

**European Commission
General Directorate Employment, Social Affairs
and Equal Opportunities**

**Second study seminar “Transnational Agreements”
27 November 2006**

Working document n°3

**Transnational agreements – Complementary Study
First findings**

The first findings of the Commission’s complementary study on transnational agreements are based on the analysis of the answers provided to seven questions by

- Company actors from Air France KLM, Arcelor, Axa, Bouygues, Deutsche Bank, Dexia, EDF, ENI, Ford, GE plastics, GM, Philip Morris, Lafarge, Nordea, Total
 - Both Management and European works council’s representatives in 6 companies
 - Only Management representatives in 6 companies
 - Only European works council’s representatives in 3 companies
- Union organisations (EMF, EMCEF, EFFAT, CGT, CFDT) on
 - Spécifically Arcelor, Club Med, Danone, EADS, Ford, GM, Philip Morris, Total, Unilever
 - and more generally on the texts concluded in French companies and in chemicals

1- Your reasons for signing or for not signing the text

The reasons for engaging in the process are seen as:

- **Linked to changes in the structure of the company, through extension or merger:**

On management side

“It is part of growth strategy, it recalls the specificity of or business”;

“There is a need to feel part of a Group with common value” or “It gives a social and HR dimension to the new group” or “We wanted to give a fundamental text for a common social life in the Group created through successive mergers”;

“We extended our agreements, together with the extension of the company to other countries”

On employee side

“A framework at group level for a European company” or “for a new group, a new European agreement”

“We need dealing with European issues at European level”

“ It fits to the organisational transnational structure; When the company extended cross border, organisation according to branches and not to countries; therefore need to have a structure / business to influence company decisions”

- **Part of a communication process and of the image of the company**

On management side

“It helped developing the communication on Health and safety issues”

“We need to communicate projects”

“The agreement was announced as the project of new CEO”

“The agreement uses a high-level language”

“We show respect for cultures and social needs”

“We want to become the 'preferred' company”

On employee side

“It was a support to the social policy of the company management”

- **Linked to a strong German culture**

On management side

“Strong German group in the EWC leads to same way at European level”

“We wanted to diffuse philosophy and approach on restructuring out of Germany”

On employee side

“ There is a German culture in the EWC’

“It is based on German model of Betriebsvereinbarung (company agreement)”

- **Aimed at enhancing social dialogue**

On management side

“The objective is to reach trust and confidence, an agreement is easy and answers concerns of employees that might destruct this trust”

“It indicates the commitment to work with employees over time”,

“It develops a contractual social dialogue”

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

“It Improves performance by a dialogue creating a productive environment : joint understanding, avoid problems, enhance conditions”

“It is related to a stakeholder analysis”

On employee side

“Move forward as an EWC, allow the EWC to negotiate some issues in order to help the European workforce and start with some issues at European level rather than at local one”

“It helps organising union cooperation in a new entity” or “international coordination of union activity”

“It is a will to have all social partners around the table”

“It addresses employees’ need to have a rational structure for codetermination”

“Will to give implementation to European frameworks (training, restructuring)”

- **Contributing to diminishing social risks and enhance control of risks**

On management side

“It helped not having hundred fires burning”

“We needed to react to collective action, to keep production and ensure smooth transition”

“It was an answer to the request of the EWC” or “ a political concession to the EWC”

“We wanted to give something concrete for employee reps to show”

“It helps keeping a network on union side”

“It enhances the control of risks, notably environmental ones”

- **Helping facing restructuring and dealing with key employment issues**

On management side

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

“We wanted a clear commitment from employee side to give up capacity”

“It was a help to find local solutions”, “I t was a help for local level to focus on real issues”

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

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

On employee side

“A need, faced with restructuring with possible complete closures; wanted solidarity within EWC and EMF to prevent closures”

“We are stronger when acting together rather than played off by management”

“For management, one framework has advantages, it goes faster in a context of time pressure”

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

“ We insist on sustainable financial objectives”

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

“It establishes important procedures on mobility”

“It creates a common international floor/base of commitments”

- **Addressing specific needs or objectives**

On Health & Safety:

Management: *“Recall importance of issue, involve employee reps at European and local levels, achieve a high level standard of H&S protection in Europe (including new MS), define common indicators, launch concrete actions notably on small sites”*

interest of to create something on H&S, training

On financial participation :

Management *“Non-discrimination between employees under a French contract and the others”*

On data protection:

Management *“linked to HR organisation with services in one country: EWC agrees that HR data can be stored in that country, binding the company that the home affiliate is the owner of data”*

Employees: *“Set clear rules on use of internet facilities, safeguard both employees and company interests”*

“Answer to employee concerns, set clear rules on what the company could do or not”

On information and consultation procedures:

Management: *” Clarify grey zones in EWC directive: transnational, timing local/ European ..” or “the objective is an early information about planned changes giving unions opportunity to give opinion; the consultative committees are authorized to negotiate legally binding agreements on codetermination matters, substituting to National ones”*

The signature of the European works council

The EWC signed most of the texts.

The exceptions are the texts signed in EDF, ENI and Total as well as the two French collective agreements on financial participation at Air France KLM and the very first Danone agreement.

The reasons for not signing where a EWC exists is that *“the EWC has initiated and moderated the debate but the EWC is not a negotiation body”*. However, EWC members are usually also in the union delegation.

The signature of the unions

The National, European or International unions signed a majority of texts.

In addition to the reasons for engaging into the process described above, the reasons for signing by the National unions is *“to have all social partners that are to implement the agreement around the table”* or that the texts are collective agreements under National legislation or because the transnational agreement is considered to replace or to be handled like traditional National collective agreements.

The additional reasons given for the signature of a European or international federation are the will to legitimate the European federation or the will to organise cross border union coordination and solidarity.

Some national unions however *“opted out”* from the signature of the European federation in some cases, because they didn't agree with some parts of the text, or disagreed with the fact that the EWC was not consulted. EWC members of two countries also *“opted out”* from an agreement on data protection signed by an EWC because it was considered as contrary to National legislation applying in that field.

The reasons expressed for the absence of the union signature might be quite different:

- The fact that the European federation is part of the EWC or that it is expert to the EWC
- The strength of the German (or Dutch) culture within the EWC with the model of company agreements *“Betriebsvereinbarungen”* signed by the Works council
- The difficulty where different sectors are involved in the same company
- The hostility to unions in the company

2- The relations between the different levels of management and with the different levels of employee representation during the negotiation process

Centralized process or local involvement

The negotiations may involve very few persons or a lot and the relation to the National or local level may come at the very beginning or through further dissemination of the text agreed.

Example of centralized negotiation process:

"European Management negotiated with the EWC steering committee, then it was formally validated by the European union federation".

"On management side, they negotiated centrally, but they discovered afterwards that they need to build a link to the subsidiaries"

European Management may check with local ones whether the agreement might cause problems. Emphasis is put in some cases on the responsibility of the business managers

"The text was drafted by HR, read to EWC, its wording was reviewed with our communication people, it was then presented to each business manager because they are the ones committed, we made the changes they asked for, the text was then approved by the EWC and signed by the European federation"

In some cases, after different experiences, the process becomes more formalised, step by step:

"We have a shared information within EWC together is the reps from the affected plants, the same on Management side (European Management, HR all countries, some people re activity). Where another company is involved in the restructuring because of a JV or a selling, it is also involved; The eWC issues a clear vote on opening negotiations, all national bodies have to take a decision to give the right of negotiation to EWC; Then the negotiation starts between the select committee of the EWC and the European HR, as well as some National HR & CEO where needed; When the negotiation come to a result, the EWC decides and the National bodies ratify"

There might also be the choice of a process involving fully the local actors:

"It started from the EWC; we had a shared view on the need for local appropriation; we held a seminar of central and local Management with local unions, EWC and French works council where we defined principles; Then we had the negotiation with local management and unions (elected where not existing) and all unions signed"

On management side, after it has been signed, the agreement may be on the table of HR steering committees, included at the in executive committee (among strategic priorities, performance indicators) or operational committee (on HR achievements) or even included in negotiation when selling a business or plant

The relations between actors and levels on employee side

On employee side, the union coordination of the EWC is seen as crucial to a smooth process

"The role of the European federation coordinator is essential, the negotiation is done by a social dialogue group with one member per union, which are often at the same time EWC members and the European federation.

"There is a lack of fluid relation between the federation and EWCs, some EWCs don't want any union involvement; this autonomous development of EWCs is notably linked to lack of union direction"

This coordination might notably be difficult where different sectors are involved

The way National unions integrate the European issues is also seen as important

"Some evolution in taking into account European dimension inside the National unions; now all branch federations have a responsible in European or EWC affairs and are active in European federations; It is no more a "specialist" issue"

"The training of EWC members has been positive, there is now an encouragement from union to enter into negotiation"

The link between the National and European levels is also coming from the fact that the secretary of the EWC is often secretary of the works council in mother company

As already stated, an "opt out" has been exercised in some cases by national unions however from the signature of the European federation because they disagreed with the content or the process or by EWC members in an agreement signed by the EWC because it was considered as contrary to National legislation applying in that field.

In one case, there is now a truly transnational union structure at company level involving the national union structures, in consultation with the Nordic federation, now appointed as expert from the European federation and national experts.

Linking European frameworks and transnational agreements

In some cases, there is a clear objective of give implementation to European frameworks (training, restructuring) through the signature of company transnational agreements.

3- How do you see the text? As a collective agreement, as a result of the EWC's activities, as a political declaration, ...?

The vision of the transnational agreements is quite confused. They are "kinds of", "not really" and "not only" declarations or collective agreements. Where they are seen as collective agreements, it is as company collective agreements (accords d'entreprise, Betriebsvereinbarungen). Where the views of the different parties in a company have been recorded, they usually are in line one with each other, even if the employee side tends more to consider the texts as collective agreements.

Not really or not only a political declaration

Views expressed by Management:

"The first part is a political declaration on our intentions, the second part is a framework of action and principles that form a commitment, for example to consider alternative solutions before dismissals"

"The agreements are joint statement, letters of understanding, not only political declarations because of their commitment character and also strong signals; more particularly this agreement is more like a declaration, but also a safety net; this other is a declaration without

details, it needs to be implemented according to National legislation and practice; this one is the description of a process; this is the translation of principles into an agreement"

"It is surely not a collective agreement but not really a political declaration; more guidelines, principles, recommendations as in the Open Method of Coordination and also a result of EWC's activities"

"It is a kind of statute on how to work together with the EWC and a political declaration concerning restructuring measures; it is more a philosophical approach to create a common sense, not a legal base"

"We say that "all the agreements are exchanges of promises". It is somehow binding (redeployment of people binds me). It is a confirmation of the way we want to do things, a clarification on the practice, why not write it down ? I wouldn't see it as purely political"

And in two cases on employee side :

"It is in fact a political settlement because it is not based on any specific law" or "this text on health and safety is more a declaration"

An agreement, but not really a collective agreement

On management side

"This text is not really an collective agreement but has effects because signed by CEO and agreement is respected"

"It is a framework because it needs to be locally agreed to be enforceable"

"Even if not to be considered as a collective agreement, it is published on our intranet along with company collective agreements"

On employee side

"It is an agreement driven by EWC and adopted by the company"

"they are more than a declaration, it is a clear commitment from employer and a will from unions to accept certain things and to implement the agreement through national negotiation"

"It is a result and a development of EWC activities in the objective of real collective bargaining linked to other European agreements (notably at interprofessional level)"

"It is presented as company agreements negotiated with workers. On restructuring, they might be considered as agreements because of the mutual commitment on how to manage restructuring, for ex: consider internal replacement"

"It has the characteristics of an agreement, the intention is to produce effects, it commits the employees to do a lot of things, it is near from collective bargaining even if it has to be transposed into collective agreements at National level to be given legal effect"

"The agreements are not protected in their legal status in case of merger or acquisition; we are investigating the issue of their legal status"

Clearly a collective agreement, but a company one, and not only

Management

"It is an agreement, it creates rights for all workers, it is binding"

"It is a collective agreement because signed even if no real negotiation as management drafts the text, that is then approved; it has followed the same mechanism as for French collective Agreements"

"It is a world wide collective agreement, it is also a result of EWC's activities even if the EWC hasn't signed. It is not a political declaration, it contains real commitments submitted to social control with indicators, even if some elements are more orientations. There is subsidiarity on local implementation and priorities in local social dialogue"

"These texts are collective agreements under French law, negotiated and to apply as all other collective agreements"

"Our company regards these texts primarily as collective agreements"

EWC representatives

"It is a collective agreement; a collective bargaining takes place between management and unions, that forms a contract through the signatures; it fit within the process of collective agreements with denunciation mechanisms for ex.; it is also a result of EWC's activities and the committee of social dialogue established by the agreement is a step towards word works council"

"they are collective agreements, they all include a sentence saying that implementation shall occur at National level and will ensure that agreed will be legally binding"

'It is a company collective agreements "Betriebsvereinbarung", not a collective agreements dealing with terms and conditions „Tarifvertrag“. It is a binding agreement. It is based on legal collective agreements

On union side

"It has all characteristics of a collective agreement: it is signed, it contains precise conditions for ex on call for tenders"

"It a collective agreement, it establishes rules that working conditions / statutes will remain the same "

"They are company collective agreements (accords d'entreprise), not general collective agreements (conventions collectives), they are joint statements (manifestations de volonté)";

"They are company collective agreements (Betriebsvereinbarungen), not collective agreements dealing with terms and conditions (Tarifverträge)"

4- What kind of commitments have been taken through the signature of the text, if any? Do you intend its provisions to be legally binding ?

Only in one case, management expressed the view that the text is "not really a commitment, more a philosophy, not legally binding, otherwise it would not have been signed by the company". In the view of the other actors, the agreements bring commitments. The answer to the question of the legal effects remains differentiated.

Commitments, but not a logic of rights

Management

"Not really legal commitments. Text is more to progress together on issues where there is a need. It is a joint continuous process of improvement. Mgt acts on creation H&S committees, reps also, together audits, assessment"

"It is somehow binding (redeployment of people binds me) but I don't need a law because I am bound by my social responsibilities. However it is binding on transfer of data"

"Commitment that create a cultural change on both sides, don't really believe in law"

"More a commitment and a reference on the way to act in the company. Nobody thought to go to court"

"Commitments. Importance of social charter for the respect of union rights all over Europe. Harmonisation of protection: even if not explicitly written down, it has become inadmissible to fire a EWC member who would be protected against dismissal in another country"

"It has a commitment character, but it cannot be really legally binding because it would have to be signed by all unions"

"It is a unilateral commitment, but cannot be legally enforceable because need to be locally agreed, challenge of conflict resolution"

"The commitments don't bring big constraints, they are not norms. But if it would be brought before court for lack of application, the fact is that it is a signed social text"

Employee side

"We didn't draft this text in the sense to make being respected through courts. Implementation is difficult, Mgt knows that results have to be achieved, we are here to make sure that commitments are effective"

"Respect between parties leads to respect of agreement"

"Good faith of signatories. Companies are conscious of their commitments. But, as there is no legal effect, the company has the direction of the implementation"

"It is important that agreements are useful to protect employees and produce effects to improve the situation. But logic of commitment rather than logic of rights For companies, important to respect commercial commitments, deteriorate the image is much worse than a tribunal"

"I have no answer on legal effects. I Insist on commitments as unions afraid IFAs are more a marketing tool. But even Nike has to change on child labour and image is important for companies , notably in sensitive sectors (for ex when company sold). It is a mean of pressure on local management, including in new MS. We have a regular common examination of implementation"

The agreements are legally binding or we act as if they were

Management:

"It is a commitment, we put ourselves under social control in transparency. No strictu sensu legal effects because no framework now. We report to all unions and national reps in company. No real social constraints but we have references to ILO conventions and we went before OECD"

"Signed by President, creates rights for all workers; on some issues (training, mobility, capital) binding, we consider it as opposable (for ex on absence of probation period in case of mobility); on other issues, more general principles"

"They are collective agreements under French law, to apply directly, that create individual rights to employees"

"Through agreements, our company has assumed full responsibility to inform and consult with unions before cross-border decisions are taken. The agreements are legally binding"

EWC

"They are collective agreements, all include sentence saying that "implementation shall occur at National level and will ensure that agreed will be legally binding"

"Commitments are far reaching. They always depend on the case. In two cases, all rights, terms & conditions are maintained. We translate European agreement into signed national agreements that are almost the same. We never tested if legally binding but in Germany certainly possible to go to court"

Unions

"Analyse not finished on legal status and dispute resolution. But, for both parties, we act as if it is were a National collective agreement in our countries and it is working like that. Everything will become clearer when our company becomes an SE"

"It has the characteristics of an agreement, the intention is to produce effects, it commits the employees to do a lot of things, it is near from collective bargaining even if it has to be transposed into collective agreements at National level to be given legal effect. There is a need to ensure some legal elements"

5-The mutual or unilateral character of the commitments taken, if any

Some management representatives consider the commitments as rather unilateral on the side of the company in practice but also from a legal perspective. It is often unclear or it depends on the issues. However, some actors on both sides consider clearly that both sides commit themselves in a transnational agreement.

It depends, it has to be clarified

Management

"I tend to consider it is a unilateral commitment but we have a text signed by 2 parties. If it would be brought before court for lack of application, the fact is that it is a signed social text"

"We have written that parties are committed to. By now, objectively, It is more a commitment from management. But we work together, we can say that there is a positive participation."

"Commitments are more on employer's side but some elements like confidentiality are also on their side"

"Not really mutual as unions say they have no means. But reps have to play a role. They have seen that H&S is a priority and start also to work on that. It is a joint continuous process of improvement. Mgt acts on creation H&S committees, reps also, together audits, assessment"

Employees

"It depends on the issues. On some aspects, like the dashboard, it is more on Mgt side. But on others, there is a shared responsibility. For example, both sides are responsible to make sure that national collective bargaining takes into account the gender aspects as defined in the European agreement"

"Presented as company agreements negotiated with workers, but rather unilateral. We didn't really asked ourselves if workers are bound by the agreement. On restructuring may be considered as agreement because mutual commitment on how to manage restructuring, for ex: consider internal replacement"

"The Commitment on union side is rather modest. Union's commitment lies more in the capacity to verify implementation. Problem is that texts are not well known internally".

"Commitment from the company. Commitment from unions should be more in implementing the agreements. Unions not sufficiently involved in this implementation"

"Commitments on employee side have to be clarified. It has to be clear that what is agreed at transnational level is no more to restart from scratch at National level"

"We have the sentence that it is legally binding but some employees have challenged the transnational process and required the restart it at National level. Up to now, it is unclear whether there are commitments on employee side"

Both sides are committed

Management

"There are collective agreements and for example the results depend on accident rate

Both sides are committed . The good and important thing is precisely that employees sign their commitment; We wanted a clear commitment on employee side to give up capacity"

"Commitment is regarded as mutual. Mgt is obliged to inform and establish dialogue with the unions on an ongoing basis as well as before taking major decisions on change. Unions are obliged to extend the information to their members and also to support the best interests of the group after decisions have been taken through the proper procedures"

EWC

"Both sides are committed- agreement made for benefit of employees but is also good for Mgt"

"Commitments are mutual. Implementing them requires action form both parties: bringing the text to the knowledge of all employees and negotiate locally. Both parties have responsibilities, even if unions have less means. Unions are responsible for opening and conducting negotiations everywhere leading to concrete results"

"Absolutely mutual commitments. The agreements are compromises, which are good for both sides. But we accepted to give up 20 000 employees or the autonomy in an activity, it is important"

"Mutual commitments. We gave up capacity and the principles /code of conduct are of interest for both sides"

Unions

"Respect between parties leads to respect of agreement, depends on will or obligation"

"this agreements commit the employees to do a lot of things"

"It is a clear commitment from employer and a will from unions to accept reduction of production and to implement agreement through national negotiation"

6- How do you consider that the text has worked in practice ?

The texts seemed to have worked quite well in practice, with some very positive and concrete results in some cases. However the implementation of the text and its assessment requires dissemination and follow-up procedures as well as some time.

We don't always know; dissemination, follow-up and time are needed

Management

"We translated it in all languages, local HR are informed, intranet on HR page. It had more impact in Poland than in France where there was already a of information "

"We disseminated it to all employees. During two years, standing point on EWC agenda six times a year, now everybody applies it, it is standing reference for many issues, very lively. "It was published on intranet, together with agreements, sent to local Mgt. It worked out rather perfectly as nobody ever refers to it again. It didn't really change philosophy, as all countries have their own way to do things"

"Among other things, we did a poster, we discussed in executive meetings, we highlighted good practices".

EWC

"On union side, understanding and involvement variable, linked to cultures"

"Implementation depends on involvement of some actors on both sides, locomotives are needed"

"The agreement was signed 01/05, discussions over 05, concrete implementation in 06. Most important tool: dialogue committee is being set up. We are working now on the first outcomes, meeting next month. Its slow, it's necessary to create a dynamism."

Unions

"Diffusion of the text essential. Implementation depends on how the text is known, on capacity to report back the reality, and on will of the parties".

"It is a good text but local reps don't know it, need to invest more in the EWC"

"Implementation is complex, as it has to be interpreted at National level"

"Agreements are positive, they open possibilities, but we are not really in the stage of implementation"

Monitoring processes are established

"Companies are not always able to verify how the texts work in practice, unions have the best network, the most important capacity to verify and the EWC plays an important role"

"Control is done by the select committee if there is a deviation.", "If there is a problem, it goes to EWC and then to Mgt: only one case in 4 years"

"To monitor the agreement, we have an annual meeting + 3-4 x/ month phone conferences or bilateral conversations with all countries"

"The year after the agt, EWC decided to act. Mgt has communicated but it has worked better where unions involved. In 2004, EWC with help Mgt did a big survey on implementation. 300 answers, results presented to EWC meeting. On Mgt side, integrated to social reporting, also external audit on H&S; EWC select committee participates to some audits."

A positive impact on dialogue, understanding and for the European dimension

Management

"The agreements worked well. Helped to establish a working process for communication, dialogue and decision making with some degree of union and employee involvement"

"They have worked perfectly well, have led to high level of trust, it helped taking away uncertainties and provide with satisfactory answers. We see each others as partners"

"It helps making the EWC nearer to employees".

"The social charter has prevented repeated or collective deviations on fundamental rights"

"We had the agt in the countries most affected, it helped not having hundreds of fires burning, it helped to understand and defined steps; effects were helpful even if some unables provided"

"We stuck to the process agreed. On both sides, it had the important function to bring things to an end."

Employees

"It is working reasonably well. Nobody came back to EWC afterwards"

"Has been respected without pb on both sides " or " Good results: each side stuck to what has been agreed" or " Good implementation, developed a style of concertation"

*"The company says it is satisfied and it helps employees in the company integration process"
These agreements already had a pedagogic impact, for ex on UK companies and in new MS"
They bring the necessary information and capacity to intervene on rights & conditions. We
have to develop them to avoid social dumping and competition between the workers"
"It obliges local actors to take into account European dimension, it makes European action of
unions visible, it contributes to make European democracy visible."*

There are concrete results

Management

*"The most positive aspect: the right of interference in local negotiation where there is a
deadlock; EWC and Mgt go together, used in four countries; brings external eye, avoids
court, solved a lot of problems"*

*"It is quite encouraging, except for some branches with smaller sites; led to proposals to act
addressed to Mgt. The impact is not the text in itself but the involvement in this issue has
developed actions and expectations. EWC has 4 meetings /year. Now, on third of meeting on
H&S. We work now on the health side. Helped also to integrate reps from acquired company.
Important in a very decentralised group where we don't control subsidiaries".*

*"Quite good, we make it a managerial constraint. It is positive, it gives dynamism to concrete
actions, for ex label on call centres, negotiation on socially responsible subcontracting in
France, charter on purchasing, integration of disabled in Poland, recognition in Slovakia,..."*

*"On diversity, non-discrimination, strong commitment and text is a tool. Disseminated in
Europe, impact for ex on visible minorities in television or at headquarters"*

"Afterwards, nobody questioned the need for restructuring"

*'Implementation of agreement in restructuring was satisfactory. The union expressed
satisfaction on search for alternatives. Good way, positive reactions"*

*"It proved very effective, especially now that the alliance failed and that we transferred back
employees"*

Employees

"Very concrete results: there have been workforce reduction but no closure"

*"The plants still exist, even if some are in a bad shape today because of the competition; with
the Agrt, the company is still involved"*

"It was the right thing to do, now autonomous activity is very competitive,

*"In Europe, both EWC activity and Agrt have led to recognize union in all UK sites and to
draw a Group level H&S policy"*

"agts respected by both parties; a good example to organize something real and practical"

It is a work in progress

"The texts work. It is a work in progress."

Agreements are adapted, updated, extended to new issues and lead to new negotiations

*"We are now in the process to extend it to diversity, we are continuing to talk, it makes things
easy"*

7- Have there been difficulties in applying the text? What solutions were found, if any?

The most important challenge seen by management and some union representatives is the collective ownership of the agreement and its implementation all over the company: work on the dissemination, training, open days, good practice, managerial constraints... are some of the proposals in answer to it. The risks linked to the absence of a legal status for transnational agreements is seen by some actors.

The agreement has to be known

"Dissemination of the text essential. Implementation depends on how the text is known, on capacity to report back the reality and on will of the parties."

"It takes time from the top to the establishments. Text has to be recalled: At every training, at every HR meetings, at every European meeting, I bring copies"

"Local reps don't know text, we need to communicate and invest more in the EWC"

How to develop a "European thinking" ?

Management

"Difficulty to make local Mgt understand that they is something above them, for ex need to solidarity between entities in case of restructuring. Difficult also for reps to think globally, on the common interest. It is linked to the way of designating them"

"Some reps are not at all involved and don't pass information. Some reps only know their activity and don't know the other ones in their country"; "Employee reps are rather national ones as European ones, I haven't seen a European thinking for now"

"We try to reinsure the unions but they have difficulties with their constituencies as transnational issues not a priority"

"The main difficulty: collective ownership by employees and top management. Needs a lot of pedagogy, for example by collecting good practices"

"Training of the EWC would be useful"

"It's difficult to communicate on EWC activities, need to make the EWC known by employees. We have done open doors together"

Employees

"Difficulty of meeting employees on certain issues (outsourcing) and for national level to accept not restarting process after it has been concluded at European level. Importance of network"

"There are different union practices"

"Need of strong involvement of EWC, structured follow-up in relation with Eur Federations"

"The budget line has been very important, it raised awareness, it helped developing the contact with the representatives of all countries in the company"

Implementing the agreement everywhere

Management

"There are some contradictions locally, for ex on older unemployed", "we make it a managerial constraint"

"You cannot copy from one country, all have good reasons and an own history, not all unions are represented in EWC, need to negotiate with all"

“Implementation difficult for some branches with smaller sites; led to proposals to act addressed by EWC to Mgt”

Employees

“some agreements are less good for some countries and may be difficult to implement even if unions have agreed. There is a need for both sides to find a solution beyond the differences between the interests at stake”

“Implementation difficult where lack of union follow-up”

“The most important difficulty is to control local mgt. Agt is signed one day but by HR department but local managers and departments follow their own business and sometimes don't even know about the agt. Sometimes , we are informed too late about non-compliance. The only solution is the compensation for what has been lost”

Resolving differences in interpreting or adapting the agreement

“Implementation difficult where text unclear”

“Difficulty at beginning to understand extend of commitment, for ex on geographical mobility. Also had a discussion on subcontracting. Solution: communication and work on concrete aspects”

“The agreements are written in rather general terms. Occasionally, there might be problems of interpretation which have resulted in clarifying rules mostly dealing with practical considerations on meetings, advance material, ...”

“We expect some problems in the future linked to different accounts between our two companies, we will have to take into account the different legal situations”

Facing uncertainties regarding the legal aspects of the agreements

Management

“There are legal uncertainties on articulation local/European”

"It is a unilateral commitment, but cannot be legally enforceable because need to be locally agreed, challenge of conflict resolution"

"It has no strictu sensu legal effects because no framework now. No real social constraints but we have references to ILO conventions and we went before OECD"

"Signed by President, creates rights for all workers; on some issues (training, mobility, capital) binding, we consider it as opposable (for ex on absence of probation period in case of mobility) "

“The commitments don't bring big constraints, they are not norms. But if it would be brought before court for lack of application, the fact is that it is a signed social text”

Employees

“If there is a gap between text and reality, we have a problem, as a text has to be respected”

“Implementation difficult where no good will of employer” or "Good faith of signatories. Companies are conscious of their commitments. But, as there is no legal effect, the company has the direction of the implementation"

"It has the characteristics of an agreement, the intention is to produce effects, it commits the employees to do a lot of things, it is near from collective bargaining even if it has to be transposed into collective agreements at National level to be given legal effect. There is a need to ensure some legal elements"

"Commitments on employee side have to be clarified. It has to be clear that what was agreed at transnational level is no more to restart from scratch at National level"

“What if a takeover ?”

“The acquirer declared that it will respect agreements, but what if it he doesn't? We would have to demonstrate, show our strength in order to make him accept the procedure”

"The agreements are not protected in their legal status in case of merger or acquisition; we are investigating the issue of their legal status".

Evelyne Pichot 23.11.2006