

# European Works Council developments before, during and after the crisis







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Cover image: Unilever European Works Council in action – Photo by Werner Altmeyer.

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# Executive summary

## Introduction

European Works Councils (EWCs) provide transnational information and consultation mechanisms for employee representatives in multinational companies (MNCs). By organising meetings between central management and employee representatives from the EU Member States in which the companies operate, the EWC builds a bridge between the headquarters where strategic decisions are made and the workplaces where these decisions have an impact on employees.

This report explores the efforts of the members in 10 EWCs to enhance these bodies for European company-level social dialogue. Looking at the developments in EWCs over a longer period of time gives an insight into how practices evolve and how they achieve their objectives. Based on the 10 longitudinal case studies, a comparative analysis explores the factors that can influence these developments and assesses in particular the impact of the 2008 economic and financial crisis and of the recast directive 2009/38/EC. Other factors, such as company characteristics and whether these can influence developments in the composition or functioning of EWCs, are also considered.

## Policy context

For the first time, directive 94/45/EC provided a legal framework for EWCs and their transnational information and consultation mechanisms in MNCs in Europe. It anticipated the need for a revision after a number of years, which resulted in the recast directive 2009/38/EC. Article 15 of this directive stipulates: ‘No later than 5 June 2016, the European Commission shall report to the European Parliament, the Council and the European Economic and Social Committee on the implementation of this directive, making appropriate proposals where necessary.’

In the process of assessing the implementation of the 2009 recast directive, this report may help social partners and decision-makers to understand the practical operation of EWCs, how they have developed over time and what the main factors underlying these developments are likely to be.

## Key findings

The report examines how 10 EWCs developed from their establishment until 2012. Since the national transpositions of the 2009 recast directive only came into force in all countries in June 2011, the directive’s impact could only be measured in the window of opportunity between June 2009 and June 2011. In light of this, the EWCs studied here did not show significant changes in their functioning directly resulting from the recast directive. This might be because they are examples of EWCs that had already developed beyond the previous legal minimum requirements by, for example, having implemented provisions on the training of EWC members, holding more than one annual plenary meeting or having further fine-tuned their information and consultation mechanisms. The potential impact of the recast directive had thus already occurred in part in these EWCs before it was adopted. Therefore, for the period of time under review, these case studies cannot confirm that the recast directive has had much influence on the development of EWCs, although it is possible that it has influenced developments after 2012.

One impact of the 2009 recast directive that clearly emerged from the cases studied is that it triggered renegotiations of EWC agreements in 6 out of 10 cases from June 2009 to June 2011. The legal framework developments that influenced the EWCs much more in terms of their composition, their representativeness and their functional requirements were the enlargement of the EU and the subsequent European expansion of MNCs. This increased the number of employee representatives from different countries in EWCs.

Regarding the impact of the crisis, EWCs were indirectly affected through company changes that the crisis set in motion. The companies in this study hardest hit by the crisis were in the financial sector, but substantial changes also occurred in some companies prior to and independently of the crisis. While such restructuring challenged EWCs, it also offered some an opportunity to clarify information and consultation procedures.

The study investigated whether the size of the MNC's workforce and the degree of its internationalisation might also influence the development of EWCs. As regards the degree of internationalisation, the number of companies in an MNC increases the number of countries from which representatives must be included in the EWC. As regards workforce size, delegates from the countries with smaller workforces do not have the same opportunities to participate in and contribute to the development of the EWC as representatives from the home country or from the countries with larger workforces. The study also found that the more internationalised the management decision-making or the smaller the workforce in the MNC's home country, the higher is the interest of the home country employee representatives in the EWC activities. The chances for EWCs to autonomously develop a proper European identity are improved by giving key roles on both the management and employee representative sides to delegates from countries other than the home country.

## Conclusions

Certain company characteristics and how these change can influence developments in the composition or functioning of EWCs. However, for the companies in this study, this has been more of an ongoing trend than a result of the recast directive or of the recent crisis.

Renegotiations of EWC agreements offer an opportunity to fine-tune the parameters of an EWC in terms of its composition, the number of meetings, the duration of the meetings, the internal structure or the role of the select committee. This report shows that the largest potential impact of an agreement renegotiation on the functioning of an EWC can occur when it is triggered by mergers or acquisitions of companies that both have EWCs already. Company changes can also increase the turnover among EWC membership, potentially impeding the development of cooperation, which is central to the effectiveness of the EWC.

The investment and efforts that employee representatives and management make to develop an EWC depend on how they assess its function. Most of the significant developments in the functioning of the EWCs studied were due to the continuous efforts of committed EWC members to overcome cultural differences, challenge company changes and solve them through increased cooperation, building trust and by seeking a common understanding of the appropriate ways for the EWC to handle changes.

The articulation of national-level information and consultation rights has highlighted a weakness in the representativeness of the EWC in cases when local-level employee representation structures are missing in some countries, due to the limited number of employees the company has in those countries.

As for the management perspective, interesting developments were reported in the EWCs of two companies where a European human resource (HR) network was developed in parallel to the EWC. This demonstrates that the efforts made by management and employee representatives to further develop their EWCs can benefit both sides. The practices presented in the EWC case studies in this report are examples of innovative industrial relations practices in a win-win context.



# Introduction

European Works Councils (EWCs) are established in over one thousand multinational companies (MNCs), providing transnational information and consultation mechanisms for employee representatives. Within the legal framework of directive 94/45/EC and the recast directive 2009/38/EC, over the years the members in these EWCs have made these bodies for European company-level social dialogue fit for purpose. Looking at developments in EWCs over a longer period of time can give an insight into how practices and possibilities are realised in some of them.

This report shows how 10 different EWCs developed from their creation until 2012. On the basis of these 10 longitudinal case studies, a comparative analysis explores the factors that influenced these developments. An assessment is made of the impact of the economic and financial crisis and of the recast directive. Other factors are also considered, such as company characteristics and whether they can influence developments in the composition or functioning of EWCs.

Of course, the 10 cases in this report continued to develop after 2012. Updates have been added to some of the case studies to reflect events that occurred in 2013 and 2014. Since the interviews and the data collection these case studies are based on were carried out in 2012, this report only reflects the developments recorded from the creation of these EWCs until 2012. The strength of this report lies in its comparison of long-term developments, instead of comparing EWCs at one single moment in time. The analytical framework and methodology are outlined in Chapter 1. Chapter 2 examines the main factors that influence developments in EWCs: the 2009 recast EWC directive and the economic and financial crisis.

Each of the 10 case studies is presented in Chapter 3. For each case, the EWC agreement setting out the main features of how the EWC was established is compared with subsequent renegotiations of that agreement and how this changed the EWC. After that, the composition and internal structures are examined, followed by a description of the functioning of each of the 10 EWCs. At the end of each case study, factors are explored that can explain the developments within that EWC.

In Chapter 4, all these EWC developments are compared across the different cases. Without making generalisations beyond the cases studied here, this comparative analysis shows how and why these EWCs developed before, during and after the crisis.

The findings presented in this report lead to the conclusion in Chapter 5 that certain company characteristics and how they change over time can influence developments in the composition or functioning of EWCs. However, this is more of an ongoing trend than an impact of the recast EWC directive or the recent crisis. As for the 2009 recast directive, it might be too early to assess its impact on EWC developments on the basis of the interviews and data collected in 2012. The 2009 recast directive included a window of opportunity that allowed new and renegotiated agreements to be concluded between 5 June 2009 and 5 June 2011 (the date on which its transpositions entered into force) which were exempt from the obligations of the recast directive. This exemption is comparable to the one in Article 13 of the 1994 EWC directive for agreements establishing EWCs before 22 September 1996. The new exemption clause that provided the window of opportunity is formulated in Article 14 of the recast directive – which only came into full legal force for renegotiations completed after June 2011. An update of these 10 case studies covering developments over the years 2013 to 2015 would be needed to better assess the full impact of the recast directive on their EWC practices. Based on developments up to 2012, only part of this impact could be measured.



# Research approach and methodology 1

The European Foundation for the Improvement of Living and Working Conditions (Eurofound) launched a research project to investigate developments in 10 EWCs based in MNCs across Europe. For each of the 10 EWC case studies, interviews were conducted with both EWC members and management representatives in three different countries where the multinationals operate: the home country, the country with the largest workforce outside the home country and a third country affected by restructuring. Based on these interviews, which were recorded and transcribed in 2012, and additional document analyses, an overview was compiled of EWC developments from the establishment of the EWCs until 2012.

This report attempts to answer the following research question: what are the main factors that influence developments in EWCs? In selecting EWCs for the research, it was decided to choose those that had been the basis of earlier research by Eurofound: this would enable a longitudinal assessment to be made of the changes in the company and in the EWC (from its creation until 2012).

Table 1 lists the case studies and period covered in the research. A list of the authors of the individual case studies may be found in the Annex at the end of the report.

Table 1: *EWC case studies included in the research*

Case study	Period covered
Air France–KLM	1997–2012
Barilla	2000–2012
Bayer	1991–2013
BNP Paribas Fortis	1996–2012
British Airways	1996–2012
Etex	1998–2012
GDF Suez	1995–2012
ING	1996–2013
MOL	2004–2012
Unilever	1996–2012

## Building on Eurofound's earlier research into EWCs

Eurofound has been the key reference in different fields of EWC research for many years:

- in making a comparative analysis of EWC agreements based on Article 13 of the directive (Eurofound, 1998) and in comparing Article 13 and Article 6 agreements (Eurofound, 2000);
- in exploring the negotiating capacity of EWCs to make transnational agreements (Eurofound, 2001);
- in looking at the practical functioning of EWCs through case studies (Eurofound, 2004);
- in assessing the experience of EWCs in new Member States based on case studies (Eurofound, 2006a);
- in assessing the role of EWCs in restructuring (Eurofound, 2006b).

The findings from these EWC research projects identified factors that influence the practical functioning of EWCs (Eurofound, 2008). This report aims to further this knowledge on the functioning of EWCs by describing how these factors can help or hinder EWC developments and how they are inter-related. Thus, EWCs are studied here as transnational industrial relations institutions in the making (Waddington, 2011).

Previous Eurofound EWC case studies can be found on the Eurofound website:

- **Air France** (2006)
- **Barilla** (2005)
- **Bayer** (2005)
- **British Airways** (2005)
- **MOL** (2006)
- **Suez** (2005)
- **Unilever** (2006)

Other studies of the cases included in this report were published by Telljohann (2005) in the framework of an EU-funded project, including ING, Fortis, Etex, Air France, British Airways and Bayer.

### Theoretical framework

Based on Eurofound EWC research conducted before the crisis, four factors were found to influence the practical functioning of EWCs:

- the companies' strategies and structures;
- the home country and company-specific industrial relations practices;
- the resources available to the EWC;
- the degree of employee cohesion in the EWC (Eurofound, 2008).

Many studies have explored the internal and external factors that foster or inhibit the development of a 'European' identity among employee representatives in an EWC (Müller and Hoffmann, 2001; Whittall et al, 2007). Based on EWC case studies conducted in the 1990s, Lecher et al (1999) analysed different fields of interaction in EWCs and developed a typology of EWCs. Although it was still early years for many of the EWCs studied, Lecher (1999) concluded that national representation structures play an important role in the provision of the resources needed for EWCs to work. These resources also determine an EWC's likelihood to develop a European identity and its ability to act effectively. From the perspective of employee representatives, Marginson et al (2004) identify factors that influence the impact of EWCs on management decision-making.

Few studies have explored the views of management on EWCs. In the 1990s, survey-based findings (Nakano, 1999; Wills, 1999) and interview-based findings (Lecher et al, 1999) identified the potential added value for all actors involved, including management and employer organisations (Lamers, 1998). Müller and Hoffmann (2001) subsequently concluded in their substantive overview of EWC research literature that much of what is known about managerial approaches to EWCs has emerged from attempts to assess their potential benefits for the management of MNCs: in terms

of the EWC being an additional information channel for central management to hear how things are going in different foreign subsidiaries. More recently, Timming (2007) explored managerial strategies in an EWC, but from the perspective of employee representatives. The methodology of this Eurofound EWC case study project set out to include interviews with management representatives in three different countries for each of the EWCs studied. This and the longitudinal perspective are the chief advantages of this study.

## Selection of the EWC cases under review

The two key elements determining the selection of case studies in this research project were the willingness of the actors to be interviewed and the existence of in-depth interview-based studies of these cases from the period before the crisis to allow for a longitudinal analysis of the EWC's development from its establishment until 2012 to be made. In order to assess the different impacts of the crisis and the influence of changing company characteristics on the developments in EWCs, it was decided to include company cases that are clearly similar.

For example, Air France and British Airways both had a large proportion of their workforce in their home country until Air France merged with KLM and British Airways merged with Iberia. ING and Fortis both operate in the financial services sector, which changed drastically because of the financial crisis. Fortis is now part of BNP Paribas, while ING was forced to split up its banking and insurance activities. MOL and GDF Suez are both active in the energy sector, while Unilever and Barilla are both food producers. The remaining two company case studies are Bayer, which is active in chemicals and pharmaceuticals, and Etex, which produces building materials. In 2003, Etex divested its chemicals and plastics division in a separate company, Aliaxis, which then established a separate EWC. This also happened at Agfa, which was divested from Bayer in 1999. The Agfa EWC was based on the Bayer EWC agreement. When ING had to separate its banking and insurance activities, a new umbrella EWC was created before it was split into two separate EWCs.

Table 2: *Cases included in this study*

Company characteristics			EWC features			
Selected cases	Sector	Home country	Article 13	Article 6	Renegotiated between 5/6/09 and 5/6/11	
<b>British Airways</b>	Transport	UK → UK and Spain	X			No
<b>Air France–KLM</b>		France → France and Netherlands		X	Yes	
<b>ING</b>	Financial	Netherlands	X		Yes	
<b>BNP Paribas Fortis</b>		Netherlands and Belgium → France	X		Yes	
<b>Barilla</b>	Foods	Italy		X		No
<b>Unilever</b>		Netherlands and UK	X		Yes	
<b>MOL</b>	Energy	Hungary		X	Yes	
<b>GDF Suez</b>		France		X		No
<b>Bayer</b>	Chemicals	Germany	X		Yes	
<b>Etex</b>	Materials	Belgium		X		No

There are similarities and differences in terms of ownership. Both Barilla and Etex are partly family owned, while British Airways, Air France and GDF Suez were state owned. British Airways was privatised in 1987. Air France was partially privatised in 1999, but even after the merger with KLM, the French government retained 18.6% of the capital of Air France–KLM. The privatisation of GDF started in 2005, after which the French government kept 80% of the shares until the merger with Suez.

In six of the cases included in this study, the company has a single home country. The countries concerned are Belgium, France, Germany, Hungary, Italy and the Netherlands. Unilever has always had two home countries: the UK and the Netherlands. Following mergers, both of the airlines included in this study obtained a second home country. Fortis had been based in both the Netherlands and Belgium, but this ended as a result of the financial crisis and the subsequent integration of most of its parts into BNP Paribas, which is based in France.

To assess the different ways in which the recast EWC directive 2009/38/EC has influenced EWCs, five EWCs were selected because they were established on the basis of a so-called Article 13 agreement, while the other five cases are EWCs created via an Article 6 agreement. The differences between Article 13 and Article 6 EWC agreements will be clarified in Chapter 3, as will the so-called window of opportunity for renegotiating EWC agreements between 5 June 2009 and 5 June 2011. Among the selected EWC cases, six renegotiated their agreement during this time and four did not.

# Factors influencing developments in EWCs 2

The study sets out to answer the following research question: what are the main factors influencing developments in EWCs? With this as the underlying aim, the study explores the different elements impacting on EWC activities in companies, such as the recast directive, the 2008 economic and financial crisis, and company characteristics and other factors.

## Impact of the 2009/38/EC recast directive

The first area in which influence on EWC developments is examined is the impact of the 2009/38/EC recast EWC directive. There are two kinds of potential impacts: a procedural one that affects the number of renegotiations of EWC agreements and a substantive one that enhances new provisions in EWC agreements and its practical application based on the recast directive.

In procedural terms, the window of opportunity offered by the recast directive between 5 June 2009 and 5 June 2011 may have triggered renegotiations of EWC agreements, as companies with an EWC that renegotiated their agreement during that period of time were exempted from the legal obligations deriving from the recast directive. An isolated reading of Article 14(1) of the recast directive suggests that all existing EWCs that were renegotiated in the transposition period fall outside the legal upgrade offered by the recast directive. However, significant company changes that trigger renegotiations will alter this sooner or later. Otherwise, if EWC agreements expire or have to be terminated, they must be renegotiated under the terms of the recast directive. If this cannot be done voluntarily, agreements will not be reached and Article 14(2) of the recast directive will subsequently make the provisions of the recast directive applicable. For EWCs that did not renegotiate their agreement between 5 June 2009 and 5 June 2011, the legal impact of the recast took effect on 6 June 2011, when the national transpositions came into force.

In substantive terms, it could be expected that EWCs use the new legal framework provided by the recast directive as a guide for their agreements or in practice. The case studies explored the extent to which EWCs anticipated this voluntarily before the transpositions of the recast directive came into force.

The legal upgrade for existing EWCs derives from Articles 1, 2 and 10 of the recast directive. Article 1 defines information and consultation in such a way as to ensure its effectiveness. The competence of EWCs is limited to transnational issues, which are defined as matters that concern the company as a whole or at least two different countries (Article 1(4) of the recast directive).

The definition of information is new (Article 2(1f)). The definition of consultation has been expanded to include the fact that it needs to take place within such a time, in such a fashion and with such content to allow EWC members to express an opinion based on the information provided. The information, the consultation and the expression of the EWC's opinion need to happen within a reasonable time so that it can be taken into account in the company's decision-making.

The role of EWC members was also legally upgraded in Article 10 of the recast directive. This gives EWC members the right to obtain the means necessary to fulfil their EWC rights and duties (Article 10(1)). For example, they are duty-bound to pass on information to local workplace representatives or, if there are no local workplace representatives, then to the entire workforce (Article 10(2)). EWC members are also entitled to training during their working time (Article 10(4)) to develop the skills, knowledge and competences needed to exercise their representative duties.

When assessing the impact of the recast directive on the developments of EWCs, the possibility of a reverse effect is also considered. Certain formulations in the recast directive might have been based on or inspired by real EWC developments before the recast directive was adopted, just as the initial 94/45/EC directive was inspired by the first EWCs that were established between 1985 and 1991. The Bayer EWC is an example of a pioneering EWC that was

established in 1991, long before the adoption of the 1994 EWC directive. The Unilever EWC was presented by management and employee representatives in a European social partner seminar that drew lessons from existing EWCs (**ETUC/UNICE/CEEP/UEAPME, 2005**) for the revision process foreseen in Article 15 of the 94/45/EC directive. In the 2009/38/EC directive, Article 15 stipulates that, no later than 5 June 2016, the Commission should report on the implementation of this directive, making appropriate proposals where necessary.

### Impact of the crisis

The study looked for factors that influence EWC developments from a longitudinal perspective. The possible impact of the recast directive was the first area that was examined. A second potential impact is company changes caused by the 2008 financial and economic crisis. This hypothesis is built on the assumption that the crisis can have a direct or indirect effect. A direct effect of the crisis occurs when cost reduction measures affect certain EWC activities in terms of cancelled or postponed meetings. An indirect effect occurs through changes in the characteristics of the companies as a result of their response to the crisis, which may affect the functioning of their EWC.

### Company characteristics and other factors that influence EWCs

The company characteristics considered in this study are:

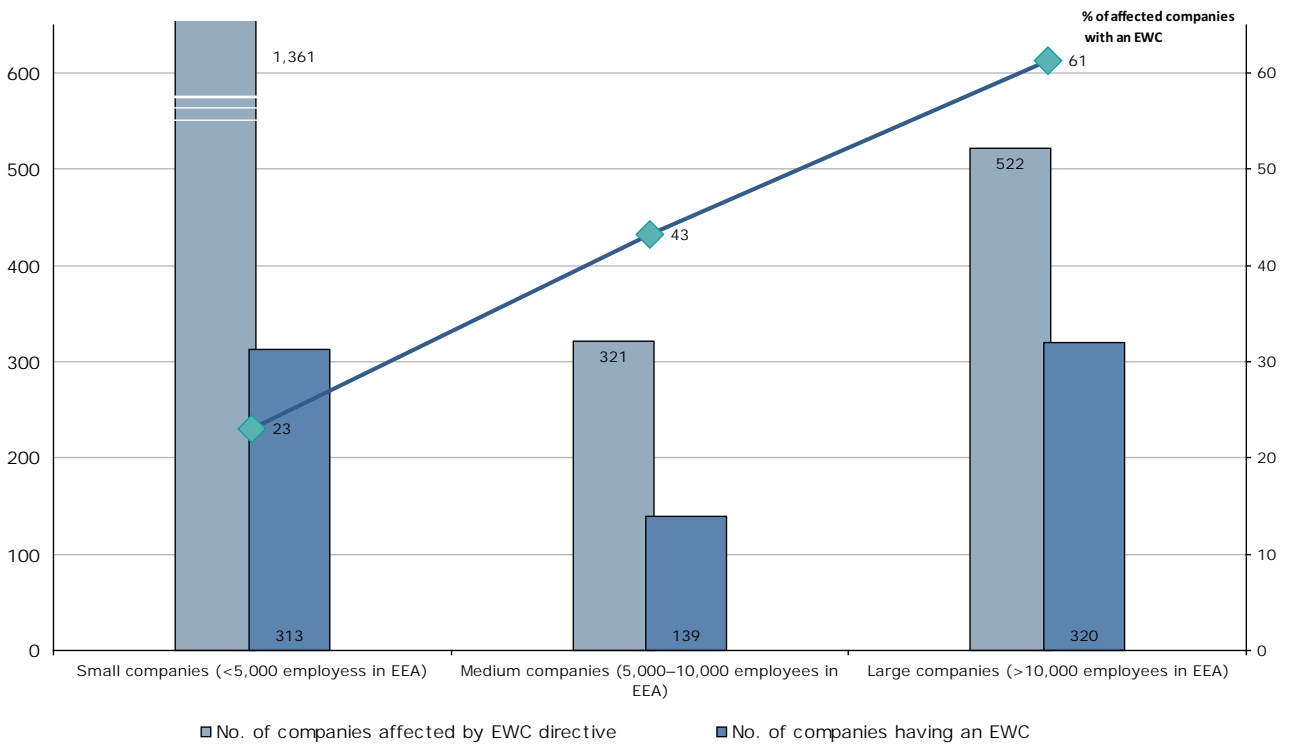
- the home country of the multinational;
- the MNC's sector of activity;
- its workforce size;
- its degree of internationalisation.

Companies change in many different ways. When looking at the company characteristics that are most likely to influence the functioning of EWCs, consideration was given to the characteristics that appeared to vary most when companies that have an EWC are compared with those that do not have one yet.

Two company characteristics that directly or indirectly affect compliance with the directive are the size of the workforce and the degree of internationalisation. To fall within the scope of the EWC directive, a company needs to have 1,000 employees within the European Economic Area (EEA) and more than 150 employees in at least two Member States. Among companies with more than 10,000 employees in the EU, more than two-thirds have established an EWC. For those with fewer than 5,000 employees, an EWC was created in only one-third of the cases.



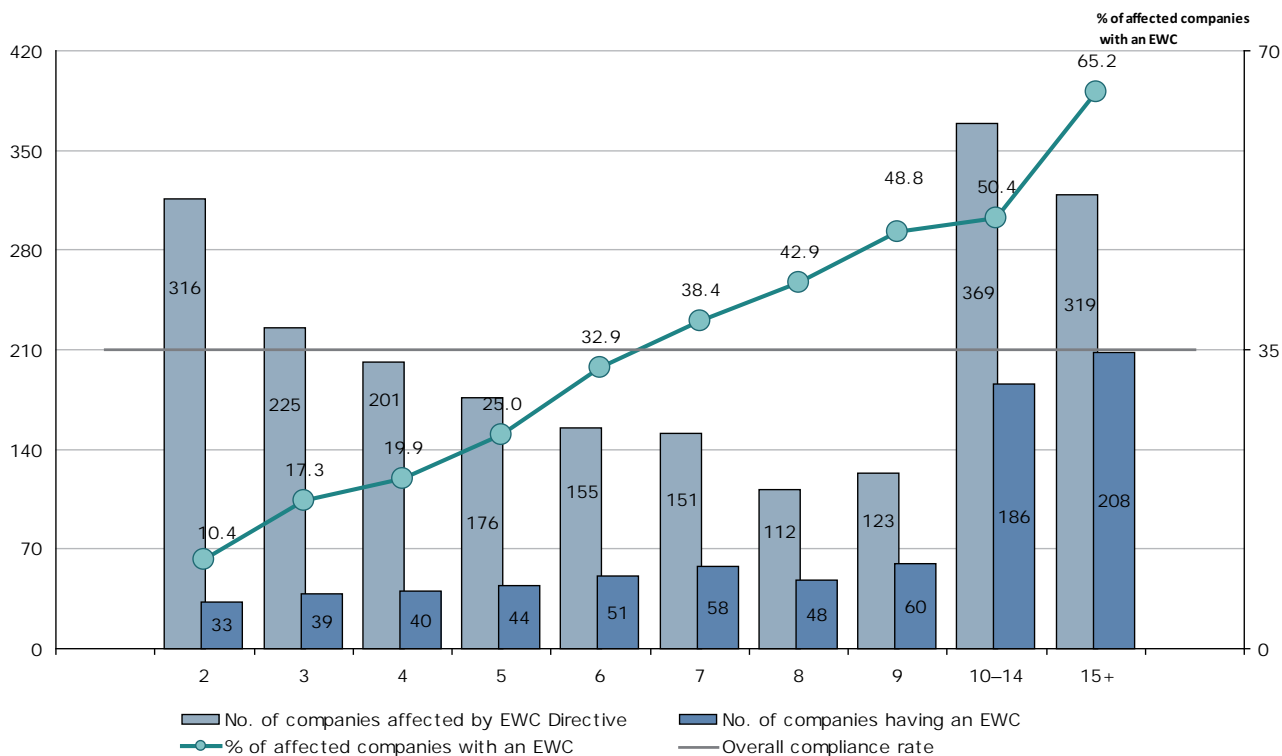
Figure 1: Compliance rates of companies with different sized European workforces



Source: Kerckhofs (2006)

A similar effect may be observed in the degree of a company’s internationalisation. The more countries the MNC operates in or the smaller the proportion of the European workforce employed in the home country, the more likely it is that the company has established an EWC (Kerckhofs, 2006).

Figure 2: Compliance rates of companies regarding the number of countries of operation



Source: Kerckhofs (2006)

This report aims to determine to what degree changing company characteristics, whether or not resulting from the crisis, influence the functioning of EWCs. Previous research has shown that company changes can foster EWC developments in some cases, while in other cases this does not happen, or at least not to the same extent (Lücking et al, 2008; Pries, 2008; Timming, 2006). Therefore, this report also explores other factors that can influence EWC developments.

# Evidence from the case studies 3

This chapter presents the empirical data from the longitudinal case studies case by case. Each case study covers the developments in the EWC from its establishment until 2012. By using the same structure, patterns will appear that will be analysed subsequently in a comparative way in Chapter 4.

For each case, four aspects are outlined:

1. The EWC agreement and its renegotiation.
2. The composition of the EWC and its internal structure.
3. The functioning of the EWC.
4. Factors that influence developments in the EWC.

In Barilla and British Airways, the EWC agreement was never renegotiated. It appears that neither EWC has developed very much since its establishment. The renegotiation of EWC agreements, especially in the case of a merger with or an acquisition of a company with its own EWC, can trigger the development of EWCs. Clear examples of this can be seen in the way the different EWC cultures at Air France and KLM were stitched together, just like the ones at GDF and Suez, ING and BBL, Fortis and Generale Bank, and Bayer and Schering. Other cases, such as MOL, Unilever, Barilla and British Airways, have not enjoyed such opportunities. The companies that MOL and Barilla acquired did not have their own EWC. Finally, Iberia did not have an EWC before its merger with British Airways in January 2011.

An EWC's composition and internal structure are just as important for its functioning as the EWC agreement. The composition is determined by the number of mandates and how these are distributed among the European countries in which the company operates. The representativeness of EWCs, however, is about more than numbers. Several EWCs in these case studies are challenged by the fact that EWC members who do not have local employee representation structures are not fully able to represent the workforce from their country. The British Airways EWC and the Air France EWC acknowledge this and allow their members to raise their issues in the EWC that they cannot solve at local level because they do not have social dialogue mechanisms there.

The internal structure of the EWC can be shaped by a select committee or working group. A select committee has been established in all the cases included in this study. By extending the composition of the select committee and by clarifying its role and competences, the internal structure of the EWC can grow significantly. Many of the cases presented here have also established specific working groups. The social and financial committees in the ING EWC are good examples of this. The GDF Suez EWC has many working group activities. At Bayer, such working groups were established on a more ad hoc basis, while ETEX has recently established a committee to monitor the implementation of its health and safety charter.

The functioning of the EWC is analysed in terms of the frequency of the plenary and select committee meetings. The content of those meetings, the information and consultation provided, the communication between meetings and the outcomes produced by the EWC are also presented.

Finally, for each case, factors are explored that can explain or have influenced the developments that did or did not occur in the given EWC. For each case, the direct or indirect impact of the crisis and the impact of the recast directive are assessed. However, for most of the cases studied here, there are other factors that appear to foster or inhibit EWC developments.

### Bayer EWC

The Bayer EWC was established as a pioneering EWC when the EWC directive was still only being adopted. The initial EWC agreement was renegotiated in the window of opportunity between 5 June 2009 and 5 June 2011, which exempted the Bayer EWC from the obligations deriving from the recast directive. The major influence of the recast directive on the Bayer EWC is in its new provision on training. As Bayer was not greatly affected by the crisis, no direct impact on the functioning of the EWC was reported.

The Bayer EWC is unique because of its composition and its national management representatives. This offers opportunities for local social dialogue and for the harmonisation of industrial relations practices in all the European countries where Bayer operates. However, with 90 EWC members, its large size can also hinder its development. The select committee of this EWC therefore plays a crucial role in fostering development. For efficiency's sake, a strictly orchestrated preparation does not leave much room to improvise during plenary meetings. Because a large proportion of the European workforce is located in the home country (and because the home country employee representatives subsequently dominate the EWC), this further reduces the scope for developing a European identity or a proactive role for the EWC.

### EWC agreement

The Bayer EWC was established shortly after the first draft proposal for the 1994 EWC directive was made in December 1990. In 1991, the Bayer EWC was created on the basis of an agreement of the group works council (Konzernbetriebsrat). This 1991 agreement was replaced by a 1994 agreement adjusted to the 94/45/EC directive. The EWC is called the European Forum.

While the long EWC experience at Bayer is an advantage, in practice the pioneering status of the Bayer EWC agreement has acted as a handicap because it has been very difficult to make changes to the agreement. Demands for improvements to the agreement were related to the definition of consultation, the role of the EWC in exceptional circumstances and the size and composition of the select committee. In 2000, only minor changes could be integrated into a protocol that was annexed to the initial agreement. This is how the 1994 agreement was further developed, while in strictly juridical terms the initial Article 13 agreement had to be kept in order to remain exempt from the 1994 EWC directive. Over the years, about 12 such informal protocols were annexed to the EWC agreements. The formal Bayer EWC agreement was not changed between 1994 and 2009.

The Bayer EWC was already in the process of revising its EWC agreement in 2008, and thus had already adopted a new agreement before the recast directive appeared in May 2009. This renegotiation aimed to integrate all the protocols into the text of the agreement. The timing of this revision of the EWC agreement is remarkable because it coincided with the publication in June 2008 of the proposal for the recast directive that was adopted in May 2009. This is similar to what happened in 1991 and in 1994, when Bayer had already established an EWC during the legislative process before this resulted in the adoption of directive 94/45/EC.

In the new 2009 EWC agreement, the 12 protocols that were annexed to the 1994 agreement have all now been integrated. Furthermore, there are additional provisions included for individual training of EWC members and for training the entire EWC linked to EWC meetings. The influence of the 2009 recast directive is evident in this training provision. The number of plenary meetings of the Bayer EWC has always been kept to one per year. The number of select committee meetings has been increased to four per year and additional extraordinary meetings are possible if needed.

The 2006 integration of Schering AG into Bayer did not have any bearing on the renegotiation process of the new 2009 Bayer EWC agreement. Like Bayer, Schering AG had already had an EWC agreement since June 1994, signed before the

adoption of directive 94/45/EC. The Schering AG EWC was composed of 20 employee representatives from 11 different countries. During the integration of Schering AG into Bayer, extraordinary meetings of the select committees of the EWCs of Schering AG and Bayer were held. Subsequently, the representatives of the Schering AG were simply integrated into the Bayer EWC without any change to the Bayer EWC agreement.

### Composition and internal structure of the EWC

The composition of the Bayer EWC is unusual not only because of its large size, but also because national management representatives are included in the EWC in addition to employee representatives and central management actors. In 2002, employee and management representatives from 15 European countries were present at the EWC meeting. After EU enlargement, delegations were included from 24 countries. In 2002, the EWC was composed of 45 employee representatives and 27 management representatives (72 members in total). In 2010, there were 54 employee representatives and 36 management representatives (90 members in total). To add to the overall size of the gathering, it also included a number of central management actors, the administrative support staff, the interpreters and a guest from the European trade union organisation IndustriAll.

Table 3: *Composition of the Bayer EWC*

Representatives per country	2002			2010		
	Workers	Management	Total	Workers	Management	Total
Austria	1	1	2	1	1	2
Belgium	4	2	6	4	2	6
Bulgaria				1	1	2
Czech Republic				1	1	2
Denmark	1	1	2	1	1	2
Germany	16	8	24	16	8	24
Greece	1	1	2	1	1	2
Finland	1	1	2	1	1	2
France	4	2	6	4	2	6
Hungary				1	1	2
Ireland	1	1	2	1	1	2
Italy	4	2	6	4	2	6
Lithuania				1	1	2
Netherlands	1	1	2	1	1	2
Norway	1	1	2	1	1	2
Poland				1	1	2
Portugal	1	1	2	1	1	2
Romania				1	1	2
Slovakia				1	1	2
Slovenia				1	1	2
Spain	4	2	6	4	2	6
Sweden	1	1	2	1	1	2
Switzerland				1	1	2
United Kingdom	4	2	6	4	2	6
<b>Total</b>	<b>45</b>	<b>27</b>	<b>72</b>	<b>54</b>	<b>36</b>	<b>90</b>

To keep the meetings running smoothly and efficiently, only country speakers are allowed to talk during the plenary meetings of the EWC. The meetings are also prepared in detail ahead of time. Almost everything that the chair of the EWC or the other select committee members say to the EWC is written out in a script that has been prepared by the administrative staff of the EWC. The main person on this team is Barbara Barz, who plays a crucial role not only in the organisation of the meetings, but also in the functioning of the EWC, without being a formal member of it.

The increased size of the select committee from three to seven members and its intensified functioning is an example of developments that happened in 2002 via a protocol annexed to the 1994 EWC agreement. The select committee was not mentioned in the 1994 agreement. The select committee adopted its internal rules of procedures in its 30 October 1997 meeting. With 90 members in the Bayer EWC, the select committee is crucially important for the information and consultation function of the EWC, during the annual plenary meetings, between such meetings and also in case extraordinary circumstances demand extra meetings of the select committee. The large size of the EWC underscores the importance of the select committee. Nevertheless, the larger size of the jointly composed select committee has also resulted in the creation of a smaller steering group within the select committee, composed of the chair and the two deputy chairpersons (three people in total, which was the initial size of the select committee).

The select committee of the Bayer EWC is called the Joint Committee Bayer European Forum (*Paritätische Kommission*). Created in the first years of the EWC, the select committee was composed of three employee representatives (the EWC chair and two deputies) and three management delegates. In 1997, the select committee adopted its own rules of procedure, including the possibility of holding extraordinary meetings just with the select committee instead of having to gather the entire EWC in exceptional circumstances. The first extraordinary select committee meeting was held on 9 December 1997 in Mortsel (near Antwerp, Belgium) on the issue of the sale of the copier division of Agfa-Gevaert.

The composition of the select committee (and the changes in its composition) had some influence on the internal cooperation in the EWC, as mentioned earlier. A new chair was elected at the August 1998 European Forum employee-only meeting and the Belgian select committee member had to be replaced in 1999.

### Functioning of the EWC

Since 1992, one annual plenary session has been organised every year in line with the EWC agreement. An extraordinary EWC meeting was held in 2006 when Bayer acquired Schering AG, a pharmaceutical company with an EWC of its own. Thirty employee representatives and 23 management representatives were invited to this extraordinary meeting, which was not as large as the full plenary EWC. Extraordinary meetings with a reduced composition were also organised for the divestment of Lanxess and the integration of Aventis Crop Science.

The agendas of both the employee-only preparatory meeting and the joint meeting with management are prepared by the select committee. While the employee representatives have their preparation meeting, management representatives have their own separate meeting with central management actors. The second day and a part of the third day comprise joint meetings of the entire EWC. During these joint meetings, the company results are presented and questions on current problems are answered. Special presentations of countries and activities are also given. At the end, there is a two- or three-hour employee-only debriefing meeting.

Normally there is a half-day preparatory meeting, although sometimes there is a whole-day employee-only preparation, for example when new select committee members need to be elected. The structure of the preparatory meetings is repeated virtually unchanged each year. It starts with a formal welcome, the adoption of the agenda and a presentation of the new EWC members (in 2001 there were 10 new members, in 2002 there were nine new members and in 2010 there were 15 new members). After this, the minutes of the previous meeting are adopted, the country speakers are

appointed and a report is given first on the activities of the select committee and then the working group's activities. Finally, and perhaps most importantly, questions for the next day's joint meeting with management representatives are prepared.

The agenda for the joint meeting of the entire EWC is as stable and well planned as the employee-only preparatory meeting. It starts in the morning of the second day with a formal opening by the employee-side chair and the European human resources manager, followed by a presentation by the CEO on the company's general developments and economic position. This takes about 45 minutes and is followed by a half-hour discussion. Around 11:30am, information is supplied on employee-related aspects. In this part of the meeting, questions are raised and answered by the board member responsible for human resources and group strategy.

In the afternoon of the second day and early in the morning of the third day, presentations are given on specific countries or types of activity of the group. The strict agenda and the carefully pre-orchestrated preparation for these meetings indicate that the focus is on information rather than dialogue or consultation, which takes place in the select committee.

Over the years, the select committee of the Bayer European Forum has developed its capacity for consultation and even negotiation. However, negotiations have been very difficult on most issues, and successes were reached only after many years of discussion. One important substantive agreement reached within the select committee is the Social Charter. However, apart from this one exception, most select committee discussions and negotiations have related to internal EWC procedures. For example, the demand for the select committee to be expanded and for the right to extraordinary plenary meetings to deal with exceptional circumstances were debated for many years in the select committee. The solution for the exceptional circumstances was found in extraordinary select committee meetings extended to the countries concerned. Another demand was to enlarge the half-day employee-only preparation meeting to a full day. This was accepted only in cases where new select committee members need to be elected. The demand from members of the select committee to visit employee representatives in the various countries was also achieved.

Concerning the timing of the information and the lack of consultation, the employees confirmed their wish to cooperate in a confidential way. The management members of the select committee expressed their regret that they were not informed in advance about the social questionnaire initiative. The changes to and rewriting of the agreement have also been discussed at many select committee meetings.

In May 2000, an English-language seminar was organised for the three select committee members. Although this was a positive experience that brought the employee-side select committee members closer together, a second such seminar was never held. Further English-language training was provided on an individual ad hoc basis. Besides language training, since 2009 the EWC has held an annual training day on different topics.

### **Factors that influence EWC developments**

The EWC actors interviewed did not think the crisis had influenced the functioning of the EWC. No extraordinary plenary meetings or select committee meetings have been held to deal with issues directly related to the crisis. Bayer is active in three different business fields, and only the material science division has been impacted by the current crisis; pharmaceuticals and crop science have not been affected. Yet the material science division had a stronger and quicker recovery in 2010 than had been expected. The restructuring process in the material science division began before the crisis and was not directly related to it. The changes that occurred in Bayer during the crisis were part of ongoing processes that were independent of the crisis.

In terms of outcomes, in 2006 the EWC issued a joint declaration with management on diversity as a result of working group meetings on this topic. In February 2011, another joint declaration was made on social dialogue on planned

restructuring measures, including a description of what is understood to be fair treatment for the employees affected by such restructuring. An exercise to collect social data via a questionnaire resulted in data that was difficult to compare, as questions had been interpreted differently.

The recast directive definitely impacted on the development of the Bayer EWC in the new provision on training in the 2009 EWC agreement and afterwards in the EWC practice. Since 2010, all the members of the Bayer EWC have been entitled to a one-day training session per year. In 2010 this was on the topic of diversity, in line with the 2006 joint declaration. The 2011 one-day training session aimed to help EWC members understand basic principles of accounting in order to better understand the financial information given to the EWC. The relationship between local works councils and the EWC was the topic of the 2012 EWC training day, while in 2013 it was on job security and how this is regulated in national laws or company agreements. These developments are driven by the EWC's own internal developments and are not really influenced or inspired by the recast directive. The recast directive also contributed in procedural terms, or even triggered the renegotiation within the window of opportunity with the aim of keeping the EWC exempted from the obligations prescribed in the recast directive.

A unique opportunity for the EWC lies in the involvement of national management representatives, allowing a common European industrial relations approach in all the European countries Bayer operates in to be developed. From a HR perspective, a shared service centre has regrouped all the HR administration in Leverkusen. Subsequently, HR managers in all the different countries are no longer heading HR administrative functions related to pay and absences. Rather, they are now more like business partners who are advising the managers on HR matters. These changes have been announced in the EWC. Beyond the information the EWC received on this, it did not have any impact on its functioning.

The large size of the Bayer EWC and the involvement of national management representatives along with employee representatives may have a positive effect on social dialogue at local level. An adverse effect may be the difficulties of developing internal cooperation. The size of the EWC inhibits the continuity of the EWC functioning because a second ordinary annual meeting is not possible. This shifts the focus of the EWC activities to the select committee, which meets more frequently.

A group can be its own enemy when it is not big enough to deal with the tasks it needs to perform (Hackman, 1990). According to the least group size principle, it is easier to achieve a relative coherence in interrelationships and a comprehensive understanding of those interrelationships in smaller groups (Thelen, 1949). Literature on group dynamics also assumes that smaller groups offer more opportunities for individual members to participate in formal or informal leadership roles and to take additional responsibilities (Barker and Gump, 1964).

It is not the case that the efforts that EWC members need to make to obtain sufficient internal cooperation is fixed and can be divided by the number of members contributing, so that the larger the group is, the less contribution each member needs to make (Oxley and Barrera, 1983). On the contrary, the larger the EWC, the more efforts employee representatives will have to make to communicate with all other EWC members and to keep everyone involved and integrated. A sociogram drawn during participant observation in a Bayer EWC meeting demonstrated that not all EWC members contribute to the internal interactions. In addition, the interviewees reported that the interactions by phone and email in between the meetings are concentrated between the select committee members and very few other EWC members. Clearly, not all members of EWCs are involved in the EWC to the same extent. The size handicap is best handled by an effective select committee, although this is not the only remedy (Agudo et al, 2001, p. 29).

Several initiatives have been introduced in the Bayer EWC to overcome its size handicap. Country speakers were introduced to operate as a spokesperson for the EWC members of that country, which centralises their questions and comments during the meetings. The select committee, which used to be composed of three members, was enlarged to



seven members, but to keep the high level of cooperation in the former three-person select committee, these three people formed the bureau of the select committee. However, the interviewees from the Bayer EWC concluded that the select committee, its bureau and the structure of country speakers did not completely fix the size handicap.

Interviewees from all the EWC case studies believed that collective training with all the employee representatives in an EWC is a good way to enhance internal cohesion. However, in the Bayer EWC this was only implemented following the 2009 EWC agreement that coincided with the adoption of the recast directive. Before 2009, the only training that had been provided was the English-language course for the three-person select committee and Barbara Barz in Germany in 2001. According to some interviewees, it was difficult to develop EWC training because initiatives and communication depending on EWC resources were highly centralised and controlled by the EWC chair. The dominating presence of home country representatives in the EWC also makes the development of a proper European approach in the EWC more difficult. With the introduction of the provision on training prompted by the recast directive (and the training days that have already been provided in 2010, 2011, 2012 and 2013), new opportunities may be offered in this regard for the Bayer EWC in the future.

### Air France–KLM EWC

The Air France–KLM EWC has brought together the experiences of the EWCs of both Air France and Royal Dutch Airlines (KLM), even though both had different approaches. There were well-developed social dialogue structures in the home country, but this was non-existent in most of the foreign operations because of the small number of employees there. As a result, employee representatives from the foreign operations raise local problems in the EWC because they do not have any other social dialogue platform to deal with them. As for the employee representatives from the home country, the information provided to the EWC is not news to them, as they have better channels of information and consultation.

The developments at the Air France–KLM EWC reflect efforts to build bridges between the different cultures, between the French and Dutch employee representatives, and between them and the representatives of the countries with small numbers of employees.

### EWC agreement

Air France established its EWC in November 1997, thereby implementing the French transposition law of the 1994 EWC directive. The agreement is for a fixed period of four years. A mid-term assessment is made of the implementation of the agreement two years after it has been signed. Article 13 states that the EWC agreement will not become indefinite at the end of four years – renegotiations start eight months before the agreement expires. That is exactly what happened in 2001. A special negotiation body (SNB) of 17 members was established to renegotiate the initial agreement from March to November 2001, during which time four SNB meetings took place. Although all the select committee members were also members of the SNB, the select committee members did not play any specific role in preparing or coordinating these renegotiations. The resulting renegotiated agreement was signed on 19 November 2001 during an extraordinary meeting of the EWC to discuss the economic and social consequences that the events of 11 September 2001 could have for Air France. The most important changes were to double the number of ordinary meetings of both the EWC (from one to two) and its select committee (from three to six).

The KLM European Forum, as the EWC was called, was based on an Article 13 agreement from 12 September 1996. It provided for two annual meetings, just like the Air France EWC after the 2001 renegotiation. Meetings were held in English only, without any interpretation. A three-person select committee was provided for. The KLM EWC members interviewed reported that the EWC did not matter very much to the home country employee representatives. It was mostly used as a means of raising local issues that could not be solved in the foreign operations with small numbers of staff.

Following the merger of Air France and KLM in 2004, a holding forum was created from October 2004 to the end of 2005. During this time, renegotiations were launched to establish a new EWC for the entire Air France–KLM group. The separate EWCs were not dissolved until the new EWC agreement for Air France–KLM was signed in February 2006. This agreement had a fixed duration of four years and provided for renegotiations to start eight months before it expired. In 2010, an almost identical agreement was signed for another four-year period.

### Composition and internal structure of the EWC

The Air France EWC had 32 members in 1997, 10 of whom were French employee representatives. At that time, 96% of the European workforce was working in France (about 44,000 employees). The 590 Air France employees in the UK and the 446 German employees were represented in the EWC, with four members each. The 243 Spanish and 206 Italian employees were represented by two EWC members each. Ten other countries each had one EWC member representing 20 to 50 employees.

Just like any other airline, a large proportion of KLM's European workforce was based in its home country. The KLM EWC had 25 members, six of whom came from the Netherlands. The German and UK employees each had two EWC members, while 15 other countries each had only one EWC member.

While the post-merger EWC agreement was being negotiated during 2004 and 2005, the Air France–KLM holding forum was made up of 14 members: seven employee representatives from Air France and seven from KLM. Only three of these seven mandates were for members of the respective EWCs. The other four mandates were for representatives from the French central works council of Air France and for the Dutch central works council of KLM.

The original Air France EWC had a select committee of six delegates, while the KLM EWC select committee had three. The select committee of the holding forum had four members: two delegates from Air France and two from KLM.

The post-merger EWC agreement for Air France–KLM is composed of 37 EWC members: 10 French employee representatives, six from the Netherlands, three from the UK, two each from Germany, Italy and Spain, and one employee representative for each of the 12 other countries. The select committee has seven mandates: two for France, one for the Netherlands and four from the other countries. The Air France practice of allowing for the establishment of EWC working groups on specific topics was copied in the Air France–KLM EWC agreement.

### Functioning of the EWC

In the beginning, the Air France EWC had one annual plenary meeting and three select committee meetings. After the 2001 renegotiated agreement, this increased to two annual meetings and six select committee meetings a year. The KLM EWC had two annual plenary meetings but no set number of meetings for its select committee. Four annual meetings were allocated for the holding forum. The 2006 post-merger EWC allowed for two annual plenary meetings and three select committee meetings, which remained unchanged in the 2010 EWC agreement.

In reality, however, more meetings were held to deal with the changes that were introduced to cope with the effects of the crisis. The number of plenary EWC meetings held by the post-merger EWC of Air France–KLM is presented in Table 4. From 2006 to 2010, there were three or four plenary meetings each year. There were only two meetings in 2011, as set out in the EWC agreement.

Table 4: *Number of plenary meetings of the Air France–KLM EWC, 2006–2011*

	2006	2007	2008	2009	2010	2011
Number of plenary meetings	3	4	4	3	3	2

The holding forum that was created to cover the Air France–KLM integration process was co-chaired by an Air France management representative, Jean François Colin, and a KLM management representative, Wim Kooijman. From a cultural perspective, management decided that the Dutch management style would work better with the more formal process-driven French industrial relations approach, but French management were not ready to deal with the more pragmatic and compromise-oriented Dutch industrial relations approach. Therefore, the post-merger EWC of Air France–KLM was chaired by the KLM manager, Wim Kooijman. François Cabrera from Air France remained as general secretary or employee-side chair of the EWC. This was not questioned, since the KLM EWC had never been as dominated by the home country employee representatives as the Air France EWC had been. The fact that the employee chair was held by the Swedish employee representative of the KLM EWC from 2006 to 2010 also illustrates this. Since 2011, François Cabrera has once again been the general secretary or employee chair of the Air France–KLM EWC.

The EWC plenary meetings normally last for one-and-a-half days. On the afternoon of the first day, an employee-only preparation meeting is held. The EWC members give reports to present the situation in their respective countries. Questions are also formulated for the meeting with management the next day. From participant observation during such a preparation meeting, it was found to be much less structured and slightly more chaotic than in other EWCs. The EWC meeting with management takes place on the second day, where management give PowerPoint presentations. Questions on the presented topics are answered as fully as possible on the spot.

The Air France EWC was entitled to set up working groups to deal with specific issues. From 1997 to 2003, six different working groups were active, normally for a period of two years. The first important matter concerned the centralisation of the company's ticketing services. When Air France announced its plans to regroup its reservation services from eight countries to a single London-based call centre, two working groups were established to deal with the social and economic aspects of this. What followed was a bit of a culture clash. For example, even though local management in Germany were obliged to discuss decisions, this does not happen at the European level. Because of this, central management would only inform the EWC about the decisions made, which was a shock for the German EWC members. The Swedish select committee member at the time proposed establishing a code of conduct. When a working group was formed for this issue, it appeared to be a matter that Jean-Cyril Spinetta (incumbent Air France CEO) was very interested in. Consequently, this working group had high-level debates and achieved an important practical result: the social rights and ethics charter signed on 25 June 2001. It also reinforced the EWC's role because it was responsible for the follow-up of this charter. After the merger, the Air France–KLM EWC kept the provision on working groups in the agreement.

The Air France EWC provided interpretation in all the languages of the participants, while the KLM EWC was held in English and did not provide any interpretation. The post-merger EWC has three working languages, French, English and Dutch, and provides interpretation. However, minutes of the select committee meetings are only provided in French and English.

### Factors that influence EWC developments

Both Air France and KLM faced a crisis in 2001 and in subsequent years. Not only was 2001 the year that Air France renegotiated its EWC agreement and established its social rights and ethics charter, it was also the year of the 11 September (9/11) terrorist attacks in the US, which affected the civil aviation sector adversely. Fortunately for Air France, it was much less dependent on traffic to the US than its main competitors, British Airways and Lufthansa. Moreover, Air France benefited from the collapse of Swissair and Sabena by getting a share of their former passengers and freight, particularly in terms of the African market. The Charles de Gaulle airport and its TGV connections were structural advantages, and the high number of connecting flights makes the airport an attractive hub. To maximise these advantages, the Air France strategy is based on the extension of the SkyTeam alliance.

At KLM, two rounds of restructuring in 2000 and 2004 cut over 4,000 jobs. The merger with Air France was a complicated and tense process for the Dutch EWC. To avoid further job losses in 2008, a model was agreed ‘to keep the family together’, which required employees to be flexible and to accept other tasks in order to remain in employment. This new model also included a shift away from the collective bargaining of social plans with trade unions towards more consultation and co-determination with the chair of the Dutch EWC.

As for the impact of the financial and economic crisis, the civil aviation sector had already gone through a crisis in the years following the 2001 terrorist attacks. The Air France–KLM merger could be seen as an indirect reaction to those difficulties. The merger did have an effect on the composition and functioning of the EWC and it determined the topics that the EWC had to deal with. The increased number of additional plenary meetings is also related to this integration process. Since 2011, however, this has reverted to the usual two annual EWC meetings. It is expected that further integration will be taken at holding level and at the level of the smaller foreign operations that are currently still separated for the two airlines.

The 2006 post-merger EWC agreement was made for a fixed period of four years. The new Air France–KLM EWC agreement of 28 April 2010 was also valid for four years and thus was not made especially for the implementation of the 2009/38/EC recast directive. There were no significant changes between the 2006 and 2010 agreements. The integration process with the holding forum made the real changes from the 2001 Air France EWC agreement to the 2006 post-merger agreement. Training provisions were already well established in the Air France EWC agreement, as was the possibility of establishing working groups. The follow-up procedures for the social rights and ethics charter are still in place.

Training provisions had been provided from the start for the EWCs of both KLM and Air France, regardless of the recast directive. At KLM, three training days per EWC member were provided for at the start of the mandate period, with new training arrangements to be agreed for every subsequent four-year mandate period. The Air France EWC agreement provided for eight collective training days per mandate period of four years. The agreement stated that this training would be provided by or on the recommendation of the European Trade Union Institute’s (ETUI) training department. The training arrangement from the Air France EWC was also copied into the post-merger EWC agreement.

Because a large proportion of its workers are in France and with a relatively high density rate, Air France has always been an important company for the French trade unions, and for the European Transport Workers’ Federation (ETF) too. This explains the reference to the ETUI in the training provision. Since the French employee-side chair plays an important role in his trade union – the French Democratic Confederation of Labour (Confédération française démocratique du travail, CFdT) – as well as in the ETF, he may have had more influence on the position of the European trade unions in the revision process of the EWC directive than the recast directive had on the Air France–KLM EWC agreement.

Another factor that influences the functioning of the Air France–KLM EWC is cultural differences. The first example is the different French and Dutch approaches towards social dialogue. The Dutch HR manager from KLM and the French HR manager from Air France co-chaired the EWC meetings during the holding forum. In the post-merger Air France–KLM EWC, the Dutch HR manager was the only chair. He explained that many managers give a PowerPoint presentation to the EWC, which does not allow for any real dialogue. In his experience in the Netherlands, an issue is not presented in a PowerPoint presentation after decisions have already been made. Instead, the issue is raised beforehand in a text with concrete proposals, justifications and calculations on what impact it can have on employees. When employee representatives are allowed to see such a text proposal at an early stage, they have the chance to make constructive proposals for adjustments to it. In this way, formal consultation procedures following such earlier confidential exchanges can be much easier. Such an approach could also facilitate the acceptance and involvement of the

employee representatives in the process of change. However, a spirit of cooperation is not common in French industrial relations culture, and this approach cannot be implemented in the EWC as it is.

At EWC meetings, French EWC members tend to make one statement after another, after which the chair moves to the next point on the agenda. In the Dutch social dialogue culture, participants are not supposed to make general statements about topics that are not on the meeting agenda, but if it happens, other participants react to it and give their views. So if they do express themselves, Dutch employee representatives do not understand why the chair simply ignores this and moves on to the next point. On the other hand, French employee representatives seemed surprised when their Dutch colleagues reacted to their statements, which they had not been expecting.

Different cultural approaches emerged regarding the social charter too. Initially, this charter came from the Air France EWC, but it was renewed in 2008 for the Air France–KLM EWC. This was new for the Dutch, and they were surprised to realise that both French employee representatives and French managers expected this to be followed up and that its implementation had to be monitored and breaches handled in the yearly EWC meetings.

The EWC members interviewed described the French social dialogue culture as being more focused on formal procedures and sometimes more conflict oriented, while the Dutch culture is more informal and is oriented towards finding consensus. The important link between the French employee representatives and the French and European trade union organisations is another difference with the Dutch KLM culture, which had no such links with trade unions.

Finally, there is also a huge difference in the industrial relations culture between the two home countries, France and the Netherlands – which both have standard employee relations mechanisms in place – and the countries where Air France–KLM only has a small number of employees, which do not have any platform for social dialogue. The information provided to the EWC has no added value for the employee representatives from the Netherlands or from France, and they also have much greater consultation capacities in their own countries. In contrast, employees from other countries may not have any channel for information or social dialogue in their respective countries. Therefore, their minor local issues are raised at the EWC meeting.

The Air France–KLM management realises that given this situation, the EWC is more of a forum to deal with local issues from the countries with small numbers of employees and less of a platform to discuss strategic options and company decisions. Therefore, they are considering creating new information, consultation and co-determination structures to deal with strategic transnational questions outside of the EWC.

### ING EWC

The first important step in the development process of the International Netherlands Group (ING) EWC was the integration of Banque Bruxelles Lambert (BBL) in 1998. In the following years, the EWC developed activities in its social and financial committees. An important achievement of the social committee was the improvement of employee representation structures at local level, which made the EWC members from all countries real representatives of the employees in the EWC as well as at local level, which had not always been the case before. The shift from interpreting in all languages to using English as the single working language of the EWC was implemented in such a way that it actually helped the development of the EWC. The impact of the crisis forced the company to split up its banking and insurance operations, but the EWC dealt with this and was prepared for the separation. The EWC has continued to function as two EWCs following the separation in 2014. Since July 2014, the divested European insurance division has been independently quoted on the stock market under the name Nationale-Nederlanden (NN) and they have their own separate EWC. The ING EWC continues to exist for the banking activities.

### EWC agreement

The initial ING EWC was established in 1996. Following the acquisition of BBL in January 1998, the EWC agreement was renegotiated for the first time in 1998. BBL had established its EWC with an agreement dated 24 June 1996. Just like ING, the BBL EWC agreement provided for an employee-only EWC (the German model) that was entitled to meet twice a year. After the BBL takeover, the initial ING EWC agreement was renegotiated during a meeting on 11 February 1998 and adopted on 7 May 1998. The EWC mandates from 1996 finished at the end of 1999 and four-year mandates have been agreed ever since.

Not all aspects of the functioning of the ING EWC were formalised in the text of the agreement, such as its social, financial and select committees. The EWC members interviewed in 2001 and 2003 did not see any specific strong provisions in their EWC agreement. Strengthening certain details in the text of the agreement was not felt to be relevant for the practical operation of their EWC. Therefore, priority is given to improving the information and consultation practices.

The second renegotiation mainly involved the shift to English as the single working language. Between engaging on this shift to English and formalising it in the 2009 EWC agreement, there was a period of time where there was only interpretation into English, which allowed EWC members to speak in their own language but listen to the meeting in English. English-language training courses were provided to EWC members. When the financial crisis occurred, an extraordinary meeting had to be organised so quickly that there was no time to get interpreters. This proved a test for conducting the meeting only in English, and it was a success. This arrangement was subsequently written into the November 2009 EWC agreement. While this agreement entered into force from November 2009 and is therefore considered here as the 2009 agreement, it was only officially signed on 22 December 2010.

The third renegotiation, in 2012, was again triggered by a change in the company, but this time due to the impact of the crisis. Due to the Dutch state aid that was provided to the company in the financial crisis, the competition Directorate General of the European Commission forced the company to split up its banking and insurance operations. In this context, the EWC prepared to split into two separate EWCs: one for banking and one for insurance. This was settled in the EWC agreement of 5 November 2009.

A new draft EWC agreement for the new NN insurance company of 14 November 2014 has provided the basis for further negotiations, leading to a new agreement due to be signed probably on 21 May 2015. For the banking activities, the ING EWC renegotiations were launched in the second half of 2014 to bring the ING EWC agreement in line with the 2009 recast directive and its Dutch national transposition law. As of the beginning of 2015, no progress had been made because several key HR actors are no longer part of the company due to the separation, leaving the EWC without a counterpart to negotiate with for a while.

### Composition and internal structure of the EWC

The initial ING EWC from 1996 had 15 members: five from the Netherlands, two from Belgium and one each from eight other countries. The five Dutch members had to be appointed by the Dutch central works council, whereas the two Belgians, the German, the French, the Italian and the Luxembourg members were appointed by their national employee representation bodies. The Greek, Austrian, Irish and Spanish EWC members had to be appointed by the respective workforces in their countries. Although arrangements for allocating mandates were clearly set out in the agreement, difficulties with this could not be avoided in the first years of the ING EWC.

The 1996 BBL EWC had 14 members: eight Belgian, three French and three from Luxembourg, plus an expert from the UNI Europa union. Simply adding the 15 members from the initial ING EWC to the 14 members of the BBL EWC would total 29 members. After the BBL integration, the new ING EWC had 26 members in 1998. As new EU Member States were integrated into the EWC, this increased to 30 members in 2001 and 31 in 2003.

Because of the increasing number of EWC members, two contradictory requests were put forward by the employee representatives in the Netherlands. First, the Dutch representatives wanted to avoid being put in a minority position by inserting a provision in the new EWC agreement of 1998 that a minimum of one-third of the seats were to be reserved for candidates appointed by the Dutch central works council. This provision increased the number of Dutch EWC mandates to nine, even though in absolute numbers their workforce decreased from 35,000 to 33,625, and in proportional terms from 89% to 48%.

The second request came from Ad Festen, a Dutch select committee member who was not a member of the Dutch central works council. In 2001, he proposed reducing the size of the EWC from 30 to 22 members. His aim was to increase the efficiency of the EWC and to enlarge it by integrating representatives from central and eastern European countries. This proposal would have reduced the Dutch mandates from nine to four, the Belgian ones from five to three and the Luxembourg delegation from two to one. The Belgian delegates did not accept this, while the Dutch central works council only agreed on a reduction if the Belgian delegation was also cut. Counter-arguments from Belgium claimed that it was not certain that a reduction in the number of mandates would actually increase efficiency, so it was not something that employee representatives should propose. In addition, the Dutch side was aware that they were facing a huge restructuring that would involve more than enough work for all the mandated employee representatives at all levels. Therefore, the matter was taken off the agenda until the end of the four-year mandate in 2004, when new elections were held and the agreement was renegotiated. This was also an opportunity to secure better participation for employee representatives from applicant countries.

The EWC's social committee worked on this matter. First, a social charter was signed in 2002. Between 2004 and 2007, a document was drafted explaining the role of a local works council in detail. A second document included guidelines for social consultation at local level. This work was formalised in a document entitled 'Working procedure and guidelines for starting up local social consultation for ING group companies in the EU Member States'. To help local management implement this, the chair of the EWC and other select committee members visited operations to promote the guidelines. In 2009, a questionnaire was used to assess the quality of the local information and consultation. The overall outcome was elected employee representatives from the countries, whereas previously a staff member of the HR department had been sent to the EWC meeting. The Belgian chair of the ING EWC from 2005 to 2011 believed that increasing the representative capacity of EWC members in their respective countries was the EWC's most significant achievement.

In addition to the social committee, the EWC also has a financial committee, where the financial results of the company are analysed and discussed. Presentations by the chief financial officer (CFO) are on the agenda of every financial committee meeting. The EWC member interviewed said they appreciate the high quality of the information at these meetings.

The select committee was composed of four people until the 2009 agreement increased that number to six: the employee chair and deputy chair from the umbrella EWC and the chair and deputy chair from both the banking and the insurance committees. These banking and insurance committees are due to become two separate EWCs when these divisions are formally separated.

While the Dutch delegation is the largest in absolute numbers, it is not the dominating force in the EWC because the smaller Belgian delegation is much more active and committed. In addition, the home country employee representatives have always allowed a representative from another country to take the role of employee-side chair in the EWC.

For the first four years, a Greek worker representative, Alexander Antiochos, chaired the ING EWC. Because he was not able to speak any language other than Greek, informal communication without interpretation was not possible. Neither he nor the other original select committee members stayed on for the second mandate from 2000 to 2004.

From 2000 to 2004, the EWC was chaired by a German woman who worked part time. She had worked at the BHF-Bank since 1984. In 1990, she was elected as a works council member and in 1994 she was elected to the central works council (Gesamtbetriebsrat). The year following the takeover of BHF-Bank by ING in 1999, she joined the EWC and took up the role of chair the next year. While she was the chair, the select committee meetings were held in German. This was not a problem for the deputy chair from Luxemburg or for the Dutch secretary, who had worked in Germany before he joined ING. Mathieu Blondeel, the deputy secretary from Belgium, could also manage German. When the select committee met with management, however, English was spoken. Although all the EWC members were happy with the German woman's way of chairing the EWC, she decided not to stand for a second mandate.

From 2000 to 2004, the deputy chair was from Luxembourg, the secretary was Dutch and his deputy was from Belgium. Domination by Belgium or the Netherlands is avoided by reserving the chair for a third country. During this period, the Dutch secretary of the EWC often made arrangements with central management on behalf of the select committee, although central management contacted the German chair directly on some matters, such as press releases or changing the dates of EWC meetings. The roles of the chair, the secretary and their deputies are not set down in the EWC agreement, but rather are governed by internal rules of procedure.

From 2004 to March 2012, Mathieu Blondeel from Belgium was the chair of the ING EWC. His good contacts with the CEO, Michel Tilmant, helped him to develop the EWC in several ways, such as using the EWC to build social dialogue and employee representation structures in ING operations in the new Member States where this had not existed.

Since March 2012, the chair of the umbrella EWC has been a German EWC member with a deputy chair from the Netherlands. The chair of the banking committee is a Belgian EWC member with a Romanian deputy, while the chair and deputy for the insurance committee are both from the Netherlands.

### Functioning of the EWC

From the beginning, the EWC agreement provided for two EWC plenary meetings every year plus the possibility of holding additional meetings to deal with exceptional circumstances. Extraordinary meetings were held twice in 1997 and once in 1998. The first extraordinary meeting, in March 1997, dealt with restructuring plans for the German operations of Barings. The second meeting, in November 1997, dealt with the takeover of BBL. The February 1998 extraordinary meeting was held jointly with the EWC of BBL.

Table 5: *Plenary meetings of the ING EWC*

Year	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Month of plenary meetings	06	03	02	01	05	02	04	04	06	04	04	04	03	04	05	05
	09	05	05	05	09	05	11	12	11	11	11	11	11	11	11	11
		10	09	09		11										
		11		11												
No. of annual meetings	2	4	3	4	2	3	2	2	2	2	2	2	2	2	2	2

Even in its early days, the EWC had to deal with transnational restructuring following the takeover of Barings in 1995. Although management convinced the EWC that this takeover would not have employment consequences, the Hamburg office was later closed, leaving 20 of the 70 employees there the sole option of relocating to Frankfurt, 500 kilometres away. An extraordinary meeting of the EWC took place on 14 March 1997 to deal with this issue. The EWC did not protest about getting the information so late, but saw it as a lesson for the future. By contrast, the EWC was very involved in the takeover of BBL. This had more to do with the strength of the employee representation structures within BBL and



the size of that company than with the lessons learned following the Barings takeover and restructuring. BBL already had an EWC of its own, whereas Barings apparently had no structures or practices for employee representation. Furthermore, the UK was not represented on the ING EWC because the UK had not yet adopted the social protocol and because the UK workforce did not ask to be included in the EWC.

Prior to 2009, the plenary meeting of the EWC was organised differently than at present. However, the select committee still prepares the agenda of the plenary meeting, taking into consideration the agenda items proposed by the social and financial committees and by management.

Before 2009, the consultation meeting with central management was prepared during the morning employee-only meeting, following reports on the activities of the social and financial committees as well as from different countries. The text of the agreement allowed for two half-day preparation meetings, a half-day meeting with management and a half-day follow-up meeting. Thus, plenary meetings take two days. Sixteen of the 31 EWC members have committee meetings the day before. They arrive in the morning and meet in the social committee, financial committee or select committee in the afternoon. The other EWC members arrive in the evening. The following day, the employee-only preparation meeting takes place. In the morning of the last day, the EWC meets with central management. In the afternoon, there is a follow-up meeting only with employee representatives to debrief and discuss internally. In the past, many people left early, which reduced the time available for this part of the proceedings. To make enough time for the follow-up meeting, in 2003 the preparation meeting was reduced to half a day. Subsequently, the preparation meeting was held in the morning, followed immediately by the meeting with management in the afternoon. This way, the morning of the last day is free for evaluating the meeting, preparing for the next meeting and deciding on the activities to be undertaken in the meantime.

The schedule of plenary meetings now is much different than it was before 2009, when the EWC was still one single EWC. Since 2009, the common meeting with central management has been reduced to half an hour, after which the focus shifts to the banking and insurance committees, which already operate as separate EWCs. Plenary meetings now run over three days.

The participants arrive on the morning of the first day. There is a preparation meeting in the afternoon, when all participants have the chance to describe the situation in their countries. Members can get used to speaking in English and they get a chance to voice their concerns. Questions that arise here are referred to one part of the meeting the following day. They could be asked in the common plenary part with management, which lasts for about 30 minutes, or in the separate two-hour sessions for banking and insurance, each with their respective management. Alternatively, questions could be raised in the social or financial committee sessions in the afternoon, when management are also present to deal with the topics in those committees. The morning of the third day is dedicated to evaluating the meeting. An overview is given of the activities of the different committees so that all EWC members know what is going on in the committees they are not part of. Action points are also formulated here. The third day is used for input on a specific topic or for training sessions provided by management on specific topics.

### **Factors that influence EWC developments**

The crisis has not had any impact on the Belgian and German operations of ING, where there are only banking activities with sound operating businesses. The employees in the home country, however, have been severely hit by the crisis, especially through the forced split of the banking and insurance activities there.

Table 6: *Changing proportion of Dutch employees in the overall European workforce of ING, 2007 and 2009*

	31 December 2007			31 December 2009		
	Banking	Insurance	Total	Banking	Insurance	Total
Netherlands ING workforce	32,002	10,120	42,122	21,616	7,148	28,764
Total ING EU workforce	61,484	14,482	75,966	52,652	11,234	63,886
Dutch workforce as a proportion of the EU workforce	52%	70%	55%	41%	64%	45%

The outcome of the 2009 extraordinary meeting, where the split between the banking and insurance activities was announced, was a protocol signed in 2011 by management and the chair of the EWC on how the EWC would be split up. A new EWC agreement came into force in 2012 with two separate EWCs for both activities, each with a three-person select committee. Both EWCs and both select committees met for a very limited time during the 2012 meetings; most of the time was for the separated parts and for the working groups. The composition arrangements increased the number of members in the EWC from 34 to 42 and increased the number of select committee members from four to six.

Under the new EWC chair from Germany, an interim period started for the ING EWC. Both sub-EWCs were ready to go their separate ways as soon as the split of its banking and insurance activities was finalised. New separate EWC agreements for NN and ING were agreed in 2015. At the beginning of each four-year period, training is provided as an introduction to new EWC members. This had usually been organised by external trainers, but the last training was developed by the select committee members themselves, thereby increasing the internal learning processes within the ING EWC. This training practice had been in place since the beginning of the ING EWC.

The 2012 ING EWC agreement was not only adjusted due to the impact of the financial crisis on the MNC – it was also adjusted because of the implementation of the 2009/38/EC recast directive. As training had already been provided to the ING EWC, it is not clear what impact the recast directive had on the 2009 agreement. As the renegotiated ING EWC agreement was signed in the window of opportunity before the entry into force of the national transpositions of the 2009 recast EWC directive, the ING EWC remained exempted from the obligations of this directive.

Another important factor that contributed to the development of the EWC is the enthusiasm and commitment of the Belgian chair to involve all employee representatives in social dialogue at the local level. The shift to English as the single language for the EWC was not immediately welcomed by some EWC members, but now that it has been put into practice, direct communication between EWC members has improved and the meetings have become more efficient. The first time meetings were held in English only, they finished more quickly, much to everyone’s surprise. Finally, the preparation of the split into two separate companies, each with a separate EWC, has been done in a way that guarantees the maintenance of existing practices.

## BNP Paribas Fortis EWC

Both BNP Paribas and Fortis had expanded their activities through mergers and acquisitions before the financial crisis, but they were brought together as a result of the crisis. BNP Paribas had acquired Banca Nazionale del Lavoro (BNL) in 2006. Fortis had expanded through successive mergers and acquisitions in the 1990s and continued on this path in the years before the crisis. Because of the Fortis takeover of ABN Amro just before the financial crisis, Fortis was affected very badly by the crisis. The Fortis banking operations had to be saved by the Belgian and Dutch authorities. The Belgian authorities sold the Belgian part of Fortis Bank to BNP Paribas, while the Dutch parts turned back into ABN Amro.

The developments of this EWC are closely linked to these company changes in terms of mergers before the crisis and as a result of the financial crisis. The Fortis EWC had combined elements of the Generale Bank EWC and the initial Fortis EWC. The BNP Paribas EWC had already developed from the merger of Banque Nationale de Paris (BNP) and Paribas, and with the integration of Fortis it developed even further.

### EWC agreement

Negotiations to set up an EWC for both Fortis and Generale Bank started in 1995. An agreement to set up the Fortis EWC was signed on 20 September 1996. An agreement to set up an EWC for Generale Bank was also signed on the same day. After the takeover of Generale Bank, a new Fortis EWC agreement was signed on 15 November 2000. The takeover brought together two different employee representation cultures. While Generale Bank was concentrated in Belgium, Fortis had two home countries. For the Fortis EWC, the takeover was part of an ongoing process of company enlargement for which no extraordinary meetings were organised, yet at Generale Bank, about 10 extraordinary meetings were held on the issue.

The new Fortis EWC agreement was negotiated by a group of about 10 people. In reality, most of the work was done behind the scenes by two of the Belgian select committee members and a member of the legal department from management's side. The new Fortis EWC agreement combined the strengths of the Generale Bank EWC agreement with the strengths of the former Fortis one.

Training for EWC members, however, was mentioned in the Generale Bank EWC agreement but not in the 1996 Fortis agreement. Extensive training rights are provided for in the 2000 Fortis EWC agreement. In addition, the arrangements for a select committee for the Generale Bank EWC, and for a second annual meeting, were copied in the post-acquisition Fortis EWC agreement.

When the financial crisis started, the Fortis EWC had already been preparing to renegotiate the EWC agreement in order to integrate the good consultation practices from the ABN Amro EWC into the Fortis EWC agreement. The impact of the crisis meant this did not happen. A little later, the integration of the Fortis EWC practice into the BNP Paribas EWC was realised through the renegotiation of the EWC agreement of BNP Paribas.

The BNP Paribas EWC was established on the basis of an Article 13 agreement in July 1996. It was amended three times: in 2003, 2008 and 2010. A provision on training for EWC members was included in the first 1996 EWC agreement. The further development of the EWC reflected in the subsequent agreements resulted from internal learning processes in the EWC. The Fortis EWC not only influenced the renegotiation of the 2010 BNP Paribas EWC agreement, it also inspired the way it has been implemented since then.

The second amendment followed the integration of Banca Nazionale del Lavoro, an Italian bank that did not have its own EWC.

The third amendment updated the composition, functioning and operation of the EWC in June 2010. This was between 5 June 2009 and 5 June 2011, so it was within the window of opportunity that exempted the BNP Paribas EWC from the obligations arising from the recast directive. The members interviewed said that the 2010 amendment implemented the 2009/38/EC EWC recast directive, but the text does not refer to it and there are no changes to previous agreements that could be said to have been inspired by the recast. As training was already provided for in the first BNP Paribas EWC agreement, this was not influenced by the recast directive either. Nor did the recast directive influence the definition of information and consultation. Since the 2003 amendment, specific standard information is given at the first annual plenary meeting, and this is different from the standard information given at the second annual meeting and from the information the select committee receives between the plenary meetings. This select committee meets for one day in the month before the plenary meeting to prepare the agenda. It also meets on two other occasions during the year.

### Composition and internal structure of the EWC

The 1996 Fortis EWC agreement provided for one mandate in the EWC for each country where there were employees, while additional mandates were granted for larger workforces. This resulted in an EWC of 24 members. In the text of the agreement, a maximum of 30 members was provided for. If the number of EWC mandates were to go beyond this, the calculation had to be reviewed to reduce the size of the EWC back to 30. If the calculation had been implemented after adding the employees from the acquired Generale Bank, the maximum would have been exceeded, which triggered the renegotiation of the entire Fortis EWC agreement.

Table 7: Allocation of EWC mandates in the Fortis and Generale Bank EWC agreement

Allocation of EWC seats in the 1996 Fortis agreement		Allocation of EWC seats in the 1996 Generale Bank agreement		Allocation of EWC seats in the 2000 Fortis agreement	
Each country gets one EWC member		Seats	Employees	Seats	Employees
Additional seats	Employees	1	150–500	1	100–1,000
+1	+1,000	2	+500	2	+1,000
+2	+3,000	3	+1,000	3	+2,500
+3	+6,000	4	+1,500	5	+5,000
+9	+7,500	5	+2,000	7	+10,000
		6	+3,000	9	+15,000
		7	+4,000	11	+20,000
		8	+6,000	13	+13,000
		9	+8,000		
		10	+10,000		
		11	+13,000–16,000		
		+1	For every 3,000 beyond 16,000		

Table 7 shows how seats on the EWCs at Fortis and Generale Bank were allocated on the basis of their 1996 agreements. If the Fortis distribution rule in the 1996 agreement resulted in more than the maximum of 30 members, then this rule would be renegotiated. In the 1996 Fortis EWC agreement, the maximum was 36 members. In the Fortis 2000 agreement, the maximum was set at 40 members. Based on the seat allocation rule in the 2000 Fortis agreement, 38 mandates were assigned. Both 1996 agreements, as well as the 2000 Fortis EWC agreement, provide for a substitute for each EWC member.

In Generale Bank’s EWC agreement, a minimum threshold of 150 employees per country was included for the allocation of the first mandate. The 1996 Fortis EWC agreement did not have such a threshold. The 2000 Fortis EWC agreement copied this, putting the minimum threshold at 100 employees. Some employee representatives who had previously had a mandate in the EWC lost their position because of these changes.

The initial BNP Paribas EWC agreement of July 1996 provided for a maximum of 18 members. Eight of them were French trade union delegates who were also members of the French group-level works council. The other 10 EWC members came from 10 different countries. The 2003 EWC agreement added five French trade union delegates to the eight French members, bringing the number of French delegates to 13. At the same time, it took away the previous maximum of 18 members in total, but without changing anything for the representation of the other countries. Instead of a maximum total number of EWC members, a minimum of 150 employees was introduced in 2008 as the threshold for having a first representative in the EWC. The 2008 BNP Paribas EWC agreement rearranged the composition of the EWC following the integration of BNL. Keeping the number of French delegates at 13, it increased the delegation from Italy from one to three members, as most of the BNL workforce was in Italy. Because of EU enlargement, five new

Member States each obtained one delegate in the EWC, bringing the total number of countries represented from 11 to 16, for a total of 25 members. After the integration of Fortis into BNP Paribas, the EWC grew from 25 to 49 members, with delegates from 20 EU Member States. Table 8 shows how the EWC at BNP Paribas has reduced the dominance of the French home country by giving relatively more mandates for employee representatives from other EU Member States.

Table 8: Allocation of EWC mandates in BNP Paribas EWC agreements

Allocation of EWC seats in the 1996 BNP agreement		Allocation of EWC seats in the 2008 BNP Paribas agreement	Allocation of EWC seats in the 2010 BNP Paribas agreement	
Each country gets one EWC member Maximum of 18 members		Minimum of 150 employees	Employees	EWC members
France	8	13	66,222	13
Italy	1	3	19,276	5
Belgium	1	1	19,129	5
United Kingdom	1	1	8,295	3
Poland			4,842	3
Spain	1	1	4,185	3
Luxembourg	1	1	4,063	3
Germany	1	1	3,181	2
Portugal	1	1	1,409	1
Netherlands	1	1	1,241	1
Bulgaria		1	1,266	1
Romania		1	875	1
Hungary		1	845	1
Czech Republic		1	618	1
Norway			348	1
Ireland	1	1	347	1
Greece	1	1	310	1
Denmark			310	1
Sweden			252	1
Slovakia			210	1
Poland		1		
<b>Total</b>	<b>18 EWC members</b>	<b>30 EWC members</b>	<b>137, 224 employees</b>	<b>49 EWC members</b>

### Functioning of the EWC

The 1996 Fortis agreement only provided for one annual EWC meeting. Because Generale Bank's EWC agreement provided for two annual meetings, this had been the standard for the Fortis EWC since 2000. The two annual EWC meetings normally took place in May and October. Plenary meetings of the Fortis EWC lasted for three days. EWC members arrived in the morning of the first day and had an employee-only preparation meeting that afternoon. The second day was the meeting with management and the morning of the third day was for debriefing.

At the preparation meeting, new members were welcomed before the minutes of the previous meeting were adopted and a report was given on the activities of the select committee. If there were no special topics or documents to be discussed, then the meeting with management was prepared, taking each point on the agenda for the next day one at a time.

The core element of the pre-meeting in the Fortis EWC was the preparation of the meeting with management the following day. In the past, the preparation meeting was also used to exchange news on local and national situations. Because some people could not arrive on time and had to leave early the day after as well, both the preparation and the meeting with management were held under time pressure. As a consequence, an employee-only post-meeting was introduced where news from the various subsidiaries and countries was exchanged.

The agenda of the joint meeting was officially drafted by the employee chair and central management and finalised by the secretary. In reality, though, the secretary set the agenda in conjunction with the central management representative because most of the agenda items came from the management side. Although employees knew that they could propose items to be put on the agenda through the select committee, this rarely happened. The idea was to create some kind of agenda commission that would meet on a monthly basis in order to identify issues that needed to be raised in the EWC. The select committee subsequently took up this role. Officially, the meeting was supposed to be co-chaired, but in practice management chaired the meeting and the secretary of the EWC monitored the time taken for each point.

The quality of the information varied. In some cases, it was found to be complete and well structured, while in other cases it was found to be too vague and of limited use. EWC members from Belgium and the Netherlands reported that information was available much faster through national information and consultation channels, so that the information received during EWC meetings was not 'news' to the extent that it was to EWC members from other countries. The Fortis EWC was consulted on the plans for financial participation. However, there were two other issues that the EWC would have liked more consultation on: the Fortis code of conduct and transnational restructuring. Nevertheless, unsolicited advice was formulated systematically after each Fortis EWC meeting.

The employee-only post-meeting of the Fortis EWC took half a day and comprised two parts. The first part involved reacting to what had been said in the meeting with management. Sometimes extensive discussions were necessary, a declaration was made or things had to be clarified further, for example through another meeting between the select committee and central management. The other part of the post-meeting was the overview of the social situation in all the Fortis companies, which enabled the EWC to stay up to date with what was going on and to recognise trends.

Two extraordinary meetings took place from 2000 to 2006. Extraordinary meetings did not last as long. They consisted of a half-day preparation meeting, a half-day meeting with management and one or two hours for the post-meeting. A chair, a deputy chair and a secretary were appointed from amongst the five select committee members. The select committee normally met every two or three months. These were employee-only meetings. A representative of central management was invited to the select committee meeting only rarely. Meetings usually took place in Belgium or the Netherlands. The Generale Bank EWC had a select committee of four members, from four different countries: France, Luxembourg, the Netherlands and Belgium.

### Factors that influence EWC developments

The most important changes for the BNP Paribas EWC resulting from the takeover of Fortis Bank were in terms of the number of plenary meetings, the size of the select committee and the HR management approach towards the EWC. The BNP Paribas EWC met only once a year until the integration with Fortis, after which the number of annual plenary meetings increased to two. It also resulted in a large 10-member select committee.

Working groups were also developed after the integration and were launched in 2011. The first outcome of these working groups was a European framework agreement signed in July 2012 between the company management, the European trade union federation UNI Europa and the European Federation of Credit Establishment Managerial Staff (FECEC). The European social charter had been approved by all members of the EWC before it was signed. As for anticipating change, this European social charter provides for additional information to be given to the EWC select committee on the

development and enhancement of staff. Appraisal, career interviews and measures to avoid redundancies in restructuring processes are also provided for. The implementation is monitored by the EWC select committee (Eurofound, 2012).

Regarding the HR delegation in the BNP Paribas EWC, Fortis brought along elements of its HR approach towards its EWC when it was integrated. This is illustrated by the appointment of the Belgian HR manager from Fortis, Eric Benoit, as chair of the EWC and as coordinator of the HR managers' networks at European and global level. Part of this HR coordination in the first half of 2012 involved asking HR managers in the countries where BNP Paribas has several different businesses with separate HR managers if they were ready and willing to comply with the European social charter that was signed in July 2012.

### Unilever EWC

Unilever's EWC agreement has been renegotiated three times. The number of plenary meetings increased in 2006 from one to two, and in 2010 the number of select committee meetings increased from two per year to monthly meetings. Dissatisfaction with the functioning of the select committee prompted the EWC to create a separate employee-only feedback group that manages and coordinates the daily EWC activities and acts as the main hub for internal and external communication. As the company faced many restructuring events, fine-tuning the information and consultation procedures enabled the EWC to agree on several texts, including guidelines on restructuring and procedures for consultation. When the agreement was renegotiated at the time the EWC recast directive was adopted, an improved definition of information and consultation was included in the agreement. However, the EWC members interviewed believed that the improvements on paper have not really improved the practices.

The composition of the EWC is reported to be fairly stable, just like the size of the EWC, which enabled the development of good internal networking in the EWC. The management actors involved in the EWC changed in 2010, which meant a new management style was brought into the EWC and the previous good working relations had to be built up again. This depreciated the assessment of the EWC functioning, although improvements in terms of EWC developments have been made.

The EWC meetings last for two days. After an employee-only preparation meeting, there is a meeting with management and an employee-only debriefing at the end. The second annual meeting is dedicated to training. English-language courses are provided to limit the number of languages that need to be interpreted. Documents provided by management are only made available in English but can be translated at local level. Interpretation and translation was not an issue for the actors interviewed, who all agreed that the EWC has enough resources and a big enough budget for it to function.

### EWC agreement

The Unilever EWC was established by applying the Dutch EWC transposition law, with an Article 13 agreement, signed on 20 September 1996. This agreement had a fixed duration until 31 January 2001. It was foreseen that from September 1999 an evaluation of the EWC would start, which could lead to renegotiations for a new agreement that would take effect in February 2001. The renegotiation took place in 2001, after the acquisition of Bestfoods in 2000. The resulting EWC agreement, which was very similar to the 1996 one, was signed in November 2001 and had an indefinite duration. Five years later, however, it was revised by an agreement signed in June 2006 for a duration of four years. In the 2006 agreement, the observers from the new Member States were integrated as full members in the EWC. The most important change in the 2006 agreement was the shift from one annual meeting to two, with the second annual meeting to be dedicated to training.

The agreement was evaluated in 2009, which was the fourth year of the 2006 agreement as well as the year when the recast directive was adopted. This was followed by a renegotiation, which resulted in a new 2010 agreement. In parallel

with the process of adopting the EWC recast directive, these negotiations helped the EWC members to get a clearer definition of information and consultation in the new 2010 agreement. A second change in the 2010 agreement was the increase in the number of meetings of the select committee from two per year to monthly meetings. The select committee of the Unilever EWC is called the European Coordination Committee (ECC). The 2010 agreement also mentioned and thus formally recognised the ECC feedback group that had been set up a few years previously.

The 2010 agreement has an indefinite duration. An evaluation is foreseen, after which both sides can propose amendments to the agreement. If no new agreement is reached, the existing one will continue to apply. Renegotiation is also possible if there are fundamental changes to the EWC directive. Otherwise the agreement can only be terminated or renegotiated after four years.

### Composition and internal structure of the EWC

In the event of significant changes to the scope of the company, it is not necessary to start renegotiations. However, the 2000–2001 acquisition of Bestfoods and the 2010 acquisition of Alberto Culver coincided with a renegotiation of the EWC agreement. The respective size of those acquisitions and the fact that the companies did not have any EWC experience before being acquired by Unilever meant their impact on the EWC was limited to just being members in it. Apart from these two acquisitions, the company restructuring from 2000 to 2011 had to do with divesting operations and downsizing. This may explain why both the size and the composition of the EWC have been fairly constant over the years. The EWC started with 31 members in 1996. In the 2001 renegotiated agreement, three observers were added from the countries that were in the process of becoming EU Member States. When they entered the EU, four additional mandates were added for them, bringing the size of the EWC from 31 to 35, plus an observer from Romania. In 2010, the Romanian delegate also gained full membership, leading to an EWC of 36 members.

According to the 1996 agreement, the select committee (the ECC) was composed of six members: the German chair of the EWC, the Spanish vice chair and four other EWC members from the other countries. In the 2001 agreement, one additional EWC member and an observer from the candidate countries were added. The observer became a full member of the ECC in the 2006 agreement. The members come from France, Germany, Italy, the Netherlands, Poland, Spain and the UK – the countries with the largest numbers of employees.

Although the composition of the select committee has been fairly stable, its two annual meetings were not found to be sufficient. Therefore, the 2010 agreement increased the frequency of the meetings to monthly meetings. In addition, a feedback group was created. The feedback group is different from the EWC and the select committee, where the members mostly represent the workers from their country. The feedback group looks at transnational issues and interests. The agenda of the EWC and the select committee are determined together with management, while the five feedback group members (from Germany, the Netherlands, Poland, Spain and the UK) can develop their own agenda. As a result of this work, the EWC reached an agreement with management on guidelines for handling restructuring in 2001. More recently, the EWC initiated the Barcelona Agenda in 2010 as a more proactive approach to anticipate, shape and manage change within Unilever. While the EWC and the select committee always meet in Rotterdam, the feedback group can meet at other locations and thereby have contact with local representatives in places where restructuring is taking place. This is reported to be important for the visibility of the EWC and for the exchanges with local representatives. For this purpose, an EWC newsletter has been available since 2011 along with a list of contact people for each of the European Unilever sites.

### Functioning of the EWC

The members regard the resources of the EWC as being sufficient to cover all costs related to meetings and travel. The possibility of setting up the feedback group before it was formally recognised in the 2010 agreement illustrates this. Since the first meeting of the EWC in May 1997, the EWC has been entitled to invite external experts to the employee-only preparation and debriefing sessions, which allows them to involve a coordinator from the European Federation of



Food, Agriculture and Tourism Trade Unions (EFFAT) and IndustriAll. However, management have rejected all attempts to stipulate in the agreement that these trade union experts can also attend the meeting with management. A pragmatic solution for this was reached in the form of two informal meetings per year between management, the feedback group and a representative from EFFAT and the European Mine, Chemical and Energy Workers' Federation (EMCEF; now IndustriAll). This solution has been regarded as a testing phase since 2010, for which an annex to the EWC agreement was made. In practice, the EWC mostly deals with the food sector federation, EFFAT, while there is little involvement with IndustriAll, the chemical sector federation.

In the 1996 agreement and in all subsequent agreements, there is a clause stating that EWC members will try to reduce the number of languages used and the company will provide English-language courses. Interpretation facilities have always been provided and the reduction in the number of the languages has not been reported to be an issue in practice. The 2010 agreement specifies that written information prepared by management, including the meeting agenda, will only be provided in English. Translation into other languages may be done in the respective countries at the expense of the local companies concerned.

Compared to the 2006 case study, the situation is less positive now. However, the information and consultation procedures have improved over the years. The EWC managed to conclude agreements on this in several restructuring events. The attention given to improving the consultation processes stems from the EWC's remaining frustrations over continuous restructuring events, which the EWC did not manage to gain any influence on.

The current situation is paradoxical. On the one hand, there clearly has been a trend of improving the framework conditions and resources of the Unilever EWC, namely by the revised agreements in 2006 and in particular the 2010 agreement. On the other hand, employee–management relations are currently reported as being problematic. When asked about the reasons for this, the employee representatives interviewed for this study stressed two aspects in particular.

First, they pointed out that with the complete change of the European Unilever management in 2010 in the context of the new Unilever leadership structure, new people became responsible for European labour relations and EWC issues, and the relationship between the EWC and the management entered a new phase. While the relationship with the 'old management' was not always easy, the key actors knew each other and had developed personal working relationships and a practice of daily communication that was characterised by a certain degree of reliance and trust. Such a relationship must be developed, practised and trained for with the new management structure.

Second, and despite the improvements gained on paper (such as the 2010 EWC agreement that was negotiated with the 'old management'), the framework conditions for developing such solid working relationships, both at the central as well as the national level, are not ideal. A key aspect here is the issue of restructuring and how to implement an efficient information and consultation practice that enables the Unilever EWC to influence and shape decisions.

The information and consultation process of the Unilever EWC has improved significantly over the years. Starting from a simple list of subjects of information and consultation in the first agreement in 1996, the EWC evolved to agree on joint principles on socially responsible restructuring in 2001. In 2008, a consultation protocol was agreed and annexed to the EWC agreement, including a two-step consultation process, during which no implementation is supposed to take place. In the first phase, management provide information to the select committee and answer questions related to this. The second consultation phase is based on concrete proposed transnational decisions, on which the ECC is invited to state their opinion within a period of time determined by management. The EWC chair interviewed highlighted two remaining weaknesses in the process: the fact that management only provides general information in the first phase – which makes genuine consultation very difficult before the decision is made – and the lack of agreement regarding sanctions when the procedure is not followed.

Another weakness was identified in the first phase of the consultation process, where it is important to exchange information with local employee representatives. However, management increasingly state that the presentations and information provided are confidential and for this reason, a special clause on confidentiality was included in the 2010 EWC agreement. In order to solve this problem, the EWC achieved some practical improvements at the beginning of 2012. Confidentiality will now be graded on clearly defined levels – such as for information or use within the EWC only, within the ECC only, to be shared with just national employee representatives. Furthermore, it was agreed with management that entire presentations can no longer be labelled as confidential, but that confidentiality clauses can be linked to single charts and/or information within a presentation.

### Factors that influence EWC developments

Since the food and personal consumer products sector in which Unilever operates was not directly affected by the 2008 crisis, the impact on the company in terms of turnover or employment was relatively small. The continuous restructuring programmes and events that occurred over the years are not directly linked to the 2008 crisis, but reflect the rapid globalisation of the company and the decreasing share of European markets.

The recast directive had an impact on the Unilever EWC in two different ways. The renegotiation of the Unilever EWC agreement in 2010 could benefit from the new definitions of information and consultation in the recast directive. Earlier in the process of revising the EWC directive, seminars were organised by the Commission and the EU-level social partners and EWC cases were presented. One of the cases presented was the Unilever case. When the limits of the information and consultation procedures were presented, it inspired the policymakers for the recast directive and it also had a positive impact on the willingness of the Unilever management to agree on detailed principles and procedures for information and consultation.

The strongest impact on the functioning of the EWC comes from the frequent large and small restructuring events in the company. When looking for ways to develop in order to deal with this, the challenge was to move from reactive to more proactive approaches. The learning effects of the training sessions in the second annual EWC meeting, the creation of the feedback group and initiating the Barcelona Agenda in 2010 are all examples of this shift.

Factors that have helped the development of the Unilever EWC are the continuity of personal relationships and the development of a common culture and a strong structure of exchange and communication. The Unilever EWC case study also shows that the dual strategy of ‘dancing and boxing’, and the simultaneous practice of trusting relationships (for example, respecting the wish of either side to treat certain information as confidential) and activities of public solidarity and protest actions are the best ways to achieve progress in negotiations with management as well as internally, with a view to demonstrate the need for and added value of a European body of interest representation.

The Unilever EWC still faces a number of important challenges, problems and barriers. As its history since 1996 and its strategic orientation have shown, the EWC seems to be well equipped and innovative enough to successfully address and cope with these challenges.

### British Airways EWC

The British Airways EWC is most important for the employee representatives from the countries that do not have a local social dialogue structure due to the small numbers of employees there. British employee representatives have much better information and consultation channels in the UK. Despite their lack of interest in the EWC, it has developed by searching for a common understanding with management on what it should be informed and consulted on. A misunderstanding on this led to a court case in 2006, which caused tension in the functioning of the EWC, although this seems to have improved now. With the 2009 document on reorganisation principles, the EWC and management have

gained a common understanding on the information and consultation approach for the EWC. The large number of company changes that resulted from the impact of the crisis indirectly prompted management to come to this common understanding so that EWC meetings would not have to be called too frequently for each change decided.

### EWC agreement

The BA EWC was established in an agreement of 18 September 1996, applying the Belgian transposition law. Because the UK had opted out of the social protocol of the Maastricht Treaty at that time, the 1994 EWC directive did not apply to the UK and was therefore not transposed in the UK. In light of this, the EWC could have been established without employee representatives from the UK, but they were still included from the start.

In 1998 a protocol was agreed that clarified the EWC agreement in terms of the composition of the select committee, with six employee representatives and three management delegates who meet twice a year. Further clarifications concerned the way the agenda was drawn up by the employee-side spokesperson and an appointed management member four weeks prior to the EWC meetings. The same people would also create an EWC newsletter six weeks before each EWC meeting. The 1998 protocol also provided for English-language training for EWC members where needed.

The EWC members expressed their disappointment that they were not consulted about outsourcing or on talks on a possible merger with KLM in 2000, so a consultation statement was agreed that defined the topics falling into the EWC's remit, including those that affect employees' interests, set out their transnational nature and stated that consultation implies an exchange of views.

However, this did not completely clarify the competences of the EWC, so the agreement was renegotiated by the EWC chair and the deputy chair, the external expert and management. The resulting agreement was signed in June 2005 by the entire EWC. It still applied the Belgian transposition rules, even though there had been a UK transposition in the meantime. The two major changes in the 2005 agreement were the list of topics that the EWC would be informed and consulted on and a further definition of the functioning of the select committee of the EWC (now called the 'bureau'). As it was not mentioned in the 1996 agreement, the composition of the select committee mentioned in the 1998 protocol was now formalised in the EWC agreement. The 1998 protocol provided for two meetings a year, but this was increased in the 2005 agreement to seven meetings a year. The select committee's role is described as supporting the functioning of the full EWC, and as the text of the 2005 agreement states, 'the EWC can mandate the bureau to be informed and consulted by management on behalf of the entire EWC on specific subjects'.

The other changes in the 2005 agreement related to:

- Length of EWC meetings: this is now clearly stated as being two days, with a full first day for the employee representatives to meet without management. The previous arrangement had simply said that 'facilities will be made available for the employee representatives ... to meet the day before'.
- Facilities and time off: the facilities are now listed and include a 'PC with internet access and a personal BA email account' (see below).
- Training: this was not included in the 1996 agreement but it is now, with the promise of an annual training needs assessment.
- Proportion of EWC employee members required to give notice of the termination of the agreement: this decreased from 75% to 66%.

The agreement has not changed since 2005, although a statement setting out ‘principles on national reorganisations’, dealing with consultation procedures, was agreed between management and the EWC in 2009 (see below) and a second document dealing with the procedures to be followed in the merger with Iberia was agreed in 2011 (see below).

Further changes are currently being discussed. The EWC would like the agreement to reflect the 2009 recast directive, while management would like to implement changes to the composition, with the smallest countries (with 10 BA employees or fewer) no longer being represented. These discussions are ongoing. In the words of the HR manager dealing with the EWC: ‘What we are debating at the moment is what is going to work for both parties, and therefore what do we need to take consideration of, and what do we need to leave as is.’ She also pointed out that because BA’s agreement is a voluntary, or Article 13, agreement, they have some exemptions from the directive.

### Composition and internal structure of the EWC

For every country where BA has employees, one representative was granted EWC membership. Additional mandates were provided only for countries with over 10% of the workforce. As a result, the UK had six mandates and 21 other countries had one each. There was also a co-opted member from Switzerland. In 2011, the EWC had 20 members: six from the UK and one each from 14 other countries (Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Hungary, Italy, the Netherlands, Poland, Portugal, Slovakia and Spain). There is no longer a representative from Switzerland in the EWC.

The 1996 EWC agreement provided for a management representative as chairperson of the EWC, while the 2005 EWC agreement provided for an employee representative as chair, who would chair the joint meeting with management in partnership with them. In reality, this did not really change the functioning of the EWC, but it illustrates the increasing autonomy of the employee representatives in the EWC.

The six-person bureau (which is 50% female) has representatives from five separate countries. The EWC chairperson, who is also automatically a member of the bureau, is currently from Germany. The deputy chairperson, who is also an automatic member of the bureau, is from the UK, as is one other member of the bureau. The three other members come from Belgium, Italy and Slovakia (from the Czech Republic until 2011). The membership of the bureau is relatively stable – the current chairperson has held her position since 2005.

In line with the agreement, two experts of the employees’ choosing – one funded by BA – are able to attend EWC meetings (both with and without management) and bureau meetings. Currently, the two experts are Helmut Gohde, an independent EWC adviser, and Cristina Tilling, who has specific responsibility for EWCs at the European Transport Workers’ Federation (ETF). Helmut Gohde is the paid adviser and attends all the meetings, both of the full EWC and the bureau. Cristina Tilling is present less frequently; she only attends some of the full meetings.

### Functioning of the EWC

Two annual meetings have been provided for since the EWC’s creation in 1996. Extraordinary meetings are possible according to the EWC agreement, and two such additional extraordinary meetings took place during the 2008–2009 crisis period. Additional extraordinary meetings have occurred more frequently in the history of the EWC. This is why the number of select committee meetings was increased from two to seven in the 2005 renegotiated agreement.

The plenary EWC meetings last for two days. The first day is an employee-only preparation meeting where the situation in each of the countries is reported on and questions to management are formulated for the next day. On the second day, management provide information and answer questions from the employee representatives.

The agreement states that the bureau should meet ‘seven times a year at rotating locations’. In practice, it meets much more frequently than that and usually in London, due to the fact that currently the company is making so many changes. As the HR manager responsible for Europe pointed out, ‘Because of the agenda we have going on at the moment, I am meeting with them monthly and sometimes it’s even more than that.’ She said that this is not because of the agreement: ‘The agreement, to be honest, is irrelevant; it’s a business need.’ As is the case for the full EWC, the employee representatives on the bureau meet separately before meeting management.

The meetings of both the full EWC and the bureau are conducted entirely in English, as staff are required to be able to speak English in order to work for BA. This works reasonably well, although inevitably it is more difficult for representatives who are not native speakers.

The two most important resources for the EWC are, first, the fact that the German chair of the EWC has full time off for local representation activities, during which she can also work for the EWC, and second, the paid external expert, who can accompany and support the EWC professionally. Because meetings take place in English, there are no interpretation costs. Nevertheless, management try to reduce the costs associated with the EWC by encouraging the EWC to be as cost efficient as possible. Each of the two main meetings costs about GBP 6,000. As for the training provided for in the 2005 agreement, this did not happen from 2008 to 2011 because other issues were more important. In earlier years, the external expert had provided for two or three training courses.

A disagreement about whether the outsourcing of BA customer services at the airport in Vienna was a transnational issue and therefore for discussion at the annual EWC meeting resulted in a court case at the end of 2006, for which management did not present a defence. The court ruled that the outsourcing should be suspended while consultation took place. This caused considerable tension in the relations between the EWC and management, which made the functioning of the EWC more difficult. Several years later, the EWC members interviewed reported that although there are still different understandings of what consultation involves, the personal relationships have improved.

Given the large number of changes introduced to cope with the 2008–2009 crisis, management wanted to avoid calling for EWC meetings every other week. Therefore, a document was proposed by management and agreed with the EWC in May 2009 that included principles on national reorganisation. It included two types of reorganisation: reorganisations affecting fewer than 10 people or less than half of a country’s workforce were type A, while those affecting more than 10 people or more than half of a country’s workforce were type B. The normal consultation arrangement set out in the EWC agreement would apply for type B reorganisations. For type A issues, information would be provided to the EWC chair, allowing the select committee to comment via email or phone, but without a full EWC meeting. A local meeting would be organised following the announcement of type A reorganisations in the presence of a member of the select committee and the EWC member of the country concerned. This approach is implemented effectively, for example to deal with the impact of the merger with Iberia.

The 2009 document on reorganisation principles reflects the EWC’s direct involvement in strictly local matters. This is not needed and does not happen for the countries that have proper employee representation structures, but for the countries with a smaller workforce and no employee representation, the EWC’s support can be very helpful.

### **Factors that influence EWC developments**

The British Airways EWC is different from most other EWCs because of the limited role the home country employee representatives play in it and because 98% of the European workforce is represented. The UK operations have good industrial relations structures, so the EWC cannot add much value from the perspective of the UK employee representatives. The EWC is much more important for representatives from the other countries, so the EWC found a way to handle its involvement in strictly local matters in the smaller foreign operations.

When compared to the 2005 Eurofound case study on the British Airways EWC, the longitudinal development of the EWC is that of a body restricted to a passive role, which was assessed as ‘only a management communication tool’, towards a proactive practice tailored to the specific needs of social dialogue in the company. A clear illustration of this development lies in the negotiation capacity of the EWC, which resulted in the following achievements:

- procedural agreements, like the one on principles on national reorganisations;
- substantive agreements, for example on how the outsourcing of the Hungarian ticketing desk was implemented;
- a court case to stand up for the effective implementation of its consultation rights.

These developments may partly be explained by the impact of the crisis: when traffic fell, profits turned to losses and passengers moved away from premium-class travel in the European market. The company’s response to this involved many changes, which prompted management and the EWC to come to a common understanding on how to handle information and consultation on different topics. However, the crisis does not fully explain the pro-active development of the EWC, as this did not start in 2009.

Other factors facilitating the development of the EWC are the change in personal relations between management and employee representatives, the fact that all members of the EWC speak good English, which helps communication, and the ease of travel to London on British Airways flights.

The recast directive has not yet had a direct effect on the EWC, as it is based on an Article 13-type voluntary agreement. As there was no renegotiation of the EWC agreement between 5 June 2009 and 5 June 2011, any direct impacts of the recast directive will be felt in the next renegotiation. In 2012, indications were given that renegotiations could be started.

A much greater impact is expected from the merger with Iberia in 2011. Since the merger, Iberia together with British Airways form IAG, while both airlines continue to exist as separate operating companies. Iberia does not have an EWC yet, as it has relatively small numbers of employees in Europe outside of Spain. Therefore, the British Airways EWC simply continued to exist as it was.

The EWC would change greatly if the Iberia employee representatives were integrated into the British Airways EWC or if a new EWC was established for IAG (see below). When the BA case study interviews were conducted, management were opposed to this idea, arguing that both airlines have remained operationally separate. However, the chair of the EWC said it was an objective for future developments. With strong delegations from both the UK and Spain, those countries might become much more interested in the EWC. For the moment, though, the British Airways EWC deals more with concerns of employee representatives from outside the UK, with little interest or added value for the home country employee representatives.

At the end of 2014, negotiations got underway to establish an EWC for IAG that would represent the employees from the entire group.

### **Etex EWC**

The Etex EWC has not developed very much over the years. One asset for the EWC is the close contact that the former employee-side chair has with his Belgian trade union as well as with the European Federation of Building and Woodworkers (EFBWW). This certainly helped to get the training provision included in the EWC agreement. Despite all the efforts made to organise this training, the EWC members could not overcome the hindrance of being limited to one annual EWC meeting.

The functioning of the select committee was not able to develop very much because the main line of communication between the EWC and management remained in control of the employee-side chair of the EWC, who later became the trade union coordinator of the EWC on behalf of the EFBWW. The crisis had a huge impact on the construction sector and Etex suffered severe consequences, but there is no sign of any different developments or activities related to the impact of the crisis. The recast directive also did not have any significant impact on the development of this EWC.

The integration of the employee representatives from the Lafarge plasterboard operation triggered the 2012 revision of the EWC agreement (which did not really change very much) and breathed new life into the EWC. The employee representatives who already had experience with the Lafarge EWC and with other industrial relations cultures may bring a new dynamic to the Etex EWC.

### **EWC agreement**

The Etex EWC was created in March 1998. The agreement was renewed for the first time in 2003, when the company split. The plastics division became Aliaxis, with a separate EWC, while the fibre cement and roofing divisions remained as Etex, with a new EWC agreement that was almost identical to the first one. A second revision of the EWC agreement happened in 2012, after the plasterboard division from Lafarge was acquired in 2011. The overall functioning of the EWC did not change significantly with the renegotiated EWC agreements.

Training was already provided for in the first 1998 EWC agreement: two days at the beginning of each four-year mandate period and one additional day of training every year. In the 2003 renegotiated agreement, the two training days at the beginning of each mandate period remained, while the additional training days were set at five days per mandate period, with the flexibility provided that these days could also be used for other EWC activities instead of training. In this way, the EWC seized the opportunity to develop some extra activities and some kind of continuity, despite the limitation of only having one EWC meeting per year.

In the 2012 renegotiated EWC agreement, the number of training days was again set at two days in the beginning of each four-year mandate period, plus eight (instead of five) extra days per mandate period. However, the flexibility to use these additional eight training for other purposes has been taken away. These days need to be used for training sessions in blocks of two days linked to the annual EWC meetings. This means that the EWC will no longer have additional annual activities.

In the 1998 EWC agreement, the select committee was composed of the chair and the deputy chair, without any provision for select committee meetings. Although there was no indication in the 2003 agreement on the frequency of select committee meetings, this body was enlarged to four employee representatives. The select committee's role is to prepare the agenda of the plenary meeting and to ensure efficient communication between the EWC members as well as between the EWC and management. This clause on the select committee was not changed in the 2012 revised EWC agreement.

### **Composition and internal structure of the EWC**

The EFBWW is informed of the people designated as employee representatives in the Etex EWC. In this way, the trade union federation can ask its affiliates in the respective countries if these people are the appropriate employee representatives. Furthermore, the EWC agreement provides for two delegates from the EFBWW, who are entitled to attend the meeting as observers. The trade union coordinator plays a supportive role for the EWC.

Before the Aliaxis split, the composition of the EWC was fairly stable and internal cooperation was good. Further company changes altered this. In particular, the divestment of the Belgian and German gyproc activities to Lafarge and the acquisition of the plasterboard activities from Lafarge changed the composition of the company. Due to the effects of the crisis in the construction sector, Etex was confronted with lower sales, which the company had to respond to with major restructuring, cost-saving programmes and temporary or permanent closures of factories in Ireland, Spain and the UK.

The 2011 acquisition of the French Lafarge Group and the effects of the 2008–2009 financial and economic crisis have further affected the composition of the EWC. As a result of the Lafarge acquisition, six new mandates were added to the Etex EWC. The acquisition of the Lafarge plasterboard activities by Etex Group was closely followed by the Lafarge EWC. While the acquisition was being negotiated, the Lafarge EWC had the right to be informed and give advice. They stressed two things: first, information and consultation in the new organisation should develop in accordance with the Lafarge criteria of social dialogue, and second, the new EWC should incorporate all the members of the Lafarge EWC. The functioning of the EWC changed after the acquisition. According to the current secretary of the Etex EWC, information and consultation improved after the takeover of Lafarge.

The composition of the EWC is arranged so that no single country can dominate the EWC – the number of mandates is limited to four. This was also done to prevent the Belgian home country representatives from being put in a weaker minority position. The German employee representatives, who represent over 2,000 employees, have four mandates, while the Belgians have three mandates to represent a little more than 1,000 employees.

Before the crisis, the German workforce was more than twice as large as the Belgian one, and the UK workforce was slightly larger too. The impact of the crisis has reduced the workforce proportionally more in Germany and in the UK, and less in Belgium. Currently, the workforce is still twice as big in Germany and almost as large in the UK. As the management chair of the EWC and the employee-side deputy chair are both from Belgium, there is a cultural dominance in the EWC. It is sometimes difficult for the German employee representatives to understand that things happen similar to the way a Belgian works council operates and not the way a German Betriebsrat (works council) works.

The changes in the size and structure of the company during the crisis did not have much of an effect on the composition of the EWC, as the distribution of mandates are only recalculated every four years. EWC mandates are granted for every country with more than 100 employees. The number of mandates is calculated based on the total workforce per country. Although the composition in terms of workforce per country changed, EWC mandates were not taken away, for example from Ireland.

### Functioning of the EWC

Because the number of annual plenary meetings could not be increased, the select committee is an important factor for the development of the functioning of the EWC. The 1998 Etex EWC agreement provided for a very small select committee, composed of the employee-side chair and the deputy chair. Initially, this was a Belgian secretary and a German deputy. In accordance with the 2003 revised EWC agreement, the select committee (the so-called secretariat) was to be made up of one secretary plus three deputies from three different countries. In the renegotiated EWC agreement of April 2012, one deputy was added to the existing three for a total of four deputies from four different countries who take part in the select committee together with the secretary. The current EWC secretary is Belgian and the four deputies are from France, Germany, Spain and the UK.

The select committee plays a crucial role because it supports the activities of the EWC with regard to facilitating communication among the EWC members. For example, the EWC secretary reported that with the help of the Dutch EWC representative (who has good ICT skills), the select committee gave input for the creation of an online network



communication system for the electronic exchange of information among EWC members. The role of the deputies is also crucial in supporting the secretary and the EWC coordinator in developing the three preliminary plenary meetings, which usually anticipate the annual EWC meeting and in which management is invited to participate.

Furthermore, the number of select committee meetings was increased from two to three per year (September, December and March–April before the annual EWC meeting, which usually takes place every June). According to the former EWC secretary, the plenary meetings are very important, as they facilitate the exchange of information and communication among employee representatives and between employees and management. This, in turn, helps to anticipate and/or solve problems that may occur, and therefore the most relevant points for discussion at the EWC annual meeting can easily be tackled.

Tensions between employee representatives are not only due to the company structure, but also to personal relationships, often replicating the home country structural features of the representation systems and practices, which are different across countries. For example, the former EWC secretary often referred to problems with the German delegates. According to him, it is hard for German EWC members to understand that an EWC based on a Belgian works council tradition is chaired by management. As already mentioned, limiting the number of delegates per country to four mandates aims to prevent a specific home country group from being too dominant. In practice, however, there is still a form of home country dominance because most of the EWC communication is centralised through the secretary and the EWC coordinator, who both play a crucial role and who are both Belgian. Integration, cooperation and coordination among the EWC members and with management are governed by both the EWC coordinator and the secretary.

There is also some internal competition, as several sites make the same product and because performance and costs are compared within the group. In this context, the employee-side vice chair of the EWC and the coordinator from the European trade union federation, who was the previous employee-side vice chair of the EWC, play a crucial role in maintaining cooperation and communication between meetings. All EWC members are unionised. This allows the coordinator from the European trade union federation to continue to play an important role both inside and outside the EWC.

The EWC was informed of the takeover of the Lafarge plasterboard division in an extraordinary EWC plenary meeting in December 2011 (this was the first extraordinary EWC plenary meeting held in the Etex Group). Since this acquisition had a transnational character, the EWC was informed in accordance with European law. Information about the impact of the takeover was given, but consultation (for example, whether or not the company should go ahead with the takeover) was minimal. Restructuring due to the crisis (for example, in Ireland or the UK) was limited to the local (plant) level.

### Factors that influence EWC developments

The main developments of the EWC are:

- the establishment of a real select committee in 2002, which developed some kind of continuity in the EWC even without any references to the frequency of meetings in the EWC agreement;
- the supportive role of the trade union coordinator from the EFBWW;
- the arrangements made for collective training for the entire EWC;
- the social charter adopted in 2011;
- the establishment of a health and safety committee that meets once a year to monitor the implementation of the EWC's 2010 health and safety charter.

The two driving forces in the EWC developments are the employee-side chair and the trade union coordinator from the EFBWW. This is a strength for the EWC, but it also risks being a weakness, since the good relationship between the EWC and management and between the EWC and the European trade union are all controlled by the former chair of the EWC. This makes it difficult for the Etex EWC to develop a European identity, despite all the training efforts.

The integration of the employee representatives from the Lafarge plasterboard division into the EWC has created a new dynamic, and not only in terms of the 2012 renegotiated agreement. The implementation has provided new chances for development thanks to the experiences with the Lafarge EWC that those representatives have brought along.

The strength and negotiation capacity of the Etex EWC are due to its ability to:

- request additional information, both in and between EWC meetings;
- request better resources for the functioning of the EWC;
- negotiate substantive agreements on specific issues, for example the health and safety charter.

The newly established health and safety committee to monitor the implementation of the 2010 health and safety charter also offers opportunities for further development of the EWC.

Etex Group was severely hit by the crisis in the construction sector and by the impact of the economic and financial crisis. However, the crises impacted each country differently. Ireland was the first country to be hit, followed by the UK. According to ILO data (ILO, 2009), the crisis in the construction sector led to the loss of about 100,000 jobs in the UK in 2008. In Ireland, the construction sector lost 15%–20% of jobs in total after a period of strong expansion, leading to the collapse of the housing market. In general, the Etex Group's strategy was to take action quickly in order to counteract the crisis by engaging in negotiations with local trade unions and their representatives.

The EWC played a minimal role in negotiating during the crisis. However, as the HR director of the Etex Group stated in an interview, it was hard to make quick decisions locally due to the high level of uncertainty during the crisis. The impact of the crisis on the company did not have any influence on the composition or the functioning of the EWC. The first and only extraordinary meeting of the EWC was held because of the acquisition and integration of the Lafarge plasterboard division. Restructuring measures that involved closures in Ireland and the UK were only dealt with at local level, not in the EWC.

## MOL EWC

The MOL EWC is the only EWC that has been established in a Hungarian MNC. Ten years after entry to the EU, the new Member States do not have many companies that fall within the scope of the EWC directive. The MOL EWC, however, is an example of one of the few companies. Its strength lies in the good cooperation between central management, the Hungarian employee representatives and the Hungarian-speaking employee representatives from Slovakia. However, this also limits the development of a proper European identity, as the MOL EWC is not yet a platform where industrial relation practices from the east and the west of Europe are brought together.

## EWC agreement

Shortly after Hungary became a member of the EU in May 2004, Hungarian Oil and Gas (MOL) was the first, and at the time of publication of this report, the only, Hungarian company to set up an EWC. It signed an agreement in June 2004. Renegotiations have resulted in three amendments to the initial EWC agreement: in 2009, 2010 and 2012.

Table 9 below presents the milestones in the development of the MOL EWC agreement. Three years after it was established, a new mandate period started for the EWC in 2007, with new elections, increasing the size of the EWC from 18 to 23 mandates. These 2007 changes were reflected in the first amendment of 2009. The second amendment was made in July 2010, despite the recommendations of European trade union organisations not to do this in the window of opportunity between 5 June 2009 and 5 June 2011. As a consequence, this EWC agreement is exempted from the new requirements of the recast directive. This situation can be reversed if a significant change in the scope of the company triggers new renegotiations. However, the second amendment of 2010 already included provisions inspired by the recast directive, such as training arrangements for the EWC.

Influence also went the other way, from the MOL EWC practice to developments in the legal framework. The Hungarian transposition of the recast directive is partly based on a recommendation of the MOL EWC, as this is the only EWC that has implemented this transposition law.

A third amendment to the EWC agreement was made in January 2012, stipulating the procedure to elect the EWC chair, setting out a list of topical issues that could be put on the agenda and emphasising the importance of timely information.

The EWC chair believed that the most important recent change to the EWC agreement is the possibility of putting issues on the agenda that concern only one country. As the recast directive limits the competence of the EWC to transnational matters, the EWC members find that this gives the EWC a stronger entitlement.

However, the expert from the European trade union organisation IndustriAll who was asked to assess the EWC agreement pointed to the following weaknesses:

- No clear role has been defined for the select committee.
- In terms of protection, the EWC agreement refers to Hungarian law, but according to the new labour code there, only the chair of the EWC is protected; the other EWC members are not. Therefore, additional provisions for protecting the EWC members are needed.
- No communication channels are specified to report back to local employee representatives.
- The European character of the select committee would increase if all four members came from different countries.

### **Composition and internal structure of the EWC**

Table 9 sets out the composition of the MOL EWC and its select committee, which is called the steering committee. The table shows that only Hungary and Slovakia have more than one member in the EWC. Croatia used to have three observers, but since 2012 there have been two.

Table 9: Composition of the MOL EWC and changes over time

EWC mandate periods	2004	2007 – 1st cycle ended (elected at EWC meeting in 2007)	2009	2010 – 2nd cycle ended (elected at EWC meeting in 2010)	2012
EWC agreement and its amendments	Initial agreement		1st amendment of the agreement	2nd amendment of the agreement	3rd amendment of the agreement
<b>Total EWC members (+ substitutes)</b>	18 members (+18 substitutes)	23	23	19	19
<b>Countries represented (without observers)</b>	11 countries	11 countries	11 countries	8 countries	8 countries
<b>New Member States</b>	HU (6), SK (3), CZ (1), PL (1), CY (1) and SI (1)	HU (6 + 2), SK (3+1), CZ (1 + 1), PL (1), SI (1) and RO (1)*	HU (8), SK (4), CZ (2), PL (1), SI (1) and RO (1)	HU (9), SK (4), CZ (1), PL (1), RO (1) and SI (1)	HU (9), SK (4), CZ (1), PL (1), RO (1) and SI (1)
<b>Members from EU15</b>	UK (1), AT (1), FR (1), DE (1) and IT (1)	UK (1), AT (1), FR (1), DE (1) and IT (1 + 1)	UK (1), AT (1), FR (1), DE (1) and IT (2)	AT (1) and IT (1)**	AT (1) and IT (1)
<b>Observers</b>	HR (1), RO (1) and RS (1 from 2006)	HR (up to 3), RS (up to 3)	HR (up to 3), RS (up to 3)	HR (3), RS (1) and BA (1); further observers could be invited	HR (2), RS (1) and BA (1); further observers could be invited
<b>Select committee (steering committee)</b>	Members (3): • Chairman: HU (1) • Deputy chairperson: SK (1) • Executive: HU (1)	Members (3 + 1): • Chairman: SK (1) • Deputy chairperson: HU (1) • Executives: AT (1) / substitute: HU (1)		Members (3 + 1): • Chairman: HU (1) • Deputy chairperson: SK (1) • Executives: HU (1), RO (1)	Members (3 + 1): • Chairman: HU (1) • Deputy chairperson: SK (1) • Executives: HU (1), RO (1)
<b>EWC coordinator</b>	HU (1)	HU (1)	HU (1)	HU (1)	HU (1)

\* CY lost its seat.

\*\* DE, FR and UK lost their seats.

The composition of the steering committee changed two times. The continuity of the work is strengthened by the involvement of the same people (although in various positions) over time. In 2004, three officials were elected: a chairperson from Hungary, a deputy chairperson from Slovakia and an executive member, also from Hungary. The first elections, in 2007, were held the same year that the Hungarian chairperson retired. The former deputy chairperson from Slovakia was elected as chairperson and a Hungarian EWC member was elected as deputy chairperson. The process was the same in 2010: the Slovak chairperson retired and his place was taken by the former deputy chairperson from Hungary, and a Slovak member of the EWC was elected as deputy chairperson. Unlike his predecessors, he speaks only English and Slovak. The deputy chairperson is a Slovnaft employee and is the president of the single local trade union. There are also two steering committee members, one from the Tisza Chemical Group (TVK) (Hungarian, who is also the chairperson of the local works council) and one from MOL Romania (Romanian). The interviewees believed that the choice of chairperson is important, especially for those who are not employed in Hungary, since the chairperson receives the most information and has the most direct relationship with central management.

### Functioning of the EWC

There is one plenary meeting of the EWC each year. The meetings take place in Hungary to ensure the presence of central management. During the three-day meeting, the first day is open to external guests and can involve training sessions or preparation for the two other days, when the EWC meets management. No extraordinary meetings have been held yet.

The steering committee meets four times a year, more or less every three months. The President-CEO of MOL informs the committee about current issues at these meetings. The summary of these meetings (available in Hungarian and

English) is also sent to the EWC members by the EWC coordinator. This ensures that the EWC members have up-to-date information; otherwise they only meet with central management once a year, during the EWC annual meeting.

Since the Slovak chair of the EWC retired, the Hungarian-speaking Slovak EWC members meet central management more often outside of the EWC meetings, in extended local works council meetings. The chair of the largest Hungarian subsidiary, TVK, is also invited to these meetings. As the Romanian steering committee member was only occasionally invited, these cannot be considered as steering committee activities. The Romanian member is not always invited because of the language barrier and therefore meetings take place in Hungarian only.

Costs related to the EWC meetings and mid-year communication are covered by the parent company. The other operating costs of the EWC are covered in accordance with a separate agreement concluded between central management and the EWC chairperson, which has been renewed every year since the EWC was established. The annual budget for the EWC covers the costs of all meetings, translations, interpretations and training. In practice, all invoices are approved by the EWC chairperson and claims are given to human resources for approval. This is similar to how the Hungarian works council is funded. The size of the budget has not changed since the financial crisis started in 2008, and no issues were reported related to the budget or expenses of EWC members.

The EWC coordinator is a valuable resource for the functioning of the EWC. The EWC coordinator has been the same person since 2004 – a multilingual woman who does valuable work according to the interviewees from the employee side. Her role involves organising the annual and other meetings, taking minutes and sharing the information via email, the internet platform, etc. She also drafts the written material (presentations, annual work plan, agenda, minutes, papers for discussions) of the annual and other meetings and presents them to management for approval. As an appointed member of the company policy committee of the IndustriAll EWC, she can forge links between the MOL EWC and developments in EWCs in general and in European trade union activities. She works full time. Her position is ensured by the EWC agreement's provision on resources. The EWC coordinator does not hold any trade union or HR position.

The official language of the EWC is English, but Hungarian is mostly spoken in informal conversations. The EWC members who do not speak good English and Hungarian may have difficulties. The EWC coordinator often acts as an interpreter for them in informal meetings.

The EWC is dominated by the close cooperation between delegates from Hungary and Slovakia. On a personal level, there is a good working rapport in the Slovak–Hungarian relationship according to both the management and employee interviewees. Since Slovnaft is located in an area of Bratislava (Žitný ostrov) that has traditionally been inhabited by ethnic Hungarians, they know how to get on well with each other. This is reflected in the composition of the steering committee. The members of the steering committee meet more often than the full EWC does, so they have a closer working relationship than the ordinary members do. In principle, the EWC members who are not members of the steering committee receive all the information, since the EWC coordinator shares the information with them by email. The information is also available on an internal website (the new internal website of the MOL EWC, restricted to MOL employees, was recently introduced) and by other communication channels (telephone calls, newsletters, the internal company magazine called *Panorama*, direct feedback, trade union magazines and open forums, etc.).

The relationship between Croatians and the other EWC members is more complex, not because they are only observers, but because of the lack of a common language and the different traditions of exercising employee representation rights. The political atmosphere is not favourable either due to the legal dispute about management rights, which started to negatively affect the employee representative relations between Industrija Nafta (INA) and MOL. However, according to the Croatian employee interviewee, even as observers they receive all the help and support they need from MOL: 'If we need some information or if we want them to organise a meeting with the top management of MOL Group, we would have no problem. We also cooperate with other members of MOL Group.'

### Factors that influence EWC developments

The relationship between the EWC and central management depends on the informal connection between the EWC chairperson and the CEO. The previous EWC chairperson (an ethnic Hungarian from Slovakia) could pop into the CEO's office any time and sort things out. The current EWC chairperson values management's supportive approach to problem-solving. However, management view the fact that employee representatives in the EWC also often act as trade union leaders or the local works council chairperson as a problem because the same information is repeatedly given to the same people.

Central management believe that the biggest advantage of the EWC is that it helps to implement the HR and industrial relations practices that operate fairly well within the Hungarian MOL in the rest of the countries. Achievements include the introduction of the Hay system of wage determination (instead of the seniority-based system that was often used in post-socialist companies), setting up a works council in Croatia, and improving communication between employees and employers in Italy. These are sensitive issues, so it makes a big difference whether they are instructions issued through managerial lines or recommended through the EWC jointly with Hungarian employee representatives who can offer help to their foreign colleagues. The latter way of working with people in the subsidiaries was more successful. Furthermore, such a soft approach is especially useful in a hostile environment where the very acceptance of MOL's presence is at stake. In other words, the EWC has a diplomatic role as well. The first such action was taken in 2004, when Croatia was invited to participate in the EWC as an observer.

The interviewees seemed to be aware of the 'push' from MOL that the parent company's industrial relations practice is to be spread to other countries (such as the suggestion of setting up a works council), but there is some resistance too. Although Croatia set up a works council after several years, the representatives do have opinions on the Hungarian system. In addition, the Slovak interviewees believed their single trade union system is the one that works best.

Employee representatives for countries outside of Hungary have fewer chances to directly connect with central management. For them, the EWC is their chance to get an appointment with central management (for instance, the Croatian trade union asked for one because of some operational issues). In situations when a rumour starts to spread, the EWC initiates a meeting to clarify the situation. However, the EWC and management share the view that 'problems have to be solved where they were born'. Thus, central management and employee representatives do not discuss country-specific issues directly, so the EWC has no added value in that regard. (The rights of local interest representation bodies are often much stronger than the EWC's rights anyway when it comes to country-specific issues.) Promoting local problem-solving, however, is a somewhat ambiguous approach, as the latest agreement allows issues to be put on the agenda that affect employees in a single country as long as the issue is important and depending on the decision made by central management. At the plenary meeting of the EWC, management provide information on all countries. They mention issues that may concern only one country in addition to transnational issues.

Regarding the influence of the EWC, it was reported that there has never been an example of the EWC changing management's decisions. Nevertheless, if arguments are well formulated, management will pay attention to them.

The financial and economic crisis itself did not affect MOL very much. There were some crisis-related issues that affected MOL to a certain extent (such as the oil embargo, the Libyan situation or the current situation that most of the oil refineries cannot operate to full capacity due to oversupply and lower demand in the market), but they were covered by the regular consultation procedure. Although the general atmosphere at EWC meetings is friendly, a possible point of conflict are the processes related to low demand, but these processes are 'well regulated'. The supply chain management is meant to plan production in advance according to the managed optimised production principles. People are not let go when less capacity is needed, as the company can afford a site that operates on a lower capacity level (for example, at 80% instead of 90%).

MOL management made use of and appreciated the EWC as a type of diplomatic body that helps disseminate MOL's corporate culture, which evolved in Hungary, into subsidiaries in the adjoining countries. This EWC function focuses mainly on HR and industrial relations institutions (for example, wage systems or works council operations). This is an uncommon management approach to the EWC, but given the abovementioned resistance to change and the unfriendly political circumstances (such as in Croatia), it seems to be a rational move.

Not surprisingly, the Hungarian style of industrial relations has a palpable influence on the operation of the MOL EWC. In the MOL EWC agreement, the steering committee tasks and procedures are not formally regulated at all. The agreement does not even make sure that the steering committee can meet regularly. Yet the steering committee has developed a close cooperation with the central management through the extended works council meetings, when the steering committee members are invited to the Hungarian single works council meeting of MOL Plc. Though informality plays an important role in the functioning of the MOL EWC, the renegotiated MOL EWC agreement has ensured some stronger entitlements than were envisaged by the recast directive. For example, transnational issues are not the only issues that can be put on the MOL EWC agenda. Issues that concern only one country but which count as a major issue according to the central management are also allowed.

It is not easy to assess the outcome of the EWC since no real crisis affected the company during the past few years in which the EWC could have played a crucial role. The situation is expected to change when Croatia, with the ongoing restructuring process at the company, will become a full member of the EWC in line with the country's EU membership.

Training will probably be an issue in the future. To be an EWC member, language skills are important, but the person also needs to have a good knowledge of the law and have the network and ability to communicate on all levels, both with management and employees.

The EWC is an advantage because it is the only forum where trade unions can cooperate and it is also a platform where trade unions can talk about problems. For example, the EWC is important when some issues are in the employees' interests but local middle managers are not interested and therefore do not pass the information further up the chain to central management. The EWC is a platform to jump over that middle level and transfer such problems directly to central management. Moreover, coordinating collective bargaining and harmonising wage levels are also among trade unions' goals.

The MOL Group announced a mass redundancy of about 700 people at the end of September 2012. For this reason, an extraordinary EWC meeting was called to discuss the situation in October 2012. According to the interviewees, the local employee representative bodies were properly informed prior to the redundancy in accordance with the national laws and agreements. The dismissals were carried out in early 2013.

### **GDF Suez EWC**

The GDF Suez EWC is special in many ways. It is extraordinary because of its large size, its various working group structures, its high frequency of meetings and its significant amount of substantive agreements as output. The GDF Suez EWC builds on a long history of different EWC practices in different company settings. It combines two EWC cultures that were already very developed but also very different. The Suez EWC had a good spirit of cooperation with a strong working group structure, especially for its energy division, which was actually the prolongation of the former Tractebel EWC. As for Gaz de France (GDF), disagreement on the involvement of the GDF EWC on the topic of the merger process resulted in a court case. The impact that this had on the GDF Suez EWC is reflected in the definition of information and consultation, which is quite similar to the new definitions in the recast directive.

### EWC agreement

Both Suez and GDF had EWCs before they merged. Because of the differences in both EWCs, long, intense negotiations resulted in a combination of good practices from both preceding EWCs. Eurofound analysed the Suez EWC in 2004 and published [a case study on it in 2005 \(PDF 161 KB\)](#). No previous analysis could be found for the GDF EWC. The history of the GDF Suez EWC brings together experiences from several other EWCs created in different companies of the group that were replaced or dissolved through its evolutions and restructurings.

The earliest instance for social dialogue at the European level in the group was set up before the EWC directive went into effect, through an agreement signed on May 1995 at Lyonnaise des Eaux. According to Jérôme Monod (Chair of the supervisory board of Suez Lyonnaise des Eaux in 2001, ex-CEO of the Lyonnaise des Eaux group), who signed the 1995 agreement, the May 1995 EWC agreement at Lyonnaise des Eaux was signed on the employee side by the European Trade Union Confederation (ETUC), the European Confederation of Executives and Managerial Staff (CEC) and five French representative trade union organisations. After the merger between Suez and Lyonnaise des Eaux in June 1997, the EWC was enlarged to encompass the new Suez Lyonnaise des Eaux Group through an amendment dated November 1999. Meanwhile, other companies within the perimeter of the new EWC had also created their own EWCs.

The agreement setting up a European social dialogue body at Tractebel was signed in April 1996. The GTI European Council of Employee Representatives (GTI-ECEER) was created by an agreement dated September 1996. According to information available on the European Public Service Unions (EPSU) and ETUI websites, the GTI EWC was integrated into the Tractebel EWC. The Tractebel EWC was in turn integrated into the Suez Lyonnaise des Eaux Group EWC. However, Article 1 of the November 1999 amendment stipulated that as an exception to the sphere of application of the agreement, the Tractebel Group would ‘continue to manage issues within its sphere of competence’. Thus, the Tractebel EWC continued its activities within the Suez EWC energy working group, according to the September 2004 amendment to the establishment of the European Consultative Committee within the Suez Group. The amendment no longer mentioned a separate Tractebel EWC, but rather referred to it as the energy commission of the post-merger EWC of Suez and Lyonnaise des Eaux.

To sum up, before the merger with GDF, the agreement establishing the European Consultative Committee within the Suez Group was signed on 31 May 1995 and had been modified by the amendments of November 1999, 21 June 2001 and September 2004. Thus, by the time it merged with GDF, the Suez Group EWC had encompassed four previous EWCs: Lyonnaise des Eaux, GTI, Tractebel and Suez-Lyonnaise des Eaux.

The agreement establishing the EWC of Gaz de France was signed on 14 November 2001 by seven national trade unions (four French, one Italian, one German and one Hungarian) and two European federations (EMCEF and EPSU). The GDF EWC was thus more recent than the Suez EWC and had only functioned for seven years prior to the merger. GDF’s international activities in 25 countries were also more recent and less widespread geographically than those of the Suez Group. At the time of the merger, two-thirds of the almost 50,000 GDF employees worked in France (see Table 10 below). The GDF EWC had 32 members from seven countries, 50% of whom came from France. It had signed an international framework agreement on corporate social responsibility (CSR). The Suez Group EWC had 46 members representing 161,000 employees from 19 countries, 20% of whom came from France. It had signed several transnational framework agreements.

The EWCs of GDF and Suez continued to function throughout the negotiations for a new EWC agreement for GDF Suez following the merger. They agreed on a procedure to negotiate the new agreement that would integrate the existing agreements and take the changes to the EWC directive into account. They held joint and separate meetings, including the steering committees. Members of the steering committees of both EWCs were present in all meetings as well as in relevant activities. A special negotiation body (SNB), including trade union representatives from countries where GDF



Suez operates, supported by a representative from the EPSU and EMCEF industry federations, negotiated with management from September 2008 to May 2009. The agreement to set up the GDF Suez EWC was signed on 6 May 2009. After the members were appointed, the EWC was established in October 2009. The agreement is under French jurisdiction.

The issues for information and consultation mentioned in the agreement go beyond the usual ones referenced in the EWC directive. They include R&D policy, the economic and social perspectives of the group and international developments.

The EWC must be consulted on the group's policies in the following areas and the debates must be such that employee representatives can express their opinion and management can respond:

- research and development policy;
- new industrial processes, technologies and working methods;
- environment policy;
- undertakings of general interest;
- equal opportunities;
- training policy;
- prevention and safety, working conditions, hygiene and health policy;
- group social policy in the area of restructuring;
- mobility policy.

Besides information and consultation, another important issue where it was not easy to achieve consensus (even amongst the trade unions) concerned setting up the six permanent working groups. Three of the working groups were inherited from the Suez EWC sector commissions.

The other three permanent working groups come from the social affairs (non-permanent) working committees that existed at GDF. The SNB synthesised both practices, which resulted in the establishment of six permanent working groups functioning under the EWC. These working groups are supposed to complete the EWC's work but do not replace the EWC in dealing with the issues in question.

Another clause in the GDF Suez EWC agreement worth noting here is the one concerning the future negotiation and signing of transnational agreements. The 16 June 2009 joint meeting of the two EWCs voted for their dissolution as well as that of the existing bodies and agreements. Thus, the previous European agreements negotiated by the Suez EWC, and the one such agreement negotiated by the GDF EWC, had to be renegotiated by the new GDF Suez EWC. However, whereas the practice of negotiation at Suez was that the EWC and its select committee led the negotiations and the agreements were signed by the ETUC, Article 3 of the GDF Suez EWC agreement on information has a paragraph on transnational agreements that just 'informs' the EWC of the European agreements to be signed by trade unions, unless it is specifically 'provided' by the signatories that the EWC may participate.

A specific procedure has been elaborated concerning transnational framework agreements, four of which have been negotiated and signed so far.

### Composition and internal structure of the EWC

To represent 190,098 employees in Europe, the EWC provided for 64 mandates (25 for France and 39 for the other European countries) plus two trade union coordinators, one for EPSU and one for IndustriAll.

Table 10: *Composition of the GDF Suez EWC and the national workforces represented*

Country	Number of employees	Number of EWC mandates
Austria	734	1
Belgium	20,409	7
Czech Republic	1,994	1
Denmark	7	0
Finland	385	1
France	107,243	25
Germany	7,132	3
Greece	119	0
Hungary	1,627	1
Italy	3,784	2
Luxembourg	668	1
Netherlands	11,153	4
Norway	867	1
Poland	4,074	2
Portugal	362	1
Romania	4,698	2
Slovakia	635	1
Slovenia	6	0
Spain	10,673	4
Sweden	1,088	1
Switzerland	1,734	1
Turkey	348	1
United Kingdom	10,358	4
<b>Total French</b>	<b>107,243</b>	<b>25</b>
<b>Total non-French</b>	<b>82,855</b>	<b>39</b>
<b>Total EU</b>	<b>190,098</b>	<b>64</b>

The EWC meets at least twice a year. A select committee (secretariat) of 14 members representing nine countries (Belgium, France, Germany, Italy, the Netherlands, Poland, Romania, Spain and the UK) meets once a month and has permanent secretarial assistance (half time). The EWC secretary is from Belgium and the deputy secretary is from France.

The select committee can meet more than once a month if needed. In 2011, for example, 13 meetings were held. The four-year mandates of the EWC members were up for renewal in 2013. The frequency of the meetings of the select committee enables a regular circulation of information and gives it a strategic social dialogue position. Furthermore, according to Article 3 of the GDF Suez EWC agreement, between two plenary meetings ‘the EWC Secretariat shall be immediately informed of any changes in the structures and the strategic orientations of the Group’.

Six permanent working groups have been established for three social domains and three activity domains as well as a communication working group. They are listed in the GDF Suez EWC agreement as:

- employment, training, mobility, diversity and equal opportunities;
- health, safety and the prevention of occupational hazards;
- guarantees regarding security and conditions of employment and social reporting;
- the environment (Environment Business Line);
- energy services (Energy Services Business Line);
- energy Europe (activities of the Energy France Business Line, Infrastructure Business Line, Energy Europe Business Line Division Benelux and Europe Division, Global Gas and LNG Business Line).

The employee members of these groups are appointed by the EWC from among its full or deputy members. For the activity groups, the members must come from the same activity sector. This rule also applies to the management representatives in the working groups. The working groups report back to the EWC. One animator and one rapporteur per working group are appointed, by majority vote, for that purpose. Management and the EWC secretariat jointly determine the number of members of each permanent working group (around 20).

The six permanent working groups meet twice a year. Additional meetings can be requested following consultation between management and the secretariat. The agenda is set in consultation between the group coordinators and management. The pattern of these meetings is the same as for the EWC as a whole: working group meetings are preceded by a preparatory meeting and followed by a debriefing meeting for the purpose of drafting a report for the EWC. Based on the activity reports submitted by the working groups, ‘the EWC or the Secretariat may put forward questions that can be included in the agenda for a plenary session’.

The conditions of the practical operation of the permanent working groups are governed by the EWC rules of procedure. Thus, just like the EWC, the permanent working groups can invite guests and experts (following consultation between management and the secretariat) and they have a budget for that purpose. Nevertheless, the information given to these groups cannot replace the information and consultation procedure, which is the competence of the plenary EWC.

### Functioning of the EWC

After the GDF Suez EWC was set up in October 2009 in Rome, the EWC was convened every year more than the two times provided for in the EWC agreement.

The GDF Suez EWC met four times (including two extraordinary meetings) in 2010. In 2011, eight plenary meetings (including six extraordinary meetings), 13 meetings of the EWC secretariat and nine meetings of the taskforce were held. A three-day training session for 120 EWC members (principals and deputies) was also organised with three themes:

- understanding the group’s businesses and activities;
- a presentation of the context in Europe;
- an in-depth analysis of employee representation in Europe.

In 2012 (at the time of the interviews), two plenary meetings were scheduled (June and October) as well as an extraordinary meeting. The secretariat (select committee) met each month. The four-year mandates of the EWC members were up for renewal in 2013.

The interviewed employee representatives regarded the EWC resources, such as its own budget, office facilities and translation services as well as the coverage of costs for meetings and travel, as sufficient. The French members have enough time off, which derives from labour legislation in France.

Overall, the company backs up its social relations policy with a sizeable budget. The EWC has an autonomous budget of €80,000 a year and all costs for EWC meetings are covered by the company. This covers several days for each general meeting with over 120 people plus monthly meetings for the 14 select committee representatives. EWC members can also hire an expert, paid for by the company.

The select committee and/or country delegates can also design the five-day training programme for the EWC members of their delegation themselves. The training can be provided by chosen experts or by European industry federations and their affiliates. In addition, EWC members can be given language training by the company. The EWC agreement also states that experience and skills acquired throughout the EWC member's term of office will be recognised in their career development. Overall, this all requires a large budget.

Regarding negotiation capacity, the GDF Suez EWC is able to implement and follow up transnational agreements and the company has signed a number of these. However, overlap between the different committees seems to represent a potential problem. This clearly indicates a role for union organisations in the negotiation and signing of transnational agreements and an eventual role for the EWC in their implementation and follow-up.

### Factors that influence EWC developments

The economic and financial crisis did not have any direct impact on GDF Suez or on its EWC. The overall context, however, is one of liberalisation in the energy market and increasing international demand for energy, water services and waste management. In continental Europe, the changes in the company's strategy and structure have resulted more from changes in European and national legislation, energy and environmental policies, or specific factors (for example, the Fukushima nuclear disaster or the adoption of the Climate and Energy Package in the EU – the '3 x 20' targets) than from the economic crisis (according to an interview with the HR manager at the company headquarters). This is mostly due to the particularities of the utilities sector that the group operates in, as national governments and local authorities play an important role in most markets.

After the merger between Suez and GDF, the GDF and the Suez EWCs continued to function while the new EWC agreement was being negotiated for GDF Suez. They agreed on a procedure to negotiate the new agreement that would integrate their existing agreements and take into account the changes that the negotiators expected to be brought about by the recast directive (directive 2009/38/CE of 6 May 2009). The agreement was signed on the same day as the recast EWC directive (but before the latter went into effect). It took the foreseen changes brought about by the recast directive into account, and even went beyond them in several ways.

The 2009 EWC agreement of GDF Suez is a benchmark agreement, a best practice example for most EWCs. This also applies to the procedure of renegotiation, which brought together the practices from both pre-existing EWCs.

## Barilla EWC

The Barilla EWC is limited to being a more symbolic EWC. Because it has only one EWC meeting without any working group activities or initiatives from the select committee, it can only listen to presentations given by management and follow the home country representatives in what they arrange to be offered. The most recent development is the organisation of an EU-financed training seminar on corporate social responsibility (CSR).

### EWC agreement

The Barilla EWC was created in December 2000. Its first meeting did not take place in 2001, but in 2002. This may be because of the changes in the scope of the company that were happening during 2001 and 2002.

In 2000, Barilla had 6,624 European employees, of whom 5,267 worked in Italy. With 80% of the European workforce in the home country, the second largest national workforce was in Sweden, where there were 655 employees, accounting for 10% of the European workforce. These proportions changed when the German company Kamps was acquired in 2002. This increased the number of Barilla employees in Germany from 353 in 2000 to 4,862 in 2011, while the number of Barilla workers in Italy decreased to 4,494 in 2011.

The initial EWC agreement from 2000 has never been renegotiated. In 2006 the select committee expressed the need to adapt the agreement to the new corporate structure, but the decision to do something about this was postponed. An informal working group was established to develop a code of good practice for information and consultation. So far, this has not yet resulted in a draft text. It can be concluded that this EWC has no real negotiation capacity.

The main factor for the development of the EWC is management's flexibility in allowing for an extra day for the annual meeting for training purposes and the progressive adjustment of the number of representatives within the EWC.

### Composition and internal structure of the EWC

The EWC has 22 members. There are nine Italian delegates (six employee representatives and three delegates from the Italian trade unions), six members from Germany, three from France, three from Sweden and one from Greece. The European trade union coordinator from EFFAT is appointed among the three Italian union delegates. The relatively strong Italian dominance in the EWC hinders its development.

The select committee of the EWC has four members: one management delegate, the Italian trade union delegate acting as the EFFAT coordinator, a German trade union delegate and a Swedish trade union delegate. Following the acquisition of the French company Harry's, the select committee added one French trade union delegate.

According to the agreement, the EWC is composed of management and employee representatives, which includes shop stewards and trade union officials:

- Central management is represented by a chairperson appointed by the management of the group and assisted by the company leaders that he or she chooses.
- There are 22 employee representatives, including the delegates designated by the union organisations. Of the 22 representatives, at least 16 must be employees of the companies in the group. The union organisations give the names of the employee representatives and the union delegates to the parent company's head office.
- Trade unions are entitled to six seats: three for the three Italian confederations, one for the Norwegian union delegate, one for the French trade union delegate and one for the Swedish union delegate.
- One EFFAT representative is appointed by the three Italian trade union representatives.

The specific feature of this agreement is that the representatives of the union organisations are entitled to take part in the EWC as full members and that the European federation is represented.

Table 11: *Composition of the Barilla EWC*

Management representation	Employee representation
Chairperson assisted by the company managers he or she has chosen	16 representatives of the workers employed by the group: <ul style="list-style-type: none"> <li>• 6 Italy</li> <li>• 5 Germany</li> <li>• 2 France</li> <li>• 2 Sweden</li> <li>• 1 Greece</li> </ul> Six delegates designated by the union organisations: <ul style="list-style-type: none"> <li>• 3 Italy</li> <li>• 1 Germany</li> <li>• 1 France</li> <li>• 1 Sweden</li> </ul>
Experts employed by the group and outside experts mutually chosen by the parties	

### Functioning of the EWC

The EWC has one meeting per year, lasting for three days. The first day is the employee-only preparation meeting, the second day is used for training purposes and the third day is the formal meeting with management.

The select committee meets two times a year. While its role is mainly to prepare the agenda of the annual EWC meeting, in the case of restructuring projects it can also be informed between the EWC meetings.

According to the actors interviewed, the information and consultation processes have not developed over the years and the resources available to the EWC are very limited. The situation reported in earlier case studies – that Italian and Swedish EWC members were not able to use office equipment at work to keep contact with other EWC members – has not changed yet. The reason for this, and also a consequence, is that there is no internal communication or cooperation between meetings.

### Factors that influence EWC developments

As a food-producing company, Barilla has not been affected by the financial and economic crisis. The increasing prices for raw materials played a role in the year 2010, but this was not related to the crisis. The only restructuring reported was the relocation of the French administration to Parma, which the EWC was informed about during its 2011 annual meeting. This could have been an opportunity for the EWC to develop and to actively take up its role more, maybe even to develop its negotiation capacity, but this did not happen. This reorganisation affected 16 employees in France and it was handled there at local level, without any role for the EWC. The 16 employees were partly relocated to other jobs within the company.

Just as the crisis had no impact on the functioning of the EWC, neither did the recast directive.

The interviewed actors identified only two factors that can offer opportunities for EWC developments in the future. The first is the appointment of a French person as the European HR manager. The second is the CSR project that was launched during the 2011 EWC meeting. This EU-funded project, which ran during 2012, mainly consisted of a one-week training course for 22 delegates on Barilla’s CSR strategy. The EWC members interviewed had huge expectations from this and hoped that it would improve their information and consultation process on this topic in the future.

# Mapping and comparing EWC developments 4

This chapter identifies similarities and differences in terms of EWC developments for all the selected case studies, albeit focusing on different aspects in each case and to different degrees. The three best performers in terms of EWC development are the GDF Suez case, the ING case and the Air France–KLM case.

This chapter aims to look at the factors that influence EWC developments from a comparative perspective. Chapter 2 looked at the the potential impact of the recast directive and of changes in company characteristics caused by the crisis. As seen in Chapter 3, neither the crisis nor the recast directive had much direct effect on the development of the EWC cases studied here. Therefore, other factors that may influence EWC developments are explored at the end of this chapter.

The following changes in company characteristics are considered to be factors that have a bearing on EWC development:

- country of ownership;
- sector of activity;
- workforce size;
- degree of internationalisation.

The first part of this chapter makes a comparative analysis on the basis of these company characteristics. The research found that of the 10 cases studied in this project, the Barilla EWC is developing least of all. The only real development reported there is the EU-funded project providing for training for the EWC on CSR. All other EWCs examined reported much more development in terms of different aspects.

The second part of the chapter examines developments in the formal arrangements of EWC agreements, followed by an analysis of the composition and internal structure of the EWC and subsequently their functioning. The final part summarises the factors influencing all these developments.

## Changing company characteristics

Home country industrial relations practices can influence the EWC's approach. This aspect is compared in the first sub-section below. The second sub-section lists the economic sectors that were more affected by the crisis than others. Independent of the crisis, the sector of activity can also have an indirect effect on EWCs via other company characteristics. For example, airlines tend to have a large proportion of their workforce in their home country.

The larger the European workforce of an MNC, the higher the likelihood that it has an EWC with more EWC members, more select committee members and two annual plenary meetings. This is mostly due to the increased workforce size resulting from mergers or acquisitions of companies that had their own pre-existing EWC.

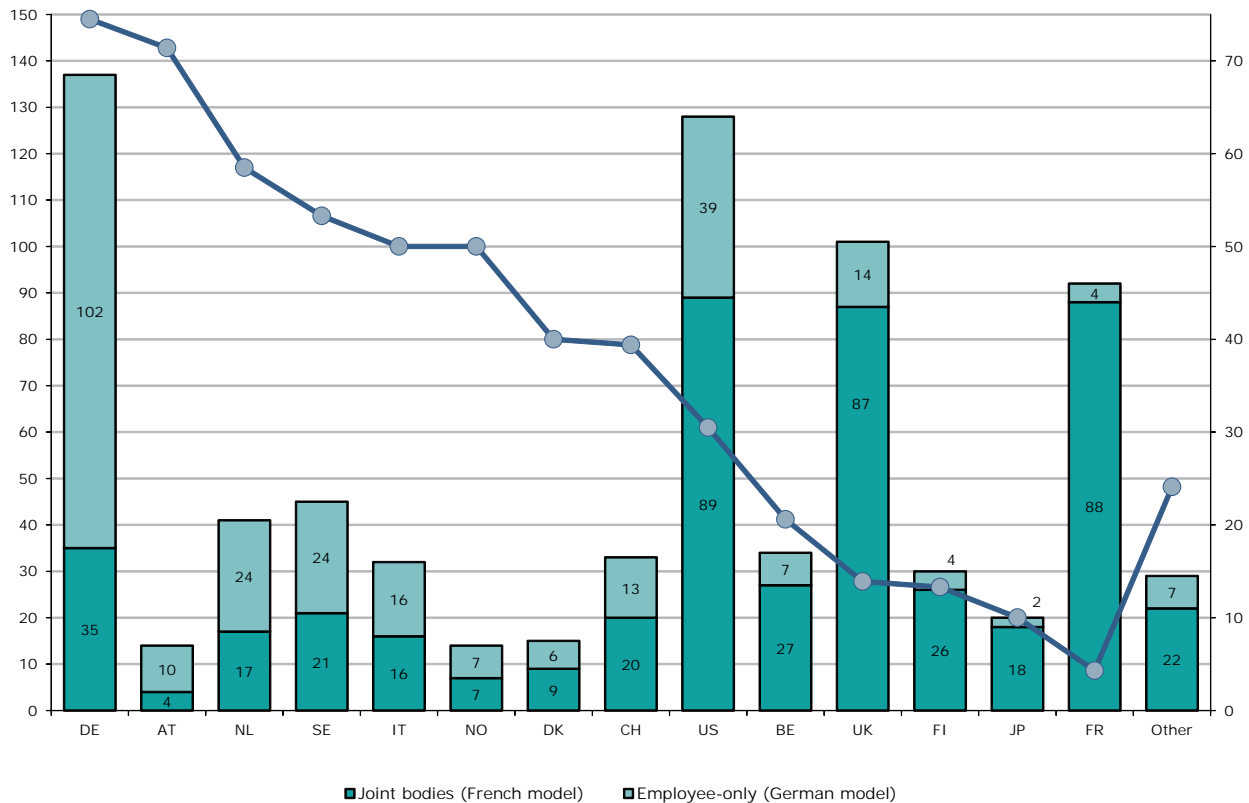
The home country practice of having trade union delegates in works councils in France and Italy is reflected in the Barilla EWC, the BNP Paribas EWC and the GDF Suez EWC. This is not the case in other EWCs at companies headquartered in countries where works councils and trade unions have more separate roles. The case studies of the EWCs at ING, Unilever and Bayer illustrate this.

### Country of ownership of the company cases

In terms of the MNC's home country, six companies have had one home country since their EWC was established. There are two French-based companies, Air France and GDF Suez, one of which became partly Dutch. ING is a Dutch company and Fortis was Dutch and Belgian, though it became completely French after the takeover by BNP Paribas. The merger of British Airways with Iberia and Air France with KLM both resulted in a group with two home countries. Unilever also has two home countries: the Netherlands and the UK. Furthermore, Bayer is a German company, MOL is Hungarian and Barilla is Italian.

The industrial relations culture of the MNC's home country can influence certain choices in terms of approach. Home country works council practices in the Netherlands, for example, inspired the establishment of a social and financial committee within the ING EWC. Yet the fact that Fortis, which had the same Dutch home country background, did not have a social and a financial committee shows that the home country characteristics do not determine the extent to which EWCs can develop.

Figure 3: Choice for employee-only or jointly composed EWC



Note: Non-EU country codes are as follows: CH = Switzerland; JP = Japan; NO = Norway; US = United States.  
Source: Kerckhofs (2006)

The choice of an employee-only EWC chaired by an employee representative or an EWC jointly composed and jointly chaired with central management depends on the practice in the MNC's home country. In the cases studied here, only the Bayer EWC has not completely implemented the German home country practice of an employee-only EWC chaired by an employee representative, as it is jointly composed and jointly chaired. The role of trade unions in works councils also varies from country to country. For the EWCs in the French, Belgian and Italian-based MNCs, this role appears to be pronounced in the composition of the EWC, but it is not for the other MNCs.



Another Eurofound study has considered the impact of the crisis on industrial relations systems in general (Eurofound, 2013). From the case studies, only one incident was reported where changes to general industrial relations practices had an impact on the functioning of the EWC. This was in the MOL case study, where changes in the labour code regarding the protection of works council members have been limited. As the MOL EWC refers to local rules and practices for the protection of the EWC members, this might have an impact on the protection of some of the Hungarian employee representatives in the EWC. This raised the question as to whether the EWC could provide for complementary protection in this case.

### Sector of activity and impact of the crisis

Some economic sectors have been more affected by the crisis than others. The impact on the financial sector companies caused them to seek state aid, which resulted in fundamental changes in the way they operate now. The crisis also severely impacted on Etex, a building materials producer, Air France and British Airways. Chemical company Bayer, the energy companies GDF Suez and MOL, and the food-producing (and personal products) companies Barilla and Unilever were not affected by the crisis to the same extent.

The impact of the crisis has fundamentally changed both Fortis and ING. Following a European Commission decision, ING has separated its banking and insurance activities and has created a separate EWC for each part, with an umbrella EWC for both parts during the transition period. Altogether, this has increased the number of EWC mandates. Fortis has been partly split off from its Dutch activities, while the remaining parts of the company were taken over by BNP Paribas. The divestment of Agfa by Bayer resulted in a separate EWC for Bayer, which is based on the Bayer EWC agreement as an example.

Table 12: *Company characteristics of the EWC cases*

MNC	Country of ownership	Sector of activity	Impact of crisis	EEA workforce (in thousand employees)	Proportion of EEA workforce in home country (%)	Year EWC was established
Barilla	Italy	Food	No	512	95%–37%	2000
Etex	Belgium	Building materials	Strong	1,114 79	12%	1998–2003 2012
MOL	Hungary	Energy	No	17–32	56%–28%	2004
Unilever	UK and Netherlands	Food	No	+/- 32		1996
British Airways	UK (IAG = UK and Spain)	Transport	Strong	40–56	97%–62%	1996
BNP Paribas Fortis	Netherlands and Belgium (France)	Financial	Drastic	53 (137)	30% NL/ 50% BE 48% FR/ 14% BE	1996–2010
ING	Netherlands	Financial	Drastic	71–75–62	88%–47% (BBL) 55%–43% (crisis)	1996–2012
Air France–KLM	France (KLM = Netherlands)	Transport	Strong	46–105	94%–63% 32%	1997–2006
Bayer	Germany	Chemicals	No	84–52	70%	1991–2009
GDF Suez	France	Energy	Small	188	47%	1995–2009

Source: *EWC case studies – see Table 1*

For Etex, the combination of a less than successful takeover just before the start of the financial crisis and the crisis in the construction sector caused difficulties for the company. British Airways and Air France faced a crisis in 2001 with the 9/11 terrorist attacks at a time when low-cost carriers were already making things difficult for standard airlines. MOL had to deal with restructuring measures with the integration of acquired companies like Slovnaft and INA, as did

Unilever. At Barilla, the only transnational restructuring event reported was the relocation of the French administration to Parma in Italy.

From the limited number of cases studied, it is not possible to draw conclusions from the cases where such changes were the subject of information and consultation procedures or extraordinary meetings and where they were not. In most cases, the lack of this procedure resulted in discussions on how to improve the EWC’s information and consultation function in the future, for example in the EWC at Unilever.

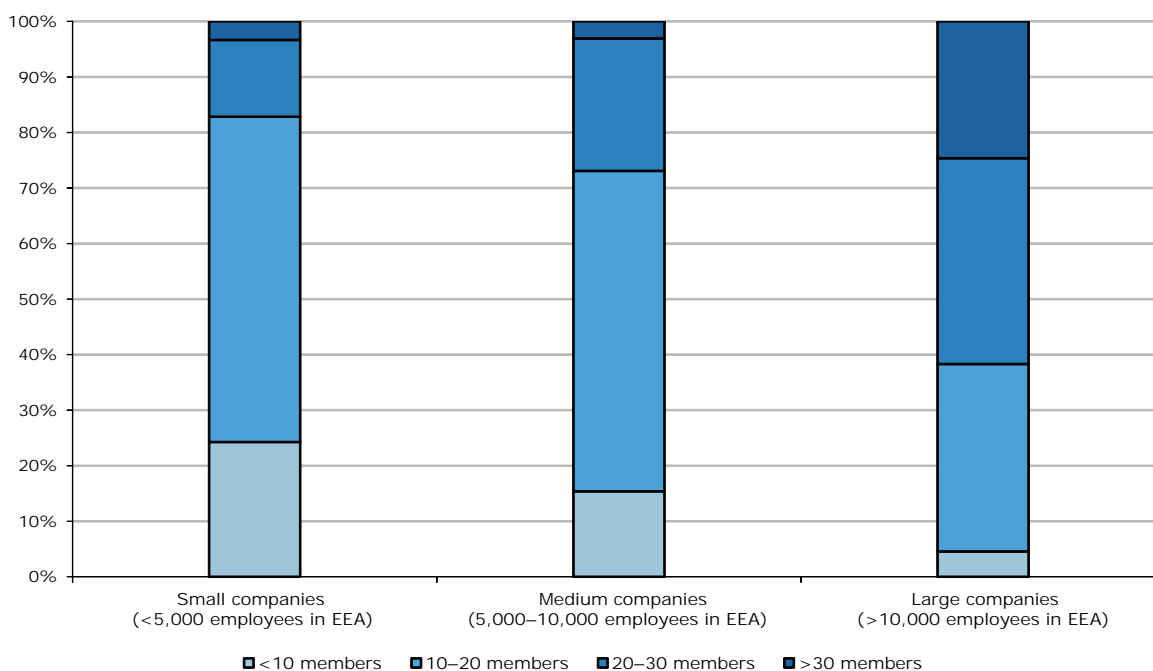
Some companies have experienced other critical moments comparable to the impact of the 2008–2009 financial and economic crisis. For example, Bayer faced a difficult moment in 2001 when it had to withdraw its drug Lipobay from the market because of undesirable effects including death. Some of the opportunities and challenges for certain economic sectors might also be due to European enlargement and integration. The liberalisation of the energy markets could be one such example, as it may have affected the activities of GDF Suez.

### European workforce size

Regarding the size of the companies, Barilla and Etex have a relatively smaller EU workforce and they operate in a limited number of countries. At the other end of the spectrum, three MNCs have more than 100,000 employees represented in their EWC: BNP Paribas after the acquisition of BNL and Fortis; Air France after the merger with KLM; and GDF Suez after the merger of GDF and Suez.

The BNP Paribas EWC case study illustrates how the increased scope and workforce size of the company also increased the number of EWC members, from 18 to 25 to 49. However, the number of mandates in the EWC does not always depend on the size of the company or how this evolves. The smaller MNCs in the sample do have a smaller EWC, with around 20 members, while the larger companies, like MOL and British Airways, also have an EWC with a similar size. Figure 4 illustrates that in general, the MNCs with more than 10,000 employees in the EU have EWCs with more than 30 members more often than the companies with a smaller European workforce do.

Figure 4: Size of the EWC in relation to the workforce size of the company



Source: Kerckhofs (2006)

The workforce size of the MNC can also have an impact on the size of the select committee and on the chances given to the EWC to have more than one annual plenary meeting.

The assumption that the operating costs for a second annual meeting or additional working group activities are proportionally less of a burden for larger MNCs can only partly explain the variation in the number of annual meetings. The smaller MNCs among the case studies, Etex and Barilla, do indeed have only one annual meeting. This is also the case for the EWCs at MOL and Bayer. For Bayer, this can be explained by the large size of the EWC, which currently has 90 members (54 employee representatives and 36 management representatives). The GDF Suez EWC is also quite large, with 64 employee representatives plus two trade union experts. It has two annual meetings and extensive additional working group activities.

In the Bayer EWC, the select committee has become more important and was enlarged from three to seven members, after which a small bureau in the select committee was created of three people. And because the Unilever EWC had a certain size handicap, it established a smaller feedback group in addition to the select committee. The smaller bureau and feedback group of the Bayer and Unilever EWCs, respectively, are composed only of employee representatives, but their select committees are jointly composed and thus include management representatives. Because of the larger size of both select committees, they need to use more languages. BNP Paribas and GDF Suez, which both have a very large European workforce, also have a large select committee, with 10 and 14 members respectively.

The EWCs at ING, British Airways, Fortis and BNP Paribas have always been entitled to two annual meetings per year. At British Airways, all representatives speak English. Because there are no costs for interpreters, it was easier for management to accept a second annual meeting. The ING EWC managed to keep its two annual meetings in return for accepting English as the only working language. The Fortis EWC changed from one to two annual plenary meetings because of the integration of the Generale Bank EWC, where two annual meetings had been provided for from the start. When Fortis was later integrated into BNP Paribas, it had the same effect of increasing the number of annual plenary EWC meetings from one to two.

The Air France EWC started in 1997 with one annual meeting but increased to two meetings in 2002, with interpretation, although the KLM EWC used English as the only working language. For the Unilever EWC, the shift from one to two annual meetings took place in 2006, 10 years after the establishment of the EWC in 1996.

### **Proportion of the European workforce employed in the home country**

The degree of an MNC's internationalisation can be measured in terms of the number of European countries in which it operates. In the cases studied here, the biggest influence on the functioning of the EWC comes from central management and from the employee representatives of the countries with large proportions of the European workforce. Countries that have a smaller workforce are represented in the EWC by a single member, and usually without a supportive local workplace representation structure, so they are not able to influence the EWC functioning.

Therefore, the proportion of the home country workforce is a better way to measure the degree of an MNC's internationalisation. This proportion can show the degree to which the home country employee representatives may dominate the composition or functioning of the EWC. A decreasing proportion of the home country workforce in a company may shift more attention of central management and home country employee representatives to the foreign operations and to the functioning of the EWC.

At British Airways and Barilla, the dominance of the home country representatives hindered the development of the EWC. Because they have other social dialogue channels within the home country, they are not very interested in making the EWC work well. This makes things difficult for employee representatives from other countries. When the proportion

of the home country workforce decreases, the home country interest could increase. For example, when Iberia employee representatives are integrated into the British Airways EWC, the significance of the EWC may increase for the UK employees.

Changes in the proportion of the European workforce employed in the MNC's home country may also have an impact on the functioning of EWCs. In four case studies, the home country workforce was around 90% when the EWC was established: Barilla, British Airways, Air France and ING. For British Airways and Air France, this is now at 62% and 63%, respectively, while at Barilla and ING it is around 40%. For the energy company MOL, more than half of the employees were employed in Hungary until the company took over the Croatian company INA, which reduced the home country workforce to 28%. GDF also had a large proportion of its European workforce in its home country, France, but since the merger with Suez, the proportion of the French workforce has dropped to less than 50%. The 2012 takeover of International Power (IP) reduced this proportion even further. The proportion of the home country workforce has been stable at Bayer (around 70%) and at Etex (10%–15%) over the years, but both companies have undergone significant changes.

Blokland (2002) revealed how the home country's employee representation structures can determine the establishment process of EWCs. This was raised with the interviewees, some of whom did indeed perceive that employee representatives from the company's home country put up language and cultural barriers to maintain a dominant position in the EWC and in the relationship with central management. Asking how such dominance could be rebalanced in the EWC, interviewees from Etex and Air France pointed to the method of distributing mandates with a maximum limit for representatives from the home country. The ING EWC is a good example here, since it has EWC chairs from the foreign operations. The different language skills of the different chairs determined whether or not the other members saw their role as successful.

### **Influence of different company characteristics on EWC developments**

Table 13 presents the types of changes that companies have undergone. All 10 cases have been involved in mergers or acquisitions. Mergers where both companies had an EWC before the merger, leading to the integration of two EWCs with different practices, had the biggest effect on the functioning of the EWC. This happened when GDF merged with Suez in 2007. Both companies had an EWC, which led to an extensive renegotiation process and resulted in a large EWC with two annual meetings, a select committee with monthly meetings and multiple working group activities. The Fortis and the BNP EWC developments also illustrated the positive impact of bringing together different EWC practices for the development of EWCs.

The merger between Air France and KLM also triggered renegotiations that resulted in a post-merger agreement that combined the best elements of the two separate EWCs. BBL and Generale Bank already had an EWC when they were taken over by ING and Fortis, respectively, which led to an in-depth comparison of the two EWC agreements in the renegotiation process of the new post-acquisition EWC agreement. Bayer's acquisition of Schering, which had its own EWC, triggered Bayer to renegotiate its agreement. At the same time, the original EWC agreement was adjusted in light of the new legal framework of the 2009 recast directive, although it remained exempted from its direct legal ruling. For the takeover of Aventis Crop Science, where employee representatives had experience with the Aventis EWC, the ACS delegates were simply integrated into the existing Bayer EWC without any renegotiation.

MOL acquired Slovnaft in the same year the EWC was established. Its acquisition of INA in Croatia coincided with a renegotiation, even though INA had not had an EWC before, and the INA employee representatives were only observers at first. Up to 2014, the merger of British Airways and Iberia did not result in a renegotiation and employee representatives from Iberia have not been included yet. The old British Airways EWC simply continued as before.

Table 13: *Types of changes in the companies*

MNC	Mergers	Divestments	Ownership	Crisis
<b>GDF Suez</b>	Merger in 2007		Privatisation	Crisis and greening
<b>Barilla</b>	Takeover of Kams in 2002	Lieken for sale		Administration in France moved to Parma
<b>British Airways</b>	Merger with Iberia in 2011			Crisis/low cost
<b>Air France–KLM</b>	Merger with KLM		Privatisation	11 September 2001
<b>MOL</b>	Takeover of Slovnaft in 2004		EU membership	INA 2008 restructuring
<b>Etex</b>	Takeover of Lafarge plasterboard in 2011	Split Aliaxis		Construction crisis
<b>Unilever</b>	–45% staff in 10 years: 2002 = 56,000 employees 2011 = 29,000 employees	Acquisitions followed by rationalisations	UK–NL duality	
<b>Bayer</b>	Aventis in 2002, Shering in 2009	Divestment of Agfa	Business units	Withdrawal of Lipobay
<b>ING</b>	Takeover of BBL	Split up banking and insurance		Financial crisis and state aid
<b>BNP Paribas Fortis</b>	Takeover of Generale Bank and ABN Amro Merger with BNP and Paribas	Split Fortis → BNP	BE–NL duality	

Source: *EWC case studies – see Table 1*

The divestment of Aliaxis from Etex and of Agfa from Bayer resulted in the EWC agreement of the parent company being copied in the divested parts. The split of the banking and insurance activities in ING in 2009 also resulted in two EWCs, with an umbrella EWC for the two separate EWCs operating until the split became effective in 2013. The Fortis takeover of ABN Amro was still in process and the integration of the EWCs had not yet started when Fortis fell apart and was taken over by BNP Paribas. The Fortis employee representatives were integrated into the BNP Paribas EWC when the agreement was renegotiated.

Significant changes to the companies' internal structures resulted from a new business unit structure for Bayer and from the privatisation that was necessary for the mergers of GDF and Suez, British Airways and Iberia, and Air France and KLM. Unilever has two home countries, which was also the case for Fortis before it became part of BNP Paribas. The cases studied here do not allow any conclusions to be drawn regarding the impact these changes had on the functioning of the EWCs.

## Comparing developments in EWC agreements

Not all practical developments in EWCs are set out in EWC agreements. On the other hand, not all provisions are fully implemented in practice. In the first sub-section, examples from the case studies will clarify that EWC agreements do not completely reflect EWC developments.

Subsequently, the EWC cases will be presented where the EWC agreement has not been renegotiated or has only been renegotiated once. The EWC cases with two or more renegotiations of their agreement are then presented and compared in the third sub-section. To conclude, some lessons are drawn from this comparison.

### EWC agreements that do not completely reflect EWC developments

Developments in EWC agreements do not always reflect all the developments in EWCs, and sometimes changes in the functioning of an EWC are not immediately reflected in the provisions of the EWC agreement. For example, the

meetings of the select committee of the ETEX EWC and of its health and safety committee are not specified in the text of the EWC agreement. Ad hoc working groups have been established at Bayer, which is not reflected in the EWC agreement. In addition, for many years the select committee of the Bayer EWC did important work for the EWC functioning without being mentioned in the initial 1994 EWC agreement. The select committee was only formally recognised in the 2009 EWC agreements. The Unilever feedback group is another example of this, as it was created a few years before it was formally included in the 2010 revision of the EWC directive.

On the other hand, provisions in EWC agreements are not always fully implemented in the way that is mentioned in the agreement. The ETEX EWC agreement, for example, stipulates that the agenda of the plenary meeting should be set out by the management delegate chairing the EWC, in consultation with the select committee. In reality, the ETEX select committee was not always involved in or consulted on setting the agenda of the plenary meetings. Another example is the training that is provided in the British Airways agreement, on the basis of an annual training needs analysis. No report was made of such annual training analyses. As for the training itself, this was only organised by the expert supporting the EWC once or twice, not on an annual basis.

### **EWC agreements that have not been renegotiated or have only been renegotiated once**

The 2000 Barilla EWC agreement has never been renegotiated. The agreements establishing the EWCs at Bayer, Fortis and British Airways have only been renegotiated once. For Fortis the renegotiation was triggered by the integration of Generale Bank, which had had an EWC before it was acquired by Fortis. The single renegotiation of the British Airways EWC agreement happened in 2005, without a clear indication of what triggered this renegotiation. Shortly after the 1996 agreement was put into practice, clarifying annexes were added to the agreement in 1998. These are not regarded as renegotiations of the agreement, as they are only clarifying protocols. Such protocols were also used to adjust the Bayer EWC agreement without having to renegotiate the agreement itself. At the time of the single renegotiation of the Bayer EWC agreement, about 12 such protocols were integrated into the text of the agreement.

The GDF Suez post-merger EWC was established in 2009. Since it has only existed for a few years, it has only been renegotiated once, resulting in a new agreement in May 2013. Before the GDF Suez merger, there had been EWCs at both Suez and at Lyonnaise des Eaux, which after their merger had also integrated the practices of the EWCs at Tractebel and GTI. All these previous EWC agreements and the experiences of the acquired companies add to the development potential of EWCs.

For Fortis, this momentum was provided when it acquired Generale Bank. A clear result of this was the upgrade from one annual plenary meeting to two. For Bayer, the acquisition of Aventis Crop Science provided some newly integrated employee representatives who had experience from the Aventis EWC. The integration of Schering AG, which had its own EWC, was another example. However, this did not lead to any significant changes to the way the Bayer EWC operated. Employee representatives from the acquired companies were simply integrated into the existing practice.

Because Iberia did not have any EWC experience before it merged with British Airways, it did not have any impact on the functioning of the British Airways EWC as of 2014. Barilla acquired Kamps, a German company with no EWC, but this did not trigger a renegotiation. However, the plans to acquire this company could have been the main trigger for the establishment of the entire EWC.

### **EWC agreements that are renegotiated more frequently**

The acquisition of a company or the merger with a company that already has its own EWC often creates intensive negotiations for a new post-merger EWC agreement. Employee representatives compare the practices and try to combine the best of both worlds, while the different views and experiences on the management side offer the momentum for openness and opportunities. The Fortis BNP Paribas case study illustrates this.

For Air France, this opportunity occurred in the merger with KLM, which brought together two different industrial relations cultures. For ING, the acquisition of BBL triggered the 1998 renegotiation of the EWC agreement, which upgraded the EWC practice. For Etex, the 2012 renegotiation was partly driven by the integration of the Lafarge plasterboard division, which brought in EWC representatives with other EWC experiences. Etex had also split its plastics division into a separate company, Aliaxis, for which an EWC was created based on the Etex EWC agreement. The Bayer divestment of Agfa also resulted in a new Agfa EWC, whose EWC agreement was almost identical to the Bayer EWC agreement. EWCs try to maintain good practice, as is shown in the ING case, where the split into two separate banking and insurance EWCs was prepared in such a way that it guaranteed the continuity of the existing practice in both EWCs post-separation.

For Unilever, the acquisition of the Bestfoods division of CPC triggered the first renegotiation of the 1996 EWC agreement. CPC had had an EWC since 1995, from which EWC experiences could have been brought to the Unilever EWC. However, the 1996 Unilever EWC agreement was only valid for a fixed duration of time (until 2001), after which it had to be renegotiated or renewed. This happened in 2001, but also in 2006 and 2010, each time with an interval of about four years.

This was also the way the 1997 Air France EWC agreement was renegotiated in 2001 and 2004. A holding forum agreement was made for 2005 to 2006, followed by a post-merger agreement in 2006, which was renewed after four years without any changes. The holding forum of Air France–KLM during the transition period, which operated in parallel with the existing EWCs of both airlines, is comparable to the umbrella EWC created by ING until it was ready to split into two separate EWCs.

Lastly, the MOL EWC agreement has been renegotiated three times: in April 2009, June 2010 and January 2012. The June 2010 renegotiation was clearly within the window of opportunity between 5 June 2009 and 5 June 2011; the two other negotiations were not. They were probably triggered by changes in the scope or ownership structure of the company. The acquisition of INA, which changed the scope of the company, could be a factor. However, when the Austrian energy company ÖMV sold its stake of 21% of the shares of MOL to a Russian company, Surgutneftegas, it was considered to be a hostile takeover, making the state introduce a special law. The shares were finally acquired by the Hungarian government. The renegotiations of the EWC agreement may also have been triggered by these ownership changes.

### **Lessons learned from comparing developments in EWC agreements**

The first lesson that can be drawn from comparing developments in EWC agreements is that clarifying aspects of the EWC agreement informally in protocols that can be annexed to the initial agreement can be a way forward without having to renegotiate the agreement.

Secondly, there seems to be a strong tendency to maintain existing EWC practices. This is reflected in the creation of new EWCs for operations that a company divests from, such as Aliaxis, Agfa and the split of the banking and insurance operations of ING. This is also the case when renewing EWC agreements every time they expire. Without being able to generalise from the limited number of cases studied here, it appears that renegotiations triggered by a merger or an acquisition of a company with an EWC have more potential than renegotiations triggered by the expiry date of an EWC agreement.

Table 14: *Agreements renegotiated or not between 5 June 2009 and 5 June 2011*

EWCs established by	Article 13 agreements	Article 6 agreements
<b>Renegotiated between 05/06/2009 and 05/06/2011</b>	Bayer BNP Paribas ING Unilever	Air France–KLM MOL
<b>Not renegotiated between 05/06/2009 and 05/06/2011</b>	British Airways	Barilla Etex

Finally, the cases studied in this project illustrate MNCs' inclination to avoid strictly legal obligations if this is possible by anticipatory and voluntary compliance with these rules. This is how Article 13 EWC agreements were established in many EWCs before 22 September 1996, when the national transpositions of the 1994 directive came into force. A new window of opportunity was provided by the recast directive between 5 June 2009 and 5 June 2011. Six of the 10 cases included in this study renegotiated their EWC agreement during this period of time, and are subsequently exempted from the strictly legal obligations of the recast directive.

Of the five Article 13 cases in this sample, all but one renegotiated their agreement within this window of opportunity. Of the Article 6 agreements, two of the five cases renegotiated within the window of opportunity: Air France and MOL. This might indicate that companies that were working with an EWC based on an Article 6 agreement (fully implementing the provisions of the 1994 directive) without any problems did not feel a strong need to be exempted from the obligations of the recast directive.

Two companies in this study (British Airways and GDF) have had legal issues with their EWC. What both companies have in common is the fact that they did not renegotiate within the window of opportunity. Subsequently, British Airways is an example of an EWC that is now fully covered by the provisions of the recast directive, while before, as an Article 13-based EWC agreement, such EWCs were exempted from the obligations of the 1994 directive. The GDF EWC and the Suez EWC were both based on such Article 13 agreements, but following their merger, GDF Suez established its post-merger EWC on the basis of an Article 6 agreement.

## Comparing developments in the composition of EWCs

The size of four EWCs – Barilla, British Airways, Etex and MOL – has not changed significantly. The EWCs at Barilla, British Airways, Etex and MOL remained at around 20 EWC members. All the other EWCs increased their number of mandates over time.

The EWCs with the most employee representatives are at GDF Suez and Bayer. The GDF Suez EWC has 64 employee representatives from 20 different countries. The Bayer EWC is even larger, with 90 EWC members, of whom 54 are employee representatives. The number of employee representatives in the Bayer EWC increased from 45 to 54, and the overall size of the EWC grew from 72 to 90. The Bayer EWC is unique because it includes local management representatives together with employee representatives.

The increased size of the Bayer EWC is a direct result of the integration of employee representatives and management representatives from the new Member States: the number of countries represented grew from 15 to 24. The sheer size of the Bayer EWC sometimes hinders its development. One of the solutions is that only country speakers are supposed to take the floor in the plenary meeting. In practice, the select committee is the real driving force behind the EWC work. The plenary meeting has a more ceremonial nature, where once a year the select committee activities are endorsed by the large EWC.

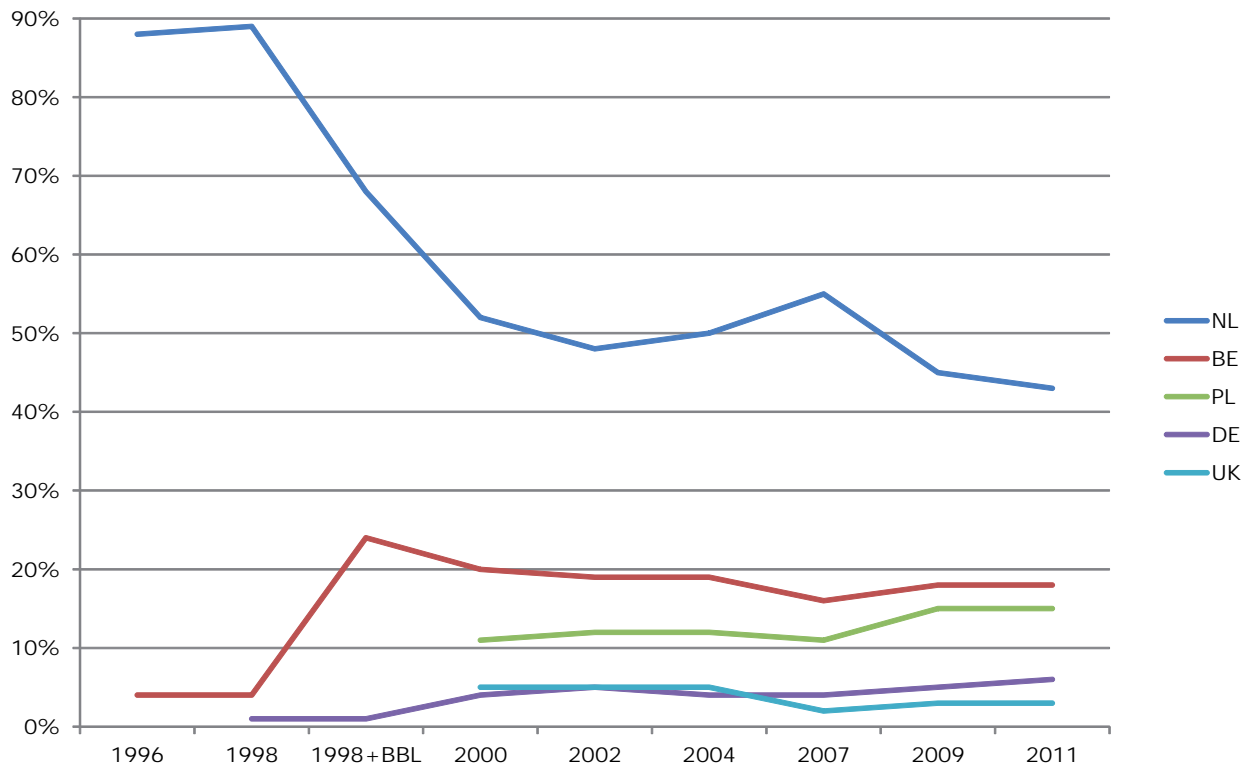


Five other EWCs also increased their size, with around 40 mandates. At Air France, the 30 seats in the EWC increased to 38 in the post-merger Air France–KLM EWC. At Fortis, the acquisition of Generale Bank increased the size of the EWC from 24 to 38 members. Unilever simply increased its size through the integration of employee representatives from the new Member States. Initially, the Unilever EWC was composed of 31 members from 12 countries, which increased to 36 members from 19 countries. The BNP Paribas EWC grew from 18 to 25 members, while as a result of the Fortis integration it increased in size again to 49 members.

It is interesting to compare the different changes in the size of the ING EWC. The EWC had 15 members until BBL was acquired. The integration of the BBL EWC practice into the renegotiated EWC agreement resulted in a new ING EWC with 27 members. The integration of representatives from the EU candidate countries increased this again in the following years to 30 members. The Dutch deputy chair made an effort to reduce the number of members to 22, his argument being that this would increase efficiency, but this proposal was not supported by the other EWC members and was therefore withdrawn.

Figure 5 illustrates how the European expansion of ING and EU enlargement both decreased the proportion of the European workforce employed in the home country. Beyond the direct impact that this may have on the composition of the EWC, home country employee representatives may react defensively so that they do not lose control over the EWC. Such a defensive tendency may hinder the development of EWCs. This did not happen within the ING EWC, but it did in the Etex EWC. At Etex, three countries each have almost twice as many employees as the home country does, which means the UK, France and Germany delegations in the EWC each have four mandates, while the home country has three.

Figure 5: ING employees in five countries as a proportion of the EU workforce (1996–2011)



With regard to the representativeness of the EWC members, there was some degree of frustration when delegates from some countries were not elected as employee representatives, but rather appointed as staff members of the local HR departments. The reason for this was because no local employee representation or social dialogue structures existed in those countries. The social committee of the ING EWC drew up an action plan to address this situation. First, a job description of an EWC member and a local employee representative was drafted. Guidelines and principles were subsequently agreed with management on how local information and consultation mechanisms should work. The employee-side chair visited the respective countries to help the local management implement these guiding principles. The result is that EWC members from those countries are now proper representatives of the employees from their country.

The issue of having members in the EWC who do not have the capacity to represent the employees from their country appeared in other cases studied here. There are three ways to deal with this. The first example is the ETEX EWC agreement, which states that the EFBWW must be notified of the members in the EWC. The national affiliates of this European trade union federation can therefore check whether the appropriate employee representatives have been included in the EWC.

The second way to handle this situation is to allow EWC members from countries that do not have local social dialogue mechanisms because of the small number of employees in those countries to table their local issues at the EWC meeting. This was done in the EWCs at Air France–KLM and British Airways.

The third way to deal with this is to introduce a minimum number of employees in a given country before the first mandate in the EWC will be granted. This was done in the GDF Suez agreement in order to limit the already large EWC: countries that do not have local employee representation structures because of their small local workforce size are simply excluded from the EWC. However, the GDF Suez EWC agreement is innovative in terms of composition, as European operations that are only 10%–50% controlled by the parent company can also be considered for representation in the EWC.

### Comparing the internal structure of EWCs

The initial 1996 EWC agreements at British Airways, ETEX and Fortis did not provide for a select committee. In these three cases, an employee-side chair or spokesperson and a deputy formed the initial select committee. At British Airways, this was set out in a protocol in 1998 that provided for a select committees of six representatives. ETEX provided for a four-person select committee in its first renegotiation of the agreement in 2003, while ING introduced a five-person select committee following the integration of Generale Bank, where a four-person select committee had existed before.

The Barilla EWC has had a four-member select committee from the start. An Italian trade union officer also attends select committee meetings on behalf of EFFAT, the European food sector trade union federation.

ING used to have four EWC members in the select committee. In preparation for the split into two separate banking and insurance EWCs, the current select committee is composed of six members, or three times two. There is a chair and a deputy chair in the holding forum, plus a chair and a deputy for the banking and the insurance committee.

Bayer, MOL and KLM each started with a three-person select committee. MOL enlarged this to four members. Because Air France had a six-person select committee, the post-merger agreement of the Air France–KLM EWC provided for a seven-person select committee. Bayer also shifted to a seven-person select committee. To overcome its size handicap, a smaller steering committee was established for the Bayer EWC, composed of the three former select committee members.

At Unilever, the large size of the select committee, which increased from seven to eight members, was complemented with a smaller feedback group composed of four or five members. The largest select committees are the ones at the BNP Paribas EWC, with 10 members, and at the GDF Suez EWC, with 14 members. Both EWCs also have working group activities.

The creation of working groups to enhance the functioning of EWCs is standard practice now in six of the cases studied here. There are six working groups at Air France and GDF Suez. At GDF Suez, they are permanent working groups, while at Air France they are temporary, for a period of about two years. Bayer also had temporary ad hoc working groups for specific topics. Permanent working groups – the social and financial committees of the ING EWC – are crucial for its functioning. There is one working group in the Etex EWC, which monitors the implementation of its health and safety charter.

### Comparing developments in the functioning and practices of EWCs

Four EWCs have only one annual plenary meeting: Barilla, Bayer, Etex and MOL. At Bayer this is due to the large size of the EWC and the number of languages that need to be interpreted.

A few years after their establishment, the EWCs at Unilever and Fortis increased the number of their annual plenary meetings from one to two. Their increasing size (from 24 to 38 and from 31 to 36, respectively) and the interpretation facilities did not hinder this.

The EWCs at Air France–KLM (including the separate EWCs at Air France and KLM before the merger), ING, British Airways and GDF Suez have always had two annual meetings. For the EWCs of KLM and British Airways, this was done in English only. In addition, these EWCs did not have any travel costs because the members could take a company plane ticket, thus reducing the overall extra cost of the EWC meetings. At GDF Suez, interpretation is provided in 10 languages but these costs do not hinder the multitude of working group meetings on top of the two annual plenary meetings of the EWC with 64 members. At ING, costs have been a factor in allowing the EWC to keep its two annual plenary meetings. As a compromise, interpretation is no longer provided and the ING EWC is now held in English only.

In terms of select committee meetings, the ones at GDF Suez and Unilever meet on a monthly basis. At British Airways, the select committee meets seven times a year. The select committees at Bayer and ING have four annual meetings. At Air France, the number of select committee meetings increased from three to six per year. KLM used to have two select committee meetings per year, and at the post-merger Air France–KLM EWC, three meetings per year are provided for.

In most EWCs, the select committee handles extraordinary circumstances, and in such cases holds additional meetings.

### Other factors that influence EWC functioning

Case studies normally do not allow for general conclusions to be drawn, as the findings only pertain to the selected cases. However, comparing the developments in the 10 EWC case studies here does highlight similarities and differences that can impact on EWC developments or explain why certain developments occur in one case but not in another. A few such factors are highlighted here.

**Cultural differences:** Cultural differences among the countries represented in the EWC, or in the different companies coming together in a merger, can hinder or help the development of EWCs. Examples of how this has enhanced EWC development are the EWCs at Air France–KLM, ING and GDF Suez.

**Budget:** The budget provided by the company in all three cases mentioned above is much higher than average. At Air France–KLM, there are no travel costs in the budget, while at ING the shift to English as the only working language, in combination with English-language training, was done for cost reasons. However, this has not only reduced the budget for the EWC, it has also increased the internal communication in the ING EWC.

**Continuity:** Continuity in the composition of the EWC facilitates the development of trust and good interpersonal relationships as well as the development of a European transcultural approach. The ING EWC is a good example of this, as are the developments in the three-person select committee at the Bayer EWC.

**Restructuring:** Other challenges, like continuous restructuring, can also stimulate EWCs to develop their information and consultation function. The EWCs at Unilever and British Airways are examples of this. An example of a case where this is not automatically happening is the Etex EWC, where the restructuring and closure measures were dealt with at local level. The only issue for which an extraordinary Etex EWC meeting was held was for the integration of the plasterboard division of Lafarge.

**Interpersonal relationships:** A good professional relationship between the employee-side chair of the EWC and the CEO of the company can also be a helpful factor for EWC development. The ING case and the MOL case illustrate the importance of such a spirit of cooperation in the interpersonal relations between the key people in the EWC.

**Management:** The amount of investment and effort management makes to help an EWC to develop depends on how highly they assess its function. In the three French-based MNCs (Air France, BNP Paribas and GDF Suez), this is clearly the case. What is remarkable here is that in two of these three cases, central management appointed a HR delegate from another country to chair the EWC. At BNP Paribas, it is Eric Benoit from the former Belgian operations of Fortis and at Air France–KLM it is Wim Kooyman from KLM.

**Autonomous European development:** The GDF Suez EWC has had a Belgian employee-side secretary since its creation. At ING, the Dutch home country employee representatives have allowed this position to be taken up by a Greek and subsequently by a German, Belgian and now another German delegate. At British Airways, there is a German employee-side chair of the EWC, though this might also be due to the home country employee representatives' lack of interest in the EWC. This was also the situation that allowed a Swedish delegate to become the chair at KLM. After the first mandate as chair of the Air France–KLM EWC, there is once again a French secretary for the employee-side EWC chair. At Barilla, Bayer, Etex and MOL, the EWC is considered to be important enough that it must be controlled by the home country representatives. However, the dominating presence of the home country employee representatives in these EWCs can hinder the trust-building that is needed to allow the EWC to develop an autonomous European identity. Although the French employee representatives have a dominating presence in the GDF Suez EWC, this EWC has nevertheless found ways to overcome this and develop in a positive way.

# General evaluation and conclusion **5**

Chapter 3 presented the 10 longitudinal case studies in this research project. Within each EWC case study, the stages of development have been compared at different moments in time. Building on this, Chapter 4 carried out a comparative analysis of the 10 EWC case studies. Based on this comparative analysis, Chapter 5 will identify the main factors influencing EWC developments. The research first looked at the impact of the crisis and then of the recast directive on the company characteristics that influence EWC developments. As neither the impact of the crisis nor the recast directive were determining factors for EWC development, this study has explored other factors.

## **Impact of the crisis**

None of the EWCs were confronted with an enforced reduction of EWC activities or cancelled EWC meetings to cut costs in times of crisis. The EWC cases studied in this report confirm that EWCs were only indirectly affected by the crisis – through the changes that were imposed on companies during this period.

In some cases, these company changes were also happening independently of the crisis. For example, Unilever was not really affected by the crisis, but rolled out continuous restructuring plans, reducing the overall European workforce from 56,000 in 2002 to 26,000 in 2011. All these company changes certainly proved a challenge to the EWC. At the same time, the EWC was motivated to find better ways to deal with these changes at local level and in the EWC.

The crisis had the strongest impact on the banking and insurance companies, Fortis and ING. In the case of Fortis, the Belgian and Dutch parts were separated and each taken over by their respective governments. The Belgian government decided to sell its part of Fortis to BNP Paribas, while the Dutch part was brought together with ABN Amro in a state-owned company. The employees from the Belgian part of Fortis are now represented in the EWC at BNP Paribas. Their integration there has been accompanied by a renegotiation of the BNP Paribas EWC agreement.

In the case of the ING EWC, the state aid that was needed to overcome the financial crisis resulted in an imposed split of its banking and insurance operations. The EWC at ING prepared for this split by creating two sub-EWCs for the two parts that had to be separated. Before the separation was implemented, both sub-EWCs operated as a banking and insurance committee under an umbrella or holding EWC. These changes in the scope of the company challenged the EWC, although the resulting agreement ensures that the EWC practice will be continued in both parts of ING after their separation.

The challenge of the crisis indirectly brought about the merger of Air France and KLM. This situation has provided opportunities to improve the level of functioning of the resulting post-merger EWC. Other merger cases involving different types of companies with different EWC practices and experiences have shown that this offers more opportunities than challenges. Despite difficult negotiations based on comparative analyses and different perceptions of what practice is best, employee representatives have viewed such situations as opportunities to combine the best of both worlds.

Mergers and acquisitions that bring together companies with different EWC practices are not only caused by the crisis: they can also be part of a growth strategy in a prosperous MNC. The merger of GDF and Suez, the takeover of Generale Bank by Fortis, the takeover of BBL by ING and the acquisition of Schering AG by Bayer are all examples of this. Thus, the first conclusion is that EWCs are influenced by company changes – not only by changes that are a result of the crisis, but also by changes that happened before or after the crisis.

An example of restructuring independent of the crisis is presented in the Unilever EWC case study. Apart from changes in the composition of the EWC, this process can also trigger better information and consultation arrangements. The British Airways case study illustrates this, whereas the Etex EWC case study shows that incentives to develop the

information and consultation capacity of the EWC is not always achieved in practical developments. For the Etex EWC, the resulting restructuring, downsizing and closures were only handled at local level. The only reason why an extraordinary EWC meeting was held was for the integration of the Lafarge plasterboard division.

When examining companies in the scope of the EWC directive, both with and without an EWC, two factors appear to be influential, either directly or indirectly. The first is the size of the MNC. The second is the degree of internationalisation. The larger the MNC, the higher the likelihood that it has established an EWC. The EWC case studies analysed in this report confirm the assumption that larger MNCs are more likely to have an EWC that develops far beyond the minimum requirements set out in the annex of the EWC directive. However, a reduction of the size of a company does not necessarily mean fewer opportunities for EWC development.

The degree of internationalisation can be expressed in terms of the number of countries of operation or in terms of the proportion of the European workforce employed in the home country. However, the proportion of the home country workforce does not determine the development opportunities of EWCs. The cases studied here present different ways of dealing with this in order to avoid a home country dominance in the EWC. The interest of the home country employee representatives in the EWC depends on the extent to which transnational information and consultation may be of added value to the well-established industrial relations mechanisms provided in the home country. For the three EWCs that performed best in terms of EWC development, either the employee-side chair (in the case of ING and GDF Suez) or the central management delegate responsible for the EWC (in the case of Air France–KLM) came from the country with the largest workforce outside the home country. This is also the case for BNP Paribas, as the management delegate responsible for the EWC comes from Belgium.

### Impact of the recast directive

Regarding the impact of the 2009 recast directive, the conclusion of this study is similarly minimalistic. There might have been an indirect effect to renegotiate the existing EWC agreement in the period from 5 June 2009 to 5 June 2011 in order to be exempted from the legal obligations deriving from the 2009/38/EC recast directive. This tendency seems to be the strongest among companies with an EWC based on an Article 13 agreement concluded before 22 September 1996, which already exempted the company from the legal obligations of the 1994/45/EC directive.

A significant impact from the upgraded provisions in the 2009 recast directive have not been shown to have had an improving effect on the EWCs studied here. Almost all of them had already included training provisions in their EWC agreement and had implemented them long before the EWC directive was revised. In addition, the finetuning of the information and consultation mechanisms is much more the result of an internal learning process than the introduction of a new definition copied from the recast directive. Frustrations over a lack of information and consultation and the efforts to come to a common understanding on this have led to significant improvements for almost all the EWCs studied here, rather than those provided by the recast directive. The three exceptions are the EWCs at Barilla, Etex and MOL, where despite difficulties, no real progress in the information and consultation function could be made. On the basis of the findings in the 10 cases studied, the assumption that the recast directive would bring about more developed EWCs cannot be confirmed (Kerckhofs, 2010).

Thus, the second conclusion regarding the impact of the recast directive is that it might have triggered renegotiations of EWC agreements during the window of opportunity, though this has not changed the functioning of the EWC. It may have been done more for the sake of keeping the company exempted from the legal obligations of the recast directive.

The legal framework developments that influenced the EWC case studies in their composition, their representativeness and their functional requirement was the enlargement of the EU and the subsequent European expansion of MNCs. Two

Eurofound studies have explored the impact of EU enlargement ([Eurofound, 2006a](#)) and of restructuring ([Eurofound, 2006b](#)) on the functioning of EWCs.

## Other factors that influence EWC developments

**Finding a common understanding:** The efforts made by EWCs to find a common understanding with management and among employee representatives from different countries on how the EWC is to be composed, structured and equipped for the appropriate implementation of its information and consultation rights are not influenced by the recast directive or the changing company characteristics caused by the crisis. The clarifications on the information and consultation mechanisms that the Unilever EWC and the British Airways EWC have developed illustrate this.

**Workforce size:** The European workforce size of the MNCs and its degree of internationalisation may be a factor, although not a determining one. The best-performing EWCs in this study – GDF Suez, ING and Air France–KLM – are found in the MNCs with over 50,000 employees. Three other examples of companies with a European workforce of over 50,000 employees – Bayer, British Airways and Fortis – illustrate that the workforce size of the company is no guarantee for EWC development.

**Degree of internationalisation:** The same can be said about MNCs' degree of internationalisation. The three best-performing EWCs are found among companies with a proportion of the home country workforce below 50% of the entire European workforce. Etex has the lowest proportion of the European workforce in the home country, but its EWC has not developed very much compared to the other cases studied here. Barilla, Fortis and MOL also have a proportion of home country employees that is less than 50% of the European workforce of the company, countering the possible influence of this factor on the development of EWCs.

**Continuous effort:** Most of the significant developments in the functioning of the EWCs studied here resulted from the continuous efforts of committed EWC members to overcome cultural differences and challenging company changes, and to provide solutions to them via increased cooperation, trust-building and by seeking a common understanding of the appropriate ways for the EWC to handle changes with more satisfactory information and consultation procedures in the future.

Other factors that can help or challenge EWC development have therefore been found to be more significant than the recast directive or the impact of the crisis.

The case study of British Airways has highlighted that the impact of the recast directive has not been felt yet. The transposition measures of the 2009 recast directive came into force in June 2011, but its direct legal impact on the existing EWCs will only be evident when the agreements of those EWCs are renegotiated. For some of them, this may happen at the end of a mandate period of four or five years; for most EWCs, the trigger for renegotiations is a merger or acquisition of another company with an established EWC. The cases studied here have shown that for most MNCs, such a situation occurs every so often. Consequently, a follow-up study covering the years from 2012 to 2015 is needed to better assess the impact of the recast directive. In this respect, Article 15 of the recast directive foresees that the European Commission will draw up a report by June 2016 to 'evaluate its implementation, and formulate proposals where necessary'.

The articulation with national-level information and consultation rights has highlighted a weakness in the representativeness of the EWC when local-level employee representation structures are missing in some countries due to the limited number of employees the company has in those countries. Alternative ways of handling this were compared. These range from simply excluding them from the EWC via a minimum workforce threshold under which no

mandate is given to the respective employees from a country, to allowing those employees to table their topics at the EWC meetings, to allowing a European trade union federation to monitor the designation of the EWC members through their national affiliates. Working with management, the ING EWC agreed standards for local-level social dialogue and subsequently initiated the implementation of this in order to increase its representative character. Examples of such voluntary action explain most of the EWC developments presented in this study.

As for the management perspective, interesting developments were reported in the EWCs at Bayer and BNP Paribas. At both of these companies, a European HR network was developed in parallel to the EWC. At Bayer, this was effected within the structure of the EWC since its establishment. At BNP Paribas, this was prompted by management's commitment to monitor the implementation of a social charter as effectively as possible. In the Etex EWC, a joint working group has been created to monitor the implementation of its health and safety charter. Another example is the substantive agreement on how to handle the outsourcing of the Hungarian ticketing desk at British Airways. The overall conclusion that can be drawn from this is that the efforts made by management and employee representatives to further develop their EWCs can benefit both the company as well as its employees. Clearly, the practices presented in the EWC case studies in this report are examples of innovative industrial relations practices based on win-win situations.



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*European Works Councils (EWCs) provide an important vehicle for transnational information and consultation in multinational companies. This report explores the efforts of 10 EWCs to make these bodies optimally fit for purpose for European company-level social dialogue. Looking at the developments in EWCs over a longer period of time gives an insight into the practices and possibilities that are realised in some of the EWCs. Based on these 10 longitudinal case studies, a comparative analysis explores the factors that can influence these developments and assesses the impact of the economic and financial crisis and of the recast directive 2009/38/EC. Other factors, such as company characteristics and whether these can influence developments in the composition or functioning of EWCs, are also examined.*

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