



**Co-ordination on European Works Councils:  
Binding guidelines for procedures and contents, including  
abridged versions for wider circulation  
3<sup>rd</sup> version**

*Adopted by the EMF Executive Committee  
(Luxembourg, 3<sup>rd</sup> & 4<sup>th</sup> December 2001)*

**Preamble**

1. The adoption of the Directive on European Works Council represented a milestone in the Construction of a European Social Model. For the first time, European law took note of the fact that national political borders no longer limit corporate decision-making and recognized the need to adapt social dialogue to the reality of the Single Market. For the first time, a European Directive granted information and consultation rights to workers at transnational level.

Whilst the Directive undeniably represented a breakthrough for workers rights at European level, it posed a significant challenge for trade unions which had to establish themselves as partner in negotiating EWC agreements and joint forces to get their demands accepted.

2. The response from the EMF to this challenge was to develop strong coordination between EMF affiliates and establish enforceable common rules of procedure and guidelines for substance. This strategy led to the adoption of binding guidelines on procedure and content of agreement by EMF affiliates. These guidelines also guarantee that agreements meet minimum quality standard.

The considerable success of the EMF in concluding over 250 EWC agreements - by far the majority conforming to EMF guidelines - was the result of this pro-active strategy.

3. At the present stage, the EMF objective is to speed up negotiations pace to cover all companies in the metal sector and improve existing agreements while meeting EMF standards and guaranteeing systematic trade union involvement in the work of the EWC. 5 years after the adoption of the first binding guidelines it is now quite clear that there is a need to review these guidelines on the basis of the considerable experience gained through negotiating agreements and functioning of existing EWCs. Further coordinated action is needed by the EMF affiliates to ensure a positive development. If properly guided and nourished EWC's can serve as an important agent for further emancipation, and anchor worker and trade union influence at the increasingly important level close to the member and the company.
4. The Renault case among others has demonstrated the limits and the shortcomings of the Directive. Five years after its adoption, it is clear that enough practical experience has been accumulated to enable the review of the directive to be undertaken.

The current document presents a revised version of the binding guidelines. They are to be regarded as morally and politically binding as far as both the spirit, their regulatory contents and their goals are concerned.

## **BINDING GUIDELINES**

The guidelines fall in two chapters.

- Chapter I identification of priority companies for beginning negotiations based on Article 5;
- Chapter II procedures and contents for the negotiation and implementation of a concrete EWC

Chapter I: Identification of Companies

Companies list

A list of companies where initiatives are to be taken is provided by the Task Force for each country. This list should be updated on a continuous basis.

Providing information on companies is the responsibility of EMF affiliates.

Since the success of inter-union co-ordination is desirable in all aspects of this exercise, it would be helpful if this co-ordination is institutionalised at this early stage in all countries.

On the basis of this data, the EMF will establish a master list, covering all of Europe, for circulation to affiliates. This list will be available in the EMF database for EWCs early 2002.

The EMF will also establish a list for the renegotiation of agreements. Procedures applying to renegotiations are similar to those for negotiations of new agreements.

Where several sectors are represented within the company the EMF coordinates procedure with other European Industry Federations.

## **Chapter II: Procedure & Contents**

### **Procedure**

1. Based on the information described in Chapter I, initiatives will be launched in the designated companies normally by the affiliate(s) or, if need be, by the EMF. The initiative will take the form of a request for the setting up of a Special Negotiating Body (SNB) Where the initiatives are taken by affiliates they must always be communicated to the EMF which will ensure the circulation and communication of necessary data for the multinational in question.

Under normal circumstances it is expected that initiatives will emanate in the European country where the multinational company has its European headquarters. Where the unions of the European headquarter are not in a position to take the initiative the EMF Task Force will designate the responsible country on the basis of criteria such as the biggest workforce or the applicable law

It should be remembered that a written request representing at least 100 employees in at least two undertakings in at least two countries is required. In difficult cases the EMF Task Force is to decide on the countries to write the requests.

Company initiatives to open negotiations are to be expected. Affiliates should alert trade union representatives in multinational companies to be vigilant for such initiatives which should be reported to affiliates in order to initiate the EMF procedure.

It is the responsibility of national trade unions to inform local works councils and shop stewards about the necessity to set up a EWC.

2. If the company reacts in a positive way, the EMF is to be informed of dates and format for starting talks/negotiations. The EMF should also be informed of the names of representatives sitting on the SNB. This information will be data-based and updated regularly for circulation.

The EMF should also be informed of negative responses from companies, so that, if necessary, remedial action can be co-ordinated. In addition, information on possible company intentions should be recorded and circulated. In the case of company initiatives which aim at excluding EMF unions, the EMF will co-ordinate suitable warning/corrective steps.

3. In the case of a positive response with trade union involvement, steps should be immediately taken to ensure information of workers representatives/SNB members. They must be furnished with adequate information material and EMF guidelines in their national language. Affiliates should ensure that EMF guidelines are understood and accepted by SNB delegates. EMF affiliates should check procedure of nominations and nominations of SNB members and ensure trade union involvement. All EMF affiliates shall also undertake to make a special effort to assure the availability of material for the general membership (trade union press) and the general public

The information provided to SNB members/shop stewards/national works council members must include detailed guidance on procedures under the Directive and the rules laid down in national law/agreements regulating the implementation of the Directive. Affiliates must establish clear information links for obtaining legal and negotiation expertise to ensure that negotiators and union representatives are neither blocked in negotiations nor dependent on advice from the companies themselves.

Guidance notes must also be available which allow the negotiators to understand the structure, goals and, especially the political priorities established within the EMF for the work of European Works Councils all over Europe.

The EMF will make available the recommendations for EWC policy developed within the EMF Task Force to serve as the red thread in negotiations with management and handling the daily work of the EWC. The presentation and form should be in accordance with national traditions, rules and habits but the general thrust of the common EMF policy must be respected.

4. The SNB should request to be assisted by a trade union expert

Designation of the trade union expert:

- the trade union expert will come from the responsible country
- the designation of the trade union expert will be approved by the Task Force
- the Task Force member of the 'responsible country' remains the contact person all through the negotiation process
- it is the responsibility of all affiliates to inform the SNB members of the nomination of the trade union expert.

Tasks and profile of the trade union expert:

- guide and assist the SNB members in the negotiation process
- make sure that EMF guidelines are understood and accepted
- inform the Task Force on the progress made
- act as the contact person for all SNB members
- be able to play a leading role
- be able to act as the SNB spokesperson if requested by the SNB
- be able to present a draft agreement

- be able to inform and prepare SNB members on their role and on EWCs
- should take part in pre-meeting and meetings with management

It is the responsibility of the affiliated unions to assist/support the trade unions experts so that they can fulfill their task.

#### 5. Ratification

- In principle no agreement that does not meet the EMF guidelines can be signed
- where possible and especially when the draft agreement is below EMF requirements the Task Force advises SNB members to sign / not to sign the agreement.
- It is highly recommended that the EMF is a party to the agreement and that the expert signs the agreement as well.
- The EMF expert will make sure that a copy of the agreement is sent to the EMF Secretariat

6. In the event of the initiative being taken by corporate management, the rules of procedure will remain the same in order to ensure trade union involvement from the outset.

#### **Abridged procedure**

Based on the list of national companies in the metalworking sector obliged to establish an EWC, as submitted to the EMF, the following procedure is initiated:-

1. EMF affiliates or works councils approach management to open negotiations, by requesting the establishment of a Special Negotiating Body (SNB). Approaches may also be made by the EMF acting on their behalf.
2. National affiliates must inform the EMF Secretariat which will co-ordinate the involvement of all countries concerned and the nomination of delegates to the SNB. The EMF Secretariat must be sent a copy of any application.
3. An EMF expert must be identified. He/she will inform the EMF Secretariat on progress all through the negotiations process. The SNB should request to be assisted by an EMF expert (see point 4 in procedure for role and nomination rules).
4. SNB meetings should be preceded by a pre-meeting of delegates for information and co-ordination purposes.
5. Affiliates must ensure that delegates on the SNB understand and accept the EMF guidelines.

6. The procedure may co-ordinated by a national union(s) following agreement in the Task Force.
7. If agreed by the SNB, a smaller negotiating group may be formed where the SNB is relatively large. This smaller group must provide the SNB with written information on progress which should be passed through the national union to the EMF and on to other national unions. The SNB should meet for a final discussion. In any circumstances the full SNB should meet to agree and ratify the agreement.
8. The EMF and the EWC Task Force will offer guidance and, in the case of particular difficulties, arbitration and mediation.
9. Copy of final signed agreement and details of steering committee to be lodged with EMF secretariat (preferably in an electronic form and all relevant languages).
10. An EMF coordinator has to be rapidly identified after the conclusion of the agreement. He/she will be the point of contact between the EMF and the EWC. He/she will be designated in accordance with the rules laid down in the EMF resolution on the role of trade union coordinators in existing EWCs.
11. In the event of the initiative being taken by corporate management, the rules of procedure will remain the same in order to ensure trade union involvement from the outset.

## **Contents**

1. The EWC must be able to hold at least one meeting per year. The need for extraordinary meetings must be included. The agenda for the meeting(s) is worked out between the Steering Committee of the EWC and management. The official EWC meeting should last at least one day.
2. Workers' representatives should be entitled to a full day pre-meeting the day before the plenary meeting of the EWC.
3. The workers' representatives within the EWC must have the right to elect a Steering Committee of which the Chairman of the workers' group in the EWC must be a member. Simultaneous interpretation must be available for Steering Committee meetings and the Steering Committee must have the right to hold meetings fully or partly without any representation of management.
4. The EWC agreement must define the powers and responsibilities of the Steering Committee so that it at least contains the following rules:-
  - It discusses and agrees with management on the location, agenda and structure of the plenary meeting.
  - In co-operation with management it discusses and agrees on the minutes and statements of the plenary meeting.

- The Steering Committee must have the right to hold regular meetings financed by the company.
  - It must be informed and consulted by management in good time especially in the period between official meetings if extraordinary transnational aspects become relevant (see point 5 below).
  - The Steering Committee must have the right to produce and circulate position papers. Furthermore it should have the right to have these papers translated into the relevant languages.
  - The rights of the Steering Committee members emanate from the agreement and the mandate of the full EWC.
5. The agreement must clearly define as stipulated in the subsidiary rules (Article 3) that where there are exceptional circumstances affecting the employees' interests particularly in the event of relocations, the closure of establishments or undertakings or collective redundancies, the select committee or the European Works Council shall have the right to be informed and consulted. It shall have the right to meet, at its request, management, so as to be informed and consulted on measures significantly affecting employees' interests.

It must be ensured that EWC members from countries directly affected can also participate in the meeting organised with the select Committee.

This meeting shall take place at the earliest possible moment on the basis of a report drawn up by management on which the select committee or the EWC shall deliver an opinion at the end of the meeting or within a reasonable time.

6. The duty to conduct proper information and consultation on the part of management must be based on a written report made available prior to the pre-meeting to all members of the EWC in the appropriate languages. The extent of information given by management should, at least, be in full conformity with the subsidiary rules (Article 2 of the directive).
7. Simultaneous interpretation from and into all relevant languages must be provided for the official EWC meeting as well as for the pre-meeting. Long-term plans to achieve one major working language with suitable language teaching cannot be used to restrict simultaneous interpretation and translation where this is necessary.
8. The EWC and the Steering Committee must have the right to invite experts of their own choice to all meetings. Management should be informed of this; it is however not acceptable that experts can only be invited to certain pre-determined points on the agenda. The EWC agreement must ensure that management covers the cost of at least one expert.
9. The rules for confidentiality can only cover such information as has been explicitly and reasonably designated as a business secret. The rules of confidentiality must not apply to members of organisations that are already covered by national rules of confidentiality. Infringements of the

rules of confidentiality can only trigger sanctions on the basis of the respective national laws, rules and traditions.

10. All necessary costs in connection with the work of the EWC must be met by management.
11. EWC members shall have access to communication facilities (tel., fax., e-mail)
12. EWC members shall be entitled to report back at national level. In case no appropriate structure exists solutions should be agreed to allow EWC members to fulfill their mandate.

#### Recommendations:-

1. The EMF and its affiliates attach the greatest importance to the inclusion of workers' representatives from Switzerland, as well as representatives from accession countries, as full members. If full participation cannot be achieved they should be included as observers. Information on company activities in accession countries should be given to the EWC. Trade union in accession countries should ensure trade union involvement.
2. The definition of information and consultation contained in the Directive complementing the Statute for European Company with regard to the involvement of employees should constitute a good basis to improve EWC agreements. They read as follows:

"Information" means the informing of the body representative of the employees and/or employees' representatives by the competent organ of the SE on questions which concern the SE itself and any of its subsidiaries or establishments situated in another Member State or which exceed the powers of the decision-making organs in a single Member State at a time, in a manner and with a content which allows the employees' representatives to undertake an in-depth assessment of the possible impact and, where appropriate, prepare consultations with the competent organ of the SE;

"Consultation" means the establishment of dialogue and exchange of views between the body representative of the employees and/or the employees' representatives and the competent organ of the SE, at a time, in a manner and with a content which allows the employees' representatives, on the basis of information provided, to express an opinion on measures envisaged by the competent organ which may be taken into account in the decision-making process within the SE;
3. The EWC agreement should contain clear rules for education and training measures for EWC members at central level. Costs should be born by management. Affiliates and, if necessary, the EMF may be involved in the provision of this education and training. Furthermore, it must be ensured that education and training measures are a legitimate point for consideration in the European Works Council.

4. Secretarial and translation support should be made available to the EWC.
5. The EMF and its affiliates attach the greatest importance to ensuring the participation of women representatives in the EWC and in the Steering Committee. Questions relating to equal opportunities for women and men within the company should be given the highest priority. Affiliates should make every effort to ensure that the composition of the EWC reflects the gender distribution of the workforce in the company in question.
6. Extension of the list of competences such as
  - Health and Safety
  - Environmental issues
  - Training policy
  - Corporate Social Responsibility
  - Equal opportunities
7. Agreements should have a normal life span of a maximum of four years. Rules governing renewal must ensure the validity of the existing agreement during negotiations. A time limit for the termination of renewal negotiations should be included, after which date, in case of non-renewal, the subsidiary rules of the directive enter into force – provided that the existing agreement is below the subsidiary rules -.
8. The Preamble to the EWC agreement must underline the importance of this social dialogue from the point of view and interests of the workers. Furthermore the Preamble should explicitly state that management recognizes the full content of directive 94/45/EC and intends to respect its goals, intentions and spirit.
9. It is recommended that the right to a debriefing meeting for workers' representatives after the official EWC meeting is included in the agreement.

### **Abridged Contents Guidelines**

The EMF minimum standards for EWC agreements are:

1. A meeting at least once a year and the possibility to have extraordinary meetings.
2. A pre-meeting to be arranged immediately prior to the formal meeting.
3. The employee group to elect a steering committee/select committee including the employee group chairman.
4. The select committee to discuss and agree with the management on the agenda of the formal meeting prior to the event.

5. The steering committee to discuss and agree with management the communiqué and/or the minutes after the formal meeting.
6. The select committee to be informed and consulted should exceptional transnational events occur between meetings. EWC members from countries directly affected to also participate in the meeting organised with the select Committee.
7. The acceptance of experts freely chosen by the employees group at all meetings.