Report of company workshop on

"Anticipation and management of change – the role of transnational texts adopted at the company level"

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1. Context

In recent years, and especially since the beginning of the 2000s, it has become increasingly common for multinational companies to negotiate and sign transnational agreements and other joint texts with international/European trade union organisations, European Works Councils (EWCs) and/or other representatives of their workforces. The exact number of such joint texts is unknown, but research by the European Commission and others indicate that there are at least 150 or so known examples, signed in over 100 multinational companies.

The category of "transnational joint texts" contains a wide variety of initiatives, differing in their content, scope and employee-side signatories. However, broadly speaking (and with overlap between groups), around half are "international framework agreements" (IFAs), usually signed on the employee side by global union federations, laying down worldwide commitments on corporate social responsibility (CSR) and workers' rights issues, sometimes accompanied by principles and guidelines for specific aspects of human resources and employment policy. Most of the remainder are essentially "European" texts (though occasionally with global scope) signed by EWCs and/or in some cases European-level trade union organisations and typically dealing with CSR, the Europe-wide treatment of some aspect of company policy (such as data protection, health and safety, or training) or handling corporate restructuring and change.

Dealing with company restructuring and anticipating and managing change are important issues in transnational texts, and increasingly so, it appears. This applies both to European-level and global texts. A recent analysis prepared for the Commission found 37 examples of transnational joint texts, signed at 22 multinational companies, that relate to restructuring and/or anticipation of change in varying ways. This represents around a quarter of all known joint texts.

As part of the EU institutions' increasing focus on restructuring and anticipation of change over the past few years, and especially the work of the Restructuring Forum established by the Commission, interest in transnational agreements on the theme has intensified. The reasons are suggested in the Commission's March 2005 Communication on "Restructuring and employment. Anticipating and accompanying restructuring in order to develop employment: the role of the European Union" (COM (2005) 120 final). This argues that, while restructuring is inevitable, the maintenance of social cohesion requires the introduction of accompanying policies designed to reduce to a minimum the often high social costs (to workers and local/regional economies) and to promote the search for alternative sources of jobs and income. The Communication stresses the importance of a forward-looking and partnership-based approach as a basis for the sound management of change and highlights the particular roles and responsibilities of management and workers and their representatives at all stages of coping with change. The growth of transnational texts on the theme suggests that these accords are considered by an increasing number of employers and workers' representatives as a new means of addressing the management of change.

Further to a forthcoming Commission publication on the transnational agreements, a conference looking specifically at transnational texts on restructuring is being held in November 2008. As part of the preparation for this event, the Commission organised a company workshop in Brussels on 20-21 May, inviting management and workers' representatives from companies that have signed joint texts with transnational scope on restructuring and the anticipation and management of change. The aim was to explore the experiences of those most directly involved in this developing phenomenon, examining what led them to negotiate and sign these joint texts, how the texts have operated in practice, what their effects have been, and what lessons the participants have learned.

2. The participants and their agreements

The workshop brought together those closely involved in transnational joint texts dealing with restructuring and the anticipation and management of change at six major multinational companies with substantial operations in Europe, plus one company that is planning to sign such an agreement in the near future. Six of the companies are headquartered in Europe (France, Germany and Italy) and one in the USA, and they operate in the metalworking, energy/utilities and finance sectors. Most companies were represented by one or more senior group human resources managers and by employee-side EWC secretaries, vice-presidents or other members, plus representatives of EU-level trade union federations that had been actively involved in the negotiation of texts presented and discussed at the workshop.

Even if participation at the workshop was limited to representatives from seven companies , the joint texts adopted by theses companies highlight the diversity of negotiated approaches to restructuring and change, with all the main types of text represented: those dealing with the employment aspects of a specific restructuring exercise; those laying down principles and general rules to be applied in the event of future restructuring; those specifically or mainly dealing with the anticipation and management of change; and those referring to restructuring and/or anticipation of change as part of a general "IFA-type" set of commitments on CSR and related themes. The main categories of employee-side signatories were also represented, notably EWCs and European trade union organisations. The seven companies' situations can be summarised as follows:

- In one case, European-level management had signed with the company's EWC a series of four agreements (over 2000-2008) relating to specific restructuring exercises, both internal reorganisations and joint ventures and spin-offs involving external parties. The agreements dealt principally with the consequences for employees, in terms of employment security and conditions, and also sometimes with other aspects such as investments.

- One multinational and its EWC had reached agreement (in 2007) on a set of minimum standards to apply in the event of restructuring, aimed at mitigating the negative effects for employees and providing for a high level of meaningful information and consultation of employee representatives throughout Europe. The minimum standards include avoiding compulsory redundancies as far as possible in restructuring, instead using early/staged retirement, voluntary departures, redeployment, mobility etc.

- Two multinationals had signed quite similar agreements (both in 2007) on the "anticipation of change" or "forward-looking management of employment and skills" – one with its EWC and the other with a European-level trade union organisation (while the EWC was involved in the negotiations and has a role in the agreement's implementation). The agreements provide for mechanisms to anticipate future company employment and skills needs "upstream", with training and other measures to ensure that these needs are met and that workers' employability is maintained and improved. Dialogue with employee representatives plays an important part in the process in both cases. The "anticipation" approach reflects legislation and practice in the two multinationals' home country. A third company, headquartered in the same country, was preparing to negotiate a similar agreement.

- In one case, the company had drawn up (in 2006) a European code of social commitments and principles related to workers' rights and employment/human resources policy. The company's EWC (while not being a formal signatory) had an input into the content of the document and is

involved in its implementation. The code includes commitments to: train employees and provide appropriate retraining in the event of company restructuring; inform employee representatives about restructuring plans with a significant employment impact; and maintain jobs as far as possible in such cases, for example by redeployment.

- The final company represented had signed with national trade unions (in 2001) a wide-ranging agreement on industrial relations, which has transnational scope. This contains provisions on anticipating and managing company change and mitigating the employment effects of restructuring, through measures such as training, mobility and internal/external redeployment. As part of the implementation of this agreement's provisions on change, the company subsequently (in 2003) agreed with its EWC a European project on lifelong learning.

3. Why sign a transnational agreements/joint text?

The first session at the workshop explored the issue of why the companies and workers' representatives concerned negotiated and signed a transnational agreement or other joint text on anticipating and managing change and dealing with corporate restructuring. In view of the fact that the number of companies concluding joint texts, while still relatively small, is growing, the question of what factors combined to produce them for the pioneering enterprises that were represented at the workshop is of particular interest.

3.1 Corporate context

One aspect of this question is the specific circumstances of the companies concerned, in terms of restructuring. Was the company experiencing or planning transnational restructuring of a particular type that led to it considering the conclusion of a joint text on the issue? The picture given by participants was of a varied set of situations but, notably, an absence of what might be termed "traumatic" restructuring, involving major workforce reductions or site closures. In the case of the company that had signed four agreements dealing with specific business reorganisation exercises, none of these involved job losses. In the other cases, some restructuring was generally occurring or in prospect at the time the joint texts were signed, but this was primarily of an expansive nature. In several cases, it was expansion into new countries and increasing "internationalisation" of the company that formed the context for the joint text, while mergers and acquisitions also featured in a few instances.

The increasing internationalisation/Europeanisation and integration of company scope and structure was accompanied in many cases by an internationalisation/Europeanisation of human resources and employment policies. Some management participants mentioned a growing awareness of the cross-border aspect of their approach to human resources, especially in a current climate of continuous change. Some reported Europe-wide initiatives and programmes in areas such as training and competence development. As one put it, the company changes, jobs change, and this cannot be managed country by country, so a group-wide strategy is required.

A further important factor in the context for the transnational texts examined was on the employee side. Most of the companies had a well-functioning, active and well-resourced EWC, often with a relatively long history, and an experience of generally positive dialogue with management. European-level trade union organisations were strongly involved with the EWC in many cases.

3.2 Explanations

Within this overall context, participants were asked why they had signed a transnational joint text dealing with restructuring and change. A variety of reasons were given, some very specific and others more general. The main explanations, which are frequently interlinked, were as follows:

- In a number of cases, participants referred to the development over time of dialogue between management and the EWC (or occasionally trade union organisations). One of the main roles of EWCs is to receive information and consultation on matters relating to company restructuring with a transnational scope – both specific events such as mergers, acquisitions, closures, workforce reductions or transfers of production, and the general situation and development of the business and employment. It seems that information, consultation, dialogue and debate on these topics may in some companies progress relatively naturally to more substantive negotiations. There was a sense that the distinction between information/consultation and negotiation could be artificial in some cases, with the former segueing into the latter. As one participant put it, it was almost a question of "why not?"

- Some participants cited the emergence, especially in the context of company internationalisation and integration mentioned above (under 3.1), of human resources and employment issues that had implications across a number of countries or group-wide. These might be specific restructuring exercises affecting operations in more than one country, or a perceived need to develop consistent principles and policies to deal with aspects of restructuring or address change in a forward-looking way. Where these transnational issues arose, there was a logic in seeking a transnational solution or approach (and, as noted in the previous point, a forum was present in which to do so). A variant of this situation was that found in several companies which had an existing policy on anticipating change in their headquarters country and wanted to spread it throughout their European operations.

- Where such transnational issues existed, along with a transnational forum with the potential to address them in an agreed way, several participants expanded further on their reasons for taking the next step and concluding a joint text. Their perception was that dealing with the matter through a transnational agreement saved the effort of conducting parallel negotiations on the same topic in each country – in other words, it saved on "transaction costs". Time could also be a factor: especially in the case of specific impending restructuring exercises, a rapid resolution of the employment issues might be desirable, and the negotiation of a single agreement provided a quicker route. However, despite the savings involved, it should be noted that in many cases, the transnational joint texts, while establishing principles and general rules, often required implementation through further national or local bargaining.

- On the employee side, there were suggestions that EWCs saw engaging in transnational negotiations as conferring benefits in terms of: validating and strengthening their role; and giving representatives from different countries greater strength by acting together (this also applied to negotiations involving European trade union organisations).

- Where involved in signing transnational texts, European trade union organisations saw considerable value, given the increasing internationalisation of companies and the cross-border nature of much restructuring, in developing instruments that set out common Europe-wide approaches and standards relating to issues of such importance to unions as their members' jobs and future employment prospects. The joint texts were seen as a development and valuable expression of existing partnerships with the companies concerned.

- A frequently expressed aspiration for EWCs is that they can build a sense of corporate identity and belonging in multinational groups. Developing this theme, some participants saw transnational joint texts as potentially having a similar effect. They hoped that the process of negotiating common, group-wide principles and policies, and of implementing them across Europe, could strengthen group identity and coherence, creating a climate of confidence and mutual comprehension, and increasing employees' understanding of the company's wider situation and challenges.

- In some cases, the national legal context had forced companies to develop a joint approach to the issue of anticipation of change. In these internationalised companies, it seemed to some extent natural to extend this approach to their operations in other European countries.

As to the negotiating process over the joint text and how it was started, in several companies this was clearly a management initiative. This was especially true in those cases where the agreement essentially represented the Europe-wide export of an approach to anticipating change already developed in the multinational's home country. More commonly, though, it seemed difficult to pin down responsibility for launching the process, with a sense (reflecting the point made above) that it had emerged relatively naturally from the interaction between the management and the EWC, or other employee-side party, rather than being a demand by either party.

4. How had the transnational agreements/joint texts operated in practice?

The second session at the workshop looked at the practical experience of implementing the various joint texts. As we have seen above, the texts are not uniform in their nature, with some addressing the employment aspects of specific restructuring operations, others establishing principles and general rules to apply to restructuring in general, and others creating mechanisms and policies to anticipate and manage change. These differing types of text are likely to have very different practical effects and implementation methods. Further, many of the texts were relatively recent, with half of those involved having been signed in 2007 or 2008. As a result, implementation was not yet far advanced in some cases. Despite these varying situations, the discussion highlighted a number of common aspects.

4.1 Communication and explanation

In the words of one participant, signing the joint text was the easy part, and then the real work of implementation began. In almost all cases, stress was placed on the importance, in the initial but also more advanced stages of implementation, of communication and explanation about the joint text to managers and workers' representatives at national and local levels. Examples included:

- initial meetings with all the heads of group companies' human resources department to explain the transnational joint text;
- regular meetings with human resources managers from across Europe to communicate about the text and receive feedback on its implementation;
- joint training sessions for national/local human resources managers and employee representatives responsible for implementation, conceived jointly by the company and trade unions and with help from external consultants;
- the use of pilot projects, in the initial phase, to test out the joint text's implementation in selected companies/regions;
- the provision of information through the normal national/local employee representative forums;

- the drawing up of a glossary of the terms and concepts used in the joint text, in each language used in the multinational; and
- publicising the joint text through in-house publications.

These communication processes could, some participants stressed, be very complex undertakings, given the large scale and diverse business structures – with differing degrees of autonomy - of a number of the multinationals involved (for example, one group was made up of 175 companies across nine European countries). However, their value was regarded as considerable. As well as the relatively straightforward role of explaining the factual content and application of the joint text, communication exercises were seen as helping to ensure its "ownership" and acceptance by those concerned (managers, employees and their representatives). Further, in one case, communication was regarded as useful in allaying fears and suspicions among national and local managers that they might be losing influence and having their competence eroded by an agreement reached at a higher level.

4.2 Monitoring and follow-up

In addition to communication, there was considerable consensus on the importance of monitoring and follow-up procedures and structures, in order to ensure implementation. These took a variety of forms, including:

- specific joint committees or working groups to monitor implementation, made up of management and representatives of the EWC, and in some cases international trade union organisations. In one case, the overall European-level committee was accompanied by similar committees at national level;
- involvement of the EWC and/or its select committee, for example by making implementation of the joint text a standing issue on its agenda;
- the provision of information on implementation to EWC members from particular countries by national management; and
- the compilation of a database of implementation "best practices", to be made available group-wide.

Some of the joint texts required further negotiations at national and/or local level for their implementation and/or adaptation to specific situations (or in one case, national unions and management added their signature to the global agreement), and in the relevant cases it appears that these negotiations had proceeded as planned. A few participants mentioned benefits in this process in terms of building and reinforcing industrial relations at these levels. The articulation of implementing actions at the various levels (European, national, regional, local) was seen as a major challenge in some cases.

4.3 Concrete effects

As mentioned, many of the joint texts in question were very recent and still at the initial stage of implementation, and it was not to be expected that they would yet have had concrete effects. With regard to the longer-standing agreements, those dealing with specific restructuring exercises had had the most obvious effects. These had provided guarantees on the employment conditions and status of the employees involved and commitments on sourcing and investments, which had apparently been put into place as agreed. These agreements can be said to have a tangible impact on employees' working lives and conditions and on the actions of the company.

With regard to those joint texts that laid down standards, principles and rules to apply in the event of future restructuring, in the event there had been little relevant restructuring in the multinationals concerned since they had been signed and thus little opportunity to put their contents into practice. In one case, there had been a merger with relatively minor employment effects and in another a small-scale information technology outsourcing plan. In both cases, the provisions of the transnational text were implemented, leading to national or local negotiations or discussions over the employment effects and, apparently, a generally satisfactory outcome.

4.4 Unevenness of impact

In respect of both those joint texts that had been put into effect and those that were still in the initial stages of implementation, a notable common issue that arose in discussions was that of unevenness of effect between countries. As we have seen, many joint texts set out a range of ways of anticipating and dealing with restructuring, involving both substantive measures – such as skills management, training/retraining and avoiding compulsory redundancies through redeployment, mobility, early retirement etc – and dialogue and consultation with workers' representatives. The standards set by the transnational joint texts may be the norm in some countries (often including the multinational's home country) and the conclusion and implementation of a text may therefore have little appreciable impact in these countries. In other countries, though, existing standards in some or all of the areas covered by the joint text may be lower, and the text's provisions may thus represent a significant advance – for instance, this was mentioned in several cases in respect of some central and eastern European countries. However, it was also noted that even in countries with practice or legislation at or above the transnational text's standard, the text's implementation could result in a beneficial re-examination of these existing provisions. A further contributory factor to unevenness of impact was the differences between national industrial relations and dialogue structures and cultures.

5. How are the transnational agreements/joint texts evaluated?

The final session of the workshop examined the participants' evaluation of the transnational joint texts they had signed, seeking their perceptions of the benefits the texts had brought, any drawbacks or problems that had emerged, and what lessons experiences for the future they had learned from their.

With the proviso that some of the agreements were too recent for a full evaluation to be made, the participants' views of the joint texts was overwhelmingly positive, with a variety of benefits identified but very few negative aspects.

5.1 Benefits

Beyond the advantages (actual or potential) for employees and employers implied by the texts' substantive content (see 2 above), the experience of negotiating and implementing transnational texts on restructuring brought a number of other, less direct benefits, according to participants. Some of these reflected the hopes and aspirations of those involved at the time of signing the texts (see 3.3 above), while others were less expected. The benefits included the following:

- contributing to a stronger sense of group-wide corporate common identity across borders;
- improving mutual understanding and confidence between management and workers' representatives at both transnational and lower levels;
- promoting new ways of thinking on both the management and employee sides, and notably a forward-looking approach to company restructuring (this was reported especially from those companies with agreements on the anticipation of change);
- encouraging an acceptance among all parties that change inevitably happens, and a belief that the best way to deal with it is through negotiation, dialogue and a joint approach;

- helping to focus the minds of management and workers' representatives on evaluating existing practices, taking stock of how restructuring is currently handled, identifying both inadequate practices that need to be improved and good practices that may be disseminated elsewhere in the group;
- providing a framework that allows for a more structured debate on company strategies;
- through the advantages and guarantees for employees laid down in the transnational text, enhancing the company's attractiveness as a potential employer (especially where there is strong competition to attract talented staff); and
- giving substance and real meaning to the role of EWCs and the dialogue they conduct, and linking them more strongly to developments at the national and/or local levels.

5.2 Negative experiences

Few problems and drawbacks were reported by participants. A small number of participants, on the employee side, expressed some concern about the concrete application of transnational joint texts at national and local levels, and a possible lack of consistency in implementation between countries and subsidiaries. Linked to this, in a few cases it was suggested that their might be a degree of resentment among managers and workers' representatives at lower levels about the top-down imposition of measures agreed at European level.

In one case, some discussion had arisen about the interpretation of a joint text, and whether its list of measures to mitigate the employment effects of restructuring should be considered as exhaustive or merely indicative.

Some participants identified a number of problems in achieving mutual understanding over the issues covered in joint texts in a transnational context, owing to a lack of common terminology (a difficulty that might, it was suggested, be overcome by the development of a multilingual glossary).

An issue raised by some participants was the present lack of a clear legal status for transnational agreements, which they thought could potentially cause some uncertainty and complication in the texts' application and inconsistencies in national implementation.

5.3 Lessons learned and future prospects

When the participants were asked about the lessons learned from their experience so far (which was relatively brief in some cases), the key message that emerged was (as suggested under 4 above) the vital importance of ensuring the active involvement of managers, employees and their representatives at all levels of the company concerned. The transnational texts could have a meaningful effect only if they were genuinely "owned" by those at national and local level. Thorough communication and explanation, regular feedback, continuous follow-up and monitoring were seen as essential, as was adaptation of the transnational provisions to specific national and local conditions.

For the future, participants from companies with relatively new agreements were at this stage still very much focused on ensuring full implementation of the texts and monitoring the outcomes. Among some participants from companies with longer-standing agreements, there was a general acceptance that these need to evolve, improve and adapt to change. There were also several specific issues identified that might need to be addressed in future, such as what happens to the transnational restructuring agreement if the company merges with or takes over another firm, or is itself taken over. However, there was no suggestion that these joint texts had outlived their usefulness or would be terminated or allowed to expire.

The positive experience of the joint texts on restructuring was perhaps underlined by the fact that several companies were now contemplating negotiating further transnational agreements on other issues (such as equality or social dialogue). The experience of one company had (see 2 above) been so positive that it had made the negotiation of transnational accompanying measures an almost routine part of cross-border restructuring exercises.