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European Journal of Industrial Relations 2003 9: 303

DOI: 10.1177/09596801030093004

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What do Representatives Think of the Practices of European Works Councils? Views from Six Countries

ABSTRACT ■ This article presents findings from a survey of European Works Council (EWC) representatives from six countries, exploring variations in terms of their nationality, whether they are office-holders and the country of origin of their multinational employer. There is widespread dissatisfaction with the current practices of EWCs, particularly regarding the scope of the agenda and the quality of information and consultation. In addition, there is widespread support for revision of the Directive, particularly in areas that will improve the quality of information and consultation.

Directive 94/45/EC of 22 September 1994 (henceforth referred to as the 'Directive') requires the establishment of European Works Councils (EWCs), or other procedure, in Community-scale undertakings, or groups of undertakings, for the purposes of informing and consulting employees. Adoption of the Directive marked the culmination of a protracted and contested debate around issues of employee participation and industrial democracy in large-scale enterprises in Europe. Legislative intervention, despite the failure of earlier initiatives, reflected the perception by the European Commission of a need to ensure adequate information disclosure and consultation during the restructuring of large-scale companies which followed the Single European Act (Cressey, 1993; Hall, 1992). This article examines how EWC representatives view the information disclosure and consultation arrangements of EWCs, and whether the objectives of the European Commission have been achieved.

Although specific national confederations had opposed some of the earlier draft measures (Streeck and Vitols, 1995; Windolf, 1993), the Directive was welcomed by European trade unions. The European Trade Union Confederation (ETUC) was, however, thwarted in its attempt to ensure that the Directive excluded 'voluntary' provisions, included codetermination rights and allowed a formal role for trade union representatives. With

the exception of the UK and, on occasion, Portugal, member states of the European Union also supported the Directive. Opposition to the Directive, and its forebears, was almost universal among employers' organizations. This was particularly the case within the Confederation of British Industry, which was instrumental in compelling the Union of Industrial and Employers' Confederations of Europe (UNICE) to withdraw from the discussions between the social partners that preceded the adoption of the Directive (Gold and Hall, 1994). Arguing that the establishment of EWCs would constitute a significant development toward the undesirable goal of a European system of industrial relations, employers' organizations lobbied for non-binding arrangements that would cover relatively few enterprises. They succeeded in achieving a period during which voluntary agreements could be concluded, and the raising of the employment thresholds for inclusion in the Directive (Falkner, 1998: 102–12).

Adoption of the Directive marked the culmination of a specific phase of the debate between policy-makers on information and consultation arrangements, and also led to the intensification of the debate between academic 'euro-optimists' and 'euro-pessimists'. The former highlight the extended scope for political action made available by the Directive. They thus, emphasize issues concerned with cross-border cooperation and activity among employees and trade unions as the means to secure benefits from this additional sphere of activity through 'pro-corporatist' policy-making (Platzer, 1998) or 'legal-democratic corporatism' (Knutsen, 1997). The absence of a more extensive framework of regulation within the Directive is downplayed by euro-optimists, as they see the existing framework as the foundation for more demanding regulations, through either legal enactment or negotiations between the social partners. Even on the basis of the existing Directive, however, euro-optimists claim that networks of activists serving as EWC representatives are raising a new agenda of communication and representation with multinational capital (Weston and Martínez Lucio, 1997).

In contrast, euro-pessimists develop five lines of criticism. First, employers were able to opt out of even the limited requirements of the Directive by concluding agreements under Article 13; participation rights are thus not taken out of competition. Second, the Directive's flexibility ensures that regulation is 'neo-voluntarist' (Falkner, 1996; 1998), and these neo-voluntarist features are likely to start an erosion of national industrial relations standards (Streeck, 1997a). Third, the Directive is likely to reinforce syndicalist (company-egoist) tendencies, as EWCs are detached from national structures of representation. Underpinning this position is the associated argument that trade unions have insufficient resources to help generate cohesive policy and articulated activity across Europe (Keller, 1995). Fourth, euro-pessimists argue that EWCs cannot lead to a European industrial citizenship because the Directive limits

employee participation only to the receipt of information and places no obligation on management to take the views of employee representatives into account (Streeck, 1997a). Combining these points, Streeck concludes that EWCs are 'neither European nor works councils' and 'will certainly assist [multi]national companies (MNCs) in building company-centred and management-driven industrial relations or human resource regimes' (1997b: 325, 333).

Two approaches have been employed to investigate the merits and limitations of these competing positions: analyses of EWC agreements and detailed case studies. Analyses of agreements have revealed marked variation in the procedural and substantive provisions of EWCs, thus confirming the euro-pessimist position that the Directive failed to take participation out of competition. Among the prominent sources of this variation are the country of origin of the company, the sector in which it operates, the extent of its internationalization of production, and the national concentration of the workforce (Carley and Marginson, 2000; Gilman and Marginson, 2002; Marginson et al., 1998). In addition, associated analyses have identified a range of country-specific features arising from peculiarities of the transposition process, different trade union traditions, resources and imperatives, and the impact of national information disclosure and consultation arrangements (Knudsen and Bruun, 1998; Rivest, 1996; Walters, 2000). While such analyses examine the formal terms concluded in EWC agreements, one purpose of this article is to determine whether differences in these formal terms (and in the company profiles which lie behind them) shape the practical experiences of EWC representatives.

Case study research focuses on the different 'types' of EWC, the variables that influence their operation, and the 'phases' through which they develop (Cressey, 1998; Lamers, 1998; Lecher et al., 1999; Whittall, 2000). These studies show that EWC practice is influenced by such external factors as company organization, restructuring and products, management practices, and national systems of employee representation. Also influential is the extent of cohesion on the employees' side, which, in turn, is a function of training, trade union support, the number of nationalities represented, and language and power inequalities between the representatives from the home country of the company and their counterparts from elsewhere.

This article takes a different approach in surveying EWC representatives to ascertain their views on the role, agenda and development of EWCs. It concludes that these are, in large part, influenced by the choices and practices of management and employee representatives. The first section of the article outlines the method that underpins the research and reviews the composition of the sample. Responses to questions on the procedural provisions of EWCs allow examination of the differences

between the formal terms of agreements and the practical experiences of EWC representatives. The next section reviews the issues that have appeared on the agenda of EWCs and the 'quality' of the information disclosure and consultation procedure, establishes the views of representatives on the relative importance of the different items, and also identifies whether management or employee representatives took the initiative in tabling these. The fourth section assesses views on the revision of the Directive and thus suggests how existing EWC representatives think that procedures and practices might be improved.

Method and Sample Composition

The questionnaires were distributed to all EWC representatives belonging to the participating union organizations, drawn from six countries. In Germany, Ireland, Sweden and the UK, where individual trade unions coordinate the activities of EWC representatives, single unions participated in the survey. Membership of the German and Swedish unions was concentrated in specific manufacturing industries, which overlapped but were not identical. The Irish and British unions involved cover manufacturing, public services and private-sector services; but the overwhelming majority of EWC representatives surveyed were drawn from manufacturing.

In contrast, Dutch and Finnish EWC activities are coordinated on behalf of several unions. The participating Dutch organization was FNV Formaat, an independent organization which coordinates EWC service and support activities on behalf of trade unions affiliated to FNV (Federatie Nederlandse Vakbeweging), the largest union confederation. The sample was drawn from all EWC representatives on FNV Formaat's records, which include most of the EWC representatives with membership of unions affiliated to the FNV. These records also include some members of unions affiliated to the CNV (Christelijk Nationaal Vakverbond) and some EWC representatives who are not union members, and these were also included in the survey. Respondents were drawn from eight trade unions (six affiliated to FNV and two to CNV); in addition, there were nine non-unionists. In Finland, EWC activities are coordinated through a single union acting on behalf of all three Finnish trade union confederations. The questionnaires were thus distributed through the central hub to EWC representatives from 13 unions: 42 respondents were from 7 unions affiliated to SAK (Suomen Ammattiliittojen Keskusjärjestö); 27 respondents from 2 unions affiliated to Suomen Toimihenkiläkeskusliitto; and 17 respondents from 4 unions affiliated to Akateemisten alojen liitto.

While it is not claimed that this sample is representative of Europe as

a whole, it does allow comparison of responses from EWC representatives, from three different country types:

- Two, Ireland and the UK, with a voluntary tradition of industrial relations comprising a single (trade union) channel of representation, trade union pluralism, large areas of non-unionism and predominantly company-level bargaining
- Two, Germany and The Netherlands, with a legal or juridified tradition at the centre of which are dual systems of employee representation, and
- Two, Finland and Sweden, with high union density, a single channel of representation, dependence on collective bargaining to regulate the framework of representation, relatively comprehensive bargaining coverage and the articulation of company bargaining with that at higher levels.

Where the analysis combines responses from Dutch, German and Nordic EWC representatives the term 'continental European' EWC representatives is used.

A second country-based dimension is the country of origin of the MNCs at which the respondents are employed. We are thus able to compare and contrast EWCs from MNCs based in Canada, Ireland, the UK and the USA ('Anglo-Saxon' companies), which operate with 'outsider' systems of corporate governance, with those based in continental European countries and relying on 'insider' systems of corporate governance.

The questionnaire was designed by the author working in collaboration with representatives from the participating organizations. It was drafted in English and translated by industrial relations specialists into Dutch, Finnish, German and Swedish. Discussion then took place between the author and representatives from participating organizations to ensure that the translations maintained consistency of meaning across the five languages. While the vast majority of questions were identical throughout the six questionnaires, several varied to accommodate different institutional circumstances. This variation was particularly marked for questions regarding positions held within the union or works council, relations between EWC representatives and participating organizations, and support provided by union organizations to EWC representatives. The questionnaires were distributed during 1999 and 2000 by post or e-mail to all EWC representatives for whom information was available, and returned directly to the author using both media. In total, 840 were distributed and 558 returned, an overall rate of 66.4 percent. National response rates varied between 40.2 percent in Finland and 94.4 percent in Sweden.

Respondents were overwhelmingly male (87.1 percent), with an age in

the range of 27–64 years (median of 48 years). Apart from the nine Dutch non-unionists, all were union members and held at least one office within their union or works council. In all, five UK respondents were full-time officers. Even excluding these from the analysis, there was wide variation in the number of sites at which respondents represented members or workers in their capacity as EWC representatives: 23.9 percent represented people at a single site; 41.5 percent at between two and five sites; 17.7 percent at between six and ten sites; and 16.9 percent at more than ten. The task of maintaining links between EWC representatives and their constituent members is thus extremely varied.

Respondents were employed by 222 MNCs based in 17 countries. At the time of the distribution of the survey this constituted about 40 percent of all EWCs.¹ Respondents were asked to provide the name of the local company where they were directly employed, the name of the MNC of which it was a part, and its country of origin. As all respondents were EWC representatives, it was anticipated that they would know the answer to these three questions. This proved not to be the case. Assuming that respondents correctly identified the local company at which they were directly employed, almost 40 percent of respondents failed to identify correctly either the name of the MNC or its country of origin.² Among the 558 respondents, 230 held at least one office on the EWC: chair of EWC (21.7 percent of office-holders), chair of employee representatives (14.3 percent), secretary of EWC (6.1 percent), member of select committee³ (52.2 percent), chair of select committee (9.1 percent), and 'other' office (23.9 percent).

Procedural Arrangements

The questionnaire asked about some of the procedural aspects of EWCs, and responses of ordinary EWC members and office-holders were compared with the negotiated provisions of EWC agreements. The results are presented in Table 1. The great majority of respondents offer answers on all five issues, and the 'don't know' rate for office-holders is particularly low. However, on all questions the office-holders report a higher incidence of the specified arrangement than do other EWC members, and in most cases the pattern of responses differs significantly from the formal arrangements laid down in EWC agreements.

On preparatory meetings and select committees, the survey results and the terms of agreements are broadly comparable. By contrast, EWC representatives generally, and office-holders in particular, report a markedly higher incidence of follow-up meetings than the terms of agreements indicate should be the case. This suggests that the practice of EWCs differs from the formal terms that underpin them and that there is an

TABLE 1. Procedural Arrangements (%)

	Agreements ^a	All EWC members	Office-holders
Select committee			
Yes	65.2	62.9	77.5
No	34.8	29.3	16.2
Don't know		7.8	6.3
Extraordinary meeting			
Yes	83.6	39.0	45.9
No	16.4	55.2	51.4
Don't know		5.7	2.7
External experts			
Yes	81.2	52.5	62.2
No	18.8	39.9	32.9
Don't know		7.6	4.9
Preparatory meetings			
Yes	87.3	82.1	86.3
No	12.7	16.0	12.3
Don't know		1.9	1.3
Follow-up meetings			
Yes	26.5	46.0	57.5
No	73.5	48.3	39.8
Don't know		5.7	2.7

^a The data on EWC agreements are drawn from reviews of Article 13 and Article 6 agreements (Marginson et al., 1998; Carley and Marginson, 2000), covering 521 agreements concluded before the summer of 1999 (roughly the same time as our survey).

informal learning curve toward best practice, irrespective of the content of agreements. In contrast, the facilities to call extraordinary meetings and to call upon external experts are reported at much lower levels by EWC members and office-holders than would be expected from the content of agreements, and this remains the case even if responses are aggregated by company. Why should this be? EWCs may simply fail to make use of the rights they formally possess; but given the seniority and experience of the respondents this seems unlikely. Furthermore, why should management voluntarily negotiate such terms and not then be prepared to implement them in practice? Possibly, EWC representatives may be inadequately informed of the content of agreements, but this also appears unlikely. Perhaps the need for either extraordinary meetings or external experts has simply not arisen. A further contributory factor may arise from the terminology used in agreements: many specify that access to external experts and extraordinary meetings is contingent on agreement from management, so EWC representatives may not view these facilities as 'rights'.

The Information and Consultation Agenda

Article 2 of the subsidiary requirements of the Directive states that the EWC 'shall have the right to be informed and consulted, on the basis of a report drawn up by central management'; it also specifies the range of issues relating to the company on which this information disclosure and consultation should take place. These include 'the structure, economic and financial situation, the probable development of the business and of production and sales, the situation and probable trend of employment, investments and substantial changes concerning organization, introduction of new working methods or production processes, transfers of production, mergers, cut-backs or closures of undertakings, establishments or important parts thereof and collective redundancies'. Do EWC representatives think that these basic objectives regarding information disclosure and consultation have been achieved, and what explains variation in the quality of information disclosure and consultation?

Table 2 covers the information disclosure and consultation agenda specified by the Directive, and also includes a range of items that have either appeared on the bargaining agenda of most European trade union movements in recent years or have been the subject of recent European Directives and thus are pertinent to the European-level agenda. As the subsidiary requirements do not envisage a formal role for trade unions, except as a source of expert advisers, and relations between the EWC and trade unions are considered central to the future development of EWCs, respondents were asked whether the issue of trade union rights has appeared on the agenda. In addition to the items specified in the questionnaire, respondents were able to cite 'other' issues — only 1.1 percent did so. All data in Table 2 are expressed as a proportion of respondents, that is, EWC representatives rather than EWCs.

In practice, the Directive defines information disclosure in terms of the report made available by central management and the issues that it should cover. Article 2(f) defines consultation more specifically as the 'exchange of views and the establishment of dialogue between employees' representatives and central management or any other appropriate level of management'. These definitions make no reference to the 'quality' of information disclosure or consultation arrangements, particularly their form and timing. Indeed, Lecher (1998: 237) argues that the Directive is ambiguous on the timing issue, as the preamble refers to information being made available 'as soon as possible', implying before the planning stage of a company initiative, whereas other sections are less clear. Hence it is necessary to assess the views of EWC representatives on the range of issues on which information is disclosed, whether the form and the timing are deemed appropriate ('useful'), and whether genuine consultation takes place.

TABLE 2. The Information and Consultation Agenda of EWCs (%)

	Not raised	Raised, information useless	Useful information, no consultation	Useful information and consultation
Economic and financial situation	8.1	3.2	30.1	58.6
Corporate strategy and investment plans	12.7	4.3	32.1	50.9
Changes to working methods	57.3	6.6	15.9	20.1
Plant closures and cut-backs	28.9	9.7	20.6	40.9
Mergers, takeovers or acquisitions	24.2	6.8	29.7	39.2
New technology policy	48.6	5.9	21.9	23.7
Reorganization of product lines	60.4	5.4	15.6	18.6
Transfers/relocation of production	39.2	8.1	21.0	31.7
Employment levels and forecasts	39.4	9.3	19.2	32.1
Research and development policy	54.5	5.4	23.1	17.0
Vocational training	65.1	7.2	10.0	17.7
Equal opportunities	71.5	8.2	9.9	10.4
Health and safety	44.3	5.0	14.7	36.0
Environmental protection	49.5	5.7	17.2	27.6
Trade union rights	72.6	4.7	8.1	14.7
Working time	65.6	5.7	9.0	19.7
Parental leave	88.7	3.0	3.6	4.7
Other ^a	98.9	/	0.2	0.9

^a The main issue mentioned under this heading was pension provision.

It is apparent that the frequency with which issues mentioned in the Directive appear on the agenda of EWCs varies considerably. In a significant proportion most items have failed to make it onto the agenda, even though they should appear as a matter of course. According to their presence on EWC agendas and the quality of their handling, issues may be grouped into three broad categories.

The 'economic and financial situation of the company' (henceforth referred to as the 'economic situation') and 'corporate strategy and investment plans' (henceforth referred to as the 'corporate strategy') have appeared in the overwhelming majority of EWCs. Furthermore, on these two issues more than half of the EWC representatives report useful information and useful consultation. These two issues are relatively easy to handle in report form; national regulations, for example, already require companies to submit Annual Reports. These issues are also relatively 'passive' in so far as they are, at best, about intentions to act rather than action itself. Moreover, EWC representatives are likely to be well versed in interpreting such reports, as a result of their extensive experience and involvement in national industrial relations, and can thus be expected to engage meaningfully in the consultation process.

A second category of issues comprises 'plant closures and cut-backs' (henceforth referred to as the 'plant closures'), 'mergers, takeovers or acquisitions' (henceforth, 'mergers'), 'transfers/relocation of production' (henceforth, 'transfers of production'), and 'employment levels and forecasts' (henceforth, 'employment forecasts'). These issues had not been raised according to between 24.2 percent and 39.4 percent of respondents, yet between 31.7 percent and 40.9 percent reported useful information and consultation. Plant closures, mergers and transfers of production may not have affected some companies, hence explaining their relatively low incidence. It is surprising, however, that almost 40 percent of respondents report no discussion of 'employment forecasts', as not only does the Directive specify that they should be reported, but they are also of central concern to employee representatives.

A third category of items is even less likely to appear on EWC agendas. 'New technology policy' (henceforth referred to as 'new technology'), 'research and development policy' (henceforth, 'R&D'), 'changes to working methods' (henceforth, 'working methods'), and the 'reorganization of production lines' are reported as 'not raised' by between 48.6 percent and 60.4 percent of EWC representatives. The useful information and consultation scores are also lower than those recorded for the other issues. While it is feasible that these items were omitted from agendas because no pertinent changes were implemented, this seems far-fetched, particularly during times of widespread industrial change. What seems a more likely explanation is that management has been able to exclude these items, thus confirming the expectations of the euro-pessimists that the

flexibility inherent in the Directive allows management to exert undue influence on the agenda.

Items that have been central to European and trade union policy in recent years are even less likely to appear on EWC agendas: only 'health and safety' and 'environmental protection' were reported by the majority of respondents. Similarly, these two issues were the only ones comparable with those specified in the Directive in terms of useful information and useful consultation. Widespread failure to raise these items suggests that many employee representatives have been unable to develop the EWC agenda beyond the requirements in the Directive. Furthermore, the issue of 'trade union rights' was reported as 'not raised' by almost three-quarters of EWC representatives, suggesting that there has been only limited progress in developing EWC–trade union links — even though euro-optimists consider this linkage central to the future development of EWCs.

Differentiating between EWC members and office-holders reveals an almost uniform pattern: with the single exception of 'parental leave', more office-holders reported each of the issues listed as being raised and also reported 'useful information and consultation' on these issues. Thus, office-holders are more likely to feel informed and consulted by management. Attendance at meetings comprising only office-holders may account for these differences, but they are consistent with the observations in Table 1. Clearly, this points to a need to improve the flow of internal communication from office-holders to other EWC members, if two-tier arrangements within EWCs are to be avoided.

Comparing Anglo–Irish with continental European EWC representatives also reveals a fairly consistent pattern. The former, who have no comparable domestic information and consultation procedures, are more likely to report 'useful information and consultation' than their continental counterparts; only on 'plant closures' and 'environmental protection' were they less satisfied. That continental Europeans are less satisfied with the quality of information and consultation confirms the expectations of the euro-pessimists, since EWC rights are weaker than those of their domestic industrial relations systems. Separating Nordic from Dutch and German respondents illustrates a further differentiation. On each of the issues specified in the Directive, fewer Nordic respondents indicated 'useful information and consultation', whereas the reverse was the case for all the items drawn from the European and trade union policy agenda (with the single exception of working time).

Analyses of agreements indicate that the country of origin of the MNC influences their content (Gilman and Marginson, 2002; Marginson et al., 1998). Are these differences reflected in the agenda and practices of EWCs? Higher proportions of EWC representatives based in Anglo-Saxon companies report eight of the ten issues specified in the Directive

as 'not raised'; the exceptions are 'corporate strategy' and 'working methods'. Furthermore, on each issue specified in the Directive, higher proportions of EWC representatives based in continental European companies report 'useful information and consultation'. In other words, the agenda is narrower and the quality of information and consultation is lower in EWCs based in Anglo-Saxon companies. A similar pattern emerges with the core issues of European and trade union policy. In most cases, they were 'not raised' more frequently in Anglo-Saxon companies, and where they were, the levels of 'useful information and consultation' were lower.⁴

Each respondent was asked to specify the 'single most important' agenda item raised at their EWC. Four agenda items stand out in Table 3: corporate strategy, economic situation, plant closures and mergers. The importance attached to these items confirms the initial view of the European Commission, that matters relating to company restructuring are of key concern to employee representatives. What is perhaps more surprising is that the range of agenda items drawn from European and trade union policy is considered of marginal importance.

Responses do not vary between office-holders and other EWC members, but the nationality of the respondents does make a difference. Anglo-Irish EWC representatives assigned relatively less importance to company-restructuring issues: while 82.5 percent of continental respondents cited one of these as of primary importance, the figure for their Anglo-Irish counterparts was 65.6 percent. This may reflect the relative inexperience of the Anglo-Irish respondents in handling information disclosure and consultation procedures on these matters. Furthermore, 18.9 percent of Anglo-Irish respondents considered corporate strategy the most important item, compared to 30.8 percent of the Dutch and German respondents and 42.2 percent of the Nordic respondents.

Anglo-Irish respondents attach greater importance than their continental European counterparts to each of the agenda items drawn from European and trade union policy, although the difference is small on most of these issues. There were no marked differences in the priority attached to health and safety, suggesting that the emphasis placed on this issue by British trade unionists in concluding EWC agreements (Walters, 2000) has not been carried through to EWC practice. Indeed, Nordic EWC representatives attached more importance to health and safety than their Anglo-Irish counterparts.

While country of ownership makes no significant difference to the importance given to the four corporate-restructuring issues in the aggregate, it does to the priority assigned to individual items. More than a third of respondents based in continental European companies view 'corporate strategy' as the most important agenda item, compared to 25.2 percent of those from Anglo-Saxon companies. Conversely, 20.9 percent of the

TABLE 3. Importance and Initiative Regarding the EWC Agenda (%)

	Importance	Initiative ^a		
		Management	Employee	Joint
Economic and financial situation	20.6	61.9	22.0	16.1
Corporate strategy and investment plans	31.1	53.6	30.4	16.0
Changes to working methods	0.8	43.8	46.6	9.6
Plant closures and cut-backs	16.0	34.3	51.9	13.8
Mergers, takeovers or acquisitions	11.8	53.8	31.7	14.5
New technology policy	0.2	62.8	27.8	9.4
Reorganization of product lines	1.0	59.3	32.7	8.0
Transfers/relocation of production	3.8	45.4	39.9	14.7
Employment levels and forecasts	2.9	36.7	53.6	9.7
Research and development policy	0.8	70.0	21.3	8.7
Vocational training	0.8	12.2	76.7	11.0
Equal opportunities	1.0	12.1	79.3	8.6
Health and safety	2.5	23.5	62.4	14.0
Environmental protection	0.6	39.4	49.0	11.6
Trade union rights	1.7	0.6	97.1	2.3
Working time	1.5	14.5	77.4	8.2
Parental leave	/	10.2	89.8	/

^a For clarity of presentation the values of *N* are not given: they are different for each item, depending on the frequency with which it appears on the EWC agenda. The figures range between 513 for 'economic situation' and 153 for 'trade union rights', and can be calculated from Table 2.

latter consider 'mergers' the most important agenda item, a view shared by only 8.4 percent of their counterparts from continental companies. This difference may reflect the higher rates of mergers, takeovers and acquisitions among Anglo-Saxon companies.

Respondents were asked to specify who took the initiative on each of the agenda items: management, employees, or both. The results are also shown in Table 3. It was expected that items specified in the Directive would largely be dependent on management initiative, and this was the case, albeit with exceptions. On three issues (working methods, plant closures and employment forecasts) employees were more likely to have taken the initiative; perhaps because each has an immediate impact on employees. However, as shown in Table 2, these items appear relatively infrequently on the agenda of EWCs. Employees were more likely than management to take the initiative on the agenda items drawn from European and trade union policy; this demonstrates that representatives were on occasion able to extend the agenda of EWCs, but this too was exceptional. It is conceivable that the degree of employee initiative may differ between German-style (employee-only) and the more common French-style (joint) EWCs. This is currently being investigated.

Office-holders and EWC members differ markedly in their perceptions of who took the initiative. On every agenda, office-holders were less likely to view management as having taken the initiative, and more likely to consider that the employees' side (in practice, themselves) had taken the initiative.

Perceptions also vary according to the nationality of respondents. On all items specified in the Directive, Nordic respondents more often regard management as having taken the initiative than do their Anglo-Irish or Dutch and German counterparts. In contrast, Dutch and German EWC representatives attribute the initiative on each of the European and trade union policy items to the employees' side more often than their counterparts from elsewhere.

Country of origin of the company also makes a difference: for seven out of the ten issues specified in the Directive, management in companies based in continental Europe were more likely to take the initiative than management in Anglo-Saxon companies. (The three exceptions were working methods, mergers and transfer and production.) The national legal and bargaining requirements that foster extensive information disclosure in continental European companies thus appear to influence management practice in EWCs. In Anglo-Saxon companies, EWC representatives are more likely to have to drag information from management.

The reverse is the case, however, on the issues drawn from European and trade union policy. On five of these seven items, management in Anglo-Saxon companies were more likely to take the initiative than their counterparts in continental European companies. Differences in national

information disclosure provisions are thus not the sole explanation of variation in management practice. The two issues on which management in Anglo-Saxon companies were more unwilling to take the initiative were trade union rights and working time, which suggests that management style may also contribute to this variation.

Toward Revision of the Directive

Article 15 of the Directive commits the European Commission to a review of the Directive.⁵ In preparation for this review, the ETUC published its own proposals for a revised Directive (Buschak, 2000; ETUC, 2000). This survey sought the views of EWC representatives on a revision agenda. In accordance with the preceding discussion, the revision programme is addressed under three headings: extension of coverage, quality of information and consultation, and procedural aspects. Respondents were asked to state their views, on a scale from 'strongly agree' to 'strongly disagree', on each of these elements, together with an item not raised by the ETUC: whether EWC composition should match the gender mix of the workforce. Table 4 reports the results, together with an 'agreement ratio' calculated by subtracting those expressing disagreement ('disagree' plus 'strongly disagree') from those who agree ('strongly agree' plus 'agree'). Separate results are presented according to the nationality of the representatives and their companies. There were few significant differences between the views of office-holders and other EWC members, so results on these categories are excluded.⁶

From the outset it is clear that there is overwhelming support for all aspects of the ETUC revision programme. Only on the issue of gender mix did less than half the EWC representatives agree. The exceptional result on this issue is a direct outcome of the gender composition of the respondents themselves. Among women EWC representatives, for example, the agreement ratio score on gender mix is 41.8 percent, compared to 24.8 percent among men.

Three issues relate to the extension of coverage: 'more companies covered by the Directive' (henceforth referred to as 'lower thresholds'); 'inclusion of joint venture and franchise companies' (henceforth, 'franchise companies'); and 'information from management on a wider range of issues' (henceforth, 'more information'). Respondents support the inclusion of all these measures in the revised Directive. Support is most marked for more information, the issue most directly relevant to existing EWC representatives. The emphasis placed on this item may also indicate the frustration they experience as they strive to extend the EWC agenda in the face of management resistance. On each of the items intended to extend coverage, Anglo-Irish EWC representatives were markedly more

TABLE 4. Views on Revising the Directive (%)

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	All reps ^a	Anglo-Irish ^a	Continental European reps ^a	Anglo-Saxon companies ^a	Continental European companies ^a
More companies covered (lower thresholds)	42.6	42.8	11.0	2.9	0.6	81.9	96.6	73.3	89.8	78.7
Inclusion of joint venture and franchise companies	31.8	42.4	20.4	5.3	0.2	68.7	70.1	63.9	69.4	68.0
Information on a wider range of issues	34.9	54.5	6.1	4.0	0.6	84.8	98.9	77.7	82.7	85.0
Time limits on information provided by management	54.3	38.7	3.4	2.6	0.9	89.5	90.4	86.4	88.2	89.6
Consultation before management decisions implemented	56.4	35.9	2.6	3.8	1.3	87.2	91.1	84.5	86.4	89.3
Specific rights during merger or takeover	56.1	33.5	6.7	3.0	0.8	85.8	92.1	80.0	84.9	86.3
Composition to match workforce gender mix	14.3	31.9	34.6	13.8	5.4	27.0	51.2	21.4	20.0	28.7
More assistance in interpreting information	31.7	49.9	14.8	3.5	0.2	77.9	89.4	71.3	78.1	77.7
Greater provision for informal meetings.	48.0	39.5	8.5	3.4	0.6	83.5	95.5	77.1	79.8	84.5
Training provisions	60.8	35.6	/	3.4	0.2	92.8	100.0	89.3	96.4	96.0
Formal trade union role	44.8	36.6	7.8	8.4	2.3	70.7	51.7	75.4	63.1	73.0

^a Agreement ratio.

supportive than their continental European counterparts. This is quite consistent with the greater satisfaction among Anglo-Irish EWC representatives with existing practices, in that it illustrates an attempt to extend regulation, irrespective of its rigour, to hitherto unregulated areas. The position is similar for EWC representatives based in Anglo-Saxon companies, who express higher agreement ratio scores than their counterparts from continental European companies.

Given the extent of dissatisfaction with the quality of information disclosure and consultation provisions, it is no surprise that there is overwhelming support for each of the three measures that might improve the quality of EWC practice. What is more difficult to explain is that Anglo-Irish EWC representatives, who are generally more satisfied with current practices than their European counterparts, register higher agreement ratios. Furthermore, a comparison between Nordic and Dutch and German EWC representatives reveals no significant differences, although the nature of their dissatisfaction with current practice differs, and Dutch and German EWC representatives might be expected to emphasize the need for legislative change given the juridified character of domestic information and consultation procedures.

On procedural matters there are also significant national differences between respondents. Anglo-Irish EWC representatives attach greater importance than their continental counterparts to the inclusion of 'assistance in interpreting information', 'more provision for informal meetings' and 'training provision' in the revised Directive. Their emphasis on 'assistance in interpreting information' and 'training provision' is quite consistent with the results presented above. In particular, Anglo-Irish respondents are relatively inexperienced in handling information and consultation procedures and their trade unions do not have the same depth of experience in supporting representatives engaged in such activities. The demand for more informal meetings probably reflects the inadequacy of communication between formal EWC meetings and the resultant breakdown in the continuity of EWC activities.

Among the training provisions required by EWC representatives, demand is highest for training on 'employment law and industrial relations in other member states', a priority for 52.9 percent of respondents. Many cite the lack of understanding of the legal and industrial relations systems in other countries as a restraint on the development of EWCs. Other training issues considered important include language training (34.9 percent), EWC 'best practice' (30.8 percent) and company structure and management styles (29.0 percent). In particular, continental respondents employed by Anglo-Saxon MNCs and Anglo-Irish respondents employed by continental European multinational EWCs stressed this latter item. Thus, EWC representatives whose companies are based in countries with traditions different from their own are more

likely to request training on company structures and management styles.

The inclusion of a 'guaranteed formal trade union role' in the revised Directive receives much support. This raises the issue of the relationship between trade union and EWC activity and the interrelationships between collective bargaining, negotiation and EWC practice. Several EWCs have concluded joint texts and framework agreements with management on issues such as company restructuring, vocational training, trade union rights, equal opportunities, working time and employment status (Carley, 2001). Support among EWC representatives for the inclusion of a 'guaranteed formal trade union role' in the revised Directive thus appears to be associated with, or part of a request for, further developments of this nature. It also suggests that EWC representatives are in accord with the euro-pessimists to the extent that provisions of the current Directive are seen as inadequate for fostering closer cooperation between EWCs and trade unions and, hence, developing EWCs beyond their current rudimentary form.

A 'guaranteed formal trade union role' was the only procedural matter emphasized more strongly by continental European than Anglo-Irish respondents. This demand is also stressed more by respondents based in continental companies than those in Anglo-Saxon companies. These results rest uneasily with the findings mentioned above on the importance attached to, and the initiative taken on, agenda items. The extremely low frequency with which 'trade union rights' appear on EWC agendas, the low rate of 'useful information and consultation' on the issue, and its absence from the current Directive, however, explain why most EWC representatives want a 'guaranteed formal trade union role' included in a revised Directive.

Conclusions

By promoting the Directive, the European Commission set out to establish a further component in a European system of industrial relations. Has this intention been realized? The rapid rise in the number of EWCs to more than 630 by December 2000 (Kerckhofs, 2001) certainly confirms that European industrial relations structures are in place in many companies. Many of the issues specified in the Directive as standing agenda items, however, have failed to appear in many, if not most, EWCs. Furthermore, many respondents view the quality of information and consultation as inadequate. While the institution of EWCs may thus be in place in many MNCs, the practices conducted therein require much development if they are to move beyond the partial provision of information and become a meaningful component of a European system of

industrial relations. Currently, most EWCs do not meet the initial expectations of the European Commission regarding information and consultation. They represent a case of structure before action.

There is, however, considerable variation in the agenda and role of EWCs. In part, this derives from differences in the content of EWC agreements; but in addition, the country of origin of MNCs is a key influence on EWC practice. The flexibility inherent in the Directive has allowed Anglo-Saxon managements the opportunity to narrow the agenda and to offer low-quality information and consultation. Policies toward EWCs developed by the European Industry Federations could usefully be refined to accommodate this variation and to counter the more restricted view of the role of EWCs held by Anglo-Saxon companies.

In addition to the country of origin of the MNCs, perceptions of the agenda and practices of EWCs were dependent on the position and nationality of respondents. Office-holders, in particular, were much more knowledgeable of the EWC and tended to be more positive about its operation. To the view that EWC representatives can be divided between those from the country of origin of the company and those from elsewhere (Lecher et al., 1999: 222–3) can thus be added the distinction between office-holders and other EWC members. The selection of office-holders from among representatives from beyond the country of origin of the MNC may thus mitigate the tendency for cliques or elite groups to arise within the EWC. As EWC practices benefit from the linkages established between EWC representatives and home-country company management (Lecher et al., 1999), however, such a development might weaken these linkages and lead to a deterioration in effectiveness.

Perceptions of the agenda and practices of EWCs also varied according to the nationality of respondents. Anglo-Irish respondents tended to be more positive about the EWC agenda than their Dutch and German counterparts who, in turn, were more positive than Nordic respondents. The more favourable response from Anglo-Irish representatives reflects the impact of the Directive on those operating within relatively deregulated labour markets. The greater dissatisfaction among Nordic EWC representatives, compared to their Dutch and German counterparts, requires further analysis. If strength of domestic regulations, or weakness in the Anglo-Irish case, is the determinant of perceptions of EWC practices, the views of respondents from Germany (where the legal rights of works councils are the strongest) should be the most critical. The more negative views expressed by Nordic EWC representatives suggest that factors additional to the strength of domestic legal regulations are also influential.

Irrespective of the nationality of EWC representatives, there is overwhelming support for a wide-ranging revision of the Directive to include an extension of its coverage and scope, tighter and more specific rules on

information and consultation, and improvements in the procedural provisions, particularly with regard to training. There are marked national variations in the funding of training arrangements. In some countries, trade unions meet the costs for all forms of support, including training, whereas in other countries, employers do so. Any revision of the Directive with regard to training provisions will thus need to address this variation.

Respondents of all nationalities provide strong support for the revision of the Directive to include provisions that would improve the quality and the timeliness of information and consultation. In this context, it is noteworthy that the Directive on the involvement of employees in the European Company, adopted in October 2001, specifies more stringent provisions than required by the EWC Directive. Its Article 2(i) specifies that information shall be available 'at a time, in a manner and with content that 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 *Societas Europaea* (SE or European Company). Article 2(j) states that consultation 'should take place at a time, in a manner and with a content allowing employee representatives, on the basis of information provided, to express an opinion on measures envisaged by the competent organ that may be taken into account in the decision-making process within the SE'. Of course, it remains to be seen whether a similar outcome results from a revision of the EWC Directive, but the inclusion of these provisions in the European Company Directive, at the very least, indicates an awareness among policy-makers of sensitivities on these matters.

The extent of the commitment to a revision of the Directive reflects support for the principle of EWCs among representatives and their frustration with current practices. As such, both euro-optimists and euro-pessimists can take succour from these results. The euro-optimist position is strengthened in that EWC representatives wish to build upon the foundation provided by the current Directive. The critical view of current information disclosure and consultation practices held by EWC representatives, coupled with their support for a wide-ranging revision of the Directive, illustrates that the EWC is an institution in the process of development. Evidence of a 'learning effect' in the review and renegotiation of agreements is a further illustration of this process (Gilman and Marginson, 2002). In contrast, the euro-pessimists can cite the extent of dissatisfaction with the quality of current information disclosure and consultation practices, together with the failure of representatives to extend the EWC agenda to cover European and trade union policy issues, as evidence of the weakness of the institution and the failure of the regulatory approach adopted.

The outcome of the revision of the Directive will go some way to

resolving this debate. More specifically, however, this article demonstrates that not all EWCs are at the same stage of development, and they should not be treated as a single category, as both euro-optimists and euro-pessimists tend to assume. There are marked variations in the breadth and quality of the EWC agenda and in the associated information disclosure and consultation practices. This should provide the basis for a more differentiated debate.

ACKNOWLEDGEMENT

The author thanks Richard Hyman, Paul Marginson and two anonymous reviewers for their helpful comments on earlier drafts.

NOTES

- 1 Marginson et al. (1998) and Carley and Marginson (2000) estimate that 521 EWC agreements were concluded before the summer of 1999, while Kerckhofs (2001) identifies 582 agreements concluded before December 1999.
- 2 The author checked every questionnaire, and where discrepancies were found, it was assumed that the name of the local company was correct.
- 3 The term 'select committee' is used throughout this article, but other terms are used for the same institution, notably 'steering committee', 'praesidium', 'agenda committee', 'executive committee' and 'bureau'.
- 4 Only health and safety and parental leave were reported as 'not raised' by more EWC representatives in continental European than in Anglo-Saxon companies. Equal opportunities and parental leave were the two issues on which 'useful information and consultation' was more likely to take place at Anglo-Saxon companies.
- 5 The Directive specified that this should commence 'not later than 22 September 1999'. The Commission submitted an initial report in April 2000, highlighting some areas of concern, but advanced no specific proposals for revision on the grounds that they might impair progress toward Directives on the European Company Statute and National-Level Information and Consultation. Although both the latter have now been adopted, at the time of writing the Commission has taken no further initiative, but the European Parliament has held several hearings to elicit views from the social partners on the revision agenda.
- 6 While this section focuses on the revision agenda of the ETUC, it should be acknowledged that the review and renegotiation of EWC agreements also present opportunities to address the shortfall in the practice of EWCs identified above.

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