



COMMISSION EUROPÉENNE



## CONFERENCE

**The place of executives on CEE\*'s  
in the light of directive 2009/39/CE**

Paris, 14 and 15 October 2010

## Proceedings



PERCEE Project

\*CEE=Comité d'entreprise européen = European works committee, hereinafter referred to as CEE.

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**14 October 2010**



Welcome by **François Hommeril**

National Confederal Secretary, in charge of the Europe  
and International Section

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### **Opening address**

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**Bernard Van craeynest**

President of the CFE-CGC

Ladies and gentlemen, good morning and welcome. I am very pleased and very honoured to open this conference and to welcome you and to thank our hosts, the UEO. The CFE-CGC has always been convinced of the necessity for European construction, because who are better placed than executives at the heart of global development, economic development and, indeed, as a union organisation, social development? That is how, a little more than 20 years ago, our organisation, the CFE-CGC, was a founder member of the CEC, confédération européenne des cadres (European executive confederation), and has always played an active part in it, even providing a President for our European management union in the person of Georges Liarokapis, who has been in office now for a little over three years.

The European works committee is a relatively new body, introduced in 1994. It is lucky that we were able to take account of 15 years' experience to reopen the debate, thanks to last year's directive, and to take account of a certain number of developments in the role and place of CEE's in management-employee discussions within businesses and conglomerates that operate on an increasingly global scale. The debate is far from over. We cannot ignore the dichotomy which has arisen and which is becoming increasingly significant between large businesses and conglomerates on the one hand and, on the other, smaller businesses within which it is often difficult to make one's voice heard, in a context of international, economic, financial and increasingly social competition between employees.

We are convinced that the European zone is a necessity at a world level. We are aware that our respective countries are modest in size on a global scale and even that the European zone counts for only 10 %, and probably less tomorrow, of all the planet's inhabitants. That is why it seems all the more important to us when we are faced with the constantly accelerating march of progress in the business world, that we are able to make the workforce's voice heard and particularly that of the executive group that is at the heart of these transformations in the economic world and the development of our businesses.

I am particularly happy that we have been able to launch the PERCEE project. I thank all those who initiated it and all those who brought it into being and who support it. This conference is an important stage in the process. I am convinced that you will experience two days of intensive and very productive work that will make a contribution to enriching the PERCEE project.

The enquiry that has been conducted and which has been summarised for you is already rich in lessons but we have to conclude that this project, like the one we have been running for a number of years, is a source of proposals to strengthen the quality of the employer-employee dialogue.

I would ask you to excuse me as the current employer/employee situation in our country is particularly rich, dense and complicated, which is why I am unable to remain with you. I wish you an excellent day and the best of luck with your work.

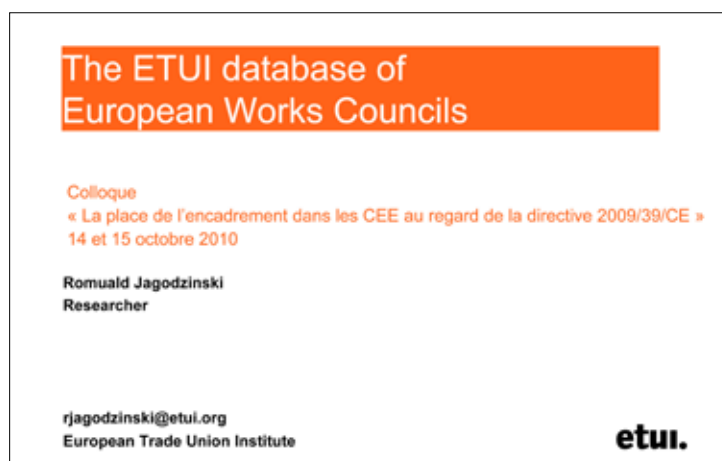
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## Situation report

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**Romuald Jagodzinski,**  
researcher, ETUI (European Trade Union Institute)



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## Summary of the PERCEE enquiry

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### **Franck Setruk**

CFE-CGC Member of the IBM CEE

As part of this project, we drew up a qualitative questionnaire of sixty questions about the setting up and operating of European information/consultation bodies.

One of the original features of this enquiry was that it was directed at representatives of both employees and employer members of CEE's as well as businesses without CEE's.

We have written this summary in the form of an analysis of the divergences and convergences as a certain number of replies are from the employer and employees of the same business.

Lastly, in the questionnaire, participants, whether they were representatives of employers or employees, were asked open questions as to what improvements were possible or desirable to improve the information/consultation process.

In conclusion, I think that this type of initiative enables the enriching of CEE's with experiences and good practice. But above all, I think that this is an opportunity for businesses to do something positive, to explain and to de-dramatise the setting up of a CEE.



## Questions/Answers with participants in the room

### ***A participant's question***

In the case of companies whose parent company is not French, which employer representatives were questioned, those of the French subsidiary or those of the parent company?

### ***Franck Setruk***

The object was to question the representative of the employer within the European body, not the French head of HR.

### ***François Perniola, President of the FECER (European Federation of Managers in the Steel Industry)***

The questionnaire does not identify the reasons why some European federations, affiliated to the CEC, only play a small role in CEE negotiations. Could the questionnaire have a slightly more analytical approach to this issue?

### ***Marc Soufflet, CAT Group, CFE-CGC activist***

How can a petition of the minimum 1 000 employees needed to open negotiations be organised, when the employees' representatives from different countries do not know one another?

### ***Participants' questions***

- What is the level of statistical validity and significance of the data presented?
- All the professional federations should be on the European employer/employee dialogue committee. It is an issue for us and for our organisation. I believe it is the only way to really improve the situation. What is your opinion?

### ***Franck SETRUK***

As far as the content of the questionnaire is concerned, we started with a lot more questions, particularly on the involvement of the CES's European federations. However, we found ourselves faced with the problem of the length of the questionnaire. We had to make some choices and, sadly, some cuts.

I am going to link this with the question on the statistical aspect. As I have already made clear, we are not involved in an exercise of quantitative analysis or of samples of representation with a statistical value. There is a data base for that. If we want a description of what there is, it will be found in the data bases.

On the other hand, we have here a more qualitative exercise, regarding perceptions. So on the question of these eminently subjective points, producing statistics is like the final proposals – they are individual suggestions. Actually, there needs to be more involvement on the part of the various players and, above all, more dialogue. As for me, what surprised me in the different responses and particularly through the analyses of the responses from the employee and employer representatives was the difference

in perception of factual realities. To give you some examples, there are divergences amongst the workforce of a business. When you are talking about 200 employees, you can say that one will even out and there will not be a problem. But when you are looking at a 50 % discrepancy amongst the workforce of a large business in Europe, employees and employers have a very different view of their business and they are not talking about the same thing. It is a pity they do not have a shared view.

### ***Frédéric Morterol, CFE-CGC activist***

I am lucky enough to have been part of a European forum almost since 1997, at BP Chemicals, then INEOS in 2005.

I have noticed 3 points:

- Amongst large conglomerates in Europe there is an increasing tendency for a certain number of strategic and industrial decisions, which used to be taken solely in the country where they operated, to be taken by central management. For reasons of fiscal optimisation, the head office is very often located in a country with a « sympathetic » or « attractive » tax regime. This financial and industrial device results in a certain amount of information/consultation which could happen on a national scale no longer doing so.
- CEE's should take over the whole issue of statutory accounting and industrial strategy.
- CEE's have a cultural problem to cope with. They unite a number of countries and thus a number of different cultures.
- CEE's are also faced with trade union cultures that vary from country to country.

Unions in England are not really used to looking at official, published accounting details. It is much more the case in Germany, and it often happens in France. I wonder if one of the future developments of European committees could be the allocation of for example an economic commission, as on French works committees.

### ***A participant's question***

To what extent are the powers exercised by European federations on European works committees' full powers? Are they not more often guests? Out of the CEE's that are currently active, which ones have no executive representation at the moment?

### ***Franck SETRUK***

Members of CEE's must have accountancy and financial skills. Moreover, this justifies the interest in having Executive representatives amongst the employee representatives at a European level. But that reinforces the need for training members of CEE's, already raised by the language problem and then the acquiring of skills. It would therefore be wiser to plan for Executive representatives in the make-up of CEE's at the level of European authorities who can bring with them their knowledge in these fields.

To return to the subject of progress towards economic commissions, it is rather in the French style, for all that. That would be more a case of financial analysis commissions. Experts in these fields can always be brought back, which is always possible as well.

Federation representatives on CEE's, according to the results of the questionnaire, are often guests and not members by right. But they are permanently on some CEE's.

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## The role of CEE's in the new directive: which aspects to transpose?

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Round table

### Speakers:

- **Emmanuel Jahan**, CEEP ;
- **Evelyn Pichot**, European Commission;
- **Jean-Jacques Paris**, Alpha practice, mediator.

The French minister of work was asked to speak at the round table but was unable to attend (the ministry is working on the transposition of the CEE directive). He is however represented by participating members of the Direction Générale du Travail (Government department overseeing work related matters).

### ***Evelyn Pichot***

Within the European Commission's employment law unit, I am in charge of the CEE directive.

The objective and content of the new directive are there precisely to respond to what have been identified as possible areas of improvement to European works committees.



### **Firstly, what are the objectives of the new CEE directive?**

- **To have more European works committees.** Why? Our objective is to ensure that more use is made of the right to information and to transnational consultation of employees and so that there are more European works committees. At the moment, 60 % of businesses and 40 % of employees do not have access to one.
- **To have more efficient European works committees.** Why? CEE's are particularly important in the case of European reorganisations in large businesses. In about half of cases, the CEE's are not consulted before a transnational reorganisation decision is made public. There was therefore a need to amend the directive. That is why the Commission, after an in depth impact study and after consulting employers and employees, presented a new directive in July 2008.



## **What are the principal elements of this new directive, and what is it going to change de facto for European works committees in respect of transnational information/consultation?**

### **● The elements that will not change:**

No good practices within European works committees should change.

The directive still gives absolute priority to negotiation, in other words the negotiation between the parties within each business on what the CEE or the information/consultation procedure must be, its composition, its means, its way of operating and its individual characteristics. In this way, the directive strengthens the manager in his negotiation. The base, the core of setting up CEE's remains the negotiation.

### **● Developments:**

The directive provides new measures concerning the setting up of new CEE's.

It establishes an obligation for regional and national managers and business management at all levels to provide all information necessary to know if they are in a position to request the opening of a CEE and/or the setting up of a CEE. This information includes, notably, details of the number of employees, the structure of the business, etc. This information must be provided and at present it is the joint responsibility of all levels of management in companies that are concerned.

Whenever negotiations are opened on the composition of a special negotiating group or the setting up of a CEE, the European employer/employee relationships bodies will be informed.

**Who are the European employer/employee relationship bodies?** They are those who are consulted by the European commission as part of the process established by the Treaty. They are the inter-professional employers' and employees' confederations and the employers' and employees' professional confederations at a European level. The CEC is of course one of these organisations.

The directive encompasses the content of the agreement which institutes a CEE or a transnational procedure for informing and consulting employees. And in the content of the agreement, we have elements on the information and consultation point of juncture between national and European levels. We have elements on adapting to changes in the structure of the business, elements on the need to ensure a balanced representation of the different categories of personnel.

Executives as such are not specifically mentioned. It is simply stated that the agreement instituting the CEE must take account of the need for balanced representation of workers on the European works committee. This involves executives and the various activities within a business.

Then, there are very important elements concerning **the operating of the CEE** to make it more efficient.

The directive defines the methods of informing and consulting workers and how these are to be set up to ensure an effective outcome. The latter is linked to another important principle which is to enable efficient decision making within the bu-

siness. The idea is that the transnational process of informing and consulting which takes place within the CEE must allow clearer and more efficient decision making.

Amongst the essential aspects in the new directive are the concepts and definitions of information and consultation. In the new directive we have definitions that are quite long and full of substance of what must be understood by the terms information and consultation. I am not going to read them to you in full, (v. article 2.1), but what is important here – and we have this principle in both the definition of information and in that of consultation – is a sort of variation of the principle of effective outcome. It is said that this must take place at a suitable time, in a suitable manner and with a suitable content.

We have an important element in the new directive which is to define the jurisdiction of the CEE relative to national representative bodies and what is to be the point of conjuncture between national and international levels.

We have, which is not the case in the directive of '94, a definition of the transnational jurisdiction of the CEE. These provisions have been introduced since then, notably by the directive which established the information and consultation of workers in 2002. They enabled details to be established of the CEE's jurisdiction over transnational issues, relative to the jurisdiction of national employees' representative bodies which have a jurisdiction over national issues and to see where the point of conjuncture between the two lies.

Example: I will take the case of Opel, with the closure of the Anvers factory. The employees of one single member state are directly affected by the loss of jobs. But this is of significance to all European workers because it involves a large number of job losses. What is more, it means the transfer of work between countries and that is one more additional element of transnationality. These are the examples given to the council and the parliament as part of the discussion on the directive. This could also be the disappearance of a European research centre which does not necessarily mean a lot of job losses but could be very significant for employees and for the future of employment in Europe for example. That is the definition of transnational.

The directive establishes a point of conjuncture between transnational and national levels of information, consultation and representation. In the enquiry, it was an element identified as a point of weakness in the operating of CEE's. De facto, the directive says that « the national and transnational levels of information and consultation must have a point of conjuncture between one another ». In each business, we must define how this point of conjuncture must be made. Effectively, we have different systems. We can have a business with divisions or a business that may be very well established in one country and just have marketing structures in the others. The idea is therefore to say that this way of conjoining national and transnational levels of information/consultation, the circulation of information, must be established and adapted to the actual situation in each business by means of negotiation.

In the new directive there are also provisions on the role and capacity of staff representatives. The new directive says that « members of the CEE collectively represent all European employees. » A CEE member does not represent his/her union or work place or even his/her country; all members collectively represent

all European employees. There are provisions that say that they must have the means to carry out their functions. Notably, they must have the means necessary to apply the rights granted by the directive to represent the employees collectively. There is a lot of discussion on the exact extent of these means. At the same time, they are material means, reinforced by the courts if necessary. Associated with this collective representation element is a duty to keep the employees they represent informed. This is very important, as sometimes the CEE is in the higher realms and the employees have no idea of what can happen up there. The new directive introduces an obligation for CEE members to revert to the employees they represent with information.

The directive also makes provision for training. It provides for employees, CEE members, to have training without loss of pay. Training is already being carried out in 40 % of CEE's. The representatives' mandate within the CEE is very difficult; they must: properly represent the employees they represent, be comfortable with high realm strategies, be able to analyse accounts, be able to express themselves, have inter-cultural relationship skills which are not necessarily straightforward when different cultures function differently, etc.

In the new directive, there are also elements for **organising the adaptation of CEE's to changes to businesses' make-up**. We know that these days mergers, take-overs and modifications are going on all the time. Many CEE's were not equipped to deal with these changes. The new directive therefore contains an adaptation clause which applies to all agreements – even those reached before '96, even those reached in businesses that are not subject to the directive's obligations – which must permit a new negotiation to set up a new CEE in the event of a change to a business's make-up.

**The directive introduced a complementary element** – a window between June 2009 and June 2011, to reach new agreements or to revise existing CEE agreements. During this period, it is the existing obligations that apply and not the obligations arising from the new directive. The objective was to facilitate the conclusion of a CEE agreement within that period, before the new directive comes into force to encourage new CEE's like in '96. Some will not be subject to any obligations, except the adaptation clause, others will be subject to the current obligations and the adaptation clause and, finally, a third category of businesses will be completely subject to the new directive. This makes things a little complicated...

In conclusion: We are currently working with member states to exchange information, analyse problems and facilitate the transposition of the directive into national law. We should be in a position to produce the results of this work with member states quickly.

### **Emmanuel Jahan, CEEP**

Good morning. I'm wearing two hats. Firstly, I'm representing businesses with a European public shareholding and I am also employer/employee affairs representative for the Air France-KLM Group. I'm wearing a lobbyist's hat because I'm representing



my group regarding employer/employee developments and on the other hand, at the level of this grouping of employers in businesses with public shareholdings known as CEEP, which is one of the three official European bodies responsible for employer/employee negotiations along with the Confédération européenne des syndicats (European trade union confederation) and BusinessEurope. Very loosely speaking, BusinessEurope represents private businesses and is much better established than the CEEP which represents more businesses with public shareholdings like railways or with dual shareholdings like Air France-KLM, Renault or Airbus, a state shareholding and private shareholding.

**So, how did the discussion go?** I'm going to give you our actual internal deliberations as Evelyn has presented the final text. But you suspect that since the first text – which I remember– that was systematically rejected, it has been necessary to carry out some work within our own organisation. You should know that we work with 27 member states and what the French may not be used to, when Evelyn said that there are some reasonable provisions, you could almost draw inspiration from the word « reasonable » in Anglo-Saxon law which has real meaning. Well, certainly it isn't like in our country based on Latin law and expressed very clearly but it has meaning at a European level.

The first question we asked ourselves was; why create a new directive when the existing one still has quite a lot of room for manoeuvre? If we accentuate the constraints of the new directive, we could have even less chance of getting works committees ...

The question of the "representativity" of those involved in employer/employee negotiations was also raised. Because the rules of « representativity) in Europe are completely different, you often have a Confederation of European trade unions which has about twelve federations if my memory serves me correctly and if it has not changed. But you have 72 employer representatives who are spread over 36 employer/employee dialogue committees and you can easily see that it's not simple. The representativity at employee level is historic for example in Denmark and Holland. It is not the subject of a legal text. France has a law. There are places like Germany where a federal court has decreed that if you have demonstrated by a strike that you are able to carry the workers with you, then you can be deemed representative. The notion of representativity is therefore not at all the same. If you go to a works council, which is the works committee, in Sweden, the representatives are named by the unions because the unions are so representative as they make up 80 % of employees.

One of the most important developments is the notion of representativity and balanced representation. I'm very pleased you mentioned it, Evelyn, because in my experience in Air France-KLM, in our CEE, the majority of the representatives only represent 6 000 people out of 100 000 employees. Can these representatives of 6 000 people speak for a group of 100 000? You can well see that in my opinion the directive will really change the content and role of CEE's over the coming years.

The first point of the agreement was the notion of "transnationality". In the first text, you can have a transnational problem that only affected a single member

state. For that, the text relied on the 2001 directive concerning European companies where it was already the case. The question, « Isn't there a source of abuse here? », because two member states, and at least we can be sure of this, is certainly transnational.

But is every alteration to the organisation of a business in a member state really a European matter? Example – I'm speaking from real personal experience – in London, there was a garage where five people looked after about ten cars. When Air France wanted to close it with new jobs offered in the same location with training and identical remuneration, the Air France CEE said it was a European problem. The closure was questioned. Why? Because it was a reorganisation and it could impact on others, etc. So, from the employers' point of view, the question was, where is the limit of what is transnational and what is not if we are a single member state. The compromise in the directive (preamble section 16 states that if there is a problem that effects a single member state but there is an impact on the group, then it is a works committee issue all the same and that's fine). But when you look at the actual legislative text of the directive, it says that there should be two member states all the same. So it is, in fact, a matter of the letter of the law and spirit of the law. I don't think that's bad as the preamble sections establish the spirit of the law and the letter of the law is there. This, then, is the debate we had and the compromise that those involved in employer/employee dialogue, in this instance, the European confederation of trade unions found.

The other point was the extension of the existing agreements. We reached agreement on information-consultation. We debated the national connection. When did they have to be notified? In the beginning, it was said that it had to be done immediately and, moreover, everybody was in agreement, except at one moment it was so specific that it was almost the same day. So we wanted to say, "Be careful!" because at a CEE meeting, the constraints are different from a national works committee. We therefore agreed on the notion of informing them simultaneously but that did not necessarily mean the same day.

A third point was the subject of a long debate between us, with BusinessEurope – the notion of going to court for the CEE. The first version of the text said that the CEE represented all workers, in our opinion that's fine and they had the power to go to court. That obviously posed a problem – on what bases, where and which text? The debate finally ended by saying that the CEE must have the legal means to apply the directive. We therefore limited the legal argument to the application of the directive. I'm going to speak freely. It was the French presidency. The European Confederation of trade unions knew that after this there was the Czech presidency and with this presidency, it would be more complicated to get a text like this passed than with the French presidency. In the end, everybody accelerated the debate and we reached a common agreement.

I will end on this challenge - France must develop in terms of employer/employee relations! When the document was signed – the CES covers 65 million employees and BusinessEurope and CEEP claim 20 000 businesses – some French members of the European Parliament, including Harlem Désir, considered that this agreement did not suit them! I find that extraordinary! One must be aware that an agreement

signed by the CES already requires a large internal debate to say « we'll sign the text », that the negotiators of the text worked word for word. And at the end of this long journey, certain politicians – French, what's more – arrive saying « that doesn't work for us ». Indeed, but you must reposition yourselves in the European context!

## **Questions/answers with participants in the room**

### ***Marc Soufflet, CAT Group, CFE-CGC***

What impact does refusing a CEE consultation have? Does it have the same effect as for a French works committee?

### ***Comments from several participants***

- Sector-based European employer/employee dialogue committees do not give places to management representatives, who are represented by the European Federations of the European Managers CEC.

Can the European Commission intervene to make European employer/employee dialogue more representative of those who are recognised at a national level? In particular, executives are recognised at a national level by law, but not at a European level.

- You have to read the terms of the new directive on balanced representation carefully. In the name of subsidiarity, it is up to the member states to determine who represents the workers and notably to foresee, « if they consider adequate » a balanced representation of the different categories of workers. The problem is that some European countries do not define the notion of manager or executive, or even have legislation that is discriminatory towards the representation of executives. Through this article, we are putting this type of discrimination back in the directive.

### ***Evelyn Pichot***

#### **Firstly, the question of a consultation being refused**

The question of sanctions is the responsibility of member states in the national transposition.

There are some general principles at a European level. This directive is introduced into the national laws of the various member states, sometimes by collective negotiations, but it is included in the national laws of the various member states by transposition.

It is the responsibility of member states on the one hand to ensure that the objectives and content of the directive are properly transposed into national laws, and on the other hand to provide for effective and suitable sanctions for the breach of the provisions of the directive.

There is a preamble clause in the directive that indicates that administrative and judicial proceedings as well as effective and dissuasive sanctions that are proportionate to the gravity of the offence must be applied in cases of violation of the obligations arising from this directive. Should these be the same sanctions as for failure by national authorities to provide consultation on representation? Should there be others? That is a matter for national debate, not at the European level. What is certain is that it is the duty of member states to have sanctions that are effective, proportionate and dissuasive.

### **The question of relationships with employer/employee dialogue committees.**

The parties on the employer/employee dialogue committees are autonomous. With regard to sector-based employer/employee dialogue, the commission is there to provide the framework, the means, to promote, to provide assistance, etc. But it cannot compel the employer or union committee members to add certain things to the sector-based employer/employee dialogue committee agenda or to introduce parties who are not accepted by the employer and union organisations in attendance.

It is really up to the participants in the sector-based employer/employee dialogue in each sector to put in place the means to set this out properly. I have been invited to attend some sector-based employer/employee dialogue committees, in the chemical sector for example, to discuss the incidence of modifications where CEE's are concerned, the importance of transnational business agreements, of transnational business negotiations that are developing, to see what sort of point of conjuncture between sector-based employer/employee dialogue could be put in place at a European level and for a business's transnational dialogue. But once again, it is up to your employer and union representative organisations to put this in place. Apart from support, assistance and providing the components for projects of this type, the Commission can impose nothing.

The question of a point of conjuncture of the levels of employer/employee dialogue is very important. It is one of the questions which must be dealt with as part of the discussions in progress on transnational business agreements.

### **The last question on balanced representation**

The text that determines employees' representation is unchanged from the initial directive. What has been changed is article 6 of the directive - the fact that the composition of the CEE, the number of members, the distribution of seats enables as far as possible the need for balanced representation of workers according to their field of work, workers' categories and gender to be taken into account. The method of appointing employees' representatives must always be decided at the national level. In some countries, it is the unions who represent the employees, in others, the elected officials of the works committees. The mechanisms for the selection, election and appointment differ widely from one member state to another. It is not possible to establish it at a European level. On the other hand and as has been introduced, the agreement establishing a CEE must, in the way it is designed

and in its composition, allow as far as possible a balanced representation of fields of work, categories and by gender.

### **Jean-Jacques Paris**

If member states do not transpose the directive correctively, the Commission has a role to play: it can object to the transposition. But the Commission cannot impose any type of sanction on member states. That is up to each member state. Afterwards, it is for the Commission to assess.

With regard to the link between CEE's and sector-based employer/employee dialogue committees, I believe there must be no confusion. I am not going to agree entirely with Evelyn. Example: I have been a member of a sector-based dialogue committee for the transport industry for five years. We do not talk about CEE's. Why not? Because those around the table do not represent a business but a whole industry in the broad sense. We do not talk about CEE's, except to present new directives that concern them. I will go even further: the two parties to the employer/employee dialogue do not want it. As far as the Confédération européenne des syndicats (CES) (European confederation of trade unions) and the Fédération européenne de la métallurgie (FEM) (European metal workers' federation), it is they who represent all metal workers and not the CEE.

Moreover, there is a very big debate between them - and in our country too- to establish if a transnational agreement can be signed by a CEE. That is a good question. The position of BusinessEurope, CEEP and the CES is that a CEE is not intended to sign a transnational agreement that replaces the role of trade union organisations. It is true that in Germany agreements are signed by CEE's but it is not the rule in Europe. Within the FEM, a procedure, and a very courageous one at that, has been set up to approve an agreement at European level. The authority is the CES and it is fighting to retain its authority as employers are fighting to retain their authority in terms of negotiations. No mixing of types.

### **Patrice Montanian, CFE-CGC activist**

Does the obligation created by the new directive to provide employees with a report of our work fall to us or is it automatically transferred to our employers?

If we want a more institutional report, either we do it ourselves and are sanctioned for overstepping what is authorised by union law agreements or we go through our leadership, who impose on us a form of union tract which does not have the institutional value that the directive intended to give to this report. Can we consider this duty to have been transferred automatically to our employers, to give us the means now of reporting in an institutional style to the employees we represent in all the companies in the Group and in all the countries concerned?

The second question on the notion of trans-nationality. Can we take it that a job-saving operation in one single country could impact on other countries de facto,



for example, group mobility policies and duties to provide alternative employment which may exist in national legislation?

### **Michel Patard, Vice-chair Eurocadres (Euro-executives)**

The transposition of the 1994 directive showed that in some countries it was difficult to consider that representatives of workers from these countries could represent the employees in so far as they were appointed by the businesses. How can the 2009 directive improve things in this area?

The European social model, with the CEE, is very interesting. It must be approved. But as Monsieur Van Craeynest said this morning, that involves groups that are increasingly global. How can the head of a business, based on his experience in a CEE, envisage a transposition to a global scale, as for example was possible in the EDF group? There are a certain number of tools that may exist on an international scale. How could a business person envisage transposing the CEE model to an international level?

### **Emmanuel Jahan**

On the question of communication, it is not the leadership who disseminates the employees' message. The method of dissemination must normally appear in the agreement which must be signed or even amended for CEE's.

Job placement on a European level is in French law but not in that of all member states, which explains moreover that there is a notion of subsidiarity which comes into consideration. The number of placements is high. If a factory is closed in one country, and there are a lot of placements there is all the more reason for it to impact on other entities in other member states. Effectively, that is a matter for the CEE.

Dual membership management/representative – if the parties do not reach agreement on representativity « who represents whom », the subsidiary clauses will give you the rules. They must be applied. These clauses apply when the employer/employee dialogue fails.

RSE (social and environmental responsibility within a company) on a world scale is a real issue nowadays. Can you conceive of a world agreement? There are some large businesses that achieve it, but there are very few of them. There are 80 to 100 transnational agreements in existence and very few world agreements. But the differences between states are such that it is very complicated to set up world agreements.

During the Belgian presidency of the European Union, we worked on reasonable work. The question was the same – can you impose reasonable work throughout the world? The response from all the participants was that the gaps were so substantial

depending on the state that each policy must be adapted relative to the state. Well, I think that the same applies for RSE agreements. Of course there are some fundamental clauses. However, even the eight fundamental clauses of the OIT (international work organisation) are not applied throughout France. Equality between men and women is part of a fundamental convention. Even so, it is still talked about ...

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## CEE's in practice

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### Round table



Speakers:

- **Jean-Jacques Paris**, mediator;
- **Luigi Bosco**, managers' representative, AER Quadri, Alitalia;
- **Dominique Azam**, Head of HR, Europe Saint-Gobain Group;
- **Jean-Claude Guery**, employers' representative, MEDEF, AFB;
- **Antonio Paranthos-Neto**, managers' representative, ARKEMA;

From two succinctly written monographs, said by one party to be a failure and by the other a success, a great success, the idea was born to explore the problems that arise when a CEE is set up or when it becomes active.



**Luigi Bosco,**  
**Vice-chair of the FICT for AIR TRANSPORT**  
National Administrative Secretary of AERQUADRI

### **Introduction: Bankruptcy of the former company « Az » and the creation of a new company – Union Relations**

To understand better the state of union relations within ALITALIA, I think it is necessary to devote a few minutes to explaining the development of the company

over the last three years. After some very questionable management choices, frequent changes amongst top level management (very well remunerated), some entrenched political interests and unattainable industrial plans, we witnessed the passing of the partnership with KLM and Air France and, shortly afterwards (August 2008), the company being put into extraordinary administration with the appointment of a liquidator. Part of the responsibility for such a negative result must be sought in the substantial number of unions taking part in the negotiation (CGIL, CISL, UIL, UGL, SDL, CUB, ANPAC, UP, ANPAV) and in the corporatist policies that some of them pursued to the end.

The bankruptcy of the former company « AZ » resulted in about 10.000 employees from both ground staff and flight crew being placed in « Cassa Integrazione Guadagni Straordinaria » (CIGS) (redundancy payments), on the basis of an ad hoc decree by the Government (the decree known as « Lodo Letta »). Such «purges» often happened dramatically (24 hrs to clear your desk), modelled on what happened in the United States, without in any case taking into consideration the professionalities, aptitudes and qualities of the human resources and more particularly a justified reorganisation plan. The other human resources have been reabsorbed by the new company « CAI » (Compagnia Aeronautica Italiana) with contracts offering less favourable conditions, notably for executives (elimination of the higher executive grade), and financially.

The Italian Government's decree therefore assured employees of a relatively long period of social cushioning (7 years contribution of CIGS (unemployment benefit) mobility included, a measure never applied to other Italian companies). For the unions, it marked a turning point in relations with the company for the following reasons:

- The cancellation of relations with certain unions which had not been admitted to the negotiating table and which had not signed the agreement (only UP, UGL, CGIL, CISL, UIL have been recognised while ANPAC, ANPAV and SDL have lost their representativity);
- The total unavailability of the company to meet non « qualifying » unions, in other words those who had not signed the Government pact (Aerquadri is among these latter);
- The dismissal or retirement of a large number of union delegates (including some managers) led to a reduction in the number of representatives in the Executive and Manager category: the thread is not easy to find for fear of reprisals (Managers today have no union representation);
- the perception on the part of a large number of employees of their complete powerlessness in the face of the closure of the company, a perception strengthened by the adoption of punitive measures with powerful ramifications such as dismissal for minor misdemeanours, all employees (including union representatives) forbidden to take part in any debate, round table or external event or to make statements without prior authorisation.

Furthermore, it should be added that, based on what has recently been announced, the company would have fallen again into a critical financial state (despite aid received from the State) and that would eventually have led to the handing over of

whole sectors of the business to third parties (catering, maintenance and ground staff) with a significant loss of jobs estimated at around 1900.

### **The principal causes of the bankruptcy of the old Alitalia Company – Reference scenario**

A study by the Bocconi University in Milan, ordered in 2008 by FEDERMANAGER, shed light on some of the causes that brought about the bankruptcy of the old Alitalia:

1. The unforeseeable increase in the crude oil price in 2008 (+ 50 % in one year).
2. The lack on technical ability amongst management combined with powerful populist interests in the public sector (see the case of the privatisation of Tirrenia and Finmeccanica recently).
3. The privatisation of Alitalia (potential test for a new role for the state in the transport sector transformed by political interests into a nest of complications in the absence of a clear policy on state/market and shareholder/management relations) the negative impact of which is in danger of spreading to other strategic sectors (Airports, Trenitalia, Tirrenia, local public transport companies, flight support companies etc...).
4. The process of moving flights from Rome's Fiumicino airport to Milan Malpensa, which the Public Authorities very much wanted and which was supported by local political interests, that forced Alitalia to divide its organisation in two with a consequent rise in costs and logistical effort the consequences of which became apparent several years later.
5. The reverse process (« dehubbing » from Malpensa to Fiumicino with a 77 % reduction in Alitalia's operations at Malpensa in 2009) and as a result a marked reduction in passenger demand, particularly in « Business » class and in Malpensa's « Cargo » capacity, compared with its main pan-European competitors, compared with significant investment in existing logistical structures.
6. Strong competition in national traffic (e.g.: on the Rome-Milan route) either from « Ferrovie dello Stato » (Italian railways), or from the principal low-cost companies (like Ryanair) which, bearing in mind their turnover, can no longer be considered « minor companies ».
7. The rejection of Air France's offer to purchase the company in 2008 and therefore the loss of 2.5 billion of investment (with staff reductions estimated at 2 500 jobs).

### **Situation report on union relations and employer/employee dialogue– A look at CEE's**

In this climate of closure followed by strong tension between employers and employees caused by the decision by certain businesses (supported by the major unions and the Government) to cancel the principal national collective contracts and replace them with local « personalised » contracts (see the cases of FIAT in Pomigliano d'Arco (Naples) and FINCANTIERI in Genoa and Taranto), the situation

appeared to be very serious and destined to get worse (a very « lively » autumn is expected).

In a personal capacity, I will express my thoughts on possible roads to improvement:

- We must get back to and renew the employer/employee dialogue and the consultation within businesses on the most important topics (e.g.: industrial development and employment) and calm interface between the parties with respect for their different roles (employees and employers) to return to the union its basic task which is to be the sole mouthpiece for the needs of the grass roots membership.
- It is important to reaffirm with determination (and to fight if necessary) the respect for contractual conditions already established and the application of national collective contracts.
- It is crucial to insist on the respect for and recognition of the professionalism of all workers, particularly executives who represent the real « backbone » of businesses, they contribute so much to the achievement of the latter's objectives.
- It is essential to make common cause with other union forces, national and international, to unite our efforts towards full application of the European regulations in force, including the very important one on CEE's.

These days, grass roots membership in Italy does not seem very interested in taking part in a common cause – perhaps because of the «media overload » that they are subjected to every day or simply because they are busy « making ends mee » !!!!!

In this context, it is understandable that there are still few CEE's in Italy and they are rare in a limited number of businesses and do not represent enough of the executive class, few of whom belong to a union and who are at a disadvantage numerically and organisationally.

Nevertheless, we remain confident that, thanks in particular to the work of such projects as PERCEE, we too will have a CEE network in Italy in the very near future.

### **Dominique Azam, Saint Gobain**



It is with great pleasure that I address these few words to you about the experience at Saint-Gobain in respect of constructing employer/employee dialogue at a European level. I very much want to tell you that although in the introductory address it was stated that a successful experience would be presented, it is with much modesty that I come before you to describe our approach. And once again, I am very pleased to share a few thoughts with you.

Employer/employee dialogue at a European level is not a long and gentle river, but is more like a permanent construction site. That being so, we have been lucky

enough to enjoy a certain amount of success in building employer/employee dialogue. I am going to talk to you briefly about it. And I'll tell you that I got all the more pleasure from experiencing this success since it was shared. If there is employer/employee dialogue, if there are European agreements, it is because there are parties who can talk to one another. And so my testimony this afternoon is also an expression of my esteem for our union colleagues, executives and non-executives from different organisations, who are making a big contribution at Saint-Gobain to the construction of the employer/employee dialogue.

I would have sent my regards to our former convention secretary, Thierry Logeon of the CFDT, but sadly he passed away a few months ago. He made a big contribution as secretary of the European committee in negotiating clause n° 7 of our agreement in 1992.

We have a very old real life experience on a European level at Saint-Gobain, as we have an agreement that dates back to 1992 and the seventh clause is the one by which we institutionalised information/consultation within Saint-Gobain's European committee. As François Vincent is here, I would like once again to express all my gratitude as he played an extremely important part as Chair of the FECCIA, and I shall come back to that, in the negotiations to help the various parties (including management) to be able at the same time to describe with great precision the skills and responsibilities and great detachment. In these negotiations, it is hard not to get over-emotional and he helped us to remain dispassionate which is important in order to keep to the point and build an agreement. And so in the midst of the crisis – I'll come back to that too as it's an important element– for a year we negotiated with union organisations this amendment that introduced information/consultation on a European scale in advance of the latest directive.

It is a success we are happy to share. Now a few words about Saint-Gobain. Saint-Gobain is an international conglomerate whose core activity is to serve the residential market. Turnover is a little over 41 billion and we operate in 64 countries. The Group's European position is very significant since 70 % of Saint-Gobain's business is concentrated in Europe, although we operate further afield over 64 countries. This European bias leads us to be operating in 25 of the 27 countries of the European Union. So the European employer/employee dialogue is something extremely important.

I should like to emphasise three points.

**Firstly, to tell you something I believe. And it is Dominique AZAM intuitu personae rather than the head of employer/employee affairs at Saint-Gobain telling you.**

The crisis has created a fantastic opportunity for employer/employee dialogue in conglomerates which had a tradition of sharing strategic information significantly and with confidence. In my opinion, it is one of the keys to success in employer/employee dialogue – knowing how to talk about a difficult matter confidently and accurately. It is only possible if you are used to doing this sort of thing. You cannot ask those involved in employer/employee issues to talk about difficult matters in times of crisis and leave them on the sidelines the rest of the time when all is

going well. The crisis has created an opportunity and it is my belief that European committees, mainly in groups with significant European presence, can play a big role in strategic matters.

I have often said in seminars and conferences that I was devastated by what I read or heard about the profile of HR managers before the crisis. I am not seeking to bring the different worlds into conflict. I do not want to oppose the Anglo-Saxon world or, I was going to say the rest of the world that is neither Anglo-Saxon nor European but is the future world, Asian and in particular Indian, where you cannot say that there are structured models of employer/employee dialogue. On the question of human resources, it has been said that « humanist HR managers are history ». Nowadays, there are heads of HR who carry out transactions, who are financiers, operators, who calculate, who make Excel spreadsheets, and who are first and foremost biased in this way. Everything to do with empathy or employer/employee dialogue is part of the old Europe, it's a little old fashioned. I want to scream. I want to say it's exactly the opposite. And this crisis – every cloud has a silver lining, as they say – has shown that groups that keep up their employer/employee dialogue as an element of strategy, of balance in the group's performance make the right choice and I tell you this having been authorised to do it as my Chairman, Pierre-André de CHALENDAR, referred to it himself the day he was made Chairman of Saint-Gobain in June 2010 at the Group AGM : « I regard employer/employee dialogue as one of the keys to the Group's performance ». I'm very glad he said that and I think it's true. And I think that through the crisis we've been through, if we hadn't been able to talk on a European scale and so in a dimension in which you can call up what is really happening in a whole series of markets, not just local markets, we would not have come through it. And at Saint-Gobain, we have very local operations and, at the same time, international markets which are viewed on a pan-European or global scale.

Flat glass, glass for buildings, is a product that travels. And when you have factories producing flat glass in all the countries of Western Europe and also for several years now in countries in Central and Eastern Europe at any given moment, you have too much capacity in a crisis because the building market collapses. You have to put plants on stand-by, they have to be shut down and then choices have to be made. If you don't have a forum where you can say all that, well, you put staff representatives and officials who have been elected through various representative bodies in serious difficulty. Because you are not clearly explaining to them what the effects of a strategy are and what is the validity of a decision that has to be made to allow the group to adapt and survive in times of crisis.

**I am convinced that the European level is the right level on which to do this, on one condition – that group top management adapts itself to, recognises and respects the European body.**

In our company, the Chairman regularly comes to address both the committee and the limited committee, the European executive organ. The size of this committee makes it efficient because it is made up of 9 people, 9 representatives of the general delegations that are our clusters of countries in Europe. So when there are just 9 people to talk to, you can discuss things in depth. And that is also true of

the Chairman's closest colleagues who regularly come to talk about strategy. I've talked about flat glass and the consequences of the crisis on the flat glass business; Saint-Gobain's deputy Managing Director, Jean-Pierre Floris, came four times during 2009 with his closest colleague to explain to the limited committee the downsizing, market developments and decisions that had to be taken, etc. and that is what he did throughout the crisis, the Group had to downsize from just over 210 000 employees to 191 000 and this was in a climate in which organisations were not receptive to such actions—you couldn't ask union organisations to be in favour of and accept decisions of this type - this just made them bearable and acceptable because they had been explained, interpreted and I'm going to say justified.

I believe strongly in this European authority which is a body that allows you to distance yourself from a local situation. Because things often get heated in local works committees when businesses are reorganised, particularly in France. In France, we can clearly see what happens when factories have to be closed. It's often difficult. But the same principle has to be applied. That is why in France, I am a great fan of the methodical agreement. It doesn't solve everything, but the principle is still the same, in other words talk clearly about the strategy, as early as possible, have faith, put the problems on the table, be transparent and share the explanation of the problem. The European scale, the European level, allows you to step back from local situations and better understand the strategy. So we're backing the absolute need to build this European level with as the cornerstone of the agenda for Group strategy sessions, its development, decisions on the organisation of capacity, market and business management etc, R&D and others. We believe that this should take priority over negotiations on other topics, which I'm not against however. We can negotiate on diversity, I'm asked to negotiate on psychosocial risks, why not? I'm ready to negotiate on all of that, but I believe that the priority must be to agree on the strategy.

I would like to underline the fact that executive unions and executive union organisations have a major role to play. I said this through the FECCIA's contribution to the negotiations on our clause number 7, but I could say the same thing about everything connected with strategy. Because even so managers, and when I say that I mean no offence to other representatives, but I think that representatives of executive union organisations help us to be detached, to step back and take a critical look at economic situations in a way that is advantageous. There is a real contribution, real added value to the debate, which I would like to underline.

**It is all the more true during a crisis in business terms, when it is also the case in the internal balance of the business.**

This is the third point I would like to emphasise before I finish. Managers are extremely disturbed by the crisis we are going through and which I hope we will get out of as quickly as possible. They are very disturbed. In a number of operations at Saint-Gobain, some managers, some executives have only ever experienced phases of expansion. For some, growth has been their whole lives - executives who are 40 or 45 years old, and who have had the good fortune to live through growth situations without ever having to work on productivity, etc. And from one day to the next, with the intensity of the crisis we are going through, there are instant changes of direction, a requirement to adapt and so to do things you are



not at all used to. And more than that, more than the cultural change, enormous pressure has fallen on managers. Pressure from top managers who want economic efficiency in the Business through rapid reactions to the crisis and at the same time for the teams on the ground there is huge pressure related to stress, anxiety and the disruption to people in management teams, some of whom suffer redundancy, others part-time working. This threat to employment has been strong as has the need to do more. And executives on the inside are extremely disturbed. I think that at company level we must look at how, at this very time, we can listen to our executives and talk to them because I think that this is a rather special situation, especially at Saint-Gobain. I believe that we must pay attention to our managers, who have been very disturbed, and we must listen. So we need to pay attention at executive level because these people have a key role in the business. This seems very clear to me.

As I have spoken a lot about the crisis, I would like to end on a more positive note. Tomorrow, future executives at Saint-Gobain and elsewhere, the Y generation, will be a real issue for us. It is a real issue for HR heads and all operations managers, before HR heads moreover. How will we understand tomorrow's young executives, what will we expect of them, how will we receive them? I think that executive unions must help us out there. We must think about all that. And tomorrow's executives will not be local. Some will be, some will stay in their own country, but many have an open mind culturally through access to today's media or through the initial training they receive. And so they will work in a context of more international knowledge than we had before and with different expectations. We must be able to consider matters with the managers, but I think that executive unions can help make a contribution.

The European level seems to me to be more advantageous than the local level. I am not in the process of setting the various levels of responsibility against one another. I think that every works committee in a subsidiary has its legitimacy, in France and abroad. I think that the employer/employee dialogue in France within group committees and other bodies has its place, of course. However, and this is my conclusion, in the case of international groups managed and controlled by subsidiaries whose head office is in Europe, Europe has something to say and a role to play. And Europe from a point of view of employer/employee relations within businesses, outside what concerns the European Union and this is not a political comment that I am making, is something that has the power to provide much in a balance of economic competition, strongly oriented to results and at the same time able to give consideration to employees that Europe has more at heart culturally than many other regions in the world. When you turn increasingly towards emerging countries – because you can see what is going to happen, investment priorities have been China, South-East Asia, India and Latin America for a long time – if we do not keep and build the ethic of employer/employee relations on the scale of groups managed by major European leaders, I believe we will be missing an opportunity. Europe has something to say. What I say may be pretentious, but there it is. In all modesty, it is what we are trying to do at Saint-Gobain. I don't know if you share this point of view, but in any case, it's an avenue we are increasingly going to emphasise. Thank you for listening.

**Jean-Jacques Paris, mediator**

On the whole, your speech is very positive. I'm not very surprised because Saint-Gobain is one of those groups that believe that employer/employee dialogue can be a real instrument for anticipating businesses' decisions, particularly in the context of the CEE. That is the strategy at the centre of the discussion. And then you introduce something new – the impact of the crisis on employees and this executive class. This is something I share, too. Faced with the crisis, the executive is an employee like any other and can be just as defenceless as any other employee, although they are often believed to have a much greater capacity to bounce back.

**Jean-Claude Guery, Employers' Federation, MEDEF**

I shall start with the word Dialogue. What has been clearly explained, what these examples show, is that you don't get employer/employee dialogue at a stroke. It's not something that appears overnight because things are going badly. Employer/employee dialogue is linked to the business's culture. There are places where it works well and there are places where it works less well. It's hard to say that it works well or it works less well because of whom. But employer/employee dialogue is built up over time. And for it to exist, several conditions have to be in place.



For there to be dialogue, there have to be two people. Effectively, in our case there has to be an employer and representatives of the business's federations, such as the organisation that I represent. There have to be employees and employees' representatives, so two different people, but nevertheless on the condition that they have a minimum of things in common. You can't have a dialogue with someone who is too different to you, or whose aims are completely different to yours. For there to be dialogue, there must first be a certain objective in common which is the growth of the business. In German law, works committees are legally based on the growth of the business's assets. So, for there to be dialogue, there must be both difference and points in common at the same time.

There's another element that you can't get in five minutes – there has to be trust. Trust can only be achieved after a period of mutual respect. Employers must respect employees and employees' representatives must respect the business and not use the tools of employer /employee dialogue for purposes other than those of that dialogue. The chemistry is relatively difficult and it is actually the better performing businesses that succeed in it. You can ask yourself which is the chicken and which is the egg. Is it because they are performing well that it was easy for them to set up employer/employee dialogue, or the other way round? In any case, large, bet-

ter performing businesses are also the ones with an open dialogue between management and workforce, at least in Europe.

As for the European question, in the banking sector, which I know well, we have three large French banking groups with a CEE - BNP Paribas, Société Générale, and recently Crédit agricole. Actually, the national scale is no longer relevant for these businesses. Their business is European; I would even say they are increasingly global. This also raises the problem of the CEE – is it still the appropriate platform for employer/employee dialogue? Transnational agreements are sometimes developed on a global scale, which are sometimes transnational agreements originating in Europe, but are sometimes transnational agreements that originate outside Europe. Moreover, CEE's are sometimes signatories to transnational agreements that apply elsewhere than Europe. So the environment is very flexible and is developing. MEDEF's position on the questions of CEE's and transnational agreements is, « do not, above all, be too quick to set up rules that, as they are simplistic, will turn onto obstacles to the development of the dialogue ». The dialogue must be allowed to grow as freely as possible, in the knowledge that the businesses' situations are extremely varied. There are industrial businesses, banking businesses, businesses that operate in several countries and global businesses and you can't over-regulate in this area. You see it in France. We have maybe 200 pages of work regulations that talk about works committees, staff delegates, union representatives, etc. Are these for all their 200 pages really helpful to employer/employee dialogue? Personally, I would say not. In businesses where people do not want dialogue, you can have all your 200 pages of work regulations and still not have dialogue. Businesses will manage to observe the regulations at least formally, and then that's all. So employer/employee dialogue, it's not the regulations that create it, it's mutual trust and the conviction that it is helpful to all parties.

That is our position – let's build employer/employee dialogue, but let's also build trust. We are in favour of what is called the modernisation of this dialogue; moreover the negotiations are already underway. They have just started. So with some union organisations in any case, we have agreed the objective, which is to give more content to the dialogue, but at the same time, let's not let its rules become an obstacle to the growth of businesses or to their ability to adapt. It's a difficult balance to maintain.

**Antonio Paranhos-Neto, ARKEMA and FECCIA**



I have been an executive in the chemical industry for 25 years. I started with Elf in Brazil then I was transferred to France. I am currently product manager at Arkema. Alongside my union responsibilities within Arkema, I run a profit centre and my everyday job is to look after Arkema's 15 principal clients. I am a sort of « major accounts manager ».

Today I'm going to talk to you about the FECCIA because at the FECCIA we are fighters. It's the best European federation affiliated to CEC, thanks to our Chair-

man, François Vincent. I'm going to show some slides with the help of my FECCIA colleague and pharmaceutical industry expert, Denis Suire.

European committees are based on the practice of employer/employee dialogue between representatives of both staff and management. In 2009, the FECCIA organised a conference in Cannes, in France, on the subject of transnational agreements. We analysed different agreements and we also learnt a lot about the European group committee. We can learn several lessons from this.

We see the recognition by the management of the staff representatives on an international scale and a regular and informal dialogue between the management of the business and the European trade union federations. And a reciprocal trust between the parties.

The importance of coordination between staff representatives at international and national levels is fundamental. I would like to echo the comments of Monsieur Azam –the quality of the dialogue between global, European and national federations is very important as is the efficiency of the link between CEE's and European trade union federations.

In our view, the CEE is the business's only representative at a European level. The aim of a European group is to have a European employer/employee image through a pragmatic and visible policy that strengthens the feeling of belonging to a group. Setting up a CEE can serve to achieve this objective in priority matters, matters that are worthy of the joint commitments of management and staff.

Following the quality of the last three presentations is difficult, but I'm going to try and talk about some real cases that I have experienced.

The first case is about the **Arkema group**. Arkema is the old chemical arm of Total. Arkema was the poor relation in a rich family when we were with Total. Now we are proper members of a middle-class family. I took part in setting up the European group committee with the support of the FECCIA, since the group became independent in 2006. The FECCIA is the only European federation to be a signatory to this agreement. It is at a national level and signed by five French union organisations. It is interesting to underline that this agreement was signed in accordance with the 94/45 directive, but in practice the group European committee operates by applying elements of the new directive. The situation arose against the background of a reorganisation in the PVC tube business that affected Italy, Spain and France. Arkema's European group committee succeeded in asking for an analysis made by the Secafi Alpha Group. What's more, although we were young and dynamically covered France, Italy, Spain and Germany, we gradually gathered other countries like Denmark and Poland following acquisitions by Arkema.

What is more, I notice that at Arkema, in France, we have a very strong works committee that is traditionally very reactive. I have the hard task of replacing Danièle Karniewicz as central union representative on the CCE. The dynamism on the French works committee is reflected in Arkema's CEE – French union organisations show solidarity with one another and help other countries, like Poland for example, to learn about employer/employee dialogue, at the risk of transposing francophone ideas into these countries.

The second case involves L'Oréal, a pearl of French industry. The business sets great store by the European group committee. It even calls it « the European employer/employee dialogue body ». And before the directive was transposed, L'Oréal had agreed to put in place a clause that applied the European directive. At L'Oréal, it is possible to give an opinion. What is more, in practice, for every acquisition or disposal that affects the various countries, the management calls an extraordinary meeting of the committee to discuss transnational plans. The L'Oréal group committee also operates with limited committees, in other words the European committee secretary, plus an Italian representative and a German representative. They may issue an announcement after each European group committee meeting which is distributed to all group employees. I have taken part in L'Oréal works committees and I've seen that they have even invited a manager from Latin America to discuss strategy in those countries. So we can learn a lot with Europe and the emerging countries.

In my conclusion, I will deal with the revision of the directive. In my view, the new directive will improve the informing and consultation of workers, particularly in the event of a reorganisation. We are living through a period of crisis and the role of the CEE is particularly important. The two examples I have cited and which I have experienced, one as an employee of the company and the other as part of the FECCIA, show that the CEE operates in a similar way to that defined by the new directive.



### **Jean-Jacques Paris, mediator**

Thank you, Antonio, for your contribution and for everything you said about anticipating the new directive and integrating it into agreements. It's a regular phenomenon at the moment. Evelyn Pichot spoke of a two year window to negotiate

agreements. All the agreements being negotiated, that I know of – I don't know them all, but a good thirty of them – are agreements that are starting to integrate or that fully integrate the new directive. Today, even managements accept its integration. I'm close to the Imperial Tobacco discussion where executive representatives are playing an important role. And it's the same here; during the negotiation, practically all the articles of the new directive have been integrated into the agreement.

## **Questions/Answers with participants in the room**

### ***Question from a participant***

On both the business's side and that of the employees' representatives, there is, on CEE's, a wide gap between what is discussed there and what happens on the ground in the different countries. In the new directive, one of the ideas is to discuss the conjuncture between national levels and the CEE level. It is vital that this percolates through organisations from top to bottom, that issues and information finally reach grassroots employees, Experience shows that this is not always the case. How do you see the possibilities, the avenues, which will finally enable us to have a CEE, and at the same time, this permeates through the organisation and we actually manage to reach everybody?

### ***Jean-Claude Gaudriot***

I was European human resources manager at Solvay until the end of last year and I have a point for Monsieur Dominique Azam. I was very affected by the whole of your presentation. I was particularly attracted by your remarks on the importance of CEE's and the duty we have to discuss strategy with them. You added something that appealed to me even more – you talked about an employer/employee core, which I understand as a large core, in other words our European employer/employee culture. My question is actually connected with a question I would have liked to ask Emmanuel this morning, which is this; beyond our duty of transparency on strategy, do you think that CEE's can help in reaching transnational agreements? Being convinced myself that general employer/employee policy feeds off what happens on the ground and in a business, which can be reflected at branch level or European level, I think that European businesses have a role to play in this.

### ***Dominique Azam***

The conjuncture between European and local levels is a real issue to which I'm going to add another – the risk for elected representatives in authorities we will call « high » - others, don't take offence - of being cut off from grassroots. The problem arises as much for staff representatives as for political representatives. If you look, everybody knows that a parliamentarian, who is too distant from his constituency, will very soon have a problem getting re-elected. It's not an easy subject, but it is one we have to deal with.

At this point and before beginning to give you an answer, I would like to add that one of the difficulties in giving expression to information/consultation at a European level arises from two aspects:

- The ability of elected representatives to stand back from local feeling, if you'll permit me the expression. When a factory closure is planned in your country, it's tricky. As a matter of course, you will think about all your colleagues who are affected. So it is a question of being able to disengage yourself from the issue and take a step back.
- Linked to that is the question anticipation.

As Monsieur Vincent could tell you, I had a very long discussion with my negotiation partners on this topic – when do you have to start talking about a reorganisation plan at European committee level? This is a very complicated issue. I argued that you must start talking as soon as possible, so at least six months before the plan is undertaken although at a local level. At that point, the employees representatives say to me « Wait a minute, Monsieur le Directeur, if you do that, we're going to have a problem. How do you expect us to stay discrete about an analysis of a reorganisation plan or a strategic development at a European level and not tell our colleagues in other countries who are affected? ». That, then, is a real issue. If you want to be concerned with quality and then you want to get involved with strategy, you have to plan ahead. That poses a problem of positioning; I was going to say almost as much moral as political for workers' representatives. It needs to be considered because, right now, we don't have the answer.

On the first point, in the Saint-Gobain group, we are trying to attach systematically a representative from a country or a cluster of countries at the European level to the human resources manager and the operations manager from the same cluster of countries. Broadly speaking, this member of the limited committee is the line manager of the staff and staff representatives in these groups of countries. There are what we call general delegations which organise the group by groups of countries. And so the role of these workers' representatives is to liaise with HR managers and general delegates locally, and so be in a position to pass on to their colleagues in the various countries and to companies' central union delegations all disseminated information. The means of communication by telephone, internet, PC and others has been made available to them so they can communicate freely with their colleagues and pass on information.

I'm not saying it's perfect, but we are trying to encourage them not to lose touch with local reality. Again, setting up satellites brings the risk of losing legitimacy.

On the point of transnational negotiation, I agree with you. In the logic of what I have told you, for me before moving on to a transnational agreement, in any case at Saint-Gobain, we first deal with the issue at the level of the European committee. In other words, if you really want to discuss the employer/employee core you mentioned, the European employer/employee touch, you have to build it within the European committee. We can go further because the co-signature of an agreement at the European level is effective when it goes into far-flung place where there is no employer/employee structure or dialogue. In the light of what you were saying just now about the need for a global committee, nowadays I don't really know

what I would do with a global committee because I don't really know where to find someone with the legitimacy to speak on behalf of workers in India. Firstly, it will be complicated, with regard to the distances and very marked differences between North, South East and West, or if you take China, it seems very complicated to have a union delegate in China capable of covering the whole country. But joking apart, the difficulty is that at the moment they have no organisation, no doctrine and no dogma. We can manage without the dogma, but we can't do without the employer/employee philosophy. I'm convinced that the European committee can be a sort of incarnation of what will be a future international committee. Indeed, in the long run, we will be integrated into large groupings. It will not be possible to leave out the large areas of South-East Asia and others. Employer/employee organisations and platforms for employer/employee dialogue will be needed. And to move towards this configuration, if you want to keep the employer/employee core, which is really a very Latin thing – and again I don't want to set the different worlds against one another because we can have perfectly good dialogue in the Anglo-Saxon world – the CEE is an extremely interesting nursery.

### **Jean-Claude Guery**

We are now seeing a geographical stacking up of authorities. As far as French businesses are concerned, we have establishment committees, the central works committee the French group committee and the CEE. We can see that this geographical stacking is both onerous and ineffective. These days, I'm talking particularly about a certain type of financial business, businesses' policies are established by professional thread and these threads are global. Before consulting a French works committee when the professional threads are global, you must first be able to discuss the objectives of each professional thread. Ideally, these committees should be organised around the professional threads. I say « ideally », that is to say with a clean slate in terms of all the rights that have been built up. There should be works committees organised by professional thread with a central committee for the whole business. The scope of the employer/employee dialogue must equate to the scope of the decision and that of the strategy. Failing that, you are lost. What we have described is not a real employer/employee dialogue.

My thinking can also be applied at the French level. In France, you have establishment committees, works committees, that's geographical. But in the same establishment, you can have two sectors that have nothing to do with each other. There should be enough flexibility in the organisation for the employer/employee dialogue to be adapted to each business. To do that, there must not be too much «right», which makes things rigid and this reduces flexibility. What is true for a financial business is not true for Saint-Gobain or for a food-processing business. That also depends on what country you're in, it depends on the history of the business. These days, unfortunately, the system has ossified and that is detrimental to true employer/employee dialogue. In a financial business, employer/employee dialogue should take place by professional thread – retail bank, investment bank and management of other activities. That is where things can really be discussed in depth. Not in France, not in Belgium, not even at a European level, but by professional thread.



**15 October 2010**

## **Résumé of the workshops**

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### **Workshop 1: « How can executives be granted a greater right to be informed and consulted? »**

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Presenter: **Anne Catherine Cudennec**, member of the EADS CEE

Reporter: **François Vincent**, Chair of FECCIA

#### ***François Vincent, reporter***

The report, presented as a slide show, is intended as a guide to good practice. A number of expressions have been used to enrich the discussion even if they do not relate exactly to the question asked.

The workshop résumé gives rise to the following issues:

- Workers' representatives do not want executive representatives alongside them and executives have difficulty choosing between representing employees and employers. We are therefore faced with a problem of how to act when executives are employees. It is true that executives can inconvenience other employees and senior management when given a voice. Sometimes there is even connivance between employers and employees' organisations to prevent executives from having a voice.
- Executives have a problem of legitimacy. They are non-manual workers and are acknowledged. But some members of European committees are executives appointed by senior management. People should not be afraid of being on the same side of the table as the employers' representatives. The choice should be clear for executives' representatives – they are on the side of the employees. « The quality of executives' representatives would be an executive who is not accustomed to representing the employer in the matters in hand ».
- It is difficult to arrange representation for management from a PME (small or medium sized company). In PME's, employees find it difficult to speak out on the local situation for fear of reprisals. This is also true of subsidiaries of large

groups. When executives sitting on CEE's return to their establishments, their line managers make it apparent that they have spoken ill of the establishment and that that is not done as an « executive ». That was the experience of a German executive from an American subsidiary PME. This may be a topic for discussion in CEE's as it might concern executives and other workers' representatives from small businesses.

- The CEC has obtained the examination of balanced representation of the various categories of workers on CEE's. However, in statements from the Commission, the CEC is rarely mentioned in the tripartite dialogue. And when it is, it is often between the lines. That therefore lacks visibility.
- The recognition of executives in all countries is fundamental. If there is not a national law permitting executives to be recognised, it is very difficult to go beyond the law in a European agreement (see the case of Suez Belgium)... The new directive is a step on the long road to specific recognition in national legislations.

GDF-Suez: Representatives of the CFE-CGC have been the motor behind the renegotiation of a new agreement and their technical contribution has been acknowledged.

Suez Belgium: report from Philippe HENDRIKX, member of the GDF-Suez CEE, as a guest and as part of the CEE representation. In Belgium, executives can stand for election to works council but it is the employer who decides who is an executive. He can also state, « I have no executives in my business so there will be no executives' representative. » the situation in Belgian establishments in Suez is farcical. For example, 100 votes are required for an executive mandate, while 65 votes are enough for an employee mandate. Executives elected to Belgian works committees are excluded from Belgian representation on CEE's. Belgian employees' unions, the FGTB and the CSC, have refused to allow Belgian executives from the CNC (Confédération nationale des cadres – national confederation of executives) on the CEE. They have the power to say « You have elected officials as executives but they will not come onto the CEE ». It's a denial of executives' right to representation.

Report on the situation in Italy: four categories exist in Italy: managers, executives, employees and workers. The executives are the losers here because they are not in workers' unions, they don't have a collective agreement and they're not organised into unions like the other federations. The CIDA which represents the managers signed an agreement with the AR Quadri to enable it to sign collective agreements within PME's. The Confindustria, in other words the employers' representative, did not agree. The Confindustria and Federmanager signed an in principle agreement for mutual recognition to give greater importance to the post of manager. It is the first step towards recognition for the position of executive and collective negotiation on their behalf. The majority Italian union, CGIL, is against the agreement.

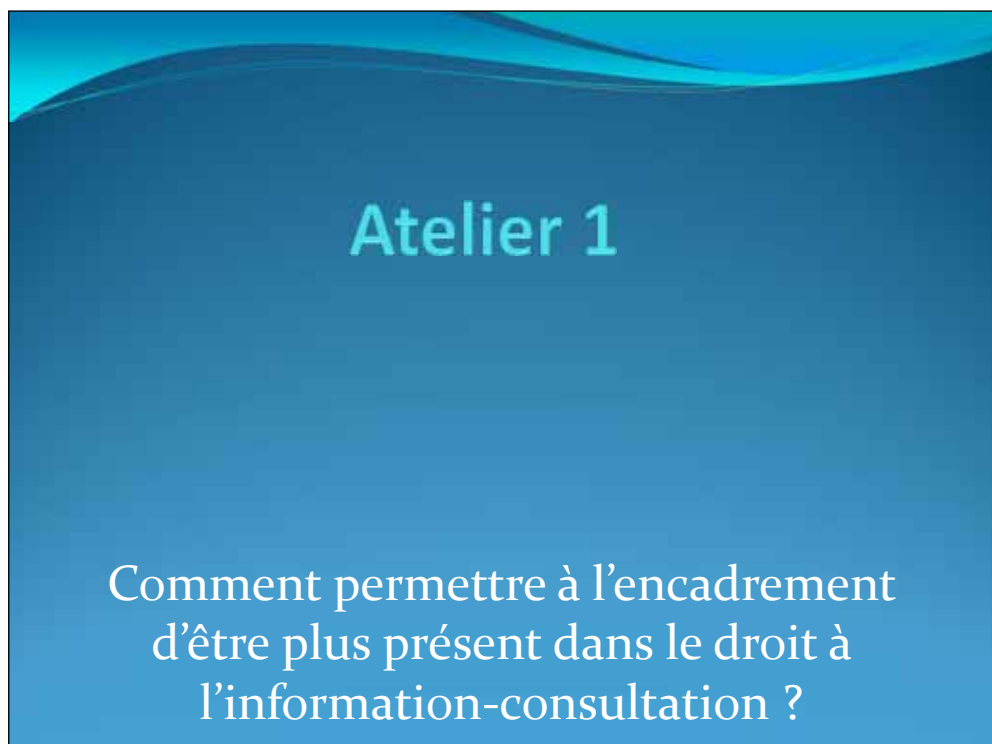
- When the only representative of a country on a CEE is an executive, representation cannot be limited to the executives from his country. Accordingly, he represents the whole staff. Executives are therefore not specifically represented

in this case. To remedy the situation, the election of executives' representatives by all the executives in Europe has been proposed.

- By definition, executives are in the minority (in construction, there are two thirds workers to one third executives). For executives to be part of the CEE, they must be party to negotiating the agreement. If you do not have any executives in the special negotiating group, the representation of executives on the CEE is not going to be discussed.

For example, in the case of the Vinci group, the European federations were able to make the appointments. The FETBB and the FECC are both partners, although the balance of power is thirty to one. That means that a European federation of the CEC can have a seat and can appoint a representative on condition that it is present.

- The absence of executives from CEE delegations has two principal effects – on the one hand there is a loss of depth and skill and on the other, executives do not feel involved in CEE's and are not motivated to improve them. The European Commission must act to make room for executives on sector-based dialogue committees. It's in line with CEE's because conjuncture between sector-based dialogue committees and EEC's is something we are all demanding. If executives feel involved, they will be motivated; more executives in more countries will become committed, which will strengthen the European federations and thus the sector-based employer/employee dialogue.
- It is important to get close to sympathetic executives and bring them closer to the union movement. It is one of the objectives if the CEC which welcomes unions and associations. It is still a means of attracting executives.



Atelier 1

Comment permettre à l'encadrement  
d'être plus présent dans le droit à  
l'information-consultation ?

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## Atelier 2:

### « In what areas can practices be improved, particularly in respect of the new directive? »

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Presenter: **Éric Pigal**, CFE-CGC national delegate  
Reporter: **Marie-Anne de la Broïse**, CEC office manager

### **Marie-Anne de la Broïse**

The report will not be in the form of a slide show but will be an oral summary of the main areas that have been referred to.

The group worked by exchanging experiences. We began with a round table where everybody introduced themselves and stated whether or not there was a CEE in the business where they worked. With regard to the contributors, there was a representative from the Chèque Déjeuner (UK- luncheon vouchers) group, which had no CEE whatsoever but wanted to set one up. She was also attending the conference to learn more about other people's experiences. There was also an employee from GSK who had been part of the development of CEE's, having been a member of one for several years. Ludger RAMME, of the CEC, put forward the CEC's view and its role to contribute to other members.

With regard to the topic, we have developed our discussions around three issues – what are the practices? What changes does the new directive bring in? What areas can be improved, both in respect of what had already happened under the old directive and then what would be put in place under the new directive?

We then identified several chronological stages in creating a CEE. Firstly, the preparation. What happens at the beginning? Then the negotiation process and then the constitution of the CEE via the committee and the limited group. We looked at each stage and each time tried to see what difficulties arose and what areas could be improved.

## **The preparation**

### **Difficulties**

Madame Quentier, of the Chèque Déjeuner group, introduced the questions she asked regarding the development of a CEE in her business. It's very difficult when you start from scratch. You have to know where to find information and clear the ground. The first problem is gathering information.

The second problem is knowing the employer/employee contexts and how unions operate in other countries where the group is established – knowing how you are going to manage to integrate the different union cultures in different countries (mainly because Chèque déjeuner which was originally established in France has more recently expanded abroad). So firstly it's a question of really knowing the different ways of operating in different countries, on a legal level too.

Next – another contributor raised this issue – how do you manage to integrate new countries and new cultures when you already have a CEE in place. In the « areas for improvement » section, it was stated that it is easier to start from a base of what has been established and to integrate new countries when you already have a CEE than to start from scratch with different cultures and start to make something completely new.

A final problem is being able to discuss matters with all the employees to really know what is needed. In the case of Chèque Déjeuner, they have a good knowledge of what happens in France but are having difficulty getting feedback from employees in other countries because at the moment there is just no platform where they can have dialogue with the other employees.

### Areas of improvement

- The ETUI site provides access to a data base (agreements, existing CEE's), where good practices could be found. It is also possible to enlist the help of experts from European federations, or outside firms with CEE experience who could suggest ways of expansion.
- The CEC has set up a network called the CEC managers network. This network enables executives in Europe, but also from other parts of the world, to join and find contacts in other countries both when they are in a business and are looking for executives abroad in the same company as them and when they are just looking for executives elsewhere in Europe or the world. That enables them to make an initial search for contacts and to exchange views. Furthermore, if they have questions or problems regarding the constitution of a CEE, the CEC should receive information from businesses setting up a CEE about the categories of workers to be represented. The CEC can therefore help you at this point to get your rights assessed and then try – and this is what emerged in the Belgian case in the first workshop – to send a representative, under the CEC banner, who would allow you to attend meetings. The message was, don't hesitate to get in touch with the CEC office.
- Working to the motivations of both management and employees at the same time to set up the CEE. Here are a some interesting points for management: improve the employer/employee relations image of the group (internally as well as externally), use different sources of information (also an interesting point for employees), have direct dialogue with the employees to get a different angle, establish real collaboration for putting in place the strategies chosen by management, particularly when dealing with difficult issues, if the employees are informed from the beginning. At this moment, executives have an important role, because they can also act as intermediaries and, compared to other union representatives, have more moderate views with the ability to stand back. As

for the employees, their motivation lies in the creation of a platform for dialogue with group management (and not only national management who are sometimes just there to echo group decisions), for obtaining financial and strategic information, to strengthen the sense of belonging (interesting point for management too). Particularly for young employees who do not always have that sense, having a CEE strengthens the feeling of belonging to the group.

- Setting up national forums or works committees can give substance to setting up a CEE and vice-versa. The CEE can benefit from different forums in different countries for its composition and to pass back information. Conversely, the CEE can further the establishment of these national forums, because it can disseminate information to them as it is able to negotiate with European management the setting up of these national forums to ensure representativity in the country which enables the identification of one or two people as members of the CEE.

## The negotiation phase

### Difficulties

An initial difficulty lies in the appropriation of the culture of the country in which the right to a European Works Committee is applied. For example, at GSK, when the employees' representative has a French culture and the CEE is culturally English, there might be some discrepancy and, in the beginning, a problem in finding a common way of doing things. Initially, the difficulty is managing to integrate the different cultures both national and deriving from the employer/employee dialogue of the different countries where the group is established and which are going to take part in group negotiations.

Another difficulty is a change in negotiator at management level while the negotiations are in progress, which can often be a human resources matter. The sharing of information, knowledge of one another and trust all have to be re-established if there is a personnel change. You have to start again.

It is also sometimes difficult to identify a European negotiating partner. For management, it is common to have a representative at both national and global levels. But it seems harder to find someone with decision-making power just at European level for the whole group and not only for such and such a profession or activity. People representing management are often acting as intermediaries and do not always have the power to take decisions. This is really a criticism to be levelled at management and does not apply to the business itself. At CEE level, discussions have to be held at a European level which does not always exist.

The lack of adequate knowledge of members and participants in negotiation groups acts as a brake on optimum negotiation. This failing can cover several situations – you are from another country and do not know the other cultures round the table; you are sent because you speak English or the negotiating language, but you do not have the employer-employee relations culture. That is a real problem when it comes to choosing participants. You do not always have people capable of negotiating and bringing something to the negotiation.

## Areas for improvement

It is helpful to call on experts. They will have the knowledge of good practice and will be able to provide solutions to problems that arise.

Training programmes for people taking part in negotiations do exist. Once the differences between participants have been identified, the knowledge and skills for participating in the best way possible in negotiation groups can be found.

## Setting up a CEE

In setting up a CEE, there are two main questions – How do you pass on a union culture to the new member countries that join the group? And there is the question of confidentiality – how do you pick the right moment to inform-consult?

The latter is a real preoccupation. As Madame Quentier, of the Chèque Déjeuner group management, testified – we have a moral problem. If we give out information too soon, there is a risk it will be passed on and we are after all in a competitive world where certain information must stay confidential. You have to pick the moment and limits of the information-consultation process. The situation can vary from one business to another. There are cases where it works well; we need to identify them to draw inspiration from them.

One possibility examined in the workshop was to call in experts and pass information to them. It would then be up to them to make use of that information and to pass it on to the various committee members, in the knowledge that members are not necessarily comfortable with all the information passed to them, particularly when it is financial.

Two other suggestions were also put forward – confidentiality must be maintained for a given period and a short period at that so that discussions and the dissemination of information are not held up; the information-consultation must be happen in advance – if outsourcing or an acquisition are planned, it is important that the project is discussed well ahead with works committee representatives so that when it actually happens, the discussions have already taken place well in advance. When the situation is really very critical, the discussions do not in the end have the same weight.

## Questions/Answers with participants in the room

### **François Vincent, FECCIA**

I would like to tell you about what happened at Sanofi-Aventis. Before the amalgamation, there was a representative on the Board who received direct information. FECCIA also had a representative on the board with voting rights. An agreement had been negotiated, a little like German joint management; there was a board of trustees made up of one third employees. There was also a position as executives' representative. When Aventis amalgamated with Sanofi to become Sanofi-Aventis, employees on the board lost their voting rights. There is still representation on the Board and the representatives are appointed by the CEE.

### ***Philippe Hendrickx, GDF-SUEZ***

I would like to make a connection between the two workshops. As areas of improvement, we must underline that planning executive representation on CEE's is something new in the directive. It isn't technically possible to do it in all countries when there are a lot of countries (risk of multiple mandates, opposition from other national unions ...). But the federations, even the CEC, can take on the role and of mandated representative of executives at a European level. It is not exactly what the directive says but we can tackle that in the future.

### ***Éric Pigal, presenter***

In the course of the workshop, Ludger Ramme, Secretary General of the CEC, reminded us that the directive requires employers to make sure that representatives on the CEE are representative of the business, if they consider that to be adequate.

### ***Marie-Anne de la Broïse***

It is always difficult to have a good view of what is happening within businesses from the CEC. So think about coming to join us. In Philippe Hendrikx's case, it was he who came to talk to us and we were able to help him. Unfortunately, it is not possible to follow what is going on all works committees or in all businesses where there is a works committee. So the message is, come and join us!

### ***A contribution from a participant***

I would like to come back to the question of the meaning of words in all countries, in all cultures, particularly the words information-consultation, depending on whether you are from an Anglo-Saxon, continental, French or German culture. We have seen some striking examples.

### ***Marie-Anne de la Broïse***

The example of GSK is a good illustration - the duty to inform and to consult is not pursued as thoroughly as in France. Giving information to the CEE is not actually seen as a requirement to inform and to consult the different representatives. There is a nuance and the meanings of the words are not actually interpreted in the same way from country to country. That could pose a problem.

### ***François Vincent***

As Dominique Azam reminded us, during the negotiation for clause number 7, we took the exact text from the directive and inserted it into the agreement. As for consultation, the CEE issues opinions which may be global or specific and management must give a well-founded response. It must look at the opinion and say, « I agree or I don't agree for one reason or another ». It is well enough outlined in the text. If you add it to the agreement as it is, that means that a dialogue is actually going to take place somewhere. That means that the CEE must make its position known and that management must give an answer with explanations. And that is when you will really have a dialogue.



## **Éric Pigal**

Regarding confidentiality, in practice employers often try to get rid of the problem of confidentiality by emphasising the urgency of information-consultation. Urgency has to be separated from confidentiality – something can be confidential without being urgent, it can be urgent without being confidential. There's a tendency to say – this is an approach I've often seen – that you can't have a European committee meeting because you need quick answers or the consultation process doesn't suit you, so you're going to set up a limited committee that will give a quick ruling. The problem of confidentiality is resolved a bit like that.

Regarding training, the CFE-CGC holds training sessions on European bodies. There are also finance programmes with Europe.

## **Marie-Anne de la Broïse**

As for the Commission, I actually think that finance for training is possible. It is a matter of checking some budgetary options, putting propositions together, etc. But in the normal course, the Commission is quite willing to train and to give training.

As for the representation of executives, this really is the CEC's strong point and what it wants to do – ensure representation in employer/employee dialogue. What we are talking about is inter-professional employer/employee dialogue. As for sector-based employer/employee dialogue, this is also the business of the federations. Of course the CEC will try to support the federations but the Commission takes a clear position – it does not interfere with sector-based employer/employee dialogue committees.

We cannot accept this position. The lines must be changed. FECCIA is one of the federations which go further. Discussion takes place directly with other members of sector-based employer/employee dialogues committees, in other words employers' representatives with federations and federation representatives who are CES members. But I am aware that it is very difficult.

## **A participant's contribution**

I should like to come back to the problems of confidentiality, limitation and urgent information. At L'Oréal, we have agreed that it is actually the liaison office made up of only three people that should receive all urgent information direct. If the office decides that other people need to be involved, it will call in other members of the European committee who are involved in the relevant field in a reasonable time scale so that the information is not confined to a few people and can reach the right person in real time. Indeed, the directive says « in reasonable time », « information in reasonable time ». So, there may be a delay but it must be quick all the same. There are practices that can be developed so that information can be given to the relevant people with the necessary confidentiality and with urgency.

On the problem of the CEC's European federations that are not on the sector-based dialogue committee, things must be organised so that European federations can meet employers and other organisations in the CES. At FECCIA we spend our time on that. Five times we have met the employers' organisation. To begin with, we

just stared at one another. Now, we go to spend time together and we are making progress. You can get a bit of an idea of how things are and the speed at which things happen, it's not exactly fast.

### ***Richard Lemaire***

I have no experience of what is involved in CE's at a European level. My main work is international negotiation. I have a triple observation that could be like a toolbox. I am surprised that some participants are discovering cultural differences or are subjected to them on the one hand while on the other hand they are discovering organisations from the different countries in the form of union representations.

To help them there is loads of literature describing how different countries operate culturally, obviously European but also global, which will enable us to learn the main cultural characteristics of a country and of our opposite number. I submit the idea that somewhere there are references to these works. Reading them before meetings can avoid a number of misunderstandings.

As for the way things are done in the different countries of the executive representation in the union, there must also be works briefly describing the union structures in those countries. And if we do not know them, we speak at the summit without foundation. If such works do not exist, it would be useful to create files providing easy access to the information.

The third point that keeps recurring is access to information. Having been a senior executive, I can testify that we are unable to pass on a certain amount of sensitive information in advance. But, in any event, this information, while the CEE is looking for it on the inside, is always on the outside. The reason for deep re-organisation is rarely internal. It very often, even exclusively, arises from the competition. Good knowledge of the market in which the business has developed will therefore provide ways of anticipating the questions you could ask, to obtain the relevant information in reasonable time.

### ***A participant's contribution***

Regarding the knowledge of the union landscape in Europe, there is a build-up of various difficulties.

Firstly, there are a large number of union organisations. Of course it's a lot of work, but it's consistent work.

The second difficulty is the diverse nature of the areas covered and cultures between countries - the definition of an executive is different from one country to another; there are differences of culture between countries, between business sectors and between businesses themselves. In the chemical industry, the culture is different from that in the consultancy sector or the computer industry. You have to adapt to that. When you work in a European federation or a European confederation, you move from one sector to another and the cultural problem is still there.

### ***Marie-Anne de la Broïse***

On the difference between executives in Europe, an initial work has come out writ-

ten by the German organisation. It describes the ways of doing things in I think it's five or six different countries. If you're interested in that, get back to me.

### ***François Hommeril***

It's not mission impossible to have a good knowledge of all the cultural differences in Europe, because we know all the culinary differences and the differences in the wines! It should be quite easy for us to reach all the cultural and social differences ...

### ***A participant's contribution***

Account of an experience regarding confidentiality. I was with a company called Spie (with a CEE), which was bought by an English company, Amec (without a CEE). The negotiations for a new CEE agreement under the English system lasted two years. After 3 years, one Friday afternoon, the Amec Board decided to sell SPIE. On the Monday morning, the group's employees had changed owner. On the Monday morning, the CEO telephoned members of the CEE to tell them that they were no longer with Amec, but with someone else. There, that's how it happened. The English specificity is to do with the London Stock Exchange – there could be absolutely no leak otherwise the deal would have been invalidated. If there had been a leak beforehand, the English financial market authorities would have thrown the deal out. So, generally, if you want to maintain confidentiality, there can be no confidences, it has to be the secret of the board alone. Furthermore, I know people who are on the Board of a very big French construction company. And being a Board member with a voice in its deliberations puts a lot of pressure on your shoulders. To get these directors to talk, even if they're CFE-CGC members is practically impossible.

### ***Jean Terriere, CFE-CGC activist***

I work for France Telecom which is a big group with about a hundred thousand employees, in Europe and outside Europe. The company carries out several of its operations in Morocco, India, etc. It would be interesting – that goes beyond the question of the CEE's role – to know the pay and employment law outside Europe.

### ***A participant's contribution***

I would like to make a connection between confidentiality and economic and strategic information. We have already mentioned that economic and strategic information is moving further and further away from the executives on a national level, due to globalisation. I think that this is an irreversible phenomenon. A way of getting round this while tackling the confidentiality problem is to develop within the European committee agreements a practice analogous to that of the economic Commission of the French central works committees – have the right to appeal to an economic, financial and industrial expert who will conduct studies on behalf of the European committee. It is covered by confidentiality. So there is a buffer and the information that interests all the employees is passed on. That has the advantage for all countries of starting to build a common business culture on the company's basic issues.

### **Patrice Montanian, CFE-CGC activist**

I should like to respond to the « by profession » and « by category of employee » approaches to ensure representation for executives. In the financial sector and in particular the banking-insurance branch, there are essentially executives and supervisors. It's 99 % the same in insurance, because there are no longer more than 1 to 2 % of workers employed in insurance. You can reckon that the banking-insurance sector is almost 100 % made up of executives and supervisors, i.e. the management group that CFE-CGC represents. In my CEE (Generali), with a by profession approach, the French delegates are 70 to 80 % executives, the rest being supervisors - CFDT, CFE-CGC. When, over the six or seven years that I've had a seat on the committee, I've looked at the by profession approach of my colleagues from Western, Eastern and Central Europe, we are all doing the same jobs. I was looking very carefully at the Italian exception just now – and I know there are a lot of Italian colleagues in the room – my Italian colleagues on the Generali CEE do the same jobs as us. Do they, for all that, and being executives because of their job and perhaps something else statutorily, have to belong to unions for non-executives? I'm going to have to really look into this problem. For me, according to the by profession approach, we do the same jobs. So why make a distinction between the categories? One of these days, we're going to have to make a choice between these approaches.

### **Paolo Pitacco, CIDA union activist**

We can't be content with what the commission is saying about federations on sector-based employer-employee dialogue committees. We're here to come up with some new ideas. The professional federations are an integral part of the CEC. They need a place for their union policy in Europe and above all to give the CEE a political platform. The CEC and the federation need to put pressure on the Commission to make it change its position. We are making union policy and so helping our all the national union federations.

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## **Summary of work done – what advice should be adopted?**

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Speakers:

**Dragomir Slavoev**, International Secretary of the Bulgarian union

**Jean-Claude Gaudriot**, Consultant

**Jean-Jacques Paris**, mediator

***Dragomir Slavoev, International Secretary of the Bulgarian union***

I would like to show some slides on the Ideal Standard group. I will then tell you about the experience I had setting up the CEE in the Ideal Standard group.



***Jean-Jacques Paris***

Thank you for your contribution, Dragomir. There are a lot of CEE's with their global headquarters in the United States who have appointed a manager in one of the European Union Member States.

You've raised two interesting points:

- The learning phase: how do you learn not only the content but how to use and appropriate the provisions of the directive? In a word, how do you create a CEE? From that point of view, being trained is extremely important. The CFE-CGC is developing specialist training on CEE's. Personally, I find well-trained executive representatives in these special negotiation groups, who take a hand in the negotiation.
- Opening negotiations in the transitional phase – should you wait or not to negotiate an agreement when with effect from June 2011 the new directive will come into force? It's a real issue. Nowadays, many people like you share this question. The tendency is to wait or, when negotiating, it's a question of planning a review clause or a fixed term for the agreement, to open the possibility of renegotiating. Thank you very much.

## **Jean-Claude Gaudriot**

I was invited in my capacity as, on the one hand the former European human resources manager of the Solvay group, which enabled me to set up a CEE in 1995 and to run it until I retired at the end of last year and, on the other hand, as adviser to the Chairman of the ECEG (Groupement des Employeurs Européens de la Chimie = Grouping of European Employers in the Chemical Industry). In that respect, it is up to me to give you the view of an employer's representative of the rich discussions I was lucky enough to take part in, as well as on the relationships you have started this morning.



I mainly favour the first perspective, which is moreover fundamentally that of contributing to enabling executives to be more involved in our CEE's. I will then limit myself to mentioning two points that seem important to me to enable CEE's to run better.

## **Contributing to the greater involvement of executives in CEE's**

The pre-condition for executives taking their place on CEE's, is that your opposite numbers, the employers, have two convictions:

- The first is essential. A certain enthusiasm in employer/employee dialogue that is both genuine and consistent is needed as it is real asset to the business. It is a key factor to success;
- The second conviction that representation of executive staff on staff representative bodies is a fundamental advantage in strengthening this key factor to success. Over these two days, everything has been said about what you are and what executives can contribute.

Executives are particularly aware of the possibilities and constraints peculiar to businesses. In this respect, they can make a contribution and be a growth factor as much with regard to the employer-employee dialogue itself as its content.

Moreover, the crisis we are going through raises questions which do not come down to short term changes but to longer lasting changes to our company. Because of their responsibilities in our businesses, executives are key to these changes.

As these convictions are reputed to be shared by employers, I should like to come back to three conditions mentioned during the conference that seem to me to be essential before executives can find their place on CEE's – the recognition of executive unionisation at a European level, the removal of certain brakes that limit the representation of executives within our businesses and the links to be favoured between the CEE and the European Trade Union Federations representing executives.

## **The recognition of executive unionism at the European level.**

It is essential that in our different European countries and in our businesses, we accept the fact that we are contributing to the full recognition of executive union-

nism to represent this category, without restriction, even though it is not made sufficiently clear in the new directive. For this to be possible, several conditions must be met simultaneously:

- **A common definition throughout Europe.**

This definition is vital and supposes that a political problem combined with a technical problem is resolved.

The political problem is that the ball is in the court of three parties – the employers, the union organisations and our institutions, particularly the European Commission. On the employers' side, we can take our responsibilities and some are well aware. It will still be necessary, if we want to be involved politically and with the institutions, that on the union side, and more specifically where non category based union organisations are concerned, that all parties agree to combine their efforts and understand that it is in their best interests. Subject to this condition, lobbying our politicians, both national and European, will prove effective.

The technical problem is that of the common definition of what we understand by « executive ». This must not be underestimated. Not resolving this issue could give some associates whom I've just mentioned the opportunity to hide behind this lack of a common definition to block the recognition of executive unionism at the European level.

This has been well highlighted by our Italian friends. There are loads of distinctions that could be made. We talk about managers, executives, supervisors, technicians and supervision in France. That means organising discussions on the edge of this population. There is a methodology to find that, I think, involves lobbying, in the positive sense of the word – that is all that is informal, at the relevant level, for creating confidence, discussing the issues with complete transparency and, of course, unblocking negotiations, ending up with a definite notion at European level of what we agree to mean by executive.

- **The participation of executives in CEE meetings as « fully fledged » staff representatives**

Executives are employees like the others although different. But they are employees. These employees can be led to act on behalf of employers, but not all of them. They must not be considered, as in some countries, all to be employers and, as such, ineligible to attend meetings as employee representatives on the same basis as the others. This is not the reality. This is the definition that I suggest - « any employee, including executives, with the exception of those whose decision-making capacity would depend on the sphere of attribution for which the institution in question has met, may be a member of a body, notably of a CEE, and is qualified for that purpose ». At the European level, if you actually hold that responsibility, it is difficult to be both judge and party. But that must mean that very few executives are not qualified to sit on a CEE.

## Releasing some of the brakes on the representation of executives on staff representative bodies.

### ● The limits of executive associations

In a number of our businesses, executives are represented by associations for which it is difficult to find a place on staff representative bodies. The general unions having already found it hard to admit specific representation for executives, a fortiori, this phenomenon of rejection is reinforced when that representation is not through a union. It seems to me that our responsibility as employers is not to encourage or facilitate this sort of associative representation.

### ● The difficulty for executives to carry out a mandate

The ability to carry out a mandate without being penalised is essential for all representatives but it is without a doubt more difficult to guarantee for executive representatives. It is our responsibility as employers to make a contribution to this. This operation is certainly more complex in the current economic context. The necessary efforts of productivity, the pressure put on management and junior staff probably leaves executives with less capacity to carry out a staff representative mandate.

Beyond our contribution to the quality of employer/employee dialogue, carrying out a staff representative mandate for an executive seems to me to be an excellent apprenticeship for correctly carrying out the duties of a manager in respect of his own staff and to absorb the importance of allowing a constructive employer/employee dialogue to be established. From this follows the importance in this field of seeking agreement on the carrying out of staff representation mandates and on the guarantees granted to these representatives.

## Links to be favoured between the CEE and the European Union Federations representing executives

I must take the blame as the first not to have done enough. Moreover, I am aware of François Vincent. Closely involving the European trade union federations with the set up is something we generally know how to do. This was done at Solvay in 1995, where FECCIA had been involved with what became EMCEF. It would also be an appropriate thing to do in the operating of our CEE's. It's not enough to do it at the beginning but at the different stages you have mentioned.

At the negotiation stage, the employer must be surrounded with advice and discuss his intentions with the European trade union federations. After signing the agreement, which didn't happen in the group where I was and I would seem to have been responsible, you must not content yourselves with having involved these federations in the set up. It is advisable to continue to involve them notably when we sign agreements within our CEE's, if only to reinforce their validity. I wouldn't have the time to expand today, but contrary to what seems to have been said yesterday, which was no doubt a misunderstanding, I think that it's a good thing that CEE's sign agreements other than agreements concerning their operation. CEE's are the only body at a European level where there are representatives of the business's staff. They can move social policy forward as is done on a national level where the rather more enlightened businesses help the branch and the branch helps the confederal. So we can repeat this in the same way at European level.



Against this background, it is therefore important to maintain contacts with the union federations at the time of signing such agreements. We have signed 4 charters with our CEE, one of which is on sustainable development and the business's corporate responsibility. Unfortunately, we did not involve the union federations, neither at the time of the discussions, nor when they were signed and so we have limited their scope.

It remains that the constituent agreement of our CEE enabled members of our CEE for all preparatory and conclusive meetings to turn to experts from the European trade union federations and that the latter did not have recourse to them. This gives rise to the importance from both points of view to take the trouble to maintain relations beyond the setting up of the CEE.

## **Two individual perspectives to further the operation of CEE's**

### **Calling in experts**

You have rightly mentioned experts a good deal. This is fundamental. It's also a problem of confidence. There was a very good suggestion made just now about which I was very happy to hear our friend Jean-Jacques PARIS speak. It was about his idea for a code of ethics covering information that can be shared.

### **The Information / Consultation process**

The information / consultation process is a very sensitive subject for the proper operation of CEE's. I've said it and don't imagine that I'm rabble-rousing; more often than not we are not good in this field. We take refuge by saying it's something very important and strategic and that's all! One of the great merits of CEE meetings is dealing with company strategy. Nevertheless, it can happen that we are not sufficiently transparent in major operations that must have an impact on the staff. So we prepare the context. But when the information / consultation on the real operation takes place, it is very often at the last minute when everything is almost completely decided. There are numerous reasons to explain why we can't put it in place sooner – risks involving the competition, stock-exchange requirements with the result that the process is limited to more information than consultation.

While being aware that this is not a simple issue, I remain convinced that improvements can be made to further more transparency and to allow more dialogue. One of the options I take the liberty of suggesting would be to discuss the different alternative scenarios against the background of strategy not failing to elaborate on each direction before making a decision. This type of discussion would help, when a scenario arises, to explain better why it was chosen over another. That would enable one to demonstrate how the debate that preceded the decision was incorporated or not. A simple suggestion that is certainly worth digging into further.

There. I would have liked to say a lot more to you, but I think it's important that this is not a monologue but a dialogue. Thank you for listening to me patiently.

### **Jean-Jacques Paris**

I'm going to come back to a few points that seem vital. Personally, I think that executives are employees like the others. I think that the consequences of this sentence will be felt straightaway ... They have a direct incidence – if he's an employee, the provisions of French employment law and the legal provisions relating to employer/employee relations will therefore apply to him, particularly the right to strike. We have heard that in some countries, notably Italy and Belgium, the right to strike can be challenged or is non-existent. When you are an employee, to put it simply, you have rights and you must be able to exercise those rights. Not only are there brakes, but these brakes on the exercising of rights should not exist.

To come back to the CEE, it has been said that executive representatives must be «inserted» on the negotiating group, in order to be on the CEE. If they are in the negotiating group, there is every chance they will be on the CEE afterwards. I will add that when executive representatives are on the GSN, they bring a certain professionalism, a taste for seeking out the detail, a special intelligence. This very often enables the content of the agreement to be improved. It is possible to develop the debate which makes the improvements apparent in the agreement.

With regard to the definition of «executives», there is the frontier problem. Where is the executive positioned? In top management or in executive representation as we know it in France? It is possible to resolve this problem with the definition that you have given, exactly, in the provisions of the CEE agreement, in respect of the mandate and the conditions of the withdrawal of a mandate. For example, in the agreement planned at Imperial Tobacco, there is a provision covering the conditions for the withdrawal of a mandate – those who cease to be employees, or who are dismissed by their union organisation or those who carry out top management functions (decision-making) will have their mandates withdrawn. Conditions like this can be incorporated in an agreement accord.

To finish, European trade union organisations can help. The help given by Isabelle Barthes of the FEM in Dragomir's experience is proof. She helped with understanding and with learning the familiar appropriated work.

## **Questions/answers with participants in the room**

### **Joël Autier, TOTAL Group**

Good morning, I am a member of the CEE. It's nice to hear petitions of principle, and what's more, convictions like those you have mentioned, for example, union mandates and those of staff representatives must not penalise anybody's career, particularly those of management and executives. Our negotiating partners on the employer's side often say it. But the experience on the ground is not the same. What can we do to turn this into reality?

### **Jean-Claude Gaudriot**

Don't think that I'm a revolutionary. I'm not; far from it. But what I'm seeing, unfortunately in our large groups, is an increasing gap between what is said and

reality. This applies everywhere. There is lots of window dressing. We should talk less and do more.

One way is by signing agreements in this area. While this is done at a European level, it would be even better where it actually happens. This can happen in every country. Agreements are a commitment. We can propose this. It's difficult for executives, where remuneration is more personalised than it is in other categories. It's actually sincerity which must prevail. In an agreement, you can find parameters to keep an eye on in order to be able to give warnings and make people aware.

I'm adding this because it's very important – it's not only our managements that have to be convinced but executives themselves, your managers!

### ***Contributions from participants in the room***

- European cultural differences must not be used as an excuse for putting up with the fact that in some countries there are still national employer/employee practices which are not democratic and which prevent any organised employer/employee dialogue. The principle of subsidiarity must not be used as an excuse for maintaining situations that do not meet standards. It is very important that we harmonise upwards and make use of the European countries which have the most successful employer/employee rights and dialogue practices.
- It must be pointed out that the executive union course must be incorporated into the authentication of a job candidate's collected experience. In this respect, we can pay tribute to the initiative of the CFE-CGC which has launched a programme with the Institut des Etudes Politiques Sciences Po (Institute of Political Science Studies) in Aix en Provence.

### ***Lise Vatrinet, GDF-Suez***

I should like to relate my experience. For one month, I have been on secondment to the CFE-CGC federation of IEG (Industrie électrique et gazière – electrical and gas industry) as a future secretary in charge of international issues. GDF-SUEZ has, at least on paper, a recent (2009) agreement that eases the path of people on secondment, which is something quite courageous. When I wanted to go on secondment, I was held back. The agreement enables an executive to go on secondment, for three years for example, and during those three years, the remuneration reflects the average remuneration of the company's executives and their bonuses. Plus an interview in the middle of the period to consider any future training that should be planned when the person on secondment returns to the company full-time. On return, in theory -, but it's a recent agreement – you resume your place in the company without a break in your career. So this is a very courageous decision. We will see how that turns out and I wouldn't mind saying so if it doesn't work.

Another important point concerns communication. Executives are often overwhelmed. This is what happened to me not long ago and here I am again. In these conditions, it's very difficult to think about the last detail which is - why not get involved in the union? That doesn't enter their heads. So they have to be led. There must be communication on what happens in CEE's and communication on

the advantages. To illustrate the point - CFE-CGC has a member on the Board and a member on the CEE. In two months' time, I'm planning a breakfast over an hour and a half with our members and perhaps with sympathisers to introduce them to these two people whom they do not know at all and who have no idea of the stakes they are negotiating for on the CA and the CEE. I shall see if this works, see if the executives and supervisors make a little time to come. There must be communication, there must also be daring.

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## Closure of the conference

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### ***François Hommeril***

National confederal secretary in charge of the European and International section  
On behalf of everybody, I should like to thank the participants in our last round table. I include you in the thanks due to the conference's organisers.

Much of what happens at a conference happens behind the scenes. Firstly, I should like to thank the UOE (organisation established in 1992) who have welcomed us to their premises today and who will complete our solid political activity next June.

My thanks also to those who have worked hard to organise this conference and make it turn out for the best in terms of both its basis and its form. What's more, they're practically all here. And I very much want to thank the interpreters.

A few words in conclusion:

What is an executive? What is it to be a member of management? What use it the CEE?

The process of financial globalisation has changed our given data on employer/employee matters. Who doubts that these days? Is there anybody less autonomous in a business than a department head torn apart by the constraints imposed on him by reporting systems? Systems that scrutinise in real time his ability to react to demands for the maximum return on invested capital. Who can doubt the need for a voice for those in a business who exercise their responsibilities by delegation? In a world where everything is falling apart, creating a new body for employer/employee dialogue with body and strength is a vital issue.

The enquiry we have conducted and the quality of the contributions and of our discussions tell us a lot about the relevance of our choice. Today's gathering is just a stepping stone. The wealth of the discussions and joint work will enable us to build a base on which to establish a network of skills and the desire to see the CEE develop and get stronger.

If we want to believe in Europe as a common area for our countries to develop, then we must all work together to build a common platform for dialogue between the employers and employees of our businesses. On the same level, the success of the Erasmus programme proves to us that it's possible. Tomorrow's management who will come from this generation is ready to face up fully to this challenge. Tomorrow, although the road is still hard, we will see that it is still possible to develop and strengthen the mutual trust in the information/consultation process of the CEE's. It's the aim of us all.

I wish you well in your future work and a safe journey home. Thank you again.

