

1.5. Establishment of a Special Negotiating Body (SNB). Path.

1.5.0. Introduction on Starting a SNB

Starting a Special Negotiating Body (SNB)

Academic research as well as practical experience has shown that trade union coordination is truly strategic right from the very beginning of the procedure to set up the Special Negotiating Bodies (SNBs) as well as in the ongoing work of EWCs once established, moreover since the Directive clearly states that the responsibility to provide the S.N.B. is in charge of the central management. (see artt.4-5),.

ATTENTION!!

An “anti-union” central management will probably try to set up the S.N.B. by anticipating both Uni and the national unions concerned and appointing the individual SNB members among the people who are not necessarily representative of the local employees, but are “in the pocket” of the employer, in order to foster an anti-union attitude within the SNB and orientate the negotiation in its favour. Such a risk can be prevented by anticipating the management i.e. by immediately building a proper T.U.A. that is strong enough to find out and elect the majority of the SNB members among genuine trade-union reps. At the same time it’s even preferable to collect the relevant information for opening the procedure through informal and reliable sources first, possibly through the members of the T.U.A “in progress”, before addressing the central management directly as per the Directive indications.

...therefore:

The S.N.B as a first result of a new T.U.A. (SEE ALSO 2.4.a)

- Ø **A unionised and cohesive SNB** (Special Negotiating Body) should be the result of a timely preparation work to establish a T.U.A., i.e. a transnational alliance among unions of represented countries in the transnational group. Even though the initiative to establish an EWC comes from the group Management, when the trade unions of the interested countries are already in a network, they are able to have a hegemonic role in the composition of the SNB.
- Ø Always be able to count on a **structural trade-unions coherent majority within the SNB** (and then in the EWC)
- Ø Prepare **an effective and strong draft of the EWC agreement that is intended to reach**, and establish a negotiation on OUR text and not on that which would surely be proposed by the company. The text must be ready and agreed upon by the SNB before starting negotiations, and must be brought to the negotiation table at its first session.
- Ø Work for the best balance between an agile and well representative SNB, within the spirit of the 2009/38 Directive which is to avoid including countries where the too small number of employees can mean to include no unionised rep in the SNB or even someone who is not even a genuine employees reps, always bearing in mind the structural trade-union coherent majority within the SNB as key.
- Ø **The role of the UNI expert is essentially based on two pillars:**
 - a) Capacity to build transnational alliances thanks to his network
 - b) **Knowledge of the Directive and its national transpositions, together with the capacity to apply them efficiently and the attention to avoiding being involved in negotiations that tend to lower standards**

1.5.a. Responsibilities of UNI Europa and the affiliates

Responsibilities of UNI Europa and the affiliates

The decision to start to work towards an EWC, and the necessary implementing steps, should be taken by the relevant UNI Europa sector, in close cooperation with the affiliates concerned, meeting the requirements of European legislation but also working to the principles described in these Guidelines.

It is the responsibility of affiliates concerned to inform the workforce of the company and to monitor SNB and EWC elections in their country.

When an initiative to set up an SNB comes from UNI Europa affiliates or from the workforce within the company and is supported by UNI Europa affiliates, it is essential that affiliates always contact and consult with UNI Europa before starting any procedure.

The UNI Europa sector(s) responsible will then contact all affiliates situated in the countries concerned.

This applies equally if the initiative to start an SNB comes from the management side.

Steps towards setting up an SNB

Before the setting up of an SNB, the relevant UNI Europa sector will (subject to agreement and capacity) convene a trade union coordination meeting with all potential members of the envisaged trade union alliance.

The aim of such a trade union coordination meeting is to:

- Enable the different actors to meet and communicate with each other.
- Maximise trade union representation in the SNB (including by supporting affiliates in coordinating elections of SNB members).
- Gather information available.
- Reach an agreement on common positions and steps to be taken.
- Identify possible conflicting national interests and find solutions so there is no obstacle for the process.

The designation of SNB/EWC coordinators

The coordinator can be a staff of UNI Europa or a trade union official of a UNI Europa affiliate acting with a UNI Europa mandate.

The responsibility for designating the SNB/EWC coordinator lies with UNI Europa. UNI Europa will ensure both the transparency of the process of nomination and the acceptability of the nominated person by the EWC.

Affiliates will be included in this process, as the most important players in everyday SNB/EWC operations. Affiliates' role is to ensure that the selected coordinator has the necessary profile and resources, and to inform UNI Europa if he/she is no longer able to continue in this role.

In this situation, affiliates can propose another person to take over the role.

Any proposed coordinator must be informed of what would be expected from them in the role.

See note inserted in annex 2TNA

1.5.b. Information to European social partners on the start of an SNB

Information to European social partners on the start of an SNB (via the procedure described in EWC directive 2009)

Article 5.2.c of EWC directive 2009/38/EG stipulates that "*Central management and local management and the competent European workers' and employers' organisations shall be informed of the composition of the special negotiating body and of the start of the negotiations*".

The European Trade Union Confederation (ETUC) and the European employer organization BusinessEurope have agreed to each provide a single contact e-mail address in order to ensure effective transmission of information from companies to the European social partner organisations. The ETUC and BusinessEurope are each responsible for disseminating the information they receive in this way to the competent sectoral social partner organisations. The ETUC has set up the following e-mail address for this aim: ewc@etuc.org.

The ETUC is responsible for forwarding the information it receives as appropriate to UNI Europa and the other European Trade Union Federations. UNI Europa has created an email account ewc@uniglobalunion.org for this purpose. It is the responsibility of UNI Europa to ensure that the necessary contacts are made with the relevant company representatives (employees as well as management).

UNI Europa follows the procedures proposed by ETUC in *Rules of Internal Procedure - Information of European Social Partners of the start of EWC negotiation*.

UNI Europa affiliates should monitor in their countries whether the requirement to inform the ETUC and BusinessEurope is being complied with by companies. As an additional safeguard, affiliates should notify UNI Europa when they first become aware of the setting up of an SNB

Negative response from the company's management to an SNB request

In case of an outright negative response to a request from the workforce for an SNB, affiliates should inform the UNI Europa sector(s) concerned, so that a decision on coordinated action towards the company can be jointly agreed. Affiliates should also inform UNI Europa if the company's management agrees to start the procedure for the setting up of an SNB but is obviously trying to avoid or even exclude trade union involvement..

Adequate steps should be coordinated between UNI Europa and its affiliates.

1.5.c. The trend of the group

Go to 2.2.c Business accounting: use of the manual

It's fundamental to understand the trend of the group, first of all in terms of growth/decline, economic performance of the various segments (geographical and/or business) of the Group

The study of its evolution allows to assess the strategic decisions of the holding, in terms of:

a) acquisitions, develop/abandonment of strategic business areas

b) changes in the level of company and/or financial integration

Go to 5.3. Glossary annex business accounting

in particular E

1.5.d. The importance of intercultural competence for EWCs

The importance of intercultural competence for EWCs

Effective communication is one of the crucial elements for a successful EWC. This does not happen automatically in a multi-national group where people come from different traditions and cultural backgrounds.

In a multi-cultural context, such as in a EWC, the problems of communication are not just due to language barriers but also due to the participants not having a shared understanding of values, aims and the meaning of the EWC work.