

European Employee Information and Consultation

Legislation & Practical Experience

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Legislation: Purpose and Scope

- European Union Council Directive 94/45/EC of 22 September 1994
- Purpose: improve the right to transnational information and consultation of employees in Europe
- Scope: companies or group of companies with at least 1000 employees in EU Member States and at least 150 employees in each of at least two EU Member States.
- Process: Central management to establish on its own initiative **or** upon written request by at least 100 employees in at least two companies in at least two member states a
 - European Works Council or
 - a Pan European Information and Consultation Procedure.

Formation of a Special Negotiating Body

- A Special Negotiating Body (SNB) will negotiate with Central Management the establishment of a European Works Council or an employee information and consultation procedure.
- Local law will determine election method for members of the SNB.
- 3-17 members. One member for every country where the company has an establishment and one, two and three additional members for every country where at least 25%, 50% or 75% of the staff are employed.
- Tasks: to determine, with central management, the scope, composition, function and term of office of the European Works Council (EWC) or the arrangements for implementing a procedure for the information and consultation of employees.
- The SNB may be assisted by experts for the negotiations and expenses relating to the negotiations shall be borne by Central Management.

Timelines

- Central Management has to start negotiations within 6 months after receiving the request.
- Central Management and SNB have three years to conclude an agreement.
- If negotiations have not started within 6 months or negotiations have not resulted in an agreement within 3 years, the Central Management is obligated to establish a European Works Council.

Rights of EWC

- Scope of information to be shared with the EWC :
 - the structure, economic, and financial situation;
 - the probable development of the business and of production and sales;
 - the 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 of the establishments; and
 - collective redundancies.
- **The EWC has no consent or veto rights**

EWC in practice

- Of the estimated 2,204 companies covered by the legislation, only 772 (35%) have EWCs in operation. An additional 125 EWCs have been set up but ceased to exist following mergers, takeovers or bankruptcies.
- Only 23% of companies which employ less than 5,000 employees have EWCs.
- 61% of multinationals employing 10,000 people or more have EWCs.

EWC at LyondellBasell

- Lyondell did not have a EWC despite fulfilling thresholds as no formal request from employees
- Basell set up a Pan European information and consultation procedure in 2001: Euroforum
- Basell acquired Lyondell on 20 December 2007 and LyondellBasell now has over 7500 employees in Europe mostly in Germany, France, Italy and The Netherlands
- Review being carried out to determine strategy: Euroforum likely to be extended to include Lyondell

How Basell Euroforum (EUF) was founded

- Basell (ex-joint-venture of BASF and Shell) was founded in 2001 as a merger of three companies with strong European focus
 - EUF was based on a common initiative of management and staff representatives
 - Special Negotiating Body (SNB) elected on the basis of the European Union Council Directive 94/95/EC of 22.09.1994
 - Very constructive and practical negotiations with strong and positive support from a member of the European Mine, Chemical and Energy Workers` Federation (EMCEF)
- Final agreement after three meetings with the SNB after only three months effective Mid of 2001

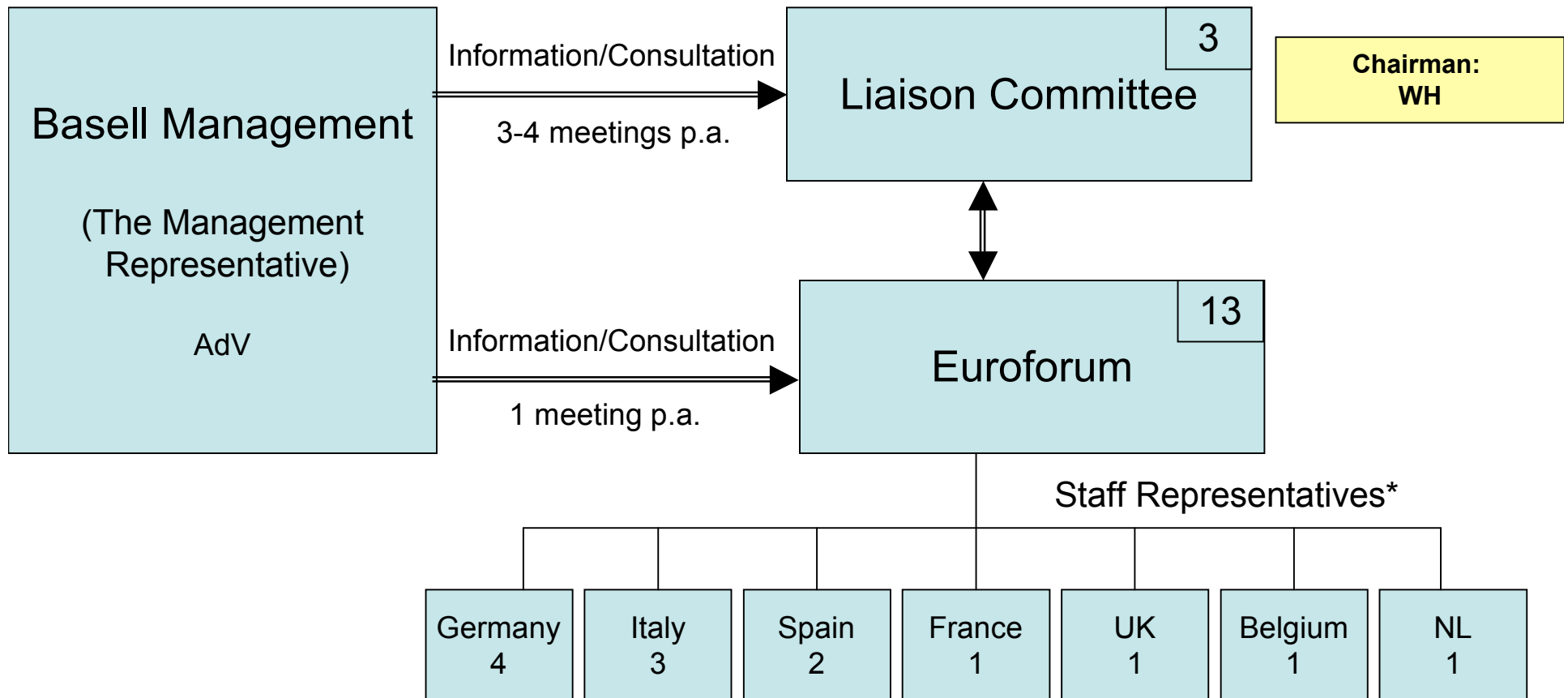
EUF-Structure (1)

- The Euroforum (EUF) is the meeting of the employee reps as members of an European Works council according to the Directive. In the EUF staff reps meet the Management rep.
- Staff reps appointed in accordance with national legislation nominated for a period of four years, re-selection possible
- A staff rep may serve only if and as long he is a Basell employee (no external person, no trade union rep!)
- Number of staff reps depends on headcounts in the countries
 - more than 1.000 employees: 3 Reps
 - more than 400 employees: 2 Reps
 - more than 100 employees: 1 Rep
- Change of headcount will take effect after the four years period

EUF-Structure (2)

- **Basell Management**
 - represented by „The Management Representative“ with full authority from CEO
- **Liaison Committee (LC)**
 - Three staff representatives elected to organise internal communication among staff reps as well as with the Management Rep between the annual meetings with full EUF
 - LC has the right to meet quarterly through the year, if appropriate meetings held by telecon
- **Secretary (appointed by the Management Rep)**
 - Responsible for organising the EUF, exceptional meetings and for the Minutes

EUF-Structure (3)



* Number of Reps depending on headcount per country

EUF – Tasks and Responsibilities

- **Basis: European law and Basell Euroforum agreement**
- **Objective:**
 - Information sharing and consultation on important transnational events which could affect the employees
 - Improving the understanding of the aims, tasks and issues of Basell
- **Subjects of information in the EUF:**
 - Economic and financial situation
 - Major investments and divestments
 - Organisational changes, Employment trends, HSE matters
 - Examples: Restructuring Projects (Future, SMART, HDPE Manufacturing Footprint)
- **No consent or veto rights**

EUF – How it works

- EUF takes place once a year at changing Basell locations
- Duration: one day with a half day preparation and review meeting of staff reps
- Exceptional meetings possible if major transnational decisions or events have immediate effects on employees in several European countries and if
 - an exceptional meeting is applied by reps of two or more countries
 - this meeting is supported by the LC
 - the Management Rep has been consulted before
- Up to now: only one exceptional meeting took place when Basell's ownership changed

EUFC-Conclusions – Pro's and Con's

- + Employees see EUFC as a positive instrument that the company cooperates with its employees (build up relationship)
- + Company can use EUFC proactively to improve acceptance (e.g. restructuring measures)
- + EUFC improves understanding among staff reps in Europe
- Staff reps often use EUFC as a vehicle to further their national interests, particularly when communication from Management is inadequate in the respective countries, from staff reps point of view
- High costs (e.g. travelling expenses, interpreters)
- Overall: Positive experience!

Interaction EWC - national works councils

- Separate, in principle
- Not interchangeable
- Determination of SNB representatives
- Interaction, in practice
- Need for consistent labor relations strategy
 - messaging
 - team
 - policy
- Focus on national works councils?