and forums for it.

Compounding these structural differences is an explicit reluctance to accept harmonisation of legislation. The strongest resistance to that trend is put up by those business sectors whose great fear is that the Community may lose sight of its initial economic vision and that rigidity and forms of control which are far removed from the original "laissez faire" model will be let in through the door of the social dimension. From the trade union side, too, although not nearly to the same extent, there is some opposition to convergence of the systems because any pro-harmonisation momentum is perceived as a threat to cultural identities.

In this context, Directive 94/45 on European Works Councils (EWCS) is a fundamental step forward on the road to towards European construction as a whole because it puts forward a social response to the principles underlying the goal of consolidation and integration in a single market. This link is a useful one to highlight because the aim of the transnational social partnership mechanisms provided for by the Directive is to bring the social dimension into line with the irreversible trend towards europeanisation as regards the behaviour of economic agents. From this institutional standpoint, the trend that commenced with voluntary group agreements from 1985 onwards in an attempt to make workers become more aware of the fact that they belong to a much bigger and more complex world than their job, their company or their national economic system, is especially relevant.

The adoption of the EWC Directive, therefore, was not just a milestone moment in the old Community debate on participation; it also gives tangible shape to the political message of the Member States who want to preserve the European social model and to press forward in their attempt to carry through a social policy at EU level that is consistent with the principles of the new Treaty.

Worker information and consultation, especially in group companies, are fundamental components in this type of society and they are also the ones

which, not by pure chance, have perhaps had to contend with greatest opposition from the advocates of neo-liberalism. At a time when in the name of purely economic imperatives and of the alleged need to give market forces full freedom to preserve and protect the competitiveness of European industry – the principles on which the Community's economic and social model are based have been systematically called into question, the adoption of EC Directive 94/45 must necessarily be interpreted as the sign of a tremendous counter-trend as well as a reaffirmation of the principle endorsing the fact that according to the principles of the Maastricht Treaty, economic development cannot disregard social progress in the EU.

Directive 94/45 was first proposed in 1972 but it took until 1991 for the majority of Member States to actually agree on the text drafted by the Commission. The proposal was put forward on 27 April 1994 and submitted to the Economic and Social Committee and the European Parliament for their opinion and received by the Council as a "common position" on 18 July 1994. The Directive was eventually adopted on 22 September 1994.

Despite their difficulties, the experiences of European Works Councils set up conventionally in some groups are rated positively by the social partners. The employers highlight the active role played in the field of business restructuring processes as well as the way they help to consolidate a feeling of belonging on the part of the workforce. Trade unions, for their part, have pinpointed the useful opportunity EWCs give them to establish contacts with workers' representatives from other countries and to receive information about the group as a whole.

Given that the food industry has more transnational companies than most sectors and a large number of European Works Councils have been set up in it, the Food and Agriculture Federation of Spain's CC.OO. trade union organisation decided to hold a conference on the subject. The aim was to analyse EWC experiences in the industry and to hold a debate on the need to further the possibilities for forums for dialogue and negotiation in view of supranational strategies that have overrun the bounds of responsibility of European Works Councils as they were originally designed.

European Works Councils are an essential supplement to trade union action in the company as a whole. Their proper functioning must be ensured through close cooperation between all EWC members and the adoption of codes of conduct for them to abide by. Likewise, any signs of corporatism must be avoided and attempts made to extend their scope of responsibilities since the Directive only sets out minimum conditions which can be bettered and broadened through trade union action. This does not restrict negotiating capacity in the workplace or in each country. In fact, quite the opposite is true, it means greater capacity to fight against cases of relocation of production, to combat any downgrading of working conditions and to present a united front against anti-social decisions of a global nature.

These were just a few of the many issues addressed at that first conference. This guide contains the main contributions and ideas discussed during that two-day conference including, in particular, an analysis of the main difficulties facing trade union representatives when doing their job in EWCs. We hope that this publication will be useful as a working tool for anyone with trade union responsibilities in a transnational context.

Cecilia Sanz Fernández / General Secretary, Food and Agriculture Federation, Comisiones Obreras / Spain.

EUROPEAN WORKS COUNCILS IN THE FOOD AND AGRICULTURE SECTOR: EXPERIENCES, PRACTICES AND POSSIBILITIES

TABLE OF CONTENTS

Introduction.

I. Background. European Works Councils: definitions, creation, establishment and functioning of the European Works Council.

I. 1 Background to the European Works Council (EWC).

- I.1.1 Legislative background.
- I.1.2 The lengthy process of setting up a European Works Council.
- I.1.3 Which and what kinds of companies must have a European Works Council?
- I.1.4 European Works Councils in Europe. Facts and figures.
- I.1.5 Definitions and contributions made by the 1997 Spanish legislation

I.2 Setting up and establishing a European Works Council and its functioning.

- I.2.1 Applying for and setting up an EWC.
- I.2.2 How is the setting-up of an EWC negotiated?
- I.2.3 The agreement reached between the negotiating parties.
- I.2.4 EWC obligations: confidentiality.
- I.2.5 EWC competences: information and consultation
- I.2.6 Term of office and composition of a European Works Council.
- I.2.7 European Works Council meetings.
- I.2.8 Setting up specific committees: steering and select committees.
- I.2.9 Experts.
- I.2.10 What issues can be dealt with during a meeting?

II. Problems and difficulties. The role of European trade union organisations.

II.1 Problems and difficulties.

- II.1.1 Initial steps and initial problems.
- II.1.2 Is there really consultation and information?
- II.1.3 "European Works Council or Tower of Babel".
- II.1.4 More resources are needed.
- II.1.5 Internal problems between representatives.
- II.1.6 Select committee or European Works Council?
- II.1.7 Competences and divisions by activity sector.

II.2 The role and view of international trade union organisations.

- II.2.1 EFFAT – European Federation of Trade Unions in the Food, Agriculture and Tourism Sectors and Allied Branches.
- II.2.2 IUF – International Union of Food, Agriculture, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations.
- II.2.3 ETUC – European Trade Union Confederation.

III A practical case: The DANONE International Works Council.

- III.1 Background to the Danone EWC.
- III.2 Characteristics and content of the agreement to set up the EWC.
- III.3 List of agreements reached.
- III.4 Assessment of the Danone EWC.

IV Conclusions.

V/ Annexes



European Directive 94/45/EC.



Implementation of the European Directive in the domestic legislation of the Member States.



Judgement of the European Court of Justice (sixth chamber) of 29 March 2001. Information to be made available by undertakings on request - Information intended to establish the existence of a controlling undertaking within a Community-scale group of undertakings. Case C-62/99.



Conference Madrid. 10/11 March 2003. List of participants

EUROPEAN WORKS COUNCILS IN THE FOOD AND AGRICULTURE SECTOR

Experiences, practices and possibilities.

INTRODUCTION

INTRODUCTION

The internationalisation of the economy, the ever stronger prevalence of the market in society and the political and social deficit in the construction of the European Union are all directly linked to the changes companies are undergoing. Those changes affect both the size of enterprises and the speed at which their ownership changes, either through hostile financial takeovers or friendly mergers.

That "urgent need" felt by businesses to adjust the size of their structure and their ability to influence markets implicitly entails negative repercussions on jobs and working conditions in a good many cases.

At times, we find that situation hard to accept and prefer to ignore it. We hide behind the company or the establishment we work in, using it as a bastion from which to defend the theoretical status of trade union power in its traditional sphere in the mistaken belief that workers' interests are best defended from the workplace. Another reason for our reluctance to accept change could be a selfish fear that any broadening of the field of trade union action or representation will bring greater responsibility and, on top of that, other fellow trade unionists will very likely be the ones taking the decisions.

The consequences that ensue tend to be highly negative for the unions, for jobs and for working conditions because if our organisation is not brought into line with the size of the company, we end up shrinking in comparison, becoming more insignificant and weaker on many fronts. As a result, we end up simply bound to follow on in the wake of events with no capacity to plan processes or to come up with appropriate responses when these are required.

Instead, we should go onto the offensive. We need to break away from these reactions and patterns of behaviour that lead to trade unions acting individually on their own just at a time in history when there is an overriding need for the workers' movement at every level to join forces nationally and internationally.

EC Directive 94/45 on the establishment of a procedure in Community-scale undertakings and groups of undertakings for the purposes of informing and consulting employees, which affects over 1000 Community-scale undertakings and groups of undertakings, is very much in this line and undoubtedly opens the door to a whole new field of trade union activity. That new field involves us working on trade union business in harmony and coordination with all the other representatives both of union organisations and of the multinational companies that provide their services in other European countries and occasionally even beyond Europe's borders.

JULIAN IGLESIAS.

Companies Officer, Food and Agriculture Federation, Comisiones Obreras (Spain).

EUROPEAN WORKS COUNCILS IN THE FOOD AND AGRICULTURE SECTOR

Experiences, practices and possibilities.

BACKGROUND. EUROPEAN WORKS
COUNCILS: DEFINITIONS,
CREATION, ESTABLISHMENT AND
FUNCTIONING.

I / BACKGROUND. EUROPEAN WORKS COUNCILS: DEFINITIONS, CREATION, ESTABLISHMENT AND FUNCTIONING.

I. 1 Background to the European Works Council (EWC).

I.1.1 Legislative background.

The fundamental aim of a European Works Council is to improve transnational procedures for informing and consulting workers in Community-scale undertakings or groups of undertakings.

The initiative to provide EWCs with legitimacy through European legislation was taken by Europe's institutions given that the promotion of social dialogue is one of the objectives of the EU and its Member States.

To achieve that aim, they adopted:

COUNCIL DIRECTIVE 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees.

Although the process of drafting and approving the Directive actually started back in 1972, it was not until 1994, more than 20 years later, that it was finally adopted*.

At the behest of the European Commission, the Council based the Directive on the following grounds:

- "Whereas procedures for informing and consulting employees as embodied in legislation or practice in the Member States are often not

* See Annex V for the full text of Directive 94/45.

geared to the transnational structure of the entity which takes the decisions affecting those employees; whereas this may lead to the unequal treatment of employees affected by decisions within one and the same undertaking or group of undertakings;

- Whereas appropriate provisions must be adopted to ensure that the employees of Community-scale undertakings are properly informed and consulted when decisions which affect them are taken in a Member State other than that in which they are employed;
- Whereas, in order to guarantee that the employees of undertakings or groups of undertakings operating in two or more Member States are properly informed and consulted, it is necessary to set up European Works Councils or to create other suitable procedures for the transnational information and consultation of employees."

Therefore, as a general rule, European Works Councils are devoted to informing and consulting workers about the main activities and strategic lines followed by the undertaking or group of undertakings.

Important:

This is the prime objective of a European Works Council but Article 13 of the European Directive states that other instruments may be used for informing and consulting workers and that the establishment of the EWC may be replaced by other means of consultation, such as communication by facsimile, e-mail, and so on. That is why the Directive does not apply to many companies which set up these other means or instruments provided, they did so before 1996.

"Article 13" Agreements in force.

"Agreements in force 1. Without prejudice to paragraph 2, the obligations arising from this Directive shall not apply to Community-scale undertakings or Community-scale groups of undertakings in which, on the date laid down in Article 14 (1) for the implementation of this Directive or the date of its transposition in the Member State in question, where this is earlier than the abovementioned date, there is already an agreement, covering the entire workforce, providing for the transnational information and consultation of employees."

Many of the EWCs that are currently operating or at the negotiation stage have been set up or are being set up under Article 13 of the Directive. According to this article, where an agreement on informing and consulting the workers has already been reached between the company and the workforce prior to 22 September 1996, the Directive does not apply to those Community-scale undertakings or groups of undertakings:

I.1.2 The lengthy process of setting up a European Works Council.

a / The central management of the undertaking or the controlling undertaking in the group of undertakings sets up a special negotiating body made up of representatives of all the employees.

b/ The employees' representatives and the undertaking negotiate to reach an agreement determining the scope, composition, functioning and resources the European Works Council will have.

Remember that, if they so wish, they can choose to set up an alternative procedure for information, exchanges of views and dialogue instead of a works council.

If the central management of the undertaking or the undertaking does not take the initiative to set up a European Works Council, it can be done at the written request of at least **100 employees** or their representatives, providing they belong to **at least two undertakings** in at least two EU Member States.

Nonetheless, if the two sides do not reach an agreement, the European Works Council must be set up under the options laid down by law.

I.1.3 Which and what kinds of companies must have a European Works Council?

A European Works Council or a procedure for the purposes of informing and consulting the workers must be established in:

1. Any **undertaking with at least 1000 employees** in different Member States and at least 150 in each one.

2. Any group of undertakings with the following characteristics:
 - a. at least 1000 employees within the Member States;

 - b. at least two group undertakings in different Member States and

 - c. at least one group undertaking with 150 or more employees in a Member State and at least one other group undertaking with at least 150 employees in another Member State.

In the case of a controlling undertaking, it shall be presumed unless proof to the contrary that it can exercise a dominant influence with relation to another undertaking when directly or indirectly:

- a. it holds a majority of the undertaking's subscribed capital, or

- b. it controls a majority of the votes attached to that undertaking's share capital or
- c. it can appoint more than half of the members of that undertaking's administrative, management or supervisory body.

The law applicable in order to determine whether an undertaking is a "controlling undertaking" shall be the law of the country which governs that undertaking^{*}, unless that country is not a Member State, in which case the law applicable shall be the law of the Member State within whose territory a representative of the undertaking has been designated or the legislation of the Member State where the central management of the group undertaking which employs the greatest number of employees is situated.

The parties may agree to set up more than one EWC in the groups of undertakings.

Exceptions

Instead of setting up an EWC, the parties may agree to establish one or more alternative information and consultation procedures.

This is what has happened, for instance, in CADBURY SCHWEPPE'S BEVERAGES EUROPE:

^{*} See Annex V: Implementation of the European Directive into the domestic legislation of Member States

"The European beverages information and consultation forum was set up and signed on 20 September 1996 under Directive 94/45 in the framework of the establishment of an alternative procedure for informing and consulting..."

Through the forum, we now get occasional information on how the brands are progressing, the company's business overall and its strategies. This information is essential if we are to take the most appropriate trade union action to defend the workers' interests..."

Luis Rojo. European Forum Member, Schweppes-Spain

One of the possible advantages a forum has over a European Works Council is that a forum is, of course, a smaller body and people can get to know each other better because they see each other more often and have more flexible, fluid contact.

Another advantage of the forum structure is **the speed** at which a forum can be put together and set up because it is composed of fewer members and is, therefore, more flexible than the EWC.

Whilst the EWC is a stable, permanent body, the alternative procedure or information forum is simply a means or formula used by the company to inform and consult its employees.

I.1.4 European Works Councils in Europe. Facts and figures.

It is estimated that some 1200 European Works Councils may be set up under EC Directive 94/45. Some 200 have already been established.

Most of the companies setting up EWCs have been German (274), US (187) and French (122).

According to the **General Secretary of EFFAT** (European Federation of Trade Unions in the Food, Agriculture and Tourism Sectors and Allied Branches), Harald Wiedenhofer, " We have already established EWCs in more than 80 groups of companies in the food and catering sectors and there are a further 50 transnational companies in which this has still to happen." *It should also be noted that "the number of companies concerned will increase with the accession of the Central and Eastern European countries"*.

As far as Spain is concerned, there are very few companies or groups of companies in the food and agriculture sector whose parent company or central management is located in Spain and which currently meet the requirements for the establishment of an EWC. There are actually three groups that do:





- Campofrío Group,
- Panrico Group
- Pescanova Group

The Food and Agriculture Federation of Comisiones Obreras intends to start negotiating very shortly with those companies as Spain is the trade union coordinator in the negotiation process.

The reason why nothing has happened before now is that these companies have been involved in various takeovers and mergers which have meant changes to their shareholding composition at certain times. That has made it very difficult to determine which company is the majority controlling undertaking as set out in the Directive.

In the food and agriculture sector (Codes 15 and 16, according to Spain's national classification of economic activities). the following multinational companies already have a European Works Council:











1/ Companies with head office in Spain where the establishment of a EWC is pending or where there is no EWC.


-  CAMPOFRIO
-  PANRICO
-  PASCUAL HERMANOS, S.A
-  PESCANOVA, S.A

2/ Companies with head office in Spain and with a European Works Council.





-  GRUPO ALTADIS

3/ European Works Councils in the industry (head offices, European head offices).

-  A.C. DEVRO (UK)
-  ALBERT FISHER (Denmark)
-  AMYLUM (Belgium)
-  ALLIED DOMECQ PLC (UK)
-  BACCARDI MARTÍN (Antilles, Italy)
-  BARILLA (Italy)
-  BARRY CALLEBAUT (Switzerland, Belgium)
-  BAT (British American Tobacco) (UK)
-  BOLTON (Italy)
-  BONGRAIN-SOPARIN (France)

-  CADBURY SCHWEPPE'S PLC (USA, Ireland)
-  CAMPBELL BEWLEY (Ireland)
-  CAMPBELL SOUP COMPANY INC. (USA, UK)
-  CAMPINA MELKUNIE (Netherlands)
-  CARESTEL (Belgium)
-  CARGILL (USA, UK)
-  CARLSBERG BREWERY (Denmark)
-  CEREALIA (Sweden)
-  CEREAL PARTNER WORLDWIDE (Switzerland, UK)
-  CEREOL (Italy)
-  CLOETA FAZER (Sweden)
-  COCA COLA BEVERAGES HBC (USA, Greece)
-  COCA COLA COMPANY (USA, UK)
-  COCA COLA ENTERPRISE (USA, France)
-  COMPAGNIE LAITIERE EUROPEENNE (France)
-  CSM (Netherlands)
-  DANISCO (Denmark)
-  DANONE (France)
-  DIAGEO (UK)
-  FAZER (Finland)
-  FERRERO (Italy)
-  GALLAGHER (UK)
-  GRACE (USA, Italy)
-  HEINEKEN NV (Netherlands)
-  HEINZ (USA, UK)
-  IMPERIAL TOBACCO (UK)
-  INTERBREW (Belgium)
-  JAPAN TOBACCO INTERNATIONAL (Japan, UK)
-  KELLOGGS (UK)

-  KERRY GROUP (Ireland)
-  KRAFT FOODS (USA, Sweden)
-  LESAFFRE (France)
-  LIND & SPRUNGLI (Switzerland)
-  LVMH (France)
-  MD FOODS (Denmark)
-  NESTLE (Switzerland)
-  NORTHERM FOOD (UK)
-  NUMICO (Netherlands)
-  NUTRECO (Netherlands)
-  OETKER, RUDOLF AGUST (Germany)
-  ORKLA (Norway)
-  PARMALAT (Italy)
-  PEPSICO (USA, UK)
-  PERNOD RICARD (France)
-  PHILIPP MORRIS (USA, Germany)
-  RHM (TOMKINS) (UK)
-  ROTHMANS INT. TOBACCO PROD. (Netherlands)
-  SALVESEN (UK)
-  SARA LEE (USA, Netherlands)
-  SCANDINAVIAN TOBACCO (Norway)
-  SCHULSTAD (Denmark)
-  SCOTTISH & NEWCASTLE (UK)
-  SUDZUCKER (Germany)
-  SWEDISH MATCH (Sweden)
-  SYNGETA (Switzerland, France)
-  TALE & LYLE (UK)
-  TULIP INTERNATIONAL (Denmark)
-  UNIGATE (UK)

-  UNILEVER (Netherlands)
-  UNITED BISCUITS (UK)
-  VANDEMOORTELE (Belgium)
-  VIN & SPIRIT (Sweden)

Source:

EFFAT DATA BASE / April 2003.

I.1.5 Definitions and contributions made by the 1997 Spanish legislation**.

Spanish legislation applying since 1997: Act 10/1997 of 24 April on the rights of workers in Community-scale undertakings and groups of undertakings to be informed and consulted.

Main differences between Spanish legislation and all other pieces of legislation in Europe*.

Spain's Act on the rights of employees to be informed and consulted is considered to be one of the best of all the national pieces of legislation that exist from the point of view of workers.

- One of the points on which it differs from European Directive 94/45 and from other national laws is the section on confidentiality. **What that means is that, under Spanish law, confidentiality shall not be applicable to all employment-related issues.**

Whenever an employment-related issue is dealt with in an EWC that has been set up under Spanish law, the company (undertaking) cannot allege that the issue is confidential under the confidentiality clause and must consult and inform its employees or their representatives.

- In addition, Spanish law provides **considerable legal protection for the EWC** and furnishes a broad array of actions that can be taken through the national courts if a company does not meet its obligations laid down by that law.
- Lastly, according to Spanish legislation, representatives of European Works Councils have to be given **the same treatment** as trade union representatives in national works councils.

** See Annex V. Full text of the Act

* See Annex V: Implementation of the European Directive into the domestic legislation of Member States

SOME DEFINITIONS

- **What actually is a "Community-scale undertaking"?**

It is any undertaking employing at least 1000 workers within the Member States and if they are employed in at least two different Member States there must be 150 or more workers in each one of them.

- **"Group of undertakings" means:**

a group that includes a controlling undertaking and controlled undertakings.

- **"Community-scale group of undertakings" is deemed to be any group of undertakings with the following characteristics:**
 - employing at least 1000 workers within the Member States,
 - at least two group undertakings in different Member States, and
 - at least one group undertaking with at least 150 employees in one Member State and at least one other group undertaking with at least 150 employees in another Member State.

One example is the Cadbury Forum where Belgium, France, Holland, Germany, Italy, Portugal, Spain Beverages, Spain Concentrated Drinks and UK are all represented.

- **"employees' representatives" means:**

the representatives of employees provided for by national law and/or practices.

- **"Member States" means:**

- the European Union Member States, i.e. Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, and UK.

- plus all the other signatory countries of the European Economic Area (EEA) Agreement: Iceland, Liechtenstein and Norway.

- **"Central management" means:**

The central management of the Community-scale undertaking or, in the case of a Community-scale group of undertakings, the central management of the controlling undertaking.

When the central management of a Community-scale undertaking or group of undertakings is not situated in a Member State, the *central management* for the purposes of this Act shall be deemed to be the representative of the undertaking or group of undertakings which is designated by it.

In the absence of a designated representative, the representative shall be deemed to be the management of the company establishment or the central management of the group's undertaking employing the greatest number of workers in a Member State.

I.2 Setting up and establishing a European Works Council and its functioning.

I.2.1 Applying for and setting up an EWC.

Legislative issues.

According to Article 7 of the Spanish Act:

"The request may be submitted by the employees or their representatives jointly or separately and sent to the central management or the managements of the establishments or undertakings in the Member States where they render their services.

The managements must pass on the requests received to the central management and inform those signing the requests of that fact. The central management may not refuse to commence negotiations on the grounds that the requests have not been passed on to it".

100 employees or their representatives belonging to at least two establishments in two different countries submit a letter or application to the company management. That application may be made to the central management or to any of the company's managements or establishment which will pass it on to the central management.

"The employees in Europe came from national companies with strong corporate cultures, to which we felt attached. In order to prepare for European cooperation and

the establishment of an EWC, several European conferences for union representatives in Kraft were held in the early 1990s.

We learned more about the group and got to know each other across national boundaries. Nothing happened between conferences however. No-one was responsible for follow-up and we continued to think in local terms once we came back home

There was no contact with management at the European level at the time, and they were against us having any contact between ourselves. When Norwegian union representatives visited unions in group companies in Belgium and Germany we were refused entry to the factories. "

Bente Loevass. EWC member, Kraft (Norway)

I.2.2 How is the setting-up of an EWC negotiated?

Legislative issues.

- **According to European Directive 94/45**, a special negotiating body is set up under Article 2.1.h, as the group established by virtue of Article 5.2 to negotiate with the central management the establishment of a European Works Council or the establishment of a procedure for the purposes of informing and consulting the workers in accordance with Article 1. (2).
- **Article 3.1.9 of the Spanish Act actually states that the *Negotiating Committee* is the group of employees' representatives established** by virtue of Article 8 and subsequent articles to negotiate with the central management the setting-up of a European Works Council or the establishment of an alternative procedure for informing and consulting workers.

After submission of the application letter mentioned above, the company has 6 months (according to article 15) to answer, after which time a negotiating committee will be formed to take responsibility for concluding an agreement to set up the EWC. If the central management does not reply, the supplementary provisions shall apply.

After that, there is a three year period for an agreement to be reached on setting up the EWC. If no agreement is reached, Spanish legislation stipulates that the supplementary provisions are to be applied.

The Judgement of the European Court of Justice* (Sixth Chamber) of 29 March 2001, Betriebsrat der Bofrost* Josef H. Boquoi Deutschland West GmbH & Co. KG v Bofrost* Josef H. Boquoi Deutschland West GmbH & Co. KG. **helps to clarify the obligations of companies** to make available all the information of interest about their structure or their organisation when it forms part of the information needed to set up an EWC:

" On a proper construction of Article 11(1) and (2) of Directive 94/45 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees, an undertaking which is part of a group of undertakings is required to supply information to the internal workers' representative bodies, even where it has not yet been established that the management to which the workers' request is addressed is the management of a controlling undertaking within a group of undertakings.

Where information relating to the structure or organisation of a group of undertakings forms part of the information which is essential to the opening of negotiations for the setting-up of a European Works Council or for the transnational information and consultation of employees, an undertaking within the group is required to supply the information which it possesses or is able to obtain to the internal workers' representative bodies requesting it.

Communication of documents clarifying and explaining the information which is indispensable for that purpose may also be required, in so far as that communication is necessary in order that the employees concerned or their representatives may gain access to information enabling them to determine whether or not they are entitled to request the opening of negotiations..

In practice:

Bente Loevass. EWC member, Kraft (Norway)

" As the parent company is in the USA, it was not natural to give the unions in any one European country a leading role in building cooperation. The international European food, agricultural and tourism workers federation, EFFAT, played an important role as coordinator for us.

When the EU directive on EWCs was adopted, we proposed a draft agreement for Kraft Foods. EFFAT sent it to the management and requested negotiations. The fact that we had our own thoroughly thought through draft agreement strengthened our position in the negotiations and we were able to define the terms of the discussions.

Some of the management had been strongly opposed to setting up an EWC, but those who were more in favour of cooperation won the day. According to the terms of the directive they would in any case have been forced to establish an EWC by 1999 at the latest. Under the leadership of EFFAT we negotiated an agreement in spring 1996. "

Isidoro Jiménez. EWC member, Heineken Spain

"Just like in many multinationals, discussing and negotiating the first agreement was a lengthy and complex process which resulted in an agreement which had its flaws and did not cover everything. Nevertheless, the agreement opened the door to a new scenario of participation and trade union work for national union members which is essential in a globalised world where company strategies are designed and many of their decisions taken with a transnational view...

We came up against some major obstacles in that process. Sometimes they stemmed from the rather limited and narrow sphere opened up by the information and consultation directive itself. At other times, the stumbling blocks had more to do with the stance taken by the company which felt the directive encroached on and attacked its own areas of responsibility and powers and initially tried to reach a swift agreement leaving the unions on the sidelines. Also – I don't see any reason to deny it - the stumbling block was in itself, in some cases, the culture of union representatives because we often feel out of our

depth when anything new comes along would much rather stay on familiar ground...

But at the same as what came out the lengthy, complicated negotiation process was what I consider to be an acceptable agreement, an agreement that allowed us to get things moving, another outcome of it all was that even before the European Works Council was set up its future members got to know each other and little by little we started to break down the barriers of distrust that existed between us and the company's representatives too."

In the negotiating body there are several possibilities:

- a- Two thirds of the representatives decide that there will not be a works council.
- b- An agreement is reached and the functions of the EWC are established.
- c- There is no chance of an agreement being reached and **subsidiary requirements** will, therefore, be applicable
- d- The employees decide to set up an alternative consultation and information instrument.

What do the subsidiary requirements mentioned in c) above involve?

1/ Regular meetings: it is compulsory for the EWC to meet once a year.

2/ Subjects dealt with: the EWC meetings will deal solely with issues that may affect all the group's undertakings or undertakings from at least two different countries.

3/ The company will be bound to pay all the expenses for the functioning and maintenance of the EWC (travel costs, meeting venue, experts' expenses, etc.).

I.2.3 The agreement reached between the negotiating parties.

Legislative issues.

Article 6 of the European Directive stipulates the following:

1. The central management and the special negotiating body must negotiate in a spirit of cooperation with a view to reaching an agreement on the detailed arrangements for implementing the information and consultation of employees.

2. Without prejudice to the autonomy of the parties, the agreement referred to in paragraph 1 between the central management and the special negotiating body shall determine:
 - a) **the undertakings of the Community-scale group of undertakings** or the establishments of the Community-scale undertaking which are covered by the agreement;

 - b) **the composition of the European Works Council**, the number of members, the allocation of seats and the term of office;

 - c) **the functions and the procedure for information and consultation** of the European Works Council;

 - d) **the venue, frequency and duration of meetings** of the European Works Council;

 - e) **the financial and material resources to be allocated** to the European Works Council;

 - f) **the duration of the agreement** and the procedure for its renegotiation.

An additional point is added to this list by the Spanish Act on informing and consulting workers which stipulates **in Article 12 the identification of the parties** concluding the agreement.

In practice:

Bente Loevass. EWC member, Kraft (Norway)

" We were fairly satisfied with the agreement even though we had to make concessions on several points. We had started out at such an ambitious level that we had a bit to go on.

There was a lot of discussion about which countries were to participate in the EWC. We wanted to include all the countries in Europe, but the management put forward an ultimatum restricting participation to EU/EEA countries.

Only group employees can be representatives. In addition, we have an observer from EFFAT. There are between one and three representatives from each country, depending on the number of employees. Now there are 19 representatives in all, all of them union members.

We can deal with a wide range of issues, but they have to involve at least two countries.

We are entitled to both information and consultations.

We hold one conference per year that lasts for 2 ½ days.

We have a select committee with five members plus an observer. The committee must meet at least twice a year. Normally we meet four times.

Our main contact in management is a senior HR manager at European level.

English is the group's working language. We are entitled to have documents translated and to have simultaneous interpreters at meetings.

Isidoro Jiménez. EWC member, Heineken Spain

"Contents of the Agreement with a 4-year time limit:

- *Establishment of a Select Committee with flexibility to react and to establish a very fluent dialogue with the company.*
- *Fairly broad possibility of hiring technical advisors and experts.*
- *Allocation of an Administrative Secretary paid for by the company.*
- *At least two meetings to be held a year.*
- *The issue of secrecy and confidentiality is carefully dealt with.*
- *We can go to an external disputes committee we have made available.*
- *The establishment of a Heineken forum (joint body with the company) and the EWC (independent body representing the employees whose internal regulations are approved solely and exclusively by the union representatives)... can be highlighted as one of the positive points of this Agreement.*

I.2.4/ EWC obligations: confidentiality.

Legislative issues.

1994 European Directive - Article 8/ Confidential information

"Member States shall provide that members of special negotiating bodies or of European Works Councils and any experts who assist them are not authorised to reveal any information which has expressly been provided to them in confidence.

The same shall apply to employees' representatives in the framework of an information and consultation procedure.

This obligation shall continue to apply, wherever the persons referred to in the first and second subparagraphs are, even after the expiry of their terms of office.

Each Member State shall provide, in specific cases and under the conditions and limits laid down by national legislation, that the central management situated in its territory is not obliged to transmit information when its nature is such that, according to objective criteria, it would seriously harm the functioning of the undertakings concerned or would be prejudicial to them

A Member State may make such dispensation subject to prior administrative or judicial authorisation.

Each Member State may lay down particular provisions for the central management of undertakings in its territory which pursue directly and essentially the aim of ideological guidance with respect to information and the expression of opinions, on condition that, at the date of adoption of this Directive, such particular provisions already exist in the national legislation.

Article 22 of the 1997 Spanish Act makes the following supplementary points on the subject of confidential information.

- Exceptionally, the central management shall not be obliged to transmit specific information relating to industrial, financial or commercial secrets whenever their disclosure might, according to objective criteria, hinder the functioning of the undertaking concerned or be seriously prejudicial to its economic stability.

This exception does not cover data concerning the volume of employment in the undertaking.

But, **in practice**, the issue of confidentiality is not usually a problem, as explained by Isidoro Jiménez, EWC member, Heineken Spain

"In Heineken no issue was confidential or not talked about. That means that secrets are not subjects dealt with in EWC meetings".

I.2.5 EWC competences: information and consultation.

Legislative issues.

1997 Spanish Act, Article 18. European Works Council competences.

"The European Works Council shall be entitled to be informed and consulted on matters that concern the Community-scale undertaking or community-scale group of undertakings as a whole or at least two of its establishments or undertakings situated in different Member States".

In the case of undertakings or groups of undertakings whose central management is not situated in a Member State, the competence of the European Works Council shall be limited to those matters concerning all the establishments or group undertakings situated within the Member States or at least two establishments or undertakings situated in different member States.

For the purposes set out in the point above, the European Works Council shall have the **right to meet with the central management at least once a year**. The meeting must be convened by the central management giving minimum notice of one month and enclosing with the notice convening the meeting a report on the progress and prospects of the Community-scale undertaking or group of undertakings.

Without prejudice to other matters that may be raised, the annual meeting will analyse matters relating to the structure of the undertaking, its economic and financial information, the probable development of the business and of production and sales, the situation and probable trend of employment, investments, substantial changes affecting the organisation, the introduction of

new working or production processes, transfers of production, mergers, cut-backs or closures of undertakings, establishments or important parts thereof and collective redundancies.

The European Works Council must be informed with due advance notice whenever there are exceptional circumstances affecting the employees' interests to a considerable extent, especially in the event of relocations, the closure of establishments or undertakings or collective redundancies.

In addition, it shall have the right to meet, at its own request, the central management, or any other more appropriate level of management within the Community-scale undertaking or group of undertakings having its own powers of decision, so as to be informed and consulted on these matters. This meeting or these meetings will be, if forthcoming, additional to the annual meeting set out in point 2, except when, in line with the existing deadlines, they can be incorporated into the contents of that meeting without jeopardising the effectiveness of the consultation.

The information and consultation meetings referred to in this point shall take place **with the necessary advance notice so that the EWC's opinion may be taken into account when adopting** or implementing decisions on the basis of a report drawn up by the central management or by any other appropriate level of management in the undertaking or group.

The European Works Council may deliver an opinion at the end of the meeting or within a maximum time limit of seven days. Should the EWC deem it not necessary to hold a meeting, the delivery of the opinion shall be calculated from

the date of the receipt of the information referred to in the first paragraph of this point.

This meeting shall not affect the prerogatives of the central management.

The central management and the European Works Council shall reach a common agreement on the exact rules with regard to the chairing of their joint meetings. If no agreement is reached, the procedures to be followed to chair meetings must be recorded in the minutes of the first meeting.

The minutes of the meetings between the central management and the European Works Council shall be signed by a representative on behalf of each party.

The central management shall inform the managements of its establishments or undertakings in the Member States of the convening of the meetings it is going to hold with the European Works Council ".

Practical examples

Bente Loevass. EWC member, Kraft (Norway)

" The whole point of consultation is to enable us to influence the outcome of a matter. This assumes that we are included in discussions before decisions are made. That is often not how it works, but things are gradually improving a bit.

When Kraft wanted to close down a confectionery factory in France, the matter was not raised with the select committee at all, despite the fact that the closure would affect several countries. According to French law the factory could not be closed before the company had consulted the EWC.

When in the next instance they wanted to sell the remaining confectionery factory, we were requested to attend a meeting at which the matter was thoroughly discussed. We managed to bring along a representative from France

to the meeting. However, the meeting was held after the decision had in reality been taken, but before the press release was issued. The factory was in fact sold to Cadbury. We are continuing our efforts to ensure that we are brought in at an earlier stage of the process in future. It is important to use those countries that have the best formal rights in the area as leverage.

In 2002 Kraft Foods adopted a worldwide data protection policy. We were allowed to discuss it in the select committee, but the documents were distributed at the meeting itself. In reality the policy had already been decided. However, we succeeded in negotiating our first framework agreement at the European level, an agreement that gives us rights of access to information about how the data protection policy is complied with and how personal data are used.

This year they are working on a new Business Conduct Policy (BCP) for the whole of Kraft Foods. In January we were allowed to discuss a draft which had not yet been sent to management.

Those of us who can read English even received the document a few days before the meeting. We had a number of opinions, but do not know as yet whether any of them have been taken into account and the policy changed as a result. The policy and rules come from the USA. They have not been discussed with any unions there. It is we in Europe who have a chance of influencing the result. "

I.2.6 Term of office and composition of a European Works Council.

Term of office.

Most EWCs have a term of office of 4 years with a possible annual extension except when the parties involved agree otherwise.

Composition.

In the case of Cadbury, the EWC or information forum is made up of 13 representatives, thus guaranteeing a minimum of one representative per country.

Those representatives are chosen in accordance with the laws and practices of each country through the national works councils or, in their absence, by the majority of employees for a period of 4 years.

There can be an Employee Coordinator who is elected by the representatives.

The functions of the Employee Coordinator include holding extraordinary meetings with the Management Coordinator to draw up the agenda for the meetings or deal with any other subject of interest.

Luis Rojo. European Forum member, Schweppes-Spain

Heineken.

When the EWC was set up it was given a *"broad composition so that all the countries could be represented (even some countries with less than 20 employees) and a proportionality scale that left the door open for other countries that might join during the EWC's first term of office"*

Isidoro Jiménez. EWC member, Heineken Spain

Nestlé.

"The Committee meets once a year. The meeting allows for an exchange of views and a dialogue is established between the group management and the representatives of the employees".

Jocelyne Banfi. EWC member, Nestlé (France)

Danone.

*"The international works council in Danone is made up of **51 members: 17 union representatives** and 34 representatives of employees from the different companies and industries who are elected by the national unions with at least one guaranteed representative per country as well a guarantee of men and women representatives.*

Patrick Dalban. IUF Coordinator, Danone

I.2.7 European Works Council meetings.

The European Works Council usually meets once a year.

In Cadbury, *"the Works Council meets annually although extraordinary meetings can be convened if any significant transnational event takes place. The meeting is convened following an agreement between the Company Coordinator and the representatives through their own coordinator."*

Luis Rojo. European Forum member, Schweppes-Spain

Who covers the costs?

As a general rule, the management of the undertaking or the undertaking itself has to pay for all the costs arising out of EWC meetings.

This covers travel expenses, costs arising out of the meeting venue, administration costs, simultaneous interpreting fees, etc.

Where does the EWC meet?

The venue for the meeting is flexible and can be in any country belonging to the EWC.

Practical example

Jocelyne Banfi. EWC member, Nestlé (France)

"The EWC meetings are held in Geneva (Switzerland) in one of the ILO (International Labour Organisation) conference rooms with simultaneous interpreting in 7 languages."

The EWC lasts three days:

- *one afternoon to prepare the meeting,*
- *one whole day for the EWC meeting,*

- *the following morning for the debriefing session and comments on what happened the day before.*

I.2.8 Setting up specific committees: steering and select committees.

In **Nestlé**, Jocelyne Banfi. EWC member (France):

*"There is a **Steering Committee** made up solely and exclusively of some ten members and representatives from the main countries.*

The prime role of this Committee is to convey national problems and monitor issues between two EWC meetings.

There is also a select committee which is set up when restructuring processes, production transfers and other similar matters arise that affect two or more countries.

In these cases, the representatives from those countries meet in the Select Committee ".

In **Danone**, Patrick Dalban. IUF:

"There is a steering committee made up of trade union coordinators from each country where the group carries out business and which is in charge of preparing the meetings.

This body meets at least twice a year and a plenary session –Committee and management- is held once a year. There is also a preparatory union meeting prior to it, a day spent meeting the management and a subsequent evaluation meeting so in total there are 3 days of meetings ".

In **Kraft** - Bente Loevass, EWC member:

" The select committee is the most important part of European cooperation. We meet **committee** more frequently, which allows us to follow up matters in a completely different way than is possible via the annual conferences. We can raise relevant issues more quickly and a small group can discuss things more thoroughly than a large gathering of people. The management dares to be more open in a smaller group. The representatives in the select committee are

gradually becoming more knowledgeable about the group and our discussions keep improving as a result.

We are gradually getting more information, but we still do not receive everything we ask for. Other problems are the fact that information often comes too late and that processes in this big multinational company are difficult to pin down and beyond our control. We are familiar with the processes in our own countries but at the European and global levels we are always playing away from home.”

I.2.9 Experts.

Outside the meetings, the employee representatives from each country can consult experts who will be paid for by the local company on any issue relating to the items on the agenda to be dealt with.

In Heineken, Isidoro Jiménez. EWC member:

“There are always several issues on the agenda and if there is no capacity to deal with them we consult lawyers, technical experts, economists, etc.... Within the union we also have a number of specialised offices that can be consulted. They are not union experts.

In Heineken we have an expert for every item on the agenda”..

1.2.10 What issues can be dealt with during a meeting?

As a general rule, all the items covered in a EWC meeting will be transnational issues relating to the company and its businesses and may include points like those listed below.

Information concerning the company:

- Business structure.
- Economic and financial situation.
- Business development forecast.
- Production and sales.
- Employment trend.
- Future investments.
- Etc.

Transnational consultation:

- Health and safety issues.
- Equal opportunities.
- Environmental affairs.
- Major organisational changes.
- New working methods.
- Production transfers and mergers.
- Mergers.
- Cut-backs.
- Closures.
- Collective redundancies.
- Etc.

Experience in Kraft, as described by Bente Loevass, EWC member:

" We employees have always decided the main agenda of the EWC meetings. We have focused heavily on achieving active participation by as many

representatives as possible and raising relevant issues. This has led to the meetings being given high priority by management. Contributions are of high quality even though they can be a bit long and detailed at times. We always have to be on guard to make sure that there is enough time between contributions for us to get a word in too. We want a two-way dialogue.

We have covered many different items - update on the business, plant organisation, benchmarking, health & safety, diversity, food safety, GMO, European retail trade, strategy for the different categories, research & development, combat of child labour in coffee and cocoa sectors etc.

At the preparatory meetings we prepare items that will be raised at the meeting with management but we also spend time on our own business.

We exchange information about the situation in the different countries, for instance discussing pressures we are under to accept more and more flexible working hours arrangements. Some years we invite speakers from outside. We want to build a shared understanding of the issues and increase our level of knowledge.”

Experience in Heineken, as described by Isidoro Jiménez. EWC member:

"..a detailed, broad-ranging list of the company's business issues covered by the concepts of information and consultation was drawn up; the two concepts of information and consultation were clarified together with the question of when exactly could the right to be informed and consulted be exercised; national issues and problems and transnational issues and problems falling under the competence of the EWC were clearly defined as they are of prime importance in a company immersed in constant takeovers in new countries; and above all, the role of national unions and the European Union in the agreement and during the term of office of the EWC was laid down."

EUROPEAN WORKS COUNCILS IN THE FOOD AND AGRICULTURE SECTOR

Experiences, practices and possibilities.

PROBLEMS AND DIFFICULTIES. THE ROLE OF EUROPEAN TRADE UNION ORGANISATIONS.

II. Problems and difficulties. The role of European trade union organisations.

A number of problems and difficulties identified by the members of the European Works Council themselves during the conference held in Madrid on March 10th and 11th 2003 are described below.

Likewise, some solutions and future prospects for issues that give rise to problems as well as the viewpoints and role of European trade union organisations with regard to EWCs are identified in the comments given below.

JULIAN IGLESIAS. Companies Officer, Food and Agriculture Federation, Comisiones Obreras (Spain):

"One point that needs to be stressed is that once the initial period is over we have to change and correct the way we do certain things and overcome the flaws in coordination that we have observed as tending to happen on a day-to-day level. For example:

- ✓ *People participate as representatives of the employees of the Company or Group in question instead of participating as their trade union representatives.*
- ✓ *The coordination of internal work between the forum's representatives and all the other union representatives of the establishments or companies nationally is flawed.*
- ✓ *There is a lack of information given to the organisation (State Federation) both before the annual meeting is held and after it with regard to its conclusions".*

II.1.1 Initial steps and initial problems.

Setting up a European Works Council:

- Takes up a lot of time.
- Represents a new way of working for everybody.

But it allows

Mutual trust to be built up and that trust is very important for both sides.

"Establishing an EWC is a process that takes time. It represents a new way of working for everybody. Building mutual trust is very important for both parties. Initially, management was pretty afraid of what we might get up to.

They wanted all our questions submitted in advance at conferences. One unprepared question led to the meeting having to take a break before they were willing to respond. Their contributions were approved word for word at a higher level in the group. The minutes also had to be approved in New York. Information was mostly about products. To begin with, we received no written information other than the minutes of the annual conference, and we only held the two agreed meetings of the select committee. Management has gradually become more open.

It also takes time for us representatives to find our own way of working, and our cooperation is evolving all the time. After a few years' work we received financial support via AFFET for a course in which almost the whole EWC participated. We really made a lot of progress that week. We got to know each other better and learned about cooperation between the social partners in the different countries.

The most important thing is to have respect for each other. It is not a question of some of us being better than others; we work in different ways and have different framework conditions”.

Bente Loevass. EWC member, Kraft (Norway)

II.1.2 Is there really consultation and information?

According to several EWC representatives, the right to be consulted: **"DOES NOT EXIST. There is only information"**.

A/ The company informs and consults afterwards.

In order to be able to come up with solutions to the problems raised, it is very important for the EWC and its representatives to be consulted right from day one, from the moment when the decision is taken on which establishment is going to be making or producing what and in which country.

B/ The EWC does not have enough time to come up alternatives.

It is essential to get the information in good time so as to be able to come up with up-to-date answers.

The EWC needs to have time to react and seek alternatives for the workers. This happens above all when the company is in the process of merging or restructuring the workforce. As a general rule, consultation takes place at the end of the process, when closure or transfer of production has already been decided.

C/ The information furnished is not always the information needed.

Another added problem is that the company tends to give "a lot of economic information but not enough social and employment-related information".

D/ At times it is difficult to determine whether a matter is national or international in scope.

As a general rule, the matters dealt with in the EWC have to concern several member countries but one of the most complicated tasks is to actually define which issues are solely and exclusively national in scope and which matters may affect two or more countries.

For those reasons, "you have to be careful and take a medium- to long-term view on the **subject of the consultation** and whether it affects one or more countries. A matter that concerns just one country today may have medium- or long-term repercussions for other countries.

"The start-up of the Heineken EWC had to overcome a number of hurdles and difficulties stemming at times from the lack of experience of a new representational body which is just starting to be put together and which has to get organised first in order to get things moving.

It has not always been easy to get the employees' representatives to do just that through the unions.

We ran into difficulties straight away as regards our right to be informed and consulted when major issues were raised with the takeover first of several companies whose volume and dimension turned Heineken into the leading brewing company in Poland. It got worse after the takeover of the Cruzcampo brewing group when the information was not given at the right time for it to be possible for the EWC to take up a standpoint. Nor did the select committee meet at all to argue the idea that in both cases it was not covered by the right to information and consultation because in both cases it only affected one country and, therefore, the takeovers did not have any transnational dimension.

This has sparked off a dispute between the EWC and the company about the timing, form and depth of the information when there are exceptional circumstances like these ones. The dispute is about how and when consultation should go ahead and on what parameters are used to determine which extraordinary or exceptional circumstances (takeover, divestment, relocations) have a knock-on effect on the whole company and thus make these company decisions supranational ones although on the surface they might seem to affect only one country.

Isidoro Jiménez. EWC member, Heineken Spain

The stance taken by EFFAT summarises perfectly the problems that arise with regard to consultation of representatives:

"EWCs are information and consultation bodies. However, although it is true that the company management tends to give out a lot of information in EWC meetings, you cannot say it is a real consultation process.

It is essential to remind multinationals that they are under the obligation to consult employees and their representatives about events taking place in the world that may be workforce restructuring processes, mergers and so on.

Consulting European Union workers means that they have to contribute their suggestions and standpoints on the events in question and that the company management should take them into account. Otherwise, the EWC is pointless.

Harald Wiedenhofer. General Secretary, EFFAT

II.1.3 "European Works Council or Tower of Babel".

It is difficult to work in the EWC and defend our work colleagues without some knowledge of languages, especially English. Nearly all the internal information is sent out in English.

The language problem in Kraft's EWC, as explained by Bente Loevass. EWC member (Norway)

"Language is an important element we need to work on. All the representatives should have some knowledge of English, enough for short telephone conversations and talking during breaks at meetings.

We need enough English to correspond rapidly via brief e-mails. An entitlement and obligation to English language teaching was included in the renegotiated agreement. However, English language teaching can never replace interpreters at meetings.

At present there are only a few members of the select committee I can phone. It is also important that all members of the select committee are given enough time to carry out their duties.

In the Nestlé EWC, as described by Jocelyne Banfi. EWC member, Nestlé (France)

"We have language problems. We should really all be bilingual but the reality is a long way from that situation in the food and agriculture industry.

II.1.4 More resources are needed.

"The group management in Region EU has its head office in London. More and more areas are being organised with European management structures: IS, purchasing, product development, health & safety, production.

For management, this means close cooperation across national boundaries in many areas. In the unions we work each in our own country with the exception of a few meetings. I work full time as a union representative, but in addition to European matters I am also responsible for Kraft Foods works council in the Nordic countries and a number of tasks at national level.

The EFFAT observer with whom I work closely in our EWC has a more than full-time job as a lawyer in the German union NGG. We simply do not have sufficient resources to be able to do a good enough job. I do not believe that the solution is to build up a union secretariat remote from our members, but I believe that we have to develop much closer cooperation in the select committee".

Bente Loevass. EWC member, Kraft (Norway)

*"For the EWC to work properly, we trade union representatives need to have **more time and more financial resources** for the meetings we hold.*

Our European colleagues should meet to get to know each other better and to learn to work together. Financial resources are needed to cover those travel expenses and to make use of external experts. Essentially, they are needed so that we can get on and do the work."

Jocelyne Banfi. EWC member, Nestlé (France)

II.1.5 Internal problems between representatives.

Obviously, there can be problems of understanding between the national representatives themselves who are members of the EWC.

In practice, there are a lot of discussions amongst the representatives about such insignificant issues as the items on the agenda.

Many European Works Council representatives suggest that one way of solving this problem of confrontation of interests amongst colleagues could be the creation of a code of conduct in the EU.

Divide and rule.

The point has to be made that in some cases it is the management itself that prompts confrontation between the representatives and the works councils or amongst the trade unions.

One thing to be avoided is for companies to use the EWCs to avoid talking to or negotiating with their own national works councils. The EWC can only be strong if the trade unions or national works councils work together and make a united stand against the company.

"The cooperation we have through the EWC does not just mean that we meet management, it is equally important for us as employees to operate a network among ourselves.

We no longer stand isolated and alone against the management of the world's second biggest food industry group. We have someone to discuss things with. How well we use this network will be decisive for how good a job we do.

I have already mentioned the select committee's need to receive information from all countries. If management knows that we are well informed it gives us greater strength and credence in discussions. It will actively counteract divide and rule tactics. In a large conglomerate it is no secret that one group's loss is another group's gain. In order to counteract this tendency, we have adopted our

own Code of Conduct in the EWC. We have agreed to keep each other informed about any plans for moving production and to avoid strikebreaking. We also need to have working cooperation within each country. We need to spread information about our work as widely as possible and to include all the unions in discussions.

Bente Loevass. EWC member, Kraft (Norway)

Information has to be top-down and bottom-up.

The EWC trade union members have to take the information that has been gathered and discussed back to the national works councils and vice-versa. In other words, the national works councils have to be a constant source of information for EWCs as they are the ones that are directly in contact with the employees in the national establishments.

High turnover of EWC representatives must be avoided.

One of the main difficulties in EWCs is that some of their representatives are appointed for short, four-year terms of office and that really only means four EWC meetings.

This is obviously too short a period and certainly does not give representatives enough time to gain the necessary experience to be able to do their job in the best conditions.

Training for EWC representatives must be promoted and incentives offered.

It is important to take into account that legislation, together with practice in employment, trade union and business issues, can differ quite radically from country to country.

It is important for EWC members to have access to information on these points, not only at a national level but also all over Europe.

“We have to learn to work together. Even if we had a common language, each country would continue with its own trade union culture. Germany does not work like France or Spain, and so on. Don't forget that Europe has been built thanks to people having learnt to get to know each other and respect each other”.

Jocelyne Banfi. EWC member, Nestlé (France)

But it is not all negative because you have to “highlight as one of the positive aspects that perhaps is not fully appreciated the ever deepening knowledge we national trade unionists get about the position and reality of the company in other countries. There is also the advance information we can get about business strategies and decisions of transnational scope that will eventually find their way into our own countries. Knowing about and being able to compare the progress and improvements made by workers in other countries so that we can use them in our own situation is a process that slowly but surely can and should gradually bring more into and line and standardise the working conditions of employees in different countries”.

Isidoro Jiménez. EWC member, Heineken Spain

II.1.6 Select committee or European Works Council?

A lot has been said about the role of the European Works Council but it should also be remembered that the select committees, also known as steering or coordination committees, are tending to be increasingly more crucial to the workings of the EWC.

However, their growing importance does raise a number of new difficulties and problems for the employees' representatives.

Lack of representation

The coordination committees are not usually made up of all the representatives of the countries that make up the undertaking's group. However, all the countries should be present and, above all, the least represented or poorest countries (south/north approach, etc.) and not only players from the most powerful countries or the countries with the highest number of employees.

If not, a lot of countries will get left behind in the representation stakes.

Who does the Steering Committee actually favour?

According to some representatives, because the steering or select committee is actually "select" it has greater flexibility, finds it easier to call people together for meetings and can work faster. There is no need to call as many as 51 members to a meeting nor is translation into a host of different languages required. All of that saves time.

In addition, many select committees work as intermediaries with the members of the European Works Council. However, in the select committee, each representative is in contact with other countries that are not present.

The minutes are sent to all the representatives and they, in turn, are asked to provide information for the select committees.

At the end of the day, there are many occasions when the EWC is merely a place where information is exchanged and where no work is really done and no

serious thought is given to the specific issues, quite to the contrary of what happens in the EWC.

The fear that the select committee might become the true EWC can end up meaning a reduction in the number of representatives and in the end this can only benefit the company management.

The committees have to be more unionised

There are cases where the EWC representatives are not union representatives as such from the national establishments. That could mean the union element is removed from the EWCs and the whole point of their existence then disappears because these EWC members have not had any meetings previously with the national works councils.

Moreover, a 100% unionised EWC that negotiates with management is able to sign agreements (Danone* is one case) although this prompts a new risk, especially for the EWCs where unionisation is not so obvious and the unions do not have so much strength. In this EWC, some non-union members are given the right to take part in a mechanism that is a quintessential trade union mechanism, i.e. the signing of agreements.

Eventually, this may have repercussions on the trade union movement and the prerogative of trade unions to sign agreements will be jeopardised.

“Managements of multinational companies are in a much stronger position than their employees' unions. They can make decisions that will have far-reaching consequences in many countries – sell off whole industries, close down factories, move production, decide where investments are to be made etc.

They can organise the group in such a way that they remove power from levels and bodies in which our unions have formal rights at the national level. In the

* See Annex V document “joint draft resolution on social rules applicable to all the companies affected by the planned reorganisation of the biscuits industry in Europe. See also point III of this handbook.

Nordic countries for instance, employees are represented on companies' boards of directors, but the real decisions are no longer taken there.

The trade union movement is built up nationally. Our rights only apply within our own countries, while our counterparts are international. The EWC is an important tool to bridge the gap in strength that exists today. I regard the present arrangement as merely a beginning. We need to have continuous discussion about how we can improve work in this area."

Bente Loevass. EWC member, Kraft (Norway)

II.1.7 Competences and divisions by activity sector

To date there are no cases of companies that have set up a European Works Council for each activity sector (e.g. in Danone: biscuits, dairy products and fresh produce).

In other words, the information furnished to the EWC by the company is not broken down by production sectors or when it is, the EWC members have no training or minimum technical expertise on the subject.

However, most multinationals in the food and agriculture sector are divided up into production activity sectors and it is increasingly necessary for representatives from each sector to be present on the EWC as they are the ones who know their sector best.

This entails another sizeable problem which was mentioned earlier: difficulties linked to aspects such as organisation and human and financial resources.

II.2. The role and view of international trade union organisations as regards European Works Councils.

The role of European trade union organisations in the establishment, start-up and monitoring of European Works Council is of primary importance.

"Since the Directive came into force, when the process of setting up EWCs commenced, the strategy used in all cases has been the one decided on by the European trade union federations for the branch of activity through experts who have participated in the negotiation processes in close coordination with the national unions. Initially, their role has focused on negotiating and setting up the body before subsequently participating in it".

Julián Iglesias. Companies Officer, Food and Agriculture Federation, Comisiones Obreras (Spain).

As will be seen below, there are many different kinds of trade union and employment cultures in the European Union. That is why it is essential for some organisations to take on the role of centralising and coordinating the information for them to help, advise and give guidance to the representatives who are members of each EWC.

For instance, they could give guidance on how trade union work is carried out in each country as the rules and legislation in each country are the ones that will actually be followed in the EWC.

Another possibility is for these organisations to create vectors on negotiation or draw up common strategies with protocols for minimum procedures. These strategies would gradually be moulded in each EWC with the sole aim in mind of being able to make progress in a coordinated fashion. This is even more relevant now when new countries from Central and Eastern Europe will be joining in the short and medium term.

The main European trade union organisations that work with or are directly linked to the European Works Councils in the food and agriculture sector are:

- **E.F.F.A.T. - European Federation of Trade Unions in the Food, Agriculture and Tourism Sectors and Allied Branches.**
- **I.U.F.- International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations**
- **E.T.U.C.- European Trade Union Confederation**

II.2.1 EFFAT- European Federation of Trade Unions in the Food, Agriculture and Tourism Sectors and Allied Branches.

What is EFFAT?

EFFAT is the European Federation of Trade Unions in the Food, Agriculture, and Tourism Sectors and allied branches resulting from the merger concluded between two European trade union federations, the ECF-IUF and EFA, on 11 December 2000.

As a European Federation representing 120 national trade unions from 35 European countries, EFFAT defends the interests of more than 2,600,000 members towards European institutions, European industrial federations and company management.

Over recent years, EFFAT has set up European Works Councils in more than 70 transnational groups with whom it maintains a successful social dialogue

Over this time, ECF-IUF has gained solid experience in EWCs.

In the initial stages of the start-up of the first EWCs, it participated in the meetings to negotiate agreements and its representatives often participated in EWC meetings as experts.

EFFAT considers that the European Works Council is an important instrument that is necessary for information and consultation of employees at a European level.

The growing globalisation of trade and the trend towards centralisation of decision-making at an international level make it necessary for a body representing workers at an international level to be set up.

EFFAT will continue to play an active role in the start-up of new EWCs in companies that still do not have one and in the renegotiation of already existing agreements.

What is the current view of EFFAT with regard to European Works Councils?

The following text is the view expressed by EFFAT's General Secretary, Harald Wiedenhofer, during the presentation he made at the conference held in Madrid on March 10th and 11th 2003.

How do we want to use the EWCs?

We usually still find it easier to analyse the strategies of the employer than to develop a realistic working programme. This has to be one of the starting points in each EWC.

Consultation and information process

The agenda is usually dominated by management

Many EWC meetings are in danger of becoming little more than management information platforms. Information, however, can be sent beforehand. Normally, little opportunity is given for genuine dialogue in which company policy is

subjected to critical scrutiny. Such dialogue is, however, essential, because management errors are the main cause of company problems.

Thus we must introduce more of our own social agenda items and also dispute certain management ones. EWCs are often overwhelmed by information but not the information we need.

We must therefore precisely define our information requirement. It is the quality of information that is crucial, not the quantity. This will require a membership qualification for, and more professionalism in the EWCs.

EWC is not a vehicle for informing, but for informing and consulting.

This means that in the event of planned transnational restructuring, central management must inform and consult the EWC before it reaches and implements a final decision.

What is new is that the employer now not only has a legal obligation to consult at national level but at European level as well.

These two consultation procedures should constructively complement one another. They must occur simultaneously.

This means that in the event of a transnational relocation of production, national works councils should not sign any agreements before the EWC has been consulted. The employers do not want this. They are offering enormous resistance.

But for me this question of a proper consultation at an early stage is crucially important for the development of the EWC as a useful body for representing interests. That is why we must ensure that such a procedure is implemented in the EWC and not shy away from conflict in this matter.

EWCs are entities in their own right

EWCs are not a substitute for national works councils but their essential complement

Thus European concern work can only be successful if it is built on the work of national works councils, if it puts common problems on the EWC agenda and if the agreements reached in the EWC are also implemented at national level. The EWC needs the power that political support from the national works councils could bring; otherwise it will remain a jet-setting talking shop. We must still continue to work on this problem in many EWCs.

Although the average proportion of female employees in the European foodstuffs industry varies between 30% and more than 50%, depending on sector and country, only a small minority of EWC members are women.

That is no proud statistic for organisations which claim to promote the involvement of employees in social decision-making processes but are unable to fulfil this claim in their own ranks where women are concerned.

They are unable, however, to compensate for the existing gender quality deficit within companies at European level. If works councils consist only of men, there will be no women in the EWCs. Thus gender equality has to begin at company and national level.

Next year the EU-enlargement will take place. In view of the ever more important new markets and production capacities in Central and Eastern Europe, works councils from these countries must be included in EWC meetings as soon as possible. We have achieved this in many companies but not in all yet. This will be our top priority this and next year.

We think it politically untenable, following the fall of the Iron Curtain, to draw this curtain closed again in the EWC.

It is still the case that we usually know more about the financial and economic position of the company than we do about the social conditions of the

employees. Thus we shall concentrate on a detailed survey of pay and working conditions. At the end of the day there should be social reports or balances of the company. Such company social profiles are an essential basis for the development of common transborder trade union strategies.

How EWCs work

We must help the EWCs become more dynamic and result-orientated. In some EWCs we have already formal and informal agreements with the central management:

- on the approval of fundamental trade union rights
- on information rights for works councils
- for the promotion of continuing training
- on restructuring
- on the promotion of equal rights for women
- on protection of privacy data, etc.

In some companies we have established joint working groups, to do three things:

- survey the deficits of training for example
- devise concrete measures for eliminating these deficits
- carry out regular checks on the implementation of the measures.

In practice implementation of common documents or agreements is once again more difficult than envisaged. But the clause is right. If EWCs do not help to improve conditions for workers, then we can do without them.

We often have widely differing practices within the same concern..

But:

Why should something which has proven successful in one country not also be successful in other companies within the same concern?

Why should, for example, successful French measures for continuing training not also be implemented in Spanish companies?

We must learn more from one another. We must identify examples of best practice within the concern and then try to get these implemented everywhere. We already do that at national level.

In future we must also do it at European level.

Close co-operation between EWCs is the main prerequisite for successful EWC operation, not least to ensure that we are not played off against one another

Without direct contact with colleagues in sister companies, which are often in other countries, works councils are unable to check information provided by the concern management. Seen in this way the establishment of an EWC seems to be a fundamental prerequisite for the facilitation of effective and autonomous works council operation.

That is the reason why the national works council should foster as many bilateral and multilateral contacts as possible, wherever possible. But that alone is not enough.

In the event of transnational restructuring we must agree clear and binding rules of behaviour which guarantee that all those affected are given information quickly and reliably.

In one American TNC, the former CPC, the Italian trade unions and works councils did not agree on the transfer of production from the United Kingdom to Italy until after negotiations with the trade unions in Britain the social plan had been successfully concluded. This is a good example of the way in which we can help each other.

In the event of transnational restructuring we must agree on cross-border tactics and strategy in good time.

In such cases we must agree on clear and binding codes of behaviour. For these cases we have our EFFAT Code of Conduct.

I am under no illusions about production transfers and factory closures. But we do not have to stand idly by and let them happen.

Production transfers and factory closures often also lead to conflicts between trade unions, because there are usually winner sites and loser sites.

Of course we can usually prevent production transfers and factory closures with difficulty.

However, what we can and must prevent is being played off against one another through social dumping or that we, as trade unions and works councils, compete against one another to ruination through social dumping.

We know that if we do that, we will be back to where we started 150 years ago.

However, we also know that there is tremendous pressure on works councils and trade unions to make social concessions under the threat of the sitting question, thereby being unwittingly drawn into the competition of social underbidding.

There is no patent recipe for removing this pressure.

But there are ways of limiting social dumping at European level in the same way as it is done at national level, i.e.; by the setting of minimum social standards.

Minimum standards mean: Everyone could be better

Should be better, even

Because we need this type of competition

But nobody should be worse

than the minimum standard.

Minimum standards are nothing new.

The establishment and improvement of minimum standards is our basic business.

What is new is that we now need minimum standards not only at national level but also at European and international level

One of the tasks of the EWC will be to help with the implementation of European minimum standards on a concern-wide basis. The intensive discussions on Corporate Social Responsibility running at European level at the moment may help to also enter into a discussion on minimum standards with the Central Management.

Future prospects for EFFAT: the European Directive needs to be revised.

EWCs are an option for a different model of innovation and change that is based on social dialogue and produces long-lasting results.

In order to make the most of this option the directive on EWCs needs to be revised.

This is why we are urging the Commission to give the go-ahead for a revision of the Directive.

This is why the European Industry Federations are planning to urge the Commission to take its responsibilities and to carry out the revision of the Directive to the benefit of the workers in transnational companies.

We have already achieved some quite good agreements in EWCs. But these agreements are only as good as they are properly implemented. Hardly one of these agreements is really implemented.

One of the reasons is that we as Trade Unions did not take care of it. We expect that the managements sticks to its commitments but we as Trade Unions have also to do our homework much better in the future than we did up to now."

The future?

Where are we going? We don't know, but what we do know is that we have to reassess the type of relationship that exists between the IUF and the group. Concerns over the changing interlocutors in a company and the internal problems and struggles within the group is the same story for all large companies.

An EWC has to keep one step ahead of changes taking place in companies... For instance, it needs to know which companies will remain within the group

and which ones will not. One of the tasks of the EWC is to be able to predict the future.

II.2.2 International Union of Food and Allied Workers.

What is IUF?

The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) is the international confederation of trade unions representing workers in those industries. Another way of describing it is as the *international federation of national federations*:

Some figures

- 346 affiliated federations.
- 124 countries.
- 3 million members.

The IUF covers the following industries

- preparation and manufacture of food products and beverages.
- all stages of tobacco processing.
- hotels and restaurants.
- agriculture.

One of the main functions of the secretariat is to respond to applications for aid sent to the IUF by trade unions whenever a dispute requires international participation.

The secretariat intervenes on behalf of the member organisations directly vis-à-vis the employers and particularly in the case of *transnational companies*.

IUF essentially works in two ways in this field:

- **Action campaigns or measures** targeting companies that threaten or breach fundamental rights.

- **Action measures and pro-active strategies** to ensure that companies recognise IUF as an international trade union federation.

As IUF representatives speak on behalf of a large number of trade union members, they can start up a dialogue at certain levels of management in transnational companies to which national unions find it difficult to gain access.

The interests of affiliates will be represented in the following cases:

- when the management and the trade union do not manage to negotiate a social agreement,

- when the nature of the problem goes beyond the jurisdiction of the affiliated federations (for example, in the case of production transfers from one country to another).

What is IUF's current view on European Works Councils?

IUF's view is expressed by its representative Patrick Dalban during his presentation made at the conference held on March 10th and 11th 2003.

**IUF is implementing a pro-active strategy
consisting of:**

- Setting standards through agreements with specific transnational companies (normally based on ILO Fundamental Agreements).
- Establishing agreed mechanisms to verify compliance with those standards.
- Negotiating corrective measures agreed when the standards are not met.

Development of the IUF strategy can be basically split into three stages:

- Organise within the company.
- Get recognised by the company.
- Negotiate with the company.

Getting recognition

- Area of major progress in recent years.
- Achieved by taking advantage of opportunities, working in disputes and maintaining contact with companies.

Since 1997 it has been gained recognition from

- Danone (formal).
- Accor (formal).

- Nestlé (limited formally to Europe but actually broader than that informally).
- Coca-Cola (informal and limited; it arose out of major successful international campaigns against Coca Cola in the past).

In 2002, we are now recognised by

- 23 companies and the number is growing.
 - Danone.
 - Accor.
 - Nestlé.
 - Coca-Cola.
 - British American Tobacco.
 - Chiquita Brands International.
 - Club Méditerranée.
 - Compass.
 - Del Monte Fresh Produce.
 - Fonterra (formerly New Zealand Dairy Board, a large dairy product transnational).
 - Fyffes.
 - Hershey Foods.
 - Imperial Tobacco.
 - Interbrew.
 - Japan Tobacco International.
 - Kellogg.
 - Kraft Foods.
 - Mars.
 - Parmalat.
 - Philip Morris International.
 - Scandinavian Tobacco Company.
 - Sodexo.
 - South African Breweries.

What aspects should be taken into account when negotiating?

- Rights and “space”.
- Freedom to join a union.
- Collective bargaining rights.
- No to discrimination.
- No to child and slave labour.
- Other ILO/international “fundamental” rules.

A total of 9 formal international agreements have been reached:

- In Danone:
 - 1/ TU rights.
 - 2/ Equality.
 - 3/ Training in skills.
 - 4/ Information.
 - 5/ Restructuring and employment.
 - 6/ Biscuit industry restructuring*.
- Accor – 7/ trade union rights.
- Chiquita – 8/ Rights, employment, health and safety.
- Fonterra – 9/ Rights, employment, health, safety.

What about codes?

- Company codes are unilateral by definition and lack credibility
- Codes with multiple stakeholders (e.g. ETI-UK, SA 8000, USA) lack a jointly negotiated legal basis but the best ones revolve around trade union rights.

* See Annex V: “Joint draft resolution on social rules applicable to all companies affected by the planned reorganisation of the biscuit industry in Europe”.

- Monitoring has become a problem in the hands of the so-called professional verifiers (SGS, PWC, etc.).
- These social audit companies have little understanding of social rules particularly with regard to freedom of association, collective bargaining, child labour, etc.

II.2.4 The European Trade Union Confederation

What is the ETUC?

The European Trade Union Confederation (ETUC) was established in 1973 to provide a trade union counterbalance to the economic forces of European integration.

At present, the ETUC groups together 78 national trade union member organisations from 34 European countries as well as 11 European industry federations, making a total of 60 million members.

Moreover, the ETUC coordinates the activities of 39 Inter-regional Trade Union Councils which organise trade union cooperation at a cross-border level.

The ETUC is recognised by the European Union, by the Council of Europe, and by EFTA (European Free Trade Association), as the only representative cross-sectoral trade union organisation at European level.

What is the current view of the ETUC with regard to European Works Councils?

The view given below was expressed by the Confederation's Secretary for International Policy, Miguel González Zamora, in a presentation given during the conference held in Madrid on March 10th and 11th 2003.

Article 15 of the Directive states that not later than 22 September 1999, the Commission shall, in consultation with the Member States and with management and labour at European level, review its operation and, in particular examine whether the workforce size thresholds are appropriate with a view to proposing suitable amendments to the Council, where necessary.

Despite the time that has elapsed since then, the Commission has still not revised the Directive.

The ETUC demands a revision of the Directive on the basis of the following aims:

- Reduce the threshold for employees the undertaking has to have to set up the European Work Council. The ETUC believes that this threshold should be 500 employees (instead of the 1000 that are currently needed) and at least 100 employees (instead of 150) in two different Member States.
- Make the right to be informed and consulted an effective one. It is very important to avoid any repetition of cases like the Renault-Vilvoorde case where the company merely informed the EWC once the decision had been taken to close down the site, thus making information and consultation pointless. Information and consultation must be guaranteed to take place in good time and in the proper way so that the two can be real and effective.

- Strengthen the role of the trade unions in the setting-up and functioning of EWCs. The European activity branch federations need to be informed and to participate in all the negotiations to establish European Works Councils.

- Improve the way European Works Councils work. To do this, we need to:
 - ensure that the employees who are members of the negotiating body and of the European Works Council are entitled to meet whenever they deem it necessary.

 - strengthen the role of experts. Employees and trade unions must have the right to be advised by experts of their choice.

 - cut down the negotiating period from three years to one.

 - delete articles 8.3 and 1.5 of the Directive which exclude from the scope of the Directive undertakings which pursue directly and essentially the aim of ideological guidance with respect to information and the expression of opinions and merchant navy crews.

EUROPEAN WORKS COUNCILS IN THE FOOD AND AGRICULTURE SECTOR

Experiences, practices and possibilities.

A PRACTICAL CASE: THE DANONE INTERNATIONAL WORKS COUNCIL.

III A PRACTICAL CASE: THE DANONE INTERNATIONAL WORKS COUNCIL.

"Although the experiences of European Works Councils are certainly diverse in our industry, there are some EWCs that do demonstrate the points explained above and that can offer a positive assessment of the trade union achievements made. One such case is the DANONE Group which I would like to refer to by explaining the process and the trade union work carried out in this group

Without a doubt, this EWC can be described from a TU point of view as one of the most successful of all those set up to date "

Julian Iglesias. Companies Officer, Food and Agriculture Federation, CC.OO (Spain).

Patrick Dalban. European Works Council, Danone – IUF Coordinator.

III.1 Background to the Danone EWC.

Quite a long time before the implementation of Directive 94/45, meetings were held between trade union members and Danone.

Sometime around 1987, trade union coordination commenced through meetings held between the IUF (International Union of Food and Allied Workers) and the BSN Group management.

When Directive 94/45 came into force, the agreement to establish the Works Council was signed, it was given substance and the **trade union nature** of the body being set up was restated.

The first meeting with IUF took place in 1986 and from then onwards regular meetings were held.

It is a works council grouping together **multi-sectoral** activities: *dairy products and desserts, bottled/packaged waters, biscuits* etc. It is governed by the rules on the subject in French legislation.

How was this achieved?

Danone is a special case in this respect as it has always been aware that progress on the economic front cannot be achieved without efforts being made on social issues and vice versa.

III.2 Characteristics and content of the agreement to set up the EWC.

Scope.

Trade union representatives of any country in Europe –including the Eastern European countries– can be members of this EWC which also benefits from the participation of the IUF regional secretaries (Europe and Latin America) and the IUF General Secretary.

The responsibility of the Group is specified and defined whatever the country in Europe where it is has direct responsibility: when it holds 50% of the capital, when it is in a dominant position with regard to the others, when it is responsible for the management and administration of the company.

Composition

The EWC is composed of **51 members**: 17 trade union representatives and 34 representatives of the employees of the different companies and industries. At least one representative per country is guaranteed as well as the presence of men and women.

It has a steering committee made up of the trade union coordinators from each one of the countries where the group operates and which is responsible for preparing the meetings. This committee meets at least *twice a year*, and the plenary body –works council and management- *once*, plus a preparatory union meeting prior to that, a whole day of meetings with the management and one post-meeting assessment meeting. *In total there are 3 days of meetings.*

The participation of internal or external experts is also provided for whenever the parties deem this appropriate and whenever the subject in question requires their presence.

It is not really a European Works Council and it does not even include the adjective European in its name in order to have a more international scope: it is an information and consultation body.

Meetings and how the EWC works

In addition to the area of responsibility granted to these supranational representative bodies –information and consultation- through trade union coordination and approaches, other competences have been successfully added over this period. It is now also responsible for negotiations and for setting up **general agreements of a subsidiary nature** (with respect to the legislation and agreements and practices of the different countries) which guarantee rights and establish joint procedures that have to be respected in each country and that facilitate, from an international and global point of view trade union activity at the same time as they promote equal conditions for workers in the different countries where the group operates and is largely responsible for management.

The EWC meets in Geneva (Switzerland) every year where some of its extraordinary meetings are held such as in 2001*.

The agenda is drawn up by mutual agreement but it is normally split up as follows:

- half a day given over to preparation,
- one day for the meeting and half a day with the chairman of the group. This means that here there is no doubt about whether the representative is suitable or not because in this case it is the Group Chairman himself, who has all the powers needed to sign any kind of agreement.
- one day to evaluate the meeting.

* See Annex V. Agreement on social rules in the biscuit industry.

There is **translation into 7 languages** so that each participant can follow the debates and participate in their own language.

All expenses are paid for by the management.

What is done in these meetings?

- In the main, information is exchanged
- **Is there any negotiation? Not really.** But a number of major agreements do get signed. Indeed, Danone and IUF have signed around 15 agreements but they are the outcome of negotiations with IUF on behalf of its member organisations.

III.3 List of agreements reached.

1. Joint notification on information, training, and equality for men and women and trade union law, with regard to national legislation and collective agreements. (**August 1988**)
2. Minimum economic and social information to workers' representatives in Danone Group companies. (**September 1989**)
3. Platform for action in favour of professional equality between men and women. (**September 1989**)
4. Platform for action in the field of Vocational Training. (**1992**)
5. Joint IUF/BSN statement on the recognition of trade union activity in the Group's companies. (**May 1994**)
6. Joint statement "in the event of any changes in activities affecting jobs or working conditions". (Training; Prior consultation; Aid for internal and external job re-placement and trade union law. (**September 1997**).
7. Joint resolution on social rules applicable to all of the companies affected by the planned reorganisation of the biscuits industry in Europe (**October 2001**).

Two tips on consultation based on the experience gained over many years.

- At EWC meetings, it is very important not to ask questions just for the sake of asking them. There must be a pre-set strategy behind each question asked. After asking the company management a question, you have to try to work out what the chances are of things changing, in what area, how it will affect the transnational dimension, etc.
- However, there must be no taboo questions. Provided it fits in with a reasonable approach, the question has to be asked even though it may not be one of European scope. It is not up to us to impose self-discipline. You have to leave it up to management to reject the question or not.

In a nutshell, anything and everything has to be talked over!

III.4 Assessment of the Danone EWC.

Positive aspects

- 1/ Possibility of questioning the people in charge and of getting concrete answers from the company.
- 2/ You have to make sure that the EWC is not just limited to Europe.
- 3/ Debates on specific items (food safety, etc.) have to be real debates.
- 4/ Management tends to furnish information in writing before the meeting.
- 5/ The IUF secretariat prepares the meetings, distributes the basic documentation and proposes subjects to think about. This makes for a fruitful debate.

— Negative aspects

- 1/ We don't know how to get the information to where it has to get to, i.e. to all the group's workers.

Danone, specifically, does not allow us to use internal information circuits to do so (intranet, etc).

- 2/ Any information they give us is already public information. That is especially true when it concerns takeovers or restructuring processes. In those cases, the company usually argues that it cannot furnish information that might be manipulated or that is deemed to be privileged information, for instance, for stock market dealing.

3/ Training of EWC members is another black spot. It is limited or even non-existent.

4/ Some European regions where Danone is present do not have any representatives on the EWC.

5/ There are not as many EWCs as activity sectors here (biscuits, fresh produce, etc). For instance, a special "biscuits" EWC. If we had them we would have more information to predict in advance some company actions.

6/ The Danone EWC also lacks resources including time and people.

EUROPEAN WORKS COUNCILS IN THE FOOD AND AGRICULTURE SECTOR

Experiences, practices and possibilities.

CONCLUSIONS.

IV / CONCLUSIONS

Our Federation is working on establishing working guidelines and criteria based on the aims defined by the European Federation (EFFAT), both with a view to setting up new EWCs and the effectiveness of the forums that have already been set up and that are going to be debated by all of the trade union sections affected.

Lastly, on the basis of the experience acquired during the time the Directive has been in existence, we believe that we have to steer our trade union action and base our work on three fundamental aspects:

1. Redefine the concepts of *information and consultation*, from the standpoint of reinforcing and making effective once and for all the informing and consulting of workers' representatives in European Works Councils.
2. Introduce the concept of *negotiation*, respecting the legislations of each one of the countries and strengthening the role of trade unions and their participation in meetings.
3. Give greater possibilities to the members of European Works Councils and achieve greater communication and inter-relation between the members from different countries, at the same time as they are given greater training.

EUROPEAN WORKS COUNCILS IN THE FOOD AND AGRICULTURE SECTOR

Experiences, practices and possibilities.

ANNEXES

VI/ ANNEXES



European Directive 94/45/EC.



Implementation of the European Directive in the domestic legislation of the Member States.



Judgement of the European Court of Justice (sixth chamber) of 29 March 2001. Information to be made available by undertakings on request - Information intended to establish the existence of a controlling undertaking within a Community-scale group of undertakings. Case C-62/99.



Conference of Madrid. 10/11 March 2003. List of participants

EUROPEAN WORKS COUNCILS IN THE FOOD AND AGRICULTURE SECTOR

Experiences, practices and possibilities.

Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees.

Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees

Official Journal L 254 , 30/09/1994 P. 0064 - 0072

URL Access:

http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=ES&numdoc=31994L0045&model=guichett

Article 1

Objective 1. The purpose of this Directive is to improve the right to information and to consultation of employees in Community-scale undertakings and Community-scale groups of undertakings.

2. To that end, a European Works Council or a procedure for informing and consulting employees shall be established in every Community-scale undertaking and every Community-scale group of undertakings, where requested in the manner laid down in Article 5 (1), with the purpose of informing and consulting employees under the terms, in the manner and with the effects laid down in this Directive.

3. Notwithstanding paragraph 2, where a Community-scale group of undertakings within the meaning of Article 2 (1) (c) comprises one or more undertakings or groups of undertakings which are Community-scale undertakings or Community-scale groups of undertakings within the meaning of Article 2 (1) (a) or (c), a European Works Council shall be established at the level of the group unless the agreements referred to in Article 6 provide otherwise.

4. Unless a wider scope is provided for in the agreements referred to in Article 6, the powers and competence of European Works Councils and the scope of information and consultation procedures established to achieve the purpose specified in paragraph 1 shall, in the case of a Community-scale undertaking, cover all the establishments located within the Member States and, in the case

of a Community-scale group of undertakings, all group undertakings located within the Member States.

5. Member States may provide that this Directive shall not apply to merchant navy crews.

Article 2 Definitions 1. For the purposes of this Directive:

(a) 'Community-scale undertaking' means any undertaking with at least 1 000 employees within the Member States and at least 150 employees in each of at least two Member States;

(b) 'group of undertakings' means a controlling undertaking and its controlled undertakings;

(c) 'Community-scale group of undertakings' means a group of undertakings with the following characteristics:

at least 1 000 employees within the Member States,

- at least two group undertakings in different Member States, and
- - at least one group undertaking with at least 150 employees in one Member State and at least one other group undertaking with at least 150 employees in another Member State;

(d) 'employees' representatives' means the employees' representatives provided for by national law and/or practice;

(e) 'central management' means the central management of the Community-scale undertaking or, in the case of a Community-scale group of undertakings, of the controlling undertaking;

f) 'consultation' means the exchange of views and establishment of dialogue between employees' representatives and central management or any more appropriate level of management;

(g) 'European Works Council' means the council established in accordance with Article 1 (2) or the provisions of the Annex, with the purpose of informing and consulting employees;

(h) 'special negotiating body' means the body established in accordance with Article 5 (2) to negotiate with the central management regarding the establishment of a European Works Council or a procedure for informing and consulting employees in accordance with Article 1 (2).

2. For the purposes of this Directive, the prescribed thresholds for the size of the workforce shall be based on the average number of employees, including part-time employees, employed during the previous two years calculated according to national legislation and/or practice.

Article 3 Definition of 'controlling undertaking'

1. For the purposes of this Directive, 'controlling undertaking' means an undertaking which can exercise a dominant influence over another undertaking ('the controlled undertaking') by virtue, for example, of ownership, financial participation or the rules which govern it.

2. The ability to exercise a dominant influence shall be presumed, without prejudice to proof to the contrary, when, in relation to another undertaking directly or indirectly:

(a) holds a majority of that undertaking's subscribed capital; or

(b) controls a majority of the votes attached to that undertaking's issued share capital; or

(c) can appoint more than half of the members of that undertaking's administrative, management or supervisory body.

3. For the purposes of paragraph 2, a controlling undertaking's rights as regards voting and appointment shall include the rights of any other controlled undertaking and those of any person or body acting in his or its own name but on behalf of the controlling undertaking or of any other controlled undertaking.

4. Notwithstanding paragraphs 1 and 2, an undertaking shall not be deemed to be a 'controlling undertaking' with respect to another undertaking in which it has holdings where the former undertaking is a company referred to in Article 3 (5) (a) or (c) of Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings (6).

5. A dominant influence shall not be presumed to be exercised solely by virtue of the fact that an office holder is exercising his functions, according to the law of a Member State relating to liquidation, winding up, insolvency, cessation of payments, compositions or analogous proceedings.

6. The law applicable in order to determine whether an undertaking is a 'controlling undertaking' shall be the law of the Member State which governs that undertaking.

Where the law governing that undertaking is not that of a Member State, the law applicable shall be the law of the Member State within whose territory the representative of the undertaking or, in the absence of such a representative, the central management of the group undertaking which employs the greatest number of employees is situated.

7. Where, in the case of a conflict of laws in the application of paragraph 2, two or more undertakings from a group satisfy one or more of the criteria laid down in that paragraph, the undertaking which satisfies the criterion laid down in point (c) thereof shall be regarded as the controlling undertaking, without prejudice to proof that another undertaking is able to exercise a dominant influence.

SECTION II ESTABLISHMENT OF A EUROPEAN WORKS COUNCIL OR AN EMPLOYEE INFORMATION AND CONSULTATION PROCEDURE

Article 4 Responsibility for the establishment of a European Works Council or an employee information and consultation procedure

1. The central management shall be responsible for creating the conditions and means necessary for the setting up of a European Works Council or an information and consultation procedure, as provided for in Article 1 (2), in a Community-scale undertaking and a Community-scale group of undertakings.

2. Where the central management is not situated in a Member State, the central management's representative agent in a Member State, to be designated if necessary, shall take on the responsibility referred to in paragraph 1.

In the absence of such a representative, the management of the establishment or group undertaking employing the greatest number of employees in any one Member State shall take on the responsibility referred to in paragraph 1.

3. For the purposes of this Directive, the representative or representatives or, in the absence of any such representatives, the management referred to in the second subparagraph of paragraph 2, shall be regarded as the central management.

Article 5 Special negotiating body

1. In order to achieve the objective in Article 1 (1), the central management shall initiate negotiations for the establishment of a European Works Council or an

information and consultation procedure on its own initiative or at the written request of at least 100 employees or their representatives in at least two undertakings or establishments in at least two different Member States.

2. For this purpose, a special negotiating body shall be established in accordance with the following guidelines:

(a) The Member States shall determine the method to be used for the election or appointment of the members of the special negotiating body who are to be elected or appointed in their territories.

Member States shall provide that employees in undertakings and/or establishments in which there are no employees' representatives through no fault of their own, have the right to elect or appoint members of the special negotiating body.

The second subparagraph shall be without prejudice to national legislation and/or practice laying down thresholds for the establishment of employee representation bodies.

(b) The special negotiating body shall have a minimum of three and a maximum of 17 members.

(c) In these elections or appointments, it must be ensured:

- firstly, that each Member State in which the Community-scale undertaking has one or more establishments or in which the Community-scale group of undertakings has the controlling undertaking or one or more controlled undertakings is represented by one member,

- secondly, that there are supplementary members in proportion to the number of employees working in the establishments, the controlling undertaking or the controlled undertakings as laid down by the legislation of the Member State within the territory of which the central management is situated.

(d) The central management and local management shall be informed of the composition of the special negotiating body.

3. The special negotiating body shall have the task of determining, with the central management, by written agreement, the scope, composition, functions, and term of office of the European Works Council(s) or the arrangements for implementing a procedure for the information and consultation of employees.

4. With a view to the conclusion of an agreement in accordance with Article 6, the central management shall convene a meeting with the special negotiating body. It shall inform the local managements accordingly.

For the purpose of the negotiations, the special negotiating body may be assisted by experts of its choice.

5. The special negotiating body may decide, by at least two-thirds of the votes, not to open negotiations in accordance with paragraph 4, or to terminate the negotiations already opened.

Such a decision shall stop the procedure to conclude the agreement referred to in Article 6. Where such a decision has been taken, the provisions in the Annex shall not apply.

A new request to convene the special negotiating body may be made at the earliest two years after the abovementioned decision unless the parties concerned lay down a shorter period.

6. Any expenses relating to the negotiations referred to in paragraphs 3 and 4 shall be borne by the central management so as to enable the special negotiating body to carry out its task in an appropriate manner.

In compliance with this principle, Member States may lay down budgetary rules regarding the operation of the special negotiating body. They may in particular limit the funding to cover one expert only.

Article 6 Content of the agreement

1. The central management and the special negotiating body must negotiate in a spirit of cooperation with a view to reaching an agreement on the detailed arrangements for implementing the information and consultation of employees provided for in Article 1 (1).

2. Without prejudice to the autonomy of the parties, the agreement referred to in paragraph 1 between the central management and the special negotiating body shall determine:

(a) the undertakings of the Community-scale group of undertakings or the establishments of the Community-scale undertaking which are covered by the agreement;

(b) the composition of the European Works Council, the number of members, the allocation of seats and the term of office;

- (c) the functions and the procedure for information and consultation of the European Works Council;
- (d) the venue, frequency and duration of meetings of the European Works Council;
- (e) the financial and material resources to be allocated to the European Works Council;
- (f) the duration of the agreement and the procedure for its renegotiation.

3. The central management and the special negotiating body may decide, in writing, to establish one or more information and consultation procedures instead of a European Works Council.

The agreement must stipulate by what method the employees' representatives shall have the right to meet to discuss the information conveyed to them.

This information shall relate in particular to transnational questions which significantly affect workers' interests.

4. The agreements referred to in paragraphs 2 and 3 shall not, unless provision is made otherwise therein, be subject to the subsidiary requirements of the Annex.

5. For the purposes of concluding the agreements referred to in paragraphs 2 and 3, the special negotiating body shall act by a majority of its members.

Article 7 Subsidiary requirements

1. In order to achieve the objective in Article 1 (1), the subsidiary requirements laid down by the legislation of the Member State in which the central management is situated shall apply:

- where the central management and the special negotiating body so decide, or
- where the central management refuses to commence negotiations within six months of the request referred to in Article 5 (1), or
- where, after three years from the date of this request, they are unable to conclude an agreement as laid down in Article 6 and the special negotiating body has not taken the decision provided for in Article 5 (5).

2. The subsidiary requirements referred to in paragraph 1 as adopted in the legislation of the Member States must satisfy the provisions set out in the Annex.

SECTION III MISCELLANEOUS PROVISIONS

Article 8 Confidential information

1. Member States shall provide that members of special negotiating bodies or of European Works Councils and any experts who assist them are not authorized to reveal any information which has expressly been provided to them in confidence.

The same shall apply to employees' representatives in the framework of an information and consultation procedure.

This obligation shall continue to apply, wherever the persons referred to in the first and second subparagraphs are, even after the expiry of their terms of office.

2. Each Member State shall provide, in specific cases and under the conditions and limits laid down by national legislation, that the central management situated in its territory is not obliged to transmit information when its nature is such that, according to objective criteria, it would seriously harm the functioning of the undertakings concerned or would be prejudicial to them.

A Member State may make such dispensation subject to prior administrative or judicial authorization.

3. Each Member State may lay down particular provisions for the central management of undertakings in its territory which pursue directly and essentially the aim of ideological guidance with respect to information and the expression of opinions, on condition that, at the date of adoption of this Directive such particular provisions already exist in the national legislation.

Article 9 Operation of European Works Council and information and consultation procedure for workers The central management and the European Works Council shall work in a spirit of cooperation with due regard to their reciprocal rights and obligations.

The same shall apply to cooperation between the central management and employees' representatives in the framework of an information and consultation procedure for workers.

Article 10 Protection of employees' representatives Members of special negotiating bodies, members of European Works Councils and employees'

representatives exercising their functions under the procedure referred to in Article 6 (3) shall, in the exercise of their functions, enjoy the same protection and guarantees provided for employees' representatives by the national legislation and/or practice in force in their country of employment.

This shall apply in particular to attendance at meetings of special negotiating bodies or European Works Councils or any other meetings within the framework of the agreement referred to in Article 6 (3), and the payment of wages for members who are on the staff of the Community-scale undertaking or the Community-scale group of undertakings for the period of absence necessary for the performance of their duties.

Article 11 Compliance with this Directive

1. Each Member State shall ensure that the management of establishments of a Community-scale undertaking and the management of undertakings which form part of a Community-scale group of undertakings which are situated within its territory and their employees' representatives or, as the case may be, employees abide by the obligations laid down by this Directive, regardless of whether or not the central management is situated within its territory.

2. Member States shall ensure that the information on the number of employees referred to in Article 2 (1) (a) and (c) is made available by undertakings at the request of the parties concerned by the application of this Directive.

3. Member States shall provide for appropriate measures in the event of failure to comply with this Directive; in particular, they shall ensure that adequate administrative or judicial procedures are available to enable the obligations deriving from this Directive to be enforced.

4. Where Member States apply Article 8, they shall make provision for administrative or judicial appeal procedures which the employees' representatives may initiate when the central management requires confidentiality or does not give information in accordance with that Article.

Such procedures may include procedures designed to protect the confidentiality of the information in question.

Article 12 Link between this Directive and other provisions

1. This Directive shall apply without prejudice to measures taken pursuant to Council Directive 75/129/EEC of 17 February 1975 on the approximation of the laws of the Member States relating to collective redundancies (7), and to Council Directive 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses (8).
2. This Directive shall be without prejudice to employees' existing rights to information and consultation under national law.

Article 13 Agreements in force

1. Without prejudice to paragraph 2, the obligations arising from this Directive shall not apply to Community-scale undertakings or Community-scale groups of undertakings in which, on the date laid down in Article 14 (1) for the implementation of this Directive or the date of its transposition in the Member State in question, where this is earlier than the abovementioned date, there is already an agreement, covering the entire workforce, providing for the transnational information and consultation of employees.
2. When the agreements referred to in paragraph 1 expire, the parties to those agreements may decide jointly to renew them.

Where this is not the case, the provisions of this Directive shall apply.

Article 14 Final provisions

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than 22 September 1996 or shall ensure by that date at the latest that management and labour introduce the required provisions by way of agreement, the Member States being obliged to take all necessary steps enabling them at all times to guarantee the results imposed by this Directive. They shall forthwith inform the Commission thereof.
2. When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

Article 15 Review by the Commission

Not later than 22 September 1999, the Commission shall, in consultation with the Member States and with management and labour at European level, review its operation and, in particular examine whether the workforce size thresholds are appropriate with a view to proposing suitable amendments to the Council, where necessary.

EUROPEAN WORKS COUNCILS IN THE FOOD AND AGRICULTURE SECTOR

Experiences, practices and possibilities.

Implementation of the european directive into the
domestic legislation of the member states.

IMPLEMENTATION OF THE EUROPEAN DIRECTIVE INTO THE DOMESTIC LEGISLATION OF THE MEMBER STATES.

All the Member States except the United Kingdom of Great Britain and Northern Ireland had to incorporate Directive 94/45/EC into their domestic legislation by 22 September 1996 at the latest. Directive 97/74/EC had to be transposed by the United Kingdom of Great Britain and Northern Ireland and by all the Member States by 15 December 1999 at the latest.

Five Member States (Denmark, Finland, Ireland, Sweden and Belgium partially) met the deadline set for transposition of the Directive. Those countries passed legal provisions implementing the Directive that came into force on 22 September 1996.

The five Member States were followed very shortly after that date by Austria (17 October 1996), Italy (partial transposition on 6 November 1996), France (12 November 1996) and Germany (1 November 1996). The Directive was implemented much later by Netherlands (5 February 1997), Greece (1 March 1997) and Spain (24 April 1997). The abbreviations used in this report for the countries in question will be as follows: A: Austria, B: Belgium, D: Germany, DK: Denmark, EL: Greece, E: Spain, Fin: Finland, F: France, IRL: Ireland, I: Italy, L: Luxembourg, NL: Netherlands, P: Portugal, S: Sweden.

There was a considerable delay before Portugal adopted legislation to transpose the Directive (Act published 9 June 1999 that came into force on 9 July 1999).

The Luxembourg text is currently being incorporated.

In Italy, the Directive has only been partially transposed through the signing on 6 November 1996 of an inter-confederation agreement which needs to be supplemented to complete the process by a law extending *erga omnes* the contractual rules and approving, *inter alia*, rules on sanctions and jurisdictional competence. The inter-confederation agreement does not fully implement the Directive because of its restricted content and its limited scope (not all professional sectors are included).

In Belgium, the collective agreement was supplemented by two pieces of legislation.

Transposition difficulties

Whatever the quality of its implementation into domestic legislation, the Directive still contains points that are open to interpretation. Those points, as already detected, mainly concern:

- the notion of controlling undertaking,
- geographical and proportional criteria,
- conditions for renewing earlier agreements (Article 13),
- changes in the group's structure,
- the notion of expert.

REFERENCES TO OFFICIAL TEXTS/LEGISLATION IN MEMBER STATES

AUSTRIA

Bundesgesetz vom 17. Oktober 1996, mit dem das Arbeitsverfassungsgesetz, das Arbeits- und Sozialgerichtsgesetzes und das Bundesgesetz über die Post-Betriebsverfassung geändert werden - *Publication*: Bundesgesetzblatt für die Republik Österreich Nr. 601/96, 31.10.1996.

BELGIUM

– Arrêté royal du 22.03.1996 rendant obligatoire la convention collective de travail n° 62, conclue le 6 Février 1996 au sein du Conseil national du Travail, concernant l'institution d'un comité d'entreprise européen ou d'une procédure dans les entreprises de dimension communautaire et les groupes d'entreprises de dimension communautaire en vue d'informer et de consulter les travailleurs. *Publication*: Moniteur Belge de 11.04.1996, p. 8465.

– Arrêté royal du 27.11.1998 rendant obligatoire la convention collective de travail n° 62bis du 6 octobre 1998 modifiant la convention collective de travail n° 62 du 6 février 1996, conclue au sein du Conseil national du Travail, concernant l'institution d'un comité d'entreprise européen ou d'une procédure dans les entreprises de dimension communautaire et les groupes d'entreprises de dimension communautaire en vue d'informer et de consulter les travailleurs. *Publication*: Moniteur Belge, 16.12.1998, p. 935.

– Arrêté royal portant exécution de l'article 8 de la loi du 23 avril 1998 portant des mesures d'accompagnement en ce qui concerne l'institution d'un comité d'entreprise européen ou d'une procédure dans les entreprises de dimension communautaire et les groupes d'entreprises de dimension communautaire en vue d'informer et de consulter les travailleurs. *Publication*: Moniteur Belge, 17.10.1998, p. 1252.

– Loi du 23 avril 1998 portant des mesures d'accompagnement en ce qui concerne l'institution d'un comité d'entreprise européen ou d'une procédure dans les entreprises de dimension communautaire et les groupes d'entreprises

de dimension communautaire en vue d'informer et de consulter les travailleurs.
Publication: Moniteur Belge, 21.05.1998, p. 2192.

– Loi du 23 avril 1998 portant des dispositions diverses en ce qui concerne l'institution d'un comité d'entreprise européen ou d'une procédure dans les entreprises de dimension communautaire et les groupes d'entreprises de dimension communautaire en vue d'informer et de consulter les travailleurs.
Publication: Moniteur Belge, 21.05.1998, p. 2192.

DENMARK

Lov N. 371 af 22.05.1996 om europæiske samarbejdsudvalg - *Publication:* Ministerialtidende, j. nr. 1996-534-8

FINLAND

Laki yhteistoiminnasta yrityksissä annetun lain muuttamisesta 614/96; 9.8.1996

FRANCE

Loi N. 96-985 du 12.11.1996 relative à l'information et à la consultation des salariés dans les entreprises et les groupes d'entreprises de dimension communautaire, ainsi qu'au développement de la négociation collective -
Publication: Journal Officiel de la République Française; 13.11.1996; p. 16527
 Intégration au Code du Travail sous les articles L 439-1 modifié, L 439-6 à L 439-24, L 483-1-2

GERMANY

Gesetz über Europäische Betriebsräte (EBRG) vom 28.10.1996 - *Publication:* Bundesgesetzblatt Teil I; 31.10.1996, S.1548

GREECE

Presidential decree n° 40/97; 18.3.1997 - *Publication:* FEK A n° 39; 20.03.97; p. 599

IRELAND

Transnational Information and Consultation of Employees Act of 1996;
 Transnational Information and Consultation of Employees Act of 1996
 (Commencement) Order of 1996; 3.7.1996 - *Publication*: Statutory Instruments
 n° 20, 1996; Statutory Instruments n° 276, 1996

ITALY

Accordo Interconfederale per il Recepimento della direttiva 94/45 CE del
 22.9.1994; 06.11.1996

LUXEMBOURG

Transposition delayed

NETHERLANDS

Wet van 23.1.1997 op de Europese ondernemingsraden tot uitvoering van
 richtlijn nr. 94/45/EG - *Publication*: Staatsblad 1997/32 pp 1-15; 4.2.1997

PORTUGAL

Lei n° 40/99 de 9 de Junho que assegura a informação e consulta dos
 trabalhadores em empresas ou grupos de empresas transnacionais e regula a
 instituição de conselhos de empresa europeus ou de procedimentos
 simplificados de informação e consulta em empresas e grupos de empresas de
 dimensão comunitária. DR n° 133 de 9 de Junho de 1999, p. 3237 e ss. Entry
 into force: 9 July 1999.

SPAIN

Ley 10/1997, de 24 de abril, sobre derechos de información y consulta de los
 Trabajadores en las empresas y grupos de empresas de dimensión comunitaria
 N° 10/97; 24.4.1997 - *Publicación*: Boletín Oficial del Estado N° 99; 25.04.97; p.
 13258

SWEDEN

Lag (1996:359) om europeiska företagsråd; utfärdad den 9 maj 1996

EUROPEAN WORKS COUNCILS IN THE FOOD AND AGRICULTURE SECTOR

Experiences, practices and possibilities.

Judgment of the Court (Sixth Chamber) of 29
March 2001.

Betriebsrat der bofrost* Josef H. Boquoi
Deutschland West GmbH & Co. KG v Bofrost*
Josef H. Boquoi Deutschland West GmbH &
Co. KG.

Judgment of the Court (Sixth Chamber) of 29 March 2001.

Betriebsrat der Bofrost* Josef H. Boquoi Deutschland West GmbH & Co. KG v Bofrost* Josef H. Boquoi Deutschland West GmbH & Co. KG.

Reference for a preliminary ruling: Landesarbeitsgericht Düsseldorf - Germany.
Reference for a preliminary ruling - Article 11(1) and (2) of Directive 94/45/EC - Information to be made available by undertakings on request - Information intended to establish the existence of a controlling undertaking within a Community-scale group of undertakings. Case C-62/99. European Court reports 2001 Page I-02579

Social policy Information and consultation of employees in Community-scale undertakings Directive 94/45 Requirement that an undertaking forming part of a group of undertakings should supply information to internal workers' representative bodies Requirement imposed even before the existence of a controlling undertaking within the group of undertakings has been established Scope (Council Directive 94/45, Art. 11(1) and (2))

On a proper construction of Article 11(1) and (2) of Directive 94/45 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees, an undertaking which is part of a group of undertakings is required to supply information to the internal workers' representative bodies, even where it has not yet been established that the management to which the workers' request is addressed is the management of a controlling undertaking within a group of undertakings.

Where information relating to the structure or organisation of a group of undertakings forms part of the information which is essential to the opening of negotiations for the setting-up of a European Works Council or for the transnational information and consultation of employees, an undertaking within the group is required to supply the information which it possesses or is able to obtain to the internal workers' representative bodies requesting it. Communication of documents clarifying and explaining the information which is indispensable for that purpose may also be required, in so far as that communication is necessary in order that the employees concerned or their

representatives may gain access to information enabling them to determine whether or not they are entitled to request the opening of negotiations.(see paras 36, 41 and operative part 1-2)

In Case C-62/99,

REFERENCE to the Court under Article 177 of the EC Treaty (now Article 234 EC) by the Landesarbeitsgericht Düsseldorf (Germany) for a preliminary ruling in the proceedings pending before that court between

Betriebsrat der bofrost* Josef H. Boquoi Deutschland West GmbH & Co. KG and Bofrost* Josef H. Boquoi Deutschland West GmbH & Co. KG, on the interpretation of Article 11(1) and (2) of Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (OJ 1994 L 254, p. 64),

THE COURT (Sixth Chamber), composed of: C. Gulmann, President of the Chamber, V. Skouris, J.-P. Puissochet, R. Schintgen and F. Macken (Rapporteur), Judges, Advocate General: A. Saggio, Registrar: R. Grass, after considering the written observations submitted on behalf of: Betriebsrat der bofrost* Josef H. Boquoi Deutschland West GmbH & Co. KG, by T. Schmidt, Rechtsanwalt, bofrost* Josef H. Boquoi Deutschland West GmbH & Co. KG, by E. Huber, Rechtsanwalt, the German Government, by W.-D. Plessing and C.-D. Quassowski, acting as agents, the Austrian Government, by C. Pesendorfer, acting as Agent, the Commission of the European Communities, by D. Gouloussis and J.C. Schieferer, acting as Agents, having regard to the report of the Judge-Rapporteur, after hearing the Opinion of the Advocate General at the sitting on 26 September 2000, gives the following Judgment

1 By order of 21 January 1999, received at the Court on 22 February 1999, the Landesarbeitsgericht Düsseldorf (Düsseldorf Higher Labour Court) referred to the Court for a preliminary ruling under Article 177 of the EC Treaty (now Article 234 EC) three questions on the interpretation of Article 11(1) and (2) of Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and

Community-scale groups of undertakings for the purposes of informing and consulting employees (OJ 1994 L 254, p. 64, the Directive).

2 Those questions were raised in proceedings between the Betriebsrat der bofrost* Josef H. Boquoi Deutschland West GmbH & Co. KG (the Works Council) and bofrost* Josef H. Boquoi Deutschland West GmbH & Co. KG (the employer), concerning the latter's refusal to give the former information relating to the number of employees and the structure of the undertakings within the bofrost* group to which it belongs.

The legal background

The Community legislation

3 Article 1(1) and (2) of the Directive provides:

(1) The purpose of this Directive is to improve the right to information and to consultation of employees in Community-scale undertakings and Community-scale groups of undertakings.

(2) To that end, a European Works Council or a procedure for informing and consulting employees shall be established in every Community-scale undertaking and every Community-scale group of undertakings, where requested in the manner laid down in Article 5(1), with the purpose of informing and consulting employees under the terms, in the manner and with the effects laid down in this Directive.

4 Article 2(1)(a) to (c) and (e) provides as follows:

(1) For the purposes of this Directive:

(a) "Community-scale undertaking" means any undertaking with at least 1 000 employees within the Member States and at least 150 employees in each of at least two Member States;

(b) "group of undertakings" means a controlling undertaking and its controlled undertakings;

(c) "Community-scale group of undertakings" means a group of undertakings with the following characteristics:

at least 1 000 employees within the Member States,

at least two group undertakings in different Member States, and

at least one group undertaking with at least 150 employees in one Member State and at least one other group undertaking with at least 150 employees in another Member State;

(e) "central management" means the central management of the Community-scale undertaking or, in the case of a Community-scale group of undertakings, of the controlling undertaking.

5 Article 3(1) and (2) of the Directive defines controlling undertaking as follows:

(1) For the purposes of this Directive, "controlling undertaking" means an undertaking which can exercise a dominant influence over another undertaking ("the controlled undertaking") by virtue, for example, of ownership, financial participation or the rules which govern it.

(2) The ability to exercise a dominant influence shall be presumed, without prejudice to proof to the contrary, when [an undertaking], in relation to another undertaking directly or indirectly:

(a) holds a majority of that undertaking's subscribed capital; or

(b) controls a majority of the votes attached to that undertaking's issued share capital; or

(c) can appoint more than half of the members of that undertaking's administrative, management or supervisory body.

6 According to Article 4(1) of the Directive, [t]he central management shall be responsible for creating the conditions and means necessary for the setting up of a European Works Council or an information and consultation procedure, as provided for in Article 1(2), in a Community-scale undertaking and a Community-scale group of undertakings.

7 Finally, Article 11(1) and (2) provides:

(1) Each Member State shall ensure that the management of establishments of a Community-scale undertaking and the management of undertakings which form part of a Community-scale group of undertakings which are situated within its territory and their employees' representatives or, as the case may be, employees abide by the obligations laid down by this Directive, regardless of whether or not the central management is situated within its territory.

(2) Member States shall ensure that the information on the number of employees referred to in Article 2(1)(a) and (c) is made available by undertakings at the request of the parties concerned by the application of this Directive.

The national legislation

8 The Federal Republic of Germany transposed the Directive into national law by means of the Gesetz über Europäische Betriebsräte of 28 October 1996 (Law on European Works Councils, BGBl. I, p. 1548, the EBRG).

9 By virtue of Paragraph 2(1) of the EBRG, that law applies to undertakings situated in the Community and having their seat in German territory and to groups of undertakings established in the Community where the controlling undertaking has its seat in German territory.

10 Paragraph 5 of the EBRG, adopted in order to transpose Article 11 of the Directive, provides:

(1) The central management must give to the employees' representatives, upon request, information on the average number of employees and the distribution of these within the Member States, on the undertakings and establishments and on the structure of the company or group of companies.

(2) A works council or a central works council may exercise the right granted in subparagraph 1 against the local management of the establishment or undertaking; the latter shall be required to obtain from the central management the information and documents necessary to provide the particulars requested.

11 Paragraph 6 of the EBRG attributes to controlling undertaking a definition similar to that under Article 3 of the Directive.

The dispute in the main proceedings

12 The bofrost* group, to which the employer belongs, consists of several companies, some established in Germany and some in other Member States.

13 The Works Council is the works council of one of the companies belonging to the bofrost* group.

14 In April 1997 the undertakings in the bofrost* group established in European territory concluded a Gleichordnungskonzernvertrag, that is to say, a special agreement intended to establish parity between the various undertakings belonging to the group, in order that none should be dominant and that there should be no hierarchical relations between them.

15 Under that international agreement, they entrusted the management of the group in Europe to a Lenkungsausschuß (steering committee). They also set up a shareholders' advisory council, presided over by Josef H. Boquoi, whose agreement is necessary for the adoption of certain business-related decisions and of those which do not form part of the normal pattern of commercial activity.

16 The undertakings in the bofrost* group established in Germany had concluded such an agreement as long ago as April 1993.

17 In response to several requests made by the Works Council to the employer, seeking information on the number of employees and the structure of the undertakings in the bofrost* group in order to prepare for the setting-up of a European Works Council, as provided for by the Directive, the employer by letter of 9 January 1997 definitively refused to supply that information.

18 On 3 March 1998 the Works Council applied to the Arbeitsgericht Wesel (Wesel Labour Court) for an order that that information should be supplied. It claimed that the conditions laid down in Paragraphs 2(1) and 5(1) of the EBRG had been satisfied, since Mr Boquoi held a majority shareholding such as to give rise to the presumption under Paragraph 6(1) and (2) of the EBRG, at least in the bofrost* group companies having their seat in Germany.

19 The Works Council maintained that the employer could not rebut that presumption by relying on the international agreement concluded within the group. In its view, Mr Boquoi, in his capacity as president of the shareholders' advisory council, exercised a dominant influence over the European group steering committee and, in practice, over all the companies in the group established in Europe.

20 The employer contended that the Works Council's application should be rejected, arguing that the EBRG was not applicable and that the Works Council could not, therefore, avail itself of the right to information in issue.

21 According to the employer, Paragraph 5 of the EBRG presupposes that the conditions laid down in Paragraph 2(1) of that Law are satisfied, namely, that there is a European-scale group of undertakings and that the controlling undertaking has its seat in Germany, which is not the case in this instance. In its view, neither Mr Boquoi nor any undertaking is able to exercise legal or actual control within the group. Mr Boquoi does not hold shares in any of the companies in the bofrost* group with the power to manage the limited partnerships, but only in the undertakings which are the limited partners. In addition, even in his capacity as a member of the shareholders' advisory committee, he is in no position to control the German and European undertakings in the group.

22 By judgment of 5 August 1998 the Arbeitsgericht granted the Works Council's request for information.

23 On 23 November 1998 the employer brought an appeal against that judgment before the Landesarbeitsgericht Düsseldorf. That court considered that, on a proper construction of Paragraph 5(1) of the EBRG, the Works Council is entitled to call on the employer to provide information on the average overall number of employees and their distribution between Member States, and on the structure [of the group], including the shareholding connections of Mr Boquoi in his entrepreneurial capacity, even where it has not been established that there exists a controlling undertaking within the meaning of Paragraphs 2(1) and 6 of the EBRG.

24 None the less, considering that that interpretation of the provisions of domestic law could not be adopted if it proved to be contrary to Article 11(2) of the Directive, the national court decided to stay proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

(1) Is Article 11(1) and (2) of Council Directive 94/45/EC of 22 September 1994 to be interpreted as meaning that the right to information laid down therein exists even where it is not (yet) established whether or not there is a controlling undertaking within the meaning of Article 3 of Directive 94/45/EC in a group of undertakings as defined in Article 2(1)(b) of Directive 94/45/EC?

(2) If question (1) is answered in the affirmative:

Does the right to information in Article 11(1) and (2) of Directive 94/45/EC also include the right of a works council to request from the undertaking concerned information which gives rise to the presumption referred to in Article 3(2) of Directive 94/45/EC?

(3) Does Article 11(1) and (2) of Directive 94/45/EC also include the right of a works council to request documents from an undertaking to clarify and explain such information?

The first question

25 By its first question, the national court is, in essence, seeking to ascertain whether, on a proper construction of Article 11(1) and (2) of the Directive, an undertaking which is part of a group of undertakings is required to supply information to the internal workers' representative bodies, even where it has not yet been established that there is a controlling undertaking within a group of

undertakings.

26 The employer contends that it is clear from the wording of Article 11(2) of the Directive that an undertaking is obliged to supply information only if it has already been established that it is a controlling undertaking within a group of undertakings. According to the employer, any other interpretation would make it impossible to know which undertakings are obliged to supply information or how and in what way the undertaking responsible for supplying the information is to obtain the information required concerning other undertakings with which it has no links as part of a group of undertakings within the meaning of the Directive.

27 The Works Council, the Austrian and German Governments and the Commission all submit that, in order to attain the chief objective of the Directive namely informing and consulting employees the workers concerned must of necessity be assured access to information enabling them to judge whether they are entitled to require negotiations to be opened relating to the setting-up of a European Works Council or of a transnational information and consultation procedure and, if appropriate, to formulate their request properly. That right also includes information as to whether or not there exists a controlling relationship between the various undertakings concerned for the purposes of Article 3 of the Directive.

28 It must first of all be noted, in this connection, that, as stated in the 11th recital in the preamble to the Directive, it is the purpose of that directive to ensure that the employees of Community-scale undertakings are properly informed and consulted when decisions which affect them are taken in a Member State other than that in which they are employed.

29 As is clear from its general scheme, transnational informing and consulting of employees are essentially to be ensured by means of a system of negotiations between the central management, within the meaning of Article 2(1)(e) of the Directive, and the workers' representatives.

30 Next, Article 11(1) of the Directive provides that the management of establishments of a Community-scale undertaking and the management of undertakings which form part of a Community-scale group of undertakings are to abide by the obligations laid down by the Directive.

31 The wording of that same provision makes it clear that the scope of those obligations is not to be confined, on the employers' side, exclusively to central management within the meaning of Article 2(1)(e) of the Directive.

32 Finally, as the Works Council, the Austrian and German Governments and the Commission have correctly pointed out, if the Directive is to serve a useful purpose, it is essential that the workers concerned be guaranteed access to information enabling them to determine whether they have the right to demand the opening of negotiations with central management, once its existence is established, and the workers' representatives.

33 Such a right to information constitutes a necessary prerequisite for determining whether a Community-scale undertaking or group of undertakings exists, which is itself a condition precedent for the setting-up of a European works council or of a transnational procedure for informing and consulting workers.

34 As regards employees of an undertaking forming part of a group of undertakings, as defined in Article 2(1)(b) of the Directive, their right to be informed therefore exists even before it is ascertained whether or not there exists within the group a controlling undertaking within the meaning of Article 3 of the Directive.

35 That interpretation is corroborated by the wording of Article 11(2) of the Directive, which refers generally to parties concerned by the application of this Directive, without confining itself to central management, within the meaning of Article 2(1)(e) of the Directive, or workers' representatives.

36 In light of the foregoing, the answer to be given to the first question must be that, on a proper construction of Article 11(1) and (2) of the Directive, an undertaking which is part of a group of undertakings is required to supply information to the internal workers' representative bodies, even where it has not yet been established that the management to which the workers' request is addressed is the management of a controlling undertaking within a group of undertakings.

The second and third questions

37 With regard to the second and third questions, which deal with the scope of the obligation to supply information imposed by Article 11(1) and (2) of the Directive, information concerning the number of employees in a group of

undertakings, within the meaning of Article 2(1)(b) of the Directive, in each Member State, information requested pursuant to Article 11(2) of the Directive, cannot be dissociated from information concerning the existence of a controlling relationship between the various undertakings concerned within the meaning of Article 3 of the Directive.

38 As pointed out in paragraph 32 above, it is implicit in the Directive's purpose that the obligations which it lays down are to be fulfilled in such a way as to enable the workers concerned, or their representatives, to have access to the information which is necessary if they are to be able to determine whether or not they are entitled to request the opening of negotiations and, where relevant, to make that request in due form.

39 It follows that, where information relating to the structure or organisation of a group of undertakings forms part of the information which is essential to the opening of negotiations for the setting-up of a European Works Council or for the transnational information and consultation of employees, an undertaking within the group is required to supply the information which it possesses or is able to obtain to the internal workers' representative bodies requesting it

40 It also follows that, to the extent that it is necessary in order to make it possible for the employees concerned or their representatives to gain access to the information which is essential if they are to be able to determine whether or not they are entitled to request the opening of negotiations, communication of documents clarifying and explaining the information which is indispensable for that purpose may also be required, in so far as that communication is necessary.

41 The answer to be given to the second and third questions must therefore be that where information relating to the structure or organisation of a group of undertakings forms part of the information which is essential to the opening of negotiations for the setting-up of a European Works Council or for the transnational information and consultation of employees, an undertaking within the group is required to supply the information which it possesses or is able to obtain to the internal workers' representative bodies requesting it. Communication of documents clarifying and explaining the information which is indispensable for that purpose may also be required, in so far as that communication is necessary in order that the employees concerned or their

representatives may gain access to information enabling them to determine whether or not they are entitled to request the opening of negotiations.

Costs

42 The costs incurred by the German and Austrian Governments and by the Commission, which have submitted observations to the Court, are not recoverable. Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT (Sixth Chamber), in answer to the questions referred to it by the Landesarbeitsgericht Düsseldorf by of 21 January 1999, hereby rules:

1. On a proper construction of Article 11(1) and (2) of Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees, an undertaking which is part of a group of undertakings is required to supply information to the internal workers' representative bodies, even where it has not yet been established that the management to which the workers' request is addressed is the management of a controlling undertaking within a group of undertakings.

2. Where information relating to the structure or organisation of a group of undertakings forms part of the information which is essential to the opening of negotiations for the setting-up of a European Works Council or for the transnational information and consultation of employees, an undertaking within the group is required to supply the information which it possesses or is able to obtain to the internal workers' representative bodies requesting it. Communication of documents clarifying and explaining the information which is indispensable for that purpose may also be required, in so far as that communication is necessary in order that the employees concerned or their representatives may gain access to information enabling them to determine whether or not they are entitled to request the opening of negotiations.

EUROPEAN WORKS COUNCILS IN THE FOOD AND AGRICULTURE SECTOR

Experiences, practices and possibilities.

Conference of Madrid. List of participants

| <u>ENTERPRISES</u> | COUNTRY / N° Representative |
|-----------------------------------|--------------------------------|
| ALLIED DOMECQ | SPAIN /1 |
| BONGRAIN SOPARIND | SPAIN /1 |
| CADBURY SCHWEPPE | BÉLGIUM /1- SPAIN /3 |
| ALTADISGROUP | SPAIN /2 - FRANCE /1 |
| CAMPOFRIO GROUP | SPAIN /1 |
| DANONE GROUP | SPAIN /2 |
| LESAFRE GROUP (PAN IBERICA) | SPAIN /1 |
| PANRICO GROUP | SPAIN /3 |
| HEINEKEN ESPAÑA | SPAIN /2 |
| KRAFT FOODS INTERNAC. | SPAIN /1 - NORWAY /1 |
| NESTLE | SPAIN /3 - FRANCE /1 |
| NUTRECO | SPAIN /2 |
| PARMALAT | SPAIN /1 |
| PEPSICO (MATUTANO) | SPAIN /1 |
| PESCANOVA | SPAIN /2 |
| SARA LEE | SPAIN /2 |
| UNILEVER | SPAIN /2 |
| WARNER LAMBERT | SPAIN /1 |
| <u>ORGANIZATIONS</u> | |
| EFFAT | BÉLGIUM /1 |
| FEDERACIÓN AGROALIMENTARIA CC.OO. | SPAIN /6 |
| IUF -UITA -IUL | SWITZERLAND /1 |



The ideas and opinions presented in this document are exclusive responsibility of their authors.
The European Commission is not responsible of the use that can be done of the information displayed.

© Federación Agroalimentaria de CC.OO.
Plaza Cristino Martos 4, 3Pta
E- 28015 Madrid



Employment and Social Affairs