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Converting MAN B&W Diesel AG into MAN Diesel SE – negotiations and the agreement on employee involvement

by Herman Knudsen and Torsten Müller (in collaboration with Udo Rehfeldt)

Preliminary remark by Norbert Kluge, European Trade Union Institute and head of the SEEUROPE project

This case study on the foundation of a European Company (SE) from the employees' point of view was commissioned by SEEurope. It is important to approach it in terms of the different assessments and feelings of those involved concerning the negotiations and even the facts, according to their particular national backgrounds. Although, in general, everybody was pleased with the final result, doubts and misunderstandings remain about the aims pursued and the methods employed. This is the most striking impression left by this attempt to reconstruct, understand and analyse what happened in the course of negotiations. The negotiations took place in a European framework that was unprecedented for everybody involved, and which forms part of wider historical developments. Workers' representatives who feel strong and effective in their usual surroundings at home, particularly in the machine industry which is generally known as a well organised trade union branch, were thrown into a situation in which they were under constraint to find a common approach to further cooperation. Understandably, how they dealt with this situation was deeply rooted in national legal systems and related behaviour and views. After finally reaching agreement, both among themselves and with the employer, the workers' representatives then had to explain the final result to their colleagues at home. There was, however, no real "Europeanization" of interest representation during the comparatively short negotiation period lasting several weeks. Only the future will show whether workers from different origins and backgrounds come to perceive the new tool of the SE works council and their representation on the SE supervisory board as valuable additions to their existing possibilities to fight for better working conditions and a sustainable future for the company. The situation is likely to develop gradually, but always subject to tensions: national and local practices will have to be balanced with European responsibilities, taking into account the perspective of the entire SE workforce at European level and vis-à-vis central management.

Another preliminary remark concerns the character of the text: in such a case total objectivity is extremely difficult. Inevitably, the authors present their own interpretation and analysis with a view to opening people's eyes to the difficulties, but also the opportunities and successes of those involved in SE negotiations. Participants in the events described will hopefully forgive us if we do not satisfy them in every detail. Our intention is to provide an interpretation that is both informative and provocative, stimulating further debate on how such processes can be improved. We would like to thank all those who took the trouble to answer our questions and to read our draft both for their understanding and the stimulus for further reflection they provided.

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1. Introduction

In August 2006, MAN B&W Diesel was the first German company to become a European company, or *Societas Europea* (SE), based on the EU Regulation on the European Company Statute (EC 2157/2001) and the EU Directive on employee involvement in the SE (2001/86/EC), both adopted in 2001, and the corresponding German legislation: the *SE-Gesetz* and the *SE-Beteiligungsgesetz* (SEBG) which were both adopted in December 2004.

Of the four options provided for by the European Company Statute to set up an SE, MAN B&W Diesel AG chose to convert itself into a European Company called MAN Diesel SE. This conversion, in particular the process of negotiating and agreeing on employee involvement in the new company, is the subject of this report.

The issue of employee involvement was a cornerstone in the debates on the European Company Statute since the late 1960s; indeed, the controversy surrounding this issue goes a long way towards explaining why it took more than three decades before the European legislators could find a compromise and adopt the appropriate legislation. The basic premise of this compromise was that employee involvement in SEs should not be different from what was previously in place in the respective national companies: the forms and degree of involvement should reflect not only European but also the diverse national legislation in the field. In practice, and put briefly, this means that all employees in SEs have a right to information and consultation through the 'Representative Body', or SE Works Council (similar to a European Works Council), whereas the right to participation at board level is conditional upon the legislation of the home country, as well as upon the legislation in those countries in which the workforces are located. Still, legislation only provides a possible blueprint. The specific provisions on employee involvement in the individual SE are to be determined through negotiations between management and a special negotiation body (SNB) representing the employee side.

How did these negotiations proceed in the case of the MAN B&W Diesel conversion? What were the outcomes? Were the employee representatives, coming from different industrial relations traditions, able to agree internally and to work together to achieve the best possible result? To what extent did the negotiation process and its result reflect the aims and procedures formulated by the European Metalworkers' Federation (EMF)? These are the main questions that this investigation attempts to address.

Following this introduction, the second section of this case study presents a portrait of the company, its structure, fields of activity, history, workforce size and composition, prior traditions of employee involvement, and also its motivation to

become an SE. Sections three and four deal with the negotiation process. Based on the analysis of relevant documents and interviews with the main actors involved, the third section provides a chronological description of the negotiations regarding employee involvement in the SE. More specifically, we look at the context of the negotiations, the preparations for the negotiations in Germany and at European level through the EMF, the establishment of a Special Negotiation Body (SNB), the actual negotiations with management, as well as how the negotiations were perceived by the actors involved. On the basis of this descriptive part, in the fourth section, we give our own analysis of the negotiation process.

Sections five and six deal with the content of the agreement, which was concluded by management and the SNB as a result of the negotiations. In section five, the main features of the agreement are presented, and – again based on the interviews conducted - it is described how the main actors on the employee side viewed the agreement. In the sixth section, we analyse the content of the agreement by comparing it with the provisions in the German *SE-Beteiligungsgesetz* (SEGB) and the EMF-Guidelines for SE negotiations. Finally, in section seven, the conclusion sums up the main findings and discusses the main lessons to be learned from this case in relation to the development of genuinely European employee interest representation in European Companies.

The objective of this report is first and foremost to provide a detailed account of the process and the outcome of the negotiations leading to the agreement on employee involvement in the newly established MAN Diesel SE. With minor exceptions, the cut off point of the report therefore is 27 April 2006, the day when the SE agreement was signed by management and the employee representatives; developments since then are not covered in this report.

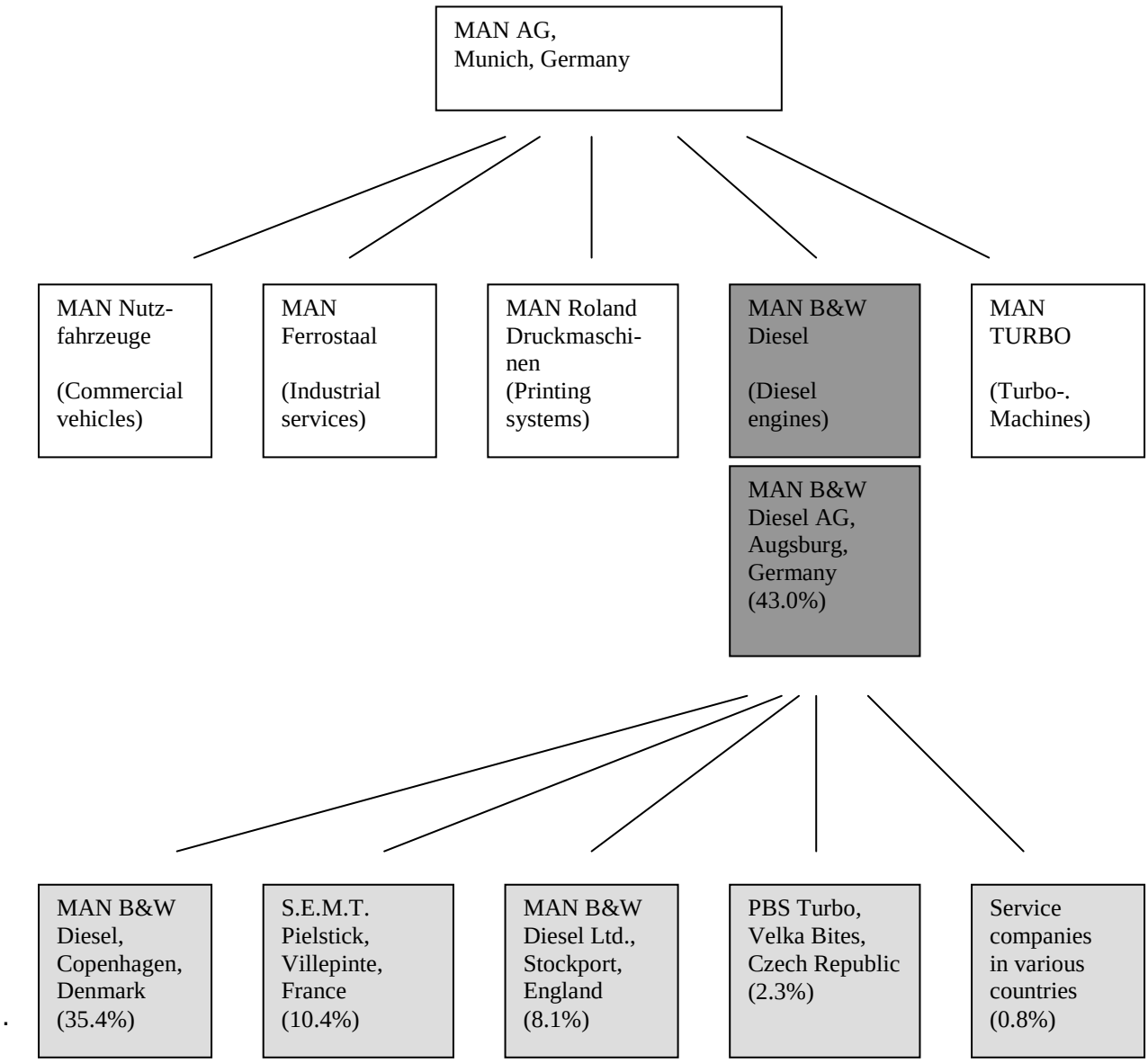
Since any negotiations, particularly in a transnational context, are a complex issue, it was our intention to clearly distinguish between the description of the course of events and our own analysis. We hope that in the descriptive parts dealing with the negotiation process and the content of the agreement (i.e. sections three and five) we did justice to the different views of the actors involved and their specific context which shaped their views and actions. In the parts dealing with our own analysis (i.e. sections four, six and seven) we attempted to adopt a European trade union perspective by taking the EMF Guidelines for the negotiations of employee involvement arrangements in SEs as our main point of reference for the assessment of events and outcomes. Against this background, we hope that this report and the experience gained from this and other cases may stimulate discussions and learning processes among trade unionists and researchers involved in the field of European industrial relations.

2. The Company

MAN Diesel SE was established as a European Company (SE) in the course of 2006 as a conversion of the former MAN B&W Diesel AG based in Augsburg, Germany. The new as well as the former company is a 100% subsidiary of MAN AG, which is headquartered in Munich. The headquarters of MAN Diesel SE remained in Augsburg, Germany.

Figure 1: Company structure at the time of the conversion: MAN B&W Diesel as part of the MAN Group

Note: dark grey shading indicates the company *participating* in the SE conversion; light grey shading indicates the companies *concerned* (cf. Article 2b and d in the SE Directive on employee involvement). Percentage figures show the distribution of employment within the MAN B&W Diesel Group.



2.1. MAN B&W Diesel AG

At the time of the conversion, the MAN Group in total employed approximately 54,000 people: of these, 29,000 were employed in Germany. Commercial vehicles are the main product, but MAN also had activities in four other core areas, namely industrial services, printing systems, diesel engines, and turbo machines.

MAN B&W Diesel (now MAN Diesel SE) is the subsidiary for the diesel engines business area of MAN. It was formed in 1980 when MAN took over the Danish diesel engine manufacturer Burmeister & Wain (B&W). MAN in Augsburg goes back to the 19th century *Maschinenfabrik Augsburg* which produced steam engines. At this factory, Rudolf Diesel developed the world's first diesel engine in 1897. B&W also has a long and proud tradition. The company was formed in 1872 and produced its first diesel engine in 1904. For decades, its main activity was shipbuilding, and the shipyards in Copenhagen were not only the biggest, but also the most militant workplace in Denmark. In 1971, the shipyard and the engineering works were split into two different companies, and some years later the shipyards had to close down due to the increased competition from East Asian shipbuilders.

Since its founding in 1980, MAN B&W Diesel has acquired a number of other companies, including a heavy-engine producer in England in 2000 and the French S.E.M.T. Pielstick which had previously been part of the shipbuilding company Alsthom. Today the MAN Diesel is a leading supplier of large diesel engines for ship propulsion systems, stationary power supply and rail traction, and is one of the leading suppliers of diesel power plants and turbochargers. A considerable part of the Group's products are not produced by its own plants, but by licensees, notably in China, Japan and South Korea, but also in Russia, Poland, Croatia and Spain. The products are marketed worldwide, with Europe and East Asia being the most important markets.

MAN B&W Diesel's turnover in 2005 amounted to 1.67 billion Euro. Order intake had been at a peak since the beginning of 2004 due to a boom in the shipbuilding industry. From 2004 to 2005, order intake increased by 17.7 percent while operating profit grew from 55 to 117 million Euro. At the same time, employment fell by 4.6 percent, reflecting the continued effects of prior initiatives to rationalize, slim and outsource production (MAN B&W Diesel Group Annual Report 2005). A rise in personnel expenses from 379 to 418 million Euro probably indicates an increase in the use of sub-contracted labour.

Restructuring has been an ongoing phenomenon in recent years. For instance, in Denmark production had been closed down at one of the three plants, the Holeby plant. In 2005, it was decided that the British subsidiary should concentrate on after-

sales service and only produce one specific engine type, which was expected to result in a drop in employment from 670 to 350 in the twelve month's period from April 2005 (Press release, 8 April 2005). Internal competition between the plants in the Group as well with licensee companies is thus strong.

In its 2005 annual report, MAN B&W Diesel explicitly praised the extra efforts made by the workforce:

"In order to maintain flexibility in our personnel planning, we utilise subcontracted personnel, temporary work contracts and flexitime. Further our permanent employees have participated in various measures to reduce costs, for example by working more hours without more pay."

The Group was also explicitly grateful for having able and motivated workers as well as constructive employee representatives in its ranks:

"Once again the success of the last financial year was founded on the knowledge, skills and motivation of our staff…We should like to thank all our staff for their support and commitment. We also extend a particular thanks to the employee representatives for their constructive and co-operative contribution in the interests of our company" (MAN B&W Diesel Group Annual Report 2005).

MAN B&W Diesel AG, now MAN Diesel SE, owns companies with production plants in Germany, Denmark, England, France, the Czech Republic, and China. There are companies in Canada, the US, Australia and Singapore; however, these latter companies almost exclusively provide services only. The former German, now European, company in Augsburg is the parent company of the Group. By the end of 2005 MAN B&W Diesel had 6423 employees (2524 in Germany and 3899 abroad; apprentices not included); most of them are employed in production while the worldwide service organisation employs about 1400 persons. Table 1 shows the Group's main companies in Europe and the distribution of employment.

Table 1: Companies of MAN B&W Group with production facilities in Europe – and employment

Company	**Employment**
MAN B&W Diesel AG, Augsburg, Germany	2875
MAN B&W Diesel A/S, Copenhagen, Denmark	2362
S.E.M.T. Pielstick, Villepinte, France	696
MAN B&W Diesel Ltd., Stockport, England	541
PBS Turbo s.r.o. Velká Biteá, Czech Republic	151

Note: These are the figures sent out by management in its letter of 2 December 2005 inviting employee representatives to the SE negotiations.

Besides the figures given in Table 1, the European employment of MAN B&W Diesel/ MAN Diesel SE also includes employees in service departments in Greece (14), Norway (7), Sweden (5), the Netherlands (19) and Spain (8). (The figures are taken from the information given in management's invitation to negotiations of 2 December 2005).

2.2. Employee representation within MAN B&W Diesel

The MAN (B&W) Diesel Group has a strong tradition of employee representation. In Germany, employee representation takes place through works councils (according to the Works Constitution Act) and – before the conversion – through parity representation on the Supervisory Board (according to the Co-determination Act), with six out of the twelve board members coming from the workforce and the trade union, IG Metall. In Denmark, the channels for representation are local trade union delegates (shop stewards) and their representation on joint employee-management co-operation committees (according to a framework agreement between the Danish union and employer confederations), combined with a one third representation, two of six members, on the company board (according to Danish company law). In France, there is representation through a *comité d'entreprise* as well as through union delegates according to French labour legislation. At board level, four representatives of the *comité d'entreprise* take part in the meetings of the Supervisory Board (*conseil de surveillance*) without voting rights, however. In the Czech Republic, the workers are represented by the union ZO OS KOVO PBS. It is only in Britain that most employees are without representation, although a minority is represented by the AMICUS union.

From the mid 1990s and until the establishment of the SE, the employee side had a transnational representation and two yearly meetings with the management in Augsburg through a European Works Council, the *Euroforum*. The Euroforum, however, to some extent lacked representativity, as it only included employee representatives from Germany and Denmark.

2.3. The conversion and its underlying motives

The initiative to convert MAN B&W Diesel AG into an SE was taken by the management of the parent company, MAN. The conversion plans were first presented informally to the German employee and trade union representatives in March 2005. From then on a period of exchange of views, conversations, and negotiations with employee representatives took place until 27 April 2006, when an

agreement on information, consultation and participation was signed. On 29 May 2006, a general meeting approved the terms of the conversion, before on 14 June 2006 the constitutive meeting of the new supervisory board took place. On 6 July 2006, the business register in Augsburg was notified and on 28 August 2006 the SE was officially registered.

The first time MAN went public with its plans was on 21 February 2006 at a press conference in Munich. In a press release it was stated:

"MAN Aktiengesellschaft is intending to convert its Diesel Engine Business Area into a European Company (Societas Europea) *in the course of this year. At the same time MAN B&W Diesel AG in Augsburg is to be renamed "MAN Diesel SE"…"In a European Company we will think and act on an even more international scale, which is absolutely essential in the face of global competition" explained Håkon Samuelsson, Executive Board Chairman of MAN AG at today's press conference in Munich"* (Press release 21 February 2006).

Reflecting on the conversion process a lawyer from MAN AG who played a central role in the negotiations with the employee side has formulated two main objectives as decisive motives for the conversion. One was to achieve an integration effect by stressing the European character of the company, among other things by having foreign employee representatives on the supervisory board. The other was to reduce the size of the supervisory board. A further motive was to get in a position where there would be no legal obstacles to a change of headquarters within the European Union (DAI 2007: 159-60).

The conversion only covered the parent company in Augsburg, not the subsidiaries in the other European countries. However, as these subsidiaries in the sense of Article 2.4 in the SEBG were "concerned subsidiaries" they would also have to be included in the negotiation process prior to the formation of the SE. This structure – in which the parent company is transformed into an SE while the subsidiaries retain their national identities – caused some confusion in the negotiation process, as will be seen below.

At the time of finishing this report (October 2008), MAN had recently announced its intent to convert the whole MAN Group into an SE. This possibility had already been seen by by many at the time when the MAN Diesel negotiations were going on: in essence, they served as preparatory step to not just a later merger of MAN Diesel and its subsidiaries into a larger MAN Diesel SE (actually, the main foreign subsidiary, the Danish one, was dissolved in September 2008 and merged into the SE), but also as a 'try run' for the future establishment of an SE for the whole MAN Group).

3. Negotiations on information, consultation and participation

3.1 The context of the negotiations

3.1.1 The legal basis

According to the EU Directive on employee involvement in European Companies and, in this case, the German legislation transposing this Directive, it is a condition for the setting up of an SE that management negotiates with the representatives of the involved employees with the aim of reaching an agreement on structures and procedures for information, consultation and participation. In the legislation, information and consultation is primarily expected to take place through a European-level works council, while participation may take place through representation at board level, provided that a certain part of the companies involved in the creation of the SE had board level representation prior to the change. In the case of the MAN B&W Diesel AG, the parent company in Augsburg had board level representation in the form of parity representation based on the German law on co-determination.

In such a situation, Article 21.6 of the SEBG provides an important guideline for the negotiations. It states that when an SE is formed by converting a national company, *"the agreement shall…safeguard all aspects of employee involvement to at least the same extent as these are provided for in the company to be converted into a European company"* . This same guarantee applies in case the negotiations fail to result in an agreement; article 35.1 of the SEBG ensures that the same board-level employee participation rights that existed prior to the conversion also apply to the converted company: *"Where the conditions…(establishment of a company by way of conversion) are fulfilled, the participation arrangements applying within the company prior to conversion shall remain in place."*

Article 36.1 contains provisions on how the seats on the Supervisory Board should be allocated among the employee representatives from different countries (in case a negotiated solution is not achieved). It in particular stipulates that the employee seats on the Supervisory Board shall be allocated "in proportion to each individual Member State's share of the total number of persons employed in the European company, its *subsidiaries* and establishments" (authors' emphasis). In our view, this indicates that the guarantee that participation can remain as it was prior to the conversion does not include the national composition of the board. On the contrary, an international composition of the board is prescribed. We mention this because this question became a central and contentious issue in the negotiation process.

Another important framework condition was driven by the SE legislation and the corresponding Article 20 of the German SEBG, which grants six months for the

negotiations, or – if both parties agree – allows for an extension of the negotiation period to up to one year. Compared to the three-year period for the negotiation of European Works Councils, the shorter period foreseen in the SEBG for the negotiation of information, consultation and participation arrangements in an SE considerably increased the pressure on the employee side to rapidly establish functioning communication and co-ordination structures in order to achieve the best possible result.

3.1.2 The German industrial relations context

Since MAN B&W Diesel AG was a company with more than 2000 employees in Germany, the provisions of the Co-determination Act from 1976 applied to its corporate governance structure. The conversion of the company into an SE took place at a time when this legislation was under heavy attack by neo-liberal critics and employer organisations in Germany. Despite thorough analysis and debates in the so-called Biedenkopf Commission, in the end no agreement about changes to the legislation could be reached. While the commission members from the trade union side and academia only proposed minor changes, the employers wanted to get rid of a number of central features of the 1976 law (Müller 2007). In particular, they wanted more flexible rules, so that companies could decide to have a smaller Supervisory Board and less than 50 percent employee representation on the board. Further, they wanted an end to the representation of full time trade union officials on the boards.

As it was not politically possible to obtain a change in the German legislation on co-determination, German employers saw the SE legislation as an opportunity to perhaps get rid of some its obligations by the back door. Although, as mentioned above, the SE legislation in principle protects prior co-determination arrangements from being eroded, it also opens up the possibility of new structures, partly because these are to be determined through negotiations with employee representatives, and partly because German employee and trade union representatives then no longer have a monopoly in representing the employee side. The position of the representatives of the home country is also potentially weakened because the company becoming an SE at a later stage can decide to transfer its headquarters and registered office to another EEA member state.

This more general debate about the reform of the German system of co-determination and the general climate surrounding this debate help to explain some of the developments at MAN B&W Diesel, because as will be seen below, in the negotiations the MAN management actually attempted to get rid of some of the employee-side rights guaranteed by the German Co-determination Act.

3.1.3. The EMF Guidelines

In addition to the formal framework conditions provided by the specific legal basis and IR context, SE negotiations in the metal sector are also influenced by the political framework of the EMF Guidelines on SEs (EMF 2003). These guidelines were jointly developed and adopted by all the EMF affiliates after the SE legislation was adopted. The initiative to develop binding guidelines for SE negotiations drew heavily on the wealth of experience gained in negotiating EWCs. Adopted after long discussions, the EMF's SE Guidelines identified common demands and defined minimum standards about the content of SE agreements negotiated in companies organised by EMF affiliates. They also laid out a procedure to be followed for the negotiations themselves in order to ensure that a common European approach would be followed. One particular guideline obliges national trade unions to inform the EMF as soon as possible when they learn about plans to establish an SE. The essential feature of this strategy is first, that the unions have agreed beforehand what their common basis for negotiations should be, and secondly, that a union officer is appointed as EMF expert and/or coordinator ('coordinator' is the term used for the EMF person involved after the agreement has been signed) to act on behalf of all unions represented in the company. With this European mandate, the expert, who is usually from the company's home country, has the responsibility to bring the concerns and interests raised in the different countries to bear on the negotiations within the SNB. In this way, the guidelines aim to not only set a certain minimum standard about the content of SE Agreements, but also to support the development of a common trade union and employee-side approach to SE negotiations.

3.2. The negotiation process

As the chronological overview of the negotiation process in table 2 illustrates, the formal negotiations between the employee representatives and MAN management took place between mid March and late April 2006 and were concluded by the signing of an agreement on 27 April. However, by the time the formal negotiations actually started, they had informally been prepared for almost a year. For the purpose of clarity, we divided the following description of the negotiation process into four different phases. The first phase from March 2005 until August 2005 covers the preparation of negotiations in Germany. In phase two from late August 2005 until December 2005 the employee representatives from the different countries met at European level in order to prepare for the negotiations. Phase three lasts from late December 2005 until mid-March 2006 and starts with the first steps to set up the SNB. Phase four covers the actual negotiations with management which took place between mid March and late April 2006.

Table 2: Timeline of negotiations

March 2005	Informal presentation of conversion plans to German works council and IG Metall; beginning of informal talks between management and German employee side
Mid April 2005	'Discussion paper' from IG Metall official → regular informal meetings between German works councillors and IG Metall reps with central management
28 September 2005	Meeting at EMF level (TU officials from DE, DK, FR); agreement to appoint German IG Metall rep as EMF expert in case conversion is officially announced
October 2005	MAN Diesel B&W Euroforum: Conversion plans not mentioned by management
1 December 2006	Management officially informs employee side about its intentions to convert the company into an SE. Next day information material and a letter were sent out inviting for nominations to SNB (10 week deadline)
21 December 2006	Letter from EMF to affiliates in the countries concerned asking them to monitor the nomination of the members of he SNB
14 February 2006	First meeting of SNB, election of executive committee
21 February 2006	MAN goes public with its plans to convert MAN B&W Diesel into an SE (press conference)
Feb. – March 2006	Internal meetings of SNB on objectives and strategy
Mid March 2006	Beginning of negotiations with management
28 March 2006	Report on negotiations by EMF expert to EMF Company Policy Committee meeting
27 April 2006	Signing of SE agreement

3.2.1. Phase 1: First discussions among German actors

The first steps were taken in March 2005, when MAN management contacted representatives of the German works council in Augsburg and the German metalworkers' union IG Metall, informing them of the plan to convert the MAN B&W Diesel AG into an SE and asking for the views of the employee side. It was important for management to get an idea of what kind of solution regarding worker involvement could be expected – whether a negotiated solution would be possible or a conversion would have to be based on the fall-back provisions of the law, the SEBG.

Following this first contact, the German employee side had some internal discussions on the issue, in particular in the context of the more general critical debate about the system of co-determination in Germany. At first, MAN management's conversion plans were met with scepticism by the German employee representatives because management made it quite clear from the outset that it did not intend that the new

transnational representation structures (i.e. SE Supervisory Board and SE Works Council) be larger than the previously existing ones. For the German employee representatives this meant that in the newly created European representation structures they would lose some of their seats. However, since it also became clear very soon that management was determined to carry through its conversion plans, the German employee side saw no use in trying to oppose management's plans and accepted management's invitation for talks on a new European system of employee involvement.

As a consequence, informal talks between management and the German employee side started in March 2005. At the same time, the German employee side entered into an intensive internal discussion process in order to develop an appropriate response to management's plans. As a result of these internal discussions, by mid-April 2005 a discussion paper was developed by an IG Metall official involved in the process. The paper highlighted the crucial points to be dealt with in the negotiations with management and sketched out the contours of a possible agreement on employee involvement in the future SE. On this basis, a core group of German employee representatives consisting of two works councillors from the Augsburg plant and two full-time trade union officials from the IG Metall met with central management on a regular basis for informal talks. At this stage no contacts were established with employee representatives in the other countries involved or the European Metalworkers Federation, EMF.

Since this discussion paper not only served as a guideline for the informal talks between the German central management and the German employee representatives but also influenced the later official negotiations, it is worthwhile to have a closer look at its content. The underlying assumption of the German employee representatives on which the discussion paper was based was that the whole process of converting MAN B&W Diesel AG into an SE was primarily a German issue. This assumption was based on two lines of reasoning: first of all, because MAN B&W Diesel AG was a German company and the newly established SE was to be headquartered in Germany; and secondly, because the SE was to be established through a conversion following German law. From the German employee side's view, this meant that only the German parent company was concerned by the conversion plans and, perhaps even more important, that in the case of a failure of the negotiations all the existing co-determination arrangements would remain in place unchanged. Thus, from their point of view, the German side had the most to lose and any step towards an internationalisation of Supervisory Board representation would mean a weaker representation of German employees.

Against this background, one of the main objectives of the German employee side was to retain representation of full-time trade union officials on the Supervisory

Board. Compared to this main objective, which according to an IG Metall representative was not negotiable, the German employee side was more flexible as regards the size of the Supervisory Board. In the discussion paper, the German employee representatives suggest two options. Depending on whether managerial staff was to be represented on the Supervisory Board, it would consist of either 12 or 10 seats. However, the discussion paper clearly states that the decision on the size of the Supervisory Board is up to the company, which in turn indicates that for the German employee side it was not a key priority to retain the size of the previously existing Supervisory Board of the MAN B&W Diesel AG. The loss of a seat was not considered a serious problem by the German employee side, because according to the law on Co-determination this sixth seat was occupied by a person representing managerial staff (*leitende Angestellte*).

Anticipating management's decision to install a smaller Supervisory Board with 10 seats, the discussion paper suggested that the employee-side delegation on the Supervisory Board should consist of three workforce representatives employed by the company and two full-time trade union officials. As regards the distribution of seats across the various countries, the discussion paper suggests following German custom and practice by applying the d'Hondt system to allocate the seats according to principles of proportional representation. Following the official employment figures, this would give Germany three seats (two workforce representatives and one full-time trade union official) and Denmark two seats (one each for a workforce representative and a trade union representative).

Concerning the SE Works Council, the two main objectives stated in the discussion paper were to enlarge and to internationalise the European employee representation body. It is important to bear in mind that the previously existing *Euroforum* – which was a sub-committee of the EWC for the MAN Group – consisted of seven members: four from Germany and three from Denmark. According to the key suggested in the discussion paper (i.e., one seat per 800 employees in one country), the composition of the SE Works Council would be as follows:

- 4 members from Germany
- 3 members from Denmark
- 1 member from France
- 1 member from the UK
- 1 further seat for the group of remaining countries with less than 400 employees; i.e. Netherlands, Greece, Spain, Sweden and Czech Republic.

According to the discussion paper, candidates for the SE Works Council should be delegated by an elected representation structure at the highest national level of the company. However, the discussion paper goes on to propose that where there are no

elected interest representation structures in place, no delegate can be sent into the SE Works Council. Further elements included in the discussion paper were: the establishment of an executive committee consisting of one representative from the countries with more than 400 employees (i.e. Germany, Denmark, France and the UK), two regular meetings per year and the possibility for extraordinary meetings of the SE Works Council, the right to participate as experts in meetings of the SE Works Council for the two trade union representatives on the Supervisory Board, translation from German into other languages, and that travel costs for members of the SE Works Council and experts as well as costs for training should be borne by the company.

This description of the main points of the discussion paper illustrates that the German employee side had a clear vision of what they wanted to achieve in the negotiations with management. However, having exchanged their views with management it would also be difficult for the German representatives to change their positions substantially once the actual negotiations were to take place between an internationally composed SNB and management.

3.2.2. Phase 2: Discussions at European level

At this early stage in the spring of 2005, the discussions were marked by a lack of transnational communication and co-ordination, since neither employee representatives from the other countries nor the EMF had been involved or even informed. From the perspective of the German employee representatives this procedure was justified, however, because they thought that in the short run the conversion of the MAN B&W Diesel AG into an SE according to German law would have no major implications for the foreign subsidiaries.

The MAN B&W Diesel management also failed to inform employee representatives in the foreign subsidiaries. At the *Euroforum* meetings in May and October 2005 the issue was not on the agenda. However, since at the May meeting one of the Danish EWC representatives by chance saw a copy of the German discussion paper, contacts were established between the Danish union cartel CO-industri and IG Metall in order to arrange a meeting in Copenhagen so that the IG Metall official who had written the discussion paper could inform the Danish employee representatives about the process that had taken place in Germany. This meeting took place on 30 August 2005. Among other things the IG Metall official explained that although German union and employee representatives would be entitled to all the employee-side seats on the supervisory board they were prepared to let the Danes be represented too. The Danish union representative challenged this interpretation as it was his opinion that the Danes – with more than one third of the workforce of the MAN B&W Diesel Group – had a *right* to be represented.

Also as a consequence of the Danish intervention in the process, a first meeting was held at the level of the EMF on 28 September 2005. The aim of the meeting, which was chaired by an EMF official, and attended by trade union officials from Germany, Denmark and France, was to clear up misunderstandings, to start a process of open communication and information, and to develop a common trade union strategy in case the management of MAN B&W Diesel AG should officially announce their intention to transform the company into an SE. At this meeting, the IG Metall representative, who was responsible for the co-ordination of the German employee side, officially informed the representatives from the other countries about the state of play of the talks between management and the German representatives. He, however, also stressed once again that a decision regarding a transformation of MAN B&W Diesel AG into an SE had not yet been taken and that, if it were to be taken, the conversion would be limited to the parent company in Augsburg while the subsidiaries in the other countries would remain separate legal entities. On this basis, the trade union representatives agreed on the following procedural steps:

1. To check the legal status of the planned transformation via a 'national conversion';
2. To include in the SE agreement on the workers' involvement that in the event of any future extension of the SE the agreement would need to be re-negotiated;
3. To ensure an open exchange of information between the trade unions of the various countries involved and the EMF in order to avoid misunderstandings in the future. In order to achieve this objective, it was decided to nominate one trade union official per country as a contact person who would also be responsible for ensuring a close link with the company-level representatives.
4. To appoint the German IG Metall representative, who was already responsible for dealing with MAN B&W Diesel in the national context, to serve as the EMF expert in case the company were to officially declare its intention to transform itself into an SE. In the light of the long-standing informal talks between central management and the German employee side this decision was met with some scepticism by the non-German trade unionists. However, since it is common EMF practice to appoint as an expert/coordinator a trade union official from the company's home country the non-German unionists agreed to this proposal.

The first two points were aimed at resolving the controversy between the German and Danish trade union representatives. Whereas the German side stressed that it would be a 'national conversion' only affecting representation structures in Germany and within legal frames that made German leadership of the process a natural solution, the Danes firstly suspected that the change would eventually lead to the

dismantling of the subsidiaries and their board structure, and secondly stressed that employee representatives from the foreign subsidiaries were also entitled to take part in the process. As it turned out, however, the EMF never succeeded in creating an answer that could solve the controversy in an authoritative way. The different interpretations of the implications of the impending change of governance rules and the applicable legal framework continued throughout the whole process.

3.2.3. Phase 3: Start of official negotiations: the Special Negotiation Body (SNB)

After the meeting at the EMF more than two months passed without any further developments. At the meeting of the MAN B&W Diesel *Euroforum* in October 2005 management did not mention its plans to transform the company into an SE. When asked by a Danish employee representative at the *Euroforum* meeting whether the company would be transformed into an SE, the management representatives merely replied that there were some considerations to this effect, but that a decision had not been taken.

On 1 December 2005, the management of MAN B&W Diesel AG finally officially informed the employee side that it intended to convert the company into an SE. The next day management sent out information material and a letter inviting nominations for negotiations on employee involvement in the SE. The letter contained information on the different companies and sites involved, on employment figures and on the existing representation structures in the individual countries. It also drew attention to the ten week deadline for electing representatives to the SNB and proposed that the SNB should have its constituting meeting no later than 1 February 2006.

The EMF reacted on 21 December when the general secretary sent out a letter to the EMF affiliates in the various countries. In the letter the unions were asked to monitor the SNB nominations in the respective countries and to send the nominations to the German trade union official who acted as the EMF expert, as well as to the EMF itself.

Partly due to the prior discussions and contacts on the employee side, it was no problem to establish the SNB within the ten weeks stipulated in the legislation. The SNB consisted of 16 representatives covering all the EEA countries in which the Group had production sites and/or services and sales offices. The exceptions were Spain and the Netherlands, where the employees failed to elect a representative.

The composition of the SNB was as follows:

- Germany: 5 representatives
- Denmark: 4 representatives
- France: 2 representatives
- UK, Greece, the Czech Republic, Norway and Sweden: 1 representative each.

A clear majority of the SNB members were union members and thus supposedly, directly or indirectly, in touch with the co-ordinating activities of the EMF. The Swedish service company was represented by the managing director; however, according to other SNB members, this created no problems during the negotiations.

At its first meeting on 14 February 2006, the SNB elected an executive committee consisting of the head of the works council of the Augsburg plant in Germany as the chairman of the executive committee and as vice-chairmen one representative each from the Danish and the Czech parts of the company. This smaller group, together with the EMF expert, who de facto acted as the chairman of both the executive committee and the SNB, were responsible for the more detailed parts of the negotiations with management. However, during the negotiation period, the executive committee met several times with the whole SNB in order to inform the representatives from the other countries about the negotiation process and to discuss the next steps. At some of these meetings trade union representatives from France and Denmark were also present.

Among the four appointed negotiators on the management side were three from the MAN parent company and one from MAN B&W Diesel AG. However, the agreement was signed by two members of the executive board of MAN B&W Diesel AG.

3.2.4. Phase 4: The negotiations with management

The negotiations between the SNB and management began in the middle of March 2006 and ended successfully with the signing of an agreement on 27 April 2006. Before the first meeting with management, the SNB met separately to agree on a joint strategy and to learn about the rules applying to an SE headquartered in Germany, notably the legislation on co-determination. In the words of the appointed EMF expert from IG Metall, 90 percent of the negotiation strategy was identical with the German position developed earlier on in the process. According to him, the strategic priorities of the SNB were:

1. Parity representation on the Supervisory Board. According to the EMF expert, the SNB was in a comfortable bargaining position, since in the case of an establishment of an SE through ’national’ conversion, the Directive stipulates that all national co-determination components have to be retained if the parties fail to

reach an agreement. While there was a common understanding among the members of the SNB that parity representation on the Supervisory Board should be retained, there were still different views about the German interpretation of the potential consequences of a so-called 'national conversion'. According to the interpretation of the EMF expert, in the case of a failure of the negotiations all previously existing participation arrangements would remain as they were. This, however, would in effect mean that there would be no non-German representatives on the Supervisory Board, which in turn would run counter to the internationalisation of the Supervisory Board as the second strategic priority of the SNB.

2. Internationalisation of the Supervisory Board. It was the intention that workers' representation on the Supervisory Board should reflect the European character of the company. However, due to the relative weight of each national workforce in combination with the d'Hondt system as the chosen method of allocating the Supervisory Board seats among the employee side, this would *de facto* mean that there were only German and Danish employee representatives on the Supervisory Board.
3. Internationalisation of the SE Works Council. While the MAN B&W Diesel *Euroforum* essentially was a subcommittee of the MAN EWC and only included representatives from Germany (4) and Denmark (3), the new SE Works Council should consist of eleven representatives coming from a broader range of countries.

The negotiations between management and the SNB went relatively smoothly and were completed within six weeks, on 27 April 2006, without any major conflicts between the two sides. This was partly because most of the potentially controversial issues had already been settled during the informal talks between central management and the German employee side. However, since the representatives from the other countries had not been involved in these informal talks, one of the most striking features of the negotiation process were the tensions and different views among the SNB members in particular from the countries with the largest production sites, i.e. Germany, Denmark, and France.

3.3 Differing assessments among the actors – controversies within the SNB

In the view of the EMF expert, a basic consensus regarding negotiation demands and objectives was reached at a relatively early stage by the SNB. However, it was a consensus that in certain respects did not include the French SNB members. Officials at the EMF level also felt that there was a lack of consensus, just as they found shortcomings in the proposals for an agreement. Concerns were furthermore raised over the report on the state of the negotiations given by the EMF expert at the meeting of the EMF Company Policy Committee on 28 March. Shortly before the

conclusion of the agreement an EMF official contacted the EMF expert and proposed – on behalf of French SNB members - some amendments to the final draft agreement. However, these amendments largely failed to find their way into the final agreement. In the end, the agreement was concluded with management, but without the consent of the French SNB members.

The reactions by the Danish union and employee representatives were mixed. Whereas concerning the content they found the agreement more or less acceptable (see below), they were very critical of how the whole negotiation process was handled. The two main points of criticism by the Danish employee and union representatives were firstly, that the EMF coordinator/expert did not follow the EMF Guidelines (Dansk Metal 2006) and secondly, that the whole process was dominated by the German representatives – in particular in the light of the fact that the Danish operations are quite important for the Group, not least because contracts with licensees are mainly dealt with from Copenhagen. Another source of Danish regret, mentioned by a Danish union official, was the deletion of 'B&W' – with its proud traditions – from the company's name.

During the negotiations one controversial issue among the SNB members was the size of the SE's Supervisory Board because management proposed reducing the number of seats from 12 in the MAN B&W Diesel AG to 10 in the SE by no longer reserving an employee-side seat on the Supervisory Board for managerial staff. As outlined in the discussion paper, the German SNB members were prepared to accept this proposal by management, because for them two other demands – parity representation and the representation of full-time trade union officials on the Supervisory Board - took priority over the issue of the size of the Supervisory Board. For the French representatives, however, the size was an important issue because a larger Supervisory Board with 12 seats would have increased the chance of a negotiated solution in which the French would obtain a seat on the board. However, since management accepted both key demands of the German employee side, neither the German nor the Danish SNB members were prepared to support the French demand for a larger Supervisory Board and to risk a conflict with management over this issue. Thus, in the end the SNB went along with management's initiative to reduce the size of the Supervisory Board which – in combination with the d'Hondt distribution system – meant that three seats were given to German employee representatives and two to Danish representatives.

Another controversial issue was the question whether – following the tradition of the German Co-determination Act – one third of the Supervisory Board seats should be reserved for full-time trade union officials. In accordance with this principle, in the MAN B&W Diesel AG's Supervisory Board two out of the six employee-side seats on the Supervisory Board were reserved for full-time officials from IG Metall. For the

Supervisory Board of the SE, management wanted to drop this rule and – in a certain sense – follow the Danish system in which only people directly employed by the company are eligible to become board members.

However, during the negotiations the German SNB members insisted on the representation of full-time trade union officials on the Supervisory Board and clearly stated that for them this issue was not negotiable. The German representatives attached such great importance to this issue because they knew it was a central element in the German employer offensive to weaken co-determination rights. Thus, against this background the German employee representatives wanted to prevent the creation of a precedent in which the creation of an SE leads to the exclusion of full-time trade union officials from the Supervisory Board.

On the other hand, since in the Danish system, board-level employee representation is only possible for employees of the company, the German insistence on *full-time* trade union officials to become members of the Supervisory Board was not acceptable for the Danish SNB members. In order to reach a compromise that takes into account the specificities of both systems of corporate governance the SNB decided – after some heated discussions – to drop the formulation 'full-time trade union official' and to propose to management that two out of the five employee-side representatives must be trade union representatives – a wording which management accepted in the end. Both the German as well as the Danish representatives could live with this compromise because the formulation in the agreement leaves enough scope for both sides to continue with their respective national practice of appointing full-time union officials in the case of Germany and company-level union representatives in the case of Denmark.

The third controversial issue was the size and the composition of the SE Works Council because management intended to keep the size of the previously existing MAN B&W Diesel *Euroforum* which consisted of seven members (four from Germany and three from Denmark). However, since one of the key objectives of the employee side was to increase the international character of the newly established SE Works Council the SNB suggested to increase the size of the SE Works Council to eleven members because this would allow a much broader representation. The French delegates, in particular, argued for a bigger SE Works Council because this would have increased their chances to obtain two seats so that both main trade unions – the CGT and the CFDT – would be represented on the SE Works Council. However, in the end, management and the SNB met in the middle and agreed to set up an SE Works Council with nine members. The seats on the SE Works Council were distributed among the various countries as follows: Germany 4, Denmark 2, France 1, Czech Republic 1, and 1 representative for a joint constituency comprising all the countries with small production sites (i.e. less than 100 employees) and all the

countries in which the company operates service and sales offices. The German employee representatives were satisfied with this compromise because from their point of view the most important objectives of the employee side as regards size and composition of the SE Works Council had been achieved. The newly created SE Works Council was not only larger but also more international than the previously existing *Euroforum* so that in future there would be no ”German-Danish bipolarity”, as the EMF expert from IG Metall called it, within the European-level employee representation structure.

However, the Danish and French SNB members were not satisfied with the compromise. The French delegates were disappointed because they found that they did not get enough support from the other SNB members (and especially the German SNB members) to push through their demand for an SE Works Council with eleven members. The Danish delegates in particular complained about the fact that the UK was not considered as a delegating constituency in its own right but was instead included in the joint constituency of countries with small production sites and services and sales offices, although, according to official statistics, the company still employed more than 300 people in the UK at the time of the negotiations. According to the Danish delegates this was not fair and represented a breach of EMF policy that each country should be represented according to the relative weight of each national workforce.

A final controversial issue among the SNB members was the length of the negotiation process because the agreement was concluded after only six weeks of official negotiations, which is a very short period of time compared to the six months granted by law. Especially the French SNB members were critical of this short negotiation period because they thought that a longer negotiation period would have provided the employee side with more time to discuss some of the critical issues in more detail and to improve the cross-national co-ordination and communication processes, which in the end might have led to a better result. The German employee representatives, who started their informal talks with central management more than a year before the official negotiations were concluded, did not share the view that a longer negotiation period would have led to a better agreement, which is why they went along with management’s intention to reach an agreement as quickly as possible in order to be the first German company to transform itself into an SE.

The description of the negotiation process illustrates the problems of the employee and trade union representatives from the various countries to agree on a joint approach vis-à-vis management – both in terms of the negotiation procedure as well as in terms of the negotiation objectives.

4. Analysis of the negotiation process

One important factor explaining the tensions among the employee representatives, particularly those from countries with larger production sites (i.e. Germany, Denmark and France), was that the actors never reached a shared understanding of the process, the legal basis of the conversion and what it would mean for the different parts of the company.

The employee representatives from the various countries thus operated against the background of very different interpretations and expectations. For the German delegates, the establishment of an SE through a conversion on the basis of German law meant that only the German part of the company was concerned by the transformation into an SE. For them this interpretation served as the justification to enter into informal talks with management without prior consultation of the employee representatives from the other countries. Based on their interpretation that the conversion was primarily a German issue and that in the case of a failure of the negotiations all existing participation arrangements would remain unchanged, the German SNB members considered it natural for them to play a leading role in the process Since for the German employee representatives the transformation of the MAN B&W Diesel AG into an SE through a 'national conversion' was primarily a German issue, they, furthermore, saw no need to follow the EMF Guidelines. This interpretation is highly problematic. As a case falling under the SE Directive's option of creating an SE by way of conversion, there was nothing special in the MAN B&W conversion. As a conversion is always a conversion from a national to a European company, there are no grounds for claiming this to be a special case for which the EMF Guidelines are irrelevant.

The representatives from the other countries did not share the interpretation of the German employee side. They considered the transformation to be both legally and politically a European issue which was expected to affect the subsidiaries in the various countries. The Danish representatives, for example, had the impression – even once the SNB had been established – that not only the parent company in Augsburg, but also its foreign subsidiaries were going to be part of the SE structure; thus it was expected that the board of the Danish subsidiary would disappear as a consequence of the change (CO-Magasinet 2006). This interpretation was – at least at that stage – also erroneous. (Yet, in a longer perspective it proved correct, as witnessed by the dissolution of the Danish subsidiary and its merger into the SE in 2008).

Since the non-German representatives considered the transformation a European issue, for them the main reference point for the negotiations were the EMF Guidelines. Against this background, from their point of view, the German initiative to

enter into informal talks with central management was an indicator that the German employee side intended to use its dominant position to pursue its own interests. In particular the Danes felt that employee representatives from the foreign subsidiaries should have been involved from the beginning.

The difficulties in reaching a common understanding of the change project were also a result of the fact that the expectations of the SNB members were shaped by different national industrial relations traditions and negotiation styles. The approach taken by the German employee side was shaped by the long-standing trust-based relationship between German works councillors and central management, which in turn was based on close personal contacts in the national industrial relations context. For the German SNB members, it was therefore very important to find a pragmatic solution which was tailored to the specific situation at MAN B&W Diesel. In order to maintain this co-operative relationship with central management, the German SNB members were keen to pursue a pragmatic negotiation strategy following a logic of political exchange rather than insisting on maximalist demands. This is illustrated by the following statement of the lawyer representing MAN in the negotiations: “The early employee involvement proved to be very useful in our case, as the employee side and first and foremost the trade union representatives cooperated extremely well and supported us on the way to the SE” (DAI 2007: 167)).

For the employee and trade union representatives from the other countries – which for instance in the case of France have a stronger tradition of more confrontational industrial relations – the cooperative and pragmatic negotiation style of the German SNB members was hard to understand and added to their suspicion that the Germans were pursuing their own agenda by using their privileged access to central management. From the point of view of the French and Danish SNB members, in the political exchange between the SNB and central management the German SNB members were prepared to make concessions in order to achieve those objectives that were of primary importance to them.

Another example of how the pragmatic approach of the German employee side sparked tensions among the SNB members was the fact that the UK was not given the status of a delegating constituency in its own right, although at the time of the negotiations they fulfilled the employment threshold – a decision which was heavily criticised by the Danish employee and trade union representatives. The German employee side was aware of this fact, but according to a German SNB member, during the negotiation process the UK part of the company was in the middle of a far-reaching restructuring process. Thus, for the German SNB members, the pragmatic solution was to anticipate the result of the restructuring process and group the UK into the joint delegating constituency for countries with small production sites and services and sales offices, rather than change the composition of the SE Works

Council once the restructuring process in the UK had been completed. However, what for the German representatives looked like a pragmatic solution, was a breach of the EMF Guidelines for the Danish representatives.

Another issue that was dealt with pragmatically and that created some tensions within the SNB was the question of how often the SE Works Council should meet with management. While the *Euroforum* had been entitled to two meetings per year, management proposed only one meeting per year for the SE Works Council. Although the initial demand of the SNB was that at least two meetings per year should be held, the SNB eventually accepted one meeting, a decision which was criticised by the French delegates. However, this solution can be interpreted as a concession made by the SNB in exchange for management's acceptance of enlarging the original seven-member *Euroforum* to a nine-member SE Works Council. According to a German SNB member, it made no sense to insist on two yearly meetings first of all because there are several other clauses in the agreement which enable the employee representatives to ask for more meetings if necessary, and secondly, because he was confident that because of the trust-based relationship with central management there would be no objections from management to hold more meetings if need be.

One further factor contributed to the problems of communication and co-ordination among the SNB members. The role played by the IG Metall official who was appointed as EMF expert was unclear. Before the IG Metall official was appointed as EMF expert, he had been responsible for co-ordinating the German employee side on behalf of IG Metall (and was therefore a key person in the informal talks between the German employee side and central management); it was therefore often unclear in which capacity he was actually acting: in a German or a European capacity. In the light of the dominant role played by the German employee side, it would have been the task of the EMF expert to emphasise his European role by making sure that the positions and objectives of the non-German delegates were sufficiently taken into account. However, according to the Danish and the French delegates, this was not the case. Because of his dual role, the IG Metall/EMF expert was in a situation where he by and large had to 'sell' a solution developed early on by the German actors to the other representatives on the SNB. This proved to be an extremely difficult and controversial task.

Behind these actor-oriented explanations of the lack of a real consensus on the employee side, it is also important to be aware of a fundamental structural imbalance in the positions of the negotiators. In such a change process, which affects not only employees from the company *participating* in the conversion, but also employees from the so-called *concerned* companies (subsidiaries not themselves being transformed to SE status), there are different things at stake depending on whether

you come from the participating company or one of the concerned companies. Structurally, the German employee representatives stood to lose representation power in the converted parent company, while the representatives from the foreign subsidiaries stood to win something. This imbalance was the basis for two different logics among the SNB negotiators. The German logic was to defend as much as possible the previous German positions while at the same time negotiating an internationalisation of the representation structures. The logic of notably the French and Danish representatives, on the other hand, was to exploit the new opportunities to gain influence at the European level. The final result can be seen as a compromise between these two logics: with 43 percent of MAN B&W Diesel's employment in EEA countries the German workforce got 44 percent of the seats on the SE Works Council and 60 percent on the Supervisory Board. In this way, the solution ensured that German representatives – despite losing relative strength - maintained a dominant position in the employee representation structures of the parent company, at the same time as it resulted in a stronger representation of the other countries involved. From a German – but also European – trade union perspective, it was important that the German model of co-determination, with parity and trade union representation on the Supervisory Board, was defended.

It was therefore the interplay of a whole range of factors that prevented the development of trust and internal cohesion among the employee representatives from the different countries during the negotiation process. Whether and how this affected the outcome of the negotiations will be dealt with below on the basis of the following description and analysis of the content of the agreement.

5. The agreement

As mentioned above, the agreement on employee involvement in MAN Diesel SE was signed on 27 April 2006. The document consists of 14 pages spelling out the provisions governing the process of information, consultation and participation in the newly created SE. It is signed on behalf of the SNB by the three members of the SNB's executive committee (representing Germany, Denmark and the Czech Republic) and by two representatives of MAN B&W Diesel management. In a 'preliminary statement' in the agreement, the process to set up the SE is described, and the legal anchoring in the EU Regulation and Directive on SEs and their transposition in German legislation is established. Further, it is stated that "the existing dual system of Supervisory Board and Executive Board is to be retained", and that the SE will be headquartered in Augsburg, Germany. In a section on the scope of the agreement it is made clear that "the national provisions…regarding the participation of employees in the various companies belonging to the MBD group remain unaffected".

5.1. Participation on the Supervisory Board

The agreement stipulates that the Supervisory Board will consist of ten members, five of which will be representatives of the employees. However, it is added that, ”if the number of employees of the SE should fall below 2000, the provisions of the German Codetermination Law (and thus equal representation) no longer apply at all” (Article 11.3). In this case, representation will be reduced to one third in accordance with the provisions of German corporate governance legislation.

The five seats for employee representatives are divided between three seats for workforce representatives and two seats for ”trade unions represented in the companies belonging to the MBD group” (Article 12.2). This is clearly inspired by the provisions in the German Co-determination Act. For each of these groups the board members ”are drawn from the different member states based on the numbers of employees in the member states. The d’Hondt system is used for this” (Article 12.3).

This division into two groups prior to the application of the d’Hondt system strongly favours the countries in which employment is highest. In the actual case, it leaves no doubt that only Germans (three seats: two workforce and one union representative) and Danes (two seats: one workforce and one union representative) are represented on the board.

Rather unusually, the agreement also defines special rules for recruiting the representatives at board level. The three workforce representatives are elected in the following way:

1. Employee representatives in the companies in each of the member states submit proposals for nomination to ”the highest in-company employee representative body” of the member state.
2. The highest employee representation body in each country nominates the candidates to be appointed to the Supervisory Board.
3. If from an individual country there are more nominations than seats available on the Supervisory Board, ”the members of the SE WC then have to decide by a two-thirds majority…who represent at least half of the employees in all member states, which of the candidates are to be delegated…” (Article 12.4).

The trade union representatives are elected in the following way:

1. After it has been established which countries are entitled to representation (given two seats for unions on the board and the application of the d’Hondt system), ”the national trade unions responsible” in these countries ”submit to the highest-

ranking in-company employee representative bodies in these member states their proposals for the nomination of candidates…".
2. The highest-ranking employee representation bodies nominate the trade union candidate(s).
3. If from an individual country there are more nominations than seats available on the Supervisory Board, the SE WC decides by a two-thirds majority, representing at least half of the employees in the member states "which of the employee representatives proposed and nominated by the trade unions are to be delegated" to the Supervisory Board (Article 12.5).

These provisions are sufficiently flexible for the Germans to appoint a full-time trade union official and for the Danes to choose a local union representative employed by the company, thus allowing the normal practice in both countries to continue.

Regarding the competence of the Supervisory Board and the rights and obligations of the employee representatives on the board, the agreement simply refers to "the articles of association of the SE and German laws, in particular the German Company Law (AktG) and the German Statute for a European Company (SEAG)" (Article 13.1)..

Further provisions deal with language which is determined to be German, "with translations into the languages required by the members of the SE-SB" (Article 13.2) - and protection against dismissal and unfair treatment (in accordance with national provisions).

5.2. Information and consultation: The SE Works Council

The SE Works Council's composition is based on a number of "delegating constituencies": Article 3.2 states that "member states with production locations each form a separate delegating constituency. For the purposes of this agreement 'production locations' are only those locations at which more than one hundred employees work directly and/or indirectly in production. Smaller production locations are grouped together with the service and sales locations specified below. Accordingly, the member states Germany, Denmark, France and the Czech Republic (each with one or more production locations) each form a separate delegating constituency, and the member states Great Britain, Greece, Norway, Sweden and Spain (service and sales locations) together form a further delegating constituency."

Each delegating constituency has at least one seat on the SE Works Council. The remaining seats are distributed according to the following principles (Article 3.3):

- ”If there are a total of over a thousand (1000) employees in a delegating constituency, this delegating constituency can delegate an additional member to the SE-WC for every thousand (1000) additional employees.
- If there are an additional five hundred (500) employees, their number is rounded up to a thousand (1000) for this purpose.
- The delegating constituency to which the member state which the SE is domiciled belongs can delegate a further member to the SE-WC (domicile mandate).”

These principles resulted in an SE Works Council with nine members and the following distribution among countries:

- Germany 4
- Denmark 2
- France 1
- Czech Republic 1
- Other countries 1

The criteria favour Germany, not just because of the ’domicile mandate’ but also because of the provision that 500 employees is rounded up to 1000. These criteria together result in Germany with 2875 employees getting twice as many seats as Denmark with 2362 employees. Another unusual feature of the agreement is – as already mentioned – that the UK did not qualify as a ’delegating constituency’ in its own right, but was instead grouped together with the countries in which the company operates small production sites (i.e. with less than 100 employees) and services and sales offices. After all, according to the material sent out by management when negotiations were prepared, there were 541 employees in the UK. It was hardly the case that less than 100 of these were employed – directly or indirectly - in production, cf. the definitions in Article 3.2.

Within each delegating constituency, representatives (and substitutes) to the SE Works Council ”are to be selected from their midst by the employee representative bodies at the highest level…If there is no employee representative body, representatives must be chosen by the employees ”from their midst” (Article 3.5). However, the agreement contains no provisions on how delegates are to be selected from the joint delegating constituency spanning more than one country. According to a German SNB member, a solution to this problem will be provided in the internal procedural rules of the SE Works Council.

The period of office is four years. Every two years the SE management has to assess whether the composition and size of the SE Works Council must be changed due to changes in workforce size and composition. If new companies join the Group, management and the SE Works Council decide whether these should be assigned to existing delegating constituencies or lead to the creation of new ones.

The members of the SE Works Council elect a chairman, a vice-chairman and a secretary who together form the executive committee. The working language at executive committee meetings and at meetings of the whole SE Works Council is German.

The quorum is defined as requiring the presence of at least half of the members of the SE Works Council. Decisions are taken by a simple majority. However, this majority must also represent a majority of the employees in all delegating constituencies. A two-thirds majority is needed to appoint employee representatives to the Supervisory Board and to adapt, renegotiate or terminate the agreement with management.

Article 5.1 says that ”meetings of the SE-WC take place at least once a year”. The meeting is linked to the meeting of the Supervisory Board at which the annual accounts are adopted. A further meeting can be arranged by the chairman of the SE Works Council by agreement with management. Apart from this, extraordinary meetings (Article 5.2) can be arranged by the Executive Board or on the request of three members of the SE Works Council representing at least two delegating constituencies, ”when there are extraordinary circumstances that have considerable effects on the employees of the SE and/or the companies belonging to the MBD group and the matters to be resolved affect at least two member states…”. Article 7.3 defines such situations more precisely. It states that management, ”will brief the SE-WC in good time about extraordinary circumstances” and that ”the following, in particular, are considered to be extraordinary circumstances”:

a) the transfer or relocation of companies, operations or important parts of operations
b) the closure of companies, operations or important parts of operations; and
c) large scale redundancies.

The meetings of the SE Works Council will normally take place at the SE’s headquarters and the conference language is German, with translation into the languages of the members of the SE Works Council. Management will be represented by the chairman of the Executive Board and/or other representatives. The trade union representatives on the Supervisory Board may participate in the meetings in an advisory role at the invitation of the chairman of the SE Works Council.

There are no explicit provisions concerning the length of the yearly meeting. It seems to be an implicit assumption that in addition to the meeting with management there will also be an internal meeting of the members of the SE Works Council.

The competence of the SE Works Council vis-à-vis national representation structures is described in Article 6.1 as follows: ”The SE-WC is responsible for matters that affect the SE itself, one of its subsidiaries or other companies both in its own and in another member state and that have effects in different countries, that affect at least two companies belonging to the MBD group in two member states or that go beyond the authority of the competent organs at the level of the individual member states (in other words, provided the competence and authority of the national representative bodies of the companies belonging to the MBD group are not affected).” Article 6.2 goes on to stipulate that ”in individual cases, the SE-WC may also be responsible for matters affecting only one member state when there are extraordinary circumstances that have considerable effects on the employees of the companies belonging to the MBD group in this member state…”.

These formulations seem to guarantee that the SE Works Council can deal with issues, notably concerning restructuring that cannot be dealt with effectively at the national level. The provisions, however, are less clear than those in the SEBG which, in line with the Directive, state that the SE Works Council “shall be responsible for matters which affect the European company itself, one of its subsidiaries or one of its establishments in another Member State, or which go beyond the powers of the competent bodies at the level of the individual Member States” (Article 27). The formulation in the agreement, which is modelled on the legislation on European Works Councils, that matters must ”affect at least two companies...in two member states” thus appears to be an additional limitation of the competencies of the SE Works Council.

The information and consultation rights of the SE Works Council are spelled out in Article 7. According to this, the SE management ”has to brief, hear and, if necessary, consult with the SE-WC” in the meeting taking place at least once a year. This process ”is based on reports about the development of the business situation and the outlook for the SE. This includes, in particular:

a) the structure of the SE and the economic and financial situation;
b) the expected development of the business, production and sales situation and planning for the coming financial year;
c) the employment situation and how it is expected to develop;
d) investments;
e) fundamental changes to the organisations;
f) the introduction of new working and production procedures;
g) the transfer of companies;
h) mergers or splitting of companies or operations;
i) cuts to or closure of companies, operations or parts of operations;
j) large-scale redundancies.”

This list is essentially identical with the list in the fall-back provisions in the German SEBG.

As already mentioned, further information and consultation may take place at extraordinary meetings. It is explicitly stated that ”briefing and consultation…must take place in good time so that the statement of the SE-WC’s position can be taken into account” in the final decision taken by management (Article 7.4). Yet, in the agreement there is no provision corresponding to Article 29.4 in SEBG which entitles to a follow-up meeting ”in order to reach a settlement” in cases where management ”decides on action which is not in line with the SE-WC’s or the executive committee’s position”.

Further provisions deal with confidentiality obligations, financial and material resources available to the SE Works Council, and the protection of employee representatives. The contents of these provisions are in line with the fall-back provisions in the German SEBG. However, there are no provisions that mandate the SE Works Council or its executive committee to be assisted by experts in their work and in meetings with management. The only explicit reference to external experts is made in Article 5.6 stating that ”the trade union representatives in the Supervisory Board of the SE may take part in the meetings of the SE-WC in an advisory role on the invitation of the chairman of the SE-WC”. By contrast, the fall-back provisions of the SEBG contain the right of the SE Works Council or its executive committee to ”draw on the assistance of experts of their choice where this is necessary to enable them to properly carry out their tasks. Representatives of trade unions may also act as experts” (Article 32).

It is possible that some of the shortcomings of the agreement regarding the SE Works Council will later be surmounted. In Article 5.7 it is stipulated that at a later stage internal procedural rules will be developed and adopted in order ”to deal with any further procedural issues in connection with meetings of the SE-WC”. These rules must be approved by management.

5.3. Other provisions and final clauses

Article 15 describes situations in which legislation, provisions in the agreement or structural changes in the SE may lead to a need for adaptations, amendments or renegotiations of the agreement. Procedures will follow either those laid down in the agreement itself or those defined in the SEBG.

Article 16 states that the agreement enters into force on the day that the decision of the Annual General Meeting of MAN B&W Diesel AG to change the legal form of the

company is officially recorded. The agreement runs for ”an indefinite period”. However, each party has the right to terminate the agreement with eight months’ notice to the end of the calendar year, but to 31 December 2016 at the earliest. Regardless of these provisions, the agreement can be amended at any time by the parties to adapt to structural changes in the group.

Finally, Article 17 states that German law, in conjunction with the underlying European legal provisions, applies to the agreement, and that possible disputes arising from the agreement must be treated by the labour court of the area where the SE is headquartered.

5.4 The actors’ assessment of the agreement

Not all SNB members found the agreement to be the optimal solution**.** The most far-reaching criticism came from the two French SNB members, who even refused to sign the agreement because it did not live up to the EMF Guidelines. Their main points of criticism were firstly, that the SNB accepted management’s proposal for a smaller Supervisory Board with five employee-side seats and an SE Works Council with nine seats instead of eleven as originally demanded by the SNB; secondly, the fact that the SNB agreed to management’s proposal of only one meeting of the SE Works Council per year; and thirdly, the lack of more detailed provisions on the functioning of the SE Works Council, such as the right to training for the SE Works Council’s members and detailed provisions on translation.

The French SNB members’ negative assessment of the final outcome of the negotiations and their refusal to sign the agreement was heavily influenced by their dissatisfaction with the negotiation process. From their point of view, there was not enough time to examine the different propositions during the negotiations and to have consultative talks with their union federations. However, despite these disappointments, the French delegates acknowledged that the negotiations had led to some improvements since, unlike before the conversion, the employees of the French subsidiary are now represented on the European representation body, which they view as an opportunity to intensify their contacts with their German colleagues.

In Denmark, there were also some reservations about the outcome of the negotiations. Nevertheless, the Danish negotiators supported the agreement. Their main criticism, as pointed out above, concerned the exclusion of the English workforce from the direct representation on the SE Works Council.

By contrast, the German SNB members saw the result as satisfactory. From their point of view, the most important objectives of the employee side had been achieved: parity representation and the presence of (full-time) trade union representatives on

the Supervisory Board were retained, and the composition of both the Supervisory Board and the SE Works Council was much more international than the previously existing structures had been. According to the EMF expert from IG Metall, the more international composition of the Supervisory Board and the SE Works Council would provide a unique opportunity to bring about a change in the mindset of the actors involved on both sides – management and the employee side. He was also confident that the internationalisation of the representation structures will foster the development of a European identity which makes it more difficult for employee representatives to exclusively pursue their national interests. He saw an improvement in the fact that the agreement obliges management to inform the SE Works Council members before a decision has been made – which was not the case before. He did not find it problematic that only employees from two countries are represented on the Supervisory Board, because he expected that relevant issues will also be discussed at meetings of the SE Works Council which will also be attended by the two trade union representatives on the Supervisory Board as external experts. Due to a structure securing close contacts between the five employee representatives on the Supervisory Board and the members of the SE Works Council he therefore expected that all the representatives from the various countries will be kept informed about the discussions in the Supervisory Board.

This positive assessment of the outcome of the negotiations by the German employee representatives is based on their different reference point and their different national industrial relations background into which their negotiating activities were embedded. Whereas the criticism of the French and the Danish SNB members was based on comparing the outcome of the negotiations with the EMF Guidelines, the reference point for the German representatives' assessment of the result of the negotiation was their discussion paper and the German legislation. Since the content of the agreement largely reflects the provisions of German law and since, furthermore, the key points of the German discussion paper found their way into the agreement, the positive assessment of the German SNB members is not surprising. Another important factor responsible for the positive assessment of the German employee representatives is the fact that their main objectives had been achieved in a co-operative spirit through a process of political exchange. For them it was clear from the very beginning that some concessions to management would have to be made in order to realise the employee side's objectives, which is why the German SNB members were reluctant to support the French demands which they considered to be maximalistic.

Against this background, the German employee representatives were surprised by the criticism voiced by the French and the Danish SNB members – in particular because from the German point of view the French and the Danish representatives also benefited from the internationalisation of the representation structures.

6. Analysis of the content of the agreement and the differences in the actors' assessment

Although the agreement states (Article 1.2) that "the provisions of the SEBG do not apply to this agreement unless express reference is made to them", the agreement is actually closely modelled upon the German SE *Beteiligungsgesetz*. Among the few exceptions are:

1) The lack of a reference to the right to assistance by experts, cf Article 32 of the SEBG
2) The lack of a reference to a follow-up meeting to an extraordinary meeting in cases in which SE management "decides on action which is not in line with" the position of the SE Works Council; such an extra meeting is provided for in the SEBG's Article 29.4.
3) The definition of the competencies of the SE Works Council which appear to be more restrictive than the one in Article 27 of the SEBG.
4) The size of the SE Works Council.

Concerning these points, the agreement also falls short of the EMF Guidelines for SE agreements. The lack of an explicit provision for the right to be assisted by experts even means that it does not fulfil the EMF minimum standards for EWC agreements (which also apply to SE Works Councils) (EMF 2003 and 2001). Nor does the agreement live up to certain other points in the EMF Guidelines such as the demand for a full day pre-meeting of the SE Works Council's members prior to the meeting with management; the demand for employee representatives on the board to be entitled to visit company plants and to meet employee representatives; and finally, the demand that the employee representatives should have a right to invite external experts to board meetings.

Regarding participation it must be seen as a concession from the employee side to have accepted the clause in the agreement saying that employee representation on the Supervisory Board will be reduced to one third if employment in Germany falls below 2,000. This is in accordance with German rules, but precisely because this is an SE where participation is negotiated, the parties were free to choose a continuation of parity representation, irrespective of fluctuations in workforce size.

Finally, the agreement's provisions limits the current size of the SE Works Council to nine members whereas according to the fall-back provisions of the SE legislation, an SE Works Council made up of 15 members would have been established in the case of failed negotiations. In EWC negotiations over the past decade, the issue of the size of the EWC has often proven a contentious one. On the one hand, the employee

representatives are often keen to set up as broad a representative structure as possible, while the companies are often keen to limit the size (and with it the number of languages to be interpreted and translated) of the EWC. The EWC legislation itself lays out very broad representation systems, ensuring at least one seat per country regardless of the number of employees, and further seats allocated according to the relative strength of that country's workforce. It has been the experience in EWC negotiations that limiting the number of EWC members, by for example defining thresholds for direct representation on the EWC, has provided significant bargaining leverage for the SNB. In the light of management's obvious financial interest in limiting the size of the SE Works Council, this seems a rather significant concession on the part of the employee representatives in negotiating the SE Works Council at MAN Diesel. Yet, it is also true that a representation of all countries would have meant a relatively strong representation of employees from sales and service functions and thus a relative weakening of the representation of the production sites where by far the largest part of the workforce is employed. This is probably the reason why neither the EMF expert nor the other union officials involved pushed for a model with representation from all countries.

All in all, the rights granted to the employee representatives in the agreement are, with the exceptions mentioned above, comparable to the rights provided for in the German legislation transposing the SE Statute and the EU Directive on employee involvement in an SE.

To understand why the German negotiators declared themselves satisfied with this agreement while the French, and, to some extent, the Danes did not, it is useful to consider again the distribution of roles among the negotiators from the different countries. The Germans got the foot in the door first, so to speak. They were presented with the conversion plans at an early stage and then took responsibility for negotiating the changes. Already before the EMF level got involved, the German union and employee representatives had worked out a proposal which meant that they would give up three out of six seats on the Supervisory Board and would, at least in relative terms, lose representative strength on the European Works Council. Further, they were operating in a context where the German co-determination model was under attack and where, in particular, trade union representation on the Supervisory Board was challenged by the employers, and also by the MAN B&W Diesel management. This must be seen as the background to their satisfaction with the final outcome of the negotiations. To them, the outcome was acceptable both because of its substance (no 'selling the crown jewels'!) and because it confirmed their ability to work pragmatically and constructively together with the company management.

The roles of the French and Danish negotiators were quite different. They did not stand to lose anything, at least not immediately, and they were not committed by a long tradition of cooperation with the company headquarters in Munich (MAN) and Augsburg (MAN B&W Diesel). For them the aim was rather to get as strong a representation as possible out of the negotiations. To pinpoint how these different roles influenced expectations and assessment, we can say that the Germans ended up being satisfied even though they had had to make concessions to management, while the French, and to some extent the Danes, ended up being dissatisfied even if they won new representation platforms at the European level. Contributing to the dissatisfaction was also the way in which the IG Metall chief negotiator and EMF expert *played* his dual role – a way we can best characterise as more German than European and as rather paternalistic.

7. Conclusion: lessons to be learned

The various studies on the practice of EWCs illustrate that the development of a European identity based on mutual trust and internal cohesion is a crucial prerequisite for an effective transnational co-ordination of the employee side (see for instance Whittall et al. 2007, Lecher et al. 1999, 2001). Since in the case of negotiations on employee involvement in an SE, the stakes are even higher, because the subject matter is not only information and consultation as in the case of EWCs but participation through representation on the SE's Supervisory Board, the development of mutual trust as the basis for a European identity among the employee representatives is even more important in order to ensure a joint approach vis-à-vis management.

Against this background the following lessons can be learned from the experience of the negotiations at MAN B&W Diesel:

Firstly, since the establishment of an SE involves complex legal issues, the employee representatives from the different countries involved have to make sure that all the actors involved are comprehensively informed about the different national systems of corporate governance and the national legislation on which the establishment of the SE is based. This is an essential prerequisite for an open discussion among the employee representatives about their different strategic options and about the definition of common objectives which they want to pursue in the negotiations with management. At MAN B&W Diesel the development of a common position was hampered by the insufficient knowledge and the resulting different interpretations of the employee representatives of the practical implications of an establishment of an SE through a conversion. As a consequence of these different interpretations, the actions and expectations of the employee representatives from the different countries

as regards the process and the outcome of the negotiations were shaped by different reference points.

For the future, it is of utmost importance that the EMF develops an authoritative interpretation of article 35.1 in the German SEBG. What exactly does it mean in the case of a conversion of a German company into an SE that, if negotiations fail, “the participation arrangements applying within the company prior to conversion shall remain in place”? This is a contested issue among labour lawyers (Nagel 2007). We contend that the interpretation made by the IG Metall/EMF chief negotiator, namely that the article implies that German representatives are entitled to keep all employee seats on the Supervisory Board, is incorrect. His insistence on this interpretation was a main reason for the Danish distrust to his intentions, and it was also an interpretation which the involved EMF officials found it difficult to believe.

Secondly, the experience at MAN B&W Diesel confirms the findings of Lecher et al. (1999) and Kotthoff (2006) that one important factor for the development of mutual trust and internal cohesion within an EWC is that the dominant country group – usually coming from the country in which the company is headquartered – uses its powerful position in the national context in the interest of the European workforce as a whole. At MAN B&W Diesel, at least from the point of view of the Danish and the French delegates, the opposite was the case when the German employee side started their informal talks with central management without informing or consulting the representatives from the other countries. These informal talks between the German parties created difficult conditions for the official negotiations in two respects: first of all, they were the source of the non-German representatives’ suspicion which hampered the development of a common approach vis-à-vis management during the official negotiations; and secondly, the informal talks established facts which morally bound the German SNB members during the official negotiations. A comparison of the German discussion paper of April 2005 and the final agreement of April 2006 illustrates that the key features of the latter were already spelled out in the former. We are fully aware that the German union and employee representatives had extremely good reasons for seeing the conversion plans as a threat to their positions within the German co-determination system and that also the French and Danish interpreted the change from their respective national perspectives. However, exactly in a situation where the company wants to transform itself from a national to a European company, it is necessary for the employee representatives to share their anxieties and perspectives with each other and move beyond the national horizons. We know the IG Metall/ EMF expert saw himself as representing also the workforces of the foreign subsidiaries; the problem was that he already at an early stage reached an understanding with management about the main contents of an agreement, and this made it difficult for him to meet the proposals from the foreign SNB members with an open mind.

Thirdly, the experience at MAN B&W Diesel illustrates the need for a stronger role of the EMF in enforcing its guidelines for SE negotiations, because the EMF Guidelines were designed to avoid precisely the problems which arose during the MAN Diesel negotiations: the lack of a truly European approach and consensual strategy, which only reinforced the possibly inevitable problems of trust and communication. It is clear that in transferring the EMF Guidelines from theory to reality, the EMF coordinator/expert plays a pivotal role. Since not all (national) trade unions can be present at the negotiations, this person has the responsibility to ensure that concerns raised at the national level and within the European industry federation, in this case the EMF, are brought to bear on the negotiations. It is based on this EMF mandate that the expert must work towards ensuring that a European approach, which takes both the concerns and the political styles of the different countries into account, is maintained throughout. For a number of reasons, this did not happen at the MAN Diesel SE negotiations. The EMF Guidelines did not play an important role at all, at least not in the perception of the German key actors involved.

Furthermore, the specifically 'European' role of the EMF expert must be made clear. One main problem at MAN Diesel was that the German EMF expert/coordinator could be said to have been wearing different 'hats'. For the German works councillors, for example, he was their IG Metall advisor rather than EMF coordinator, whereas from the point of view of the non-German delegates, his EMF mandate meant that he should simultaneously have been playing a 'Europeanising' role on behalf of the EMF and its member unions. The lessons to be learned then is first, that the EMF Guidelines bring enormous responsibility to bear on the shoulders of the EMF-appointed expert, and that secondly, in cases in which this is not functioning properly, the EMF must be in a position to ensure that its guidelines are upheld and that truly 'European' negotiations are conducted on its behalf.

Despite certain weaknesses in the MAN Diesel SE agreement on information, consultation and participation, and despite the controversies between the national delegations during the negotiations, the negotiation process accompanying the conversion of the MAN B&W Diesel AG into the MAN Diesel SE did nonetheless strengthen the basis for transnational employee representation in the company. There are now representatives from two countries on the Supervisory Board, and the representation on the SE Works Council is much broader than it was on the former *Euroforum*. However – and perhaps more importantly – the whole process has raised the awareness among employee representatives of their representation rights at the transnational level. Despite the tensions and disagreements during the negotiations, there appeared to be no bad feelings on the part of Danish and French representatives after the negotiations; they were looking forward to a closer cooperation with their German colleagues. On the contrary, according to the Danish

and French SNB members, there was an expectation that the new structures would result in an intensified transnational cooperation. Thus, objectively as well as subjectively, the conversion resulted in a stronger transnational interest representation.

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