

**Company-level bargaining in times of crisis:
The case of Germany**

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Preface

This paper examines the response in Germany to the 2008-2009 economic and financial crisis, with special analysis of the actions of five companies, namely Daimler AG, Postbank AG, Arcandor AG, AB InBev Germany GmbH and Carl Zeiss AG. It shows how the management, the works councils and the unions, facing a multitude of challenges, used collective bargaining to address some of the effects of the economic downturn.

The efforts of the social partners in the five enterprises are discussed, noting that without the framework set by the German government, the social partners would not have been able to reach the innovative agreements that they have. Employment-related recession measures in Germany are extensive and aim to maintain employment in times of crisis, through, for example short-time work schemes. The importance of these labour market policies are highlighted in the case studies, in that they enabled the negotiation of “no-redundancy clauses” by unions or works councils and employers.

The case studies emphasize variations in negotiation practices at the different companies and looks at how the results were achieved. At Daimler AG, a company severely affected by the economic crisis, a collective agreement was successfully negotiated in April 2009 between the Daimler group works council and Daimler AG management, saving the company substantial sums in labour costs in return for various employment guarantees, including a no-redundancy clause. Postbank AG, which went through various mergers and reorganizations in addition to experiencing the effects of the crisis, still managed to bargain and come to an agreement with the union and the works council, also including a no-redundancy clause. Arcandor AG effectively engages its works council and union at the outset of company decisions such as potential reorganization, discussing topics of mutual interest such as safeguarding the future of the enterprise and employee contribution to competitiveness. Management and the works council at InBev Germany GmbH agreed to negotiate a “social collective agreement” allowing the works council additional rights with respect to internal labour market issues, as well as increasing management flexibility in responding to market pressures. The agreement negotiated in 2009 called for higher levels of severance pay in the event of compulsory redundancy, among other items such as compensation in the event of reduction in working hours. At Carl Zeiss AG, management asked the works councils and the union to work towards negotiating an agreement to tackle the difficult economic situation; in response the unions established a centralized collective bargaining commission in order to deal effectively with the interests of its members from all work locations. Among the negotiated arrangements, workers agreed to forgo wage increases and lump-sum payments in exchange for management’s agreement to avoid redundancies until September 2010.

I am grateful to Dr. Stefan Zagelmeyer for undertaking this study of enterprise-level collective bargaining in Germany and commend the report to all interested readers.

March 2010

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1. Introduction

The German economy currently faces the most serious economic downturn, in terms of scale and magnitude, since the Second World War. Demand, orders, output and profit have declined at unprecedented rates in many sectors and companies. At the same time, bankruptcies have been increasing.

Apart from the immediate effects of the US subprime mortgage crisis on the German financial sector, which began in 2007, the German population became aware that it could not escape the impact of the financial crisis when the Hypo Real Estate Holding AG (HRE), a holding company owning several real estate financing banks, encountered financial difficulties during the liquidity crisis of September 2008. HRE was saved from immediate collapse by an extension of a €35 billion credit line from the government and a consortium of German banks. When on 6 October 2008 a second bailout was agreed upon, with German banks contributing €30 billion and the Bundesbank €20 billion to another credit line, it became obvious that the global financial crisis had hit Germany.

From autumn 2008 to the time of writing – mid-August 2009 – the crisis has affected many sectors and companies, with the economic situation continuing to deteriorate. In order to cope, the German Federal government, the state (Länder) governments and the social partners have introduced and/or adapted a wide range of policy instruments. At the company-level, human resources (HR) policies are being adjusted. As it becomes clear that unilateral action by company management is no longer enough, joint actions by management, trade unions and/or works councils have become necessary in order to reach agreements on cost-cutting programmes to help companies maintain employment levels or minimize job losses.

This report provides (1) an overview of public policies and social partners' initiatives, and (2) five case studies of company-level collective or works agreements on tackling the impact of the current crisis, focusing on maintaining employment levels.

2. Public policies and social partners' initiatives

2.1 Background

This section summarizes the initiatives taken by the government and the social partners to address the economic crisis. While there have been numerous innovative policies, in many cases established tools have been adapted to the needs of the current situation. However, this report cannot claim to provide an exhaustive list of all available initiatives, for at least two reasons. First, as the federal system has a multiplicity of economic and social policy actors at different levels, a full report of all activities would be well beyond the scope of this report. Second, since the crisis is not yet over, any report can at best discuss the policies existing at the time of writing. Even while this report was being prepared, many new initiatives were being introduced, and there will be certainly be more such initiatives in the future.

Many of these initiatives seek to tackle the impact of the crisis on employment; these range from comprehensive stimulus packages at the federal level – resulting in a wide range of specific measures that directly or indirectly affect the labour market, to local initiatives taken by social partners, with or without the support of local authorities. The instruments vary in terms of their target group, channel of influence, and impact. While some are aimed at stimulating the companies' demand for labour, others provide incentives to help prevent redundancies. Further policies support the labour supply in order to

minimize the social impact of the crisis and to facilitate adjustment (Mandl & Salvatore, 2009).

The structure of the first part of this report roughly follows the classification of employment-related public recession instruments developed in Mandl & Salvatore (see figure 1). Following the summary of the economic situation, the subsequent deal with the instruments used to maintaining employment. It should be noted that some instruments can be pigeonholed in more than one category, shown in the figure.

Figure 1.
Employment-related recession measures

Measures to maintain employment	Measures to create employment	Income support for the unemployed or those outside the labour force
<ul style="list-style-type: none"> - Support for short-time work or temporary layoff <ul style="list-style-type: none"> • Wage subsidies • Social security contributions - Training support while employed <ul style="list-style-type: none"> • Advice/consultancy to enterprises • Contribution to training costs • Wage subsidy - Reduction/deferral of non-wage labour costs for current employees <ul style="list-style-type: none"> • Social security contributions – for enterprises and/or employees • Taxes – for enterprises and/or employees - Direct enterprise support <ul style="list-style-type: none"> • Public loans/guarantees, direct subsidies, risk-capital schemes • Reduction/deferral of company tax payments or bringing forward of tax reimbursements - Indirect enterprise support <ul style="list-style-type: none"> • Public investment (e.g., infrastructure) • Incentives for consumer purchases 	<ul style="list-style-type: none"> - Job matching, counselling, career guidance <ul style="list-style-type: none"> • Improving PES • Support of workers in finding a job - Incentives for companies to employ additional workers <ul style="list-style-type: none"> • Reduction of/exemption from non-wage labour costs • Wage subsidies • Non-financial incentives - (Re-) training of the unemployed <ul style="list-style-type: none"> • Advice/consultancy, skills assessment tools • Provision/organization of training • Contribution to training costs • Income support while in training - Mobility grants <ul style="list-style-type: none"> • Tax incentives • Travel/accommodation allowances • Repatriation allowances - Support of self-employment <ul style="list-style-type: none"> • Advice/consultancy, training • Start-up grants • Reduction/deferral of social security payments 	<ul style="list-style-type: none"> - Unemployment benefits <ul style="list-style-type: none"> • Eligibility criteria • Amount • Duration of entitlement - Other instruments, e.g.: <ul style="list-style-type: none"> • (Early) retirement payment • Child benefits • Housing/ heating

Note: PES = Public Employment Service.

Source: Mandl & Salvatore (2009).

2.2 The economic situation, 2008-2009

Following a sharp decline in the gross domestic product (GDP) during the winter of 2008-09, the German government is currently (August 2009) seeing the first signs of gradual stabilization in the overall economy, as the order-books recover, foreign trade improves, and industrial output holds steady. Yet there are fears that the heretofore modest impact of the crisis on the German labour market will worsen in autumn 2009 and winter 2009-10.

In August 2009 the Federal Statistical Office reported that the GDP (adjusted for calendar effects) in the second quarter of 2009 was 0.3 per cent higher than in the first quarter, following four quarter-on-quarter decreases in a row. However, the price-adjusted GDP was down by 7.1 per cent compared to the same quarter of the previous year, which

implies the largest decrease since the beginning of the publication of the data in 1970 (Statistisches Bundesamt, 2009).

In the manufacturing sector, the output for May 2009 increased by 3.7 per cent in price- and seasonally-adjusted terms, and industry saw a sharp rise in output by 5.1 per cent. The respective figure for December 2008 saw a drop of 5.3 per cent in output (Bundesministerium für Wirtschaft und Technologie, 2009b). However, once adjusted for working day variations, industrial output continues to remain far below the previous year's level; on a three-month comparison, there was a fall of 22.0 per cent. While there was a slight (seasonally-adjusted) rise in exports by 0.3 per cent, this year's figures again went down sharply on those for 2008, in April/May by 26.8 per cent (unadjusted) (Bundesministerium für Wirtschaft und Technologie, 2009d).

As far as labour market developments are concerned, unemployment increased in June 2009 by 31,000 in seasonally-adjusted terms, up by 250,000 on the 2008 figure. The number of unemployed persons stood at 3.41 million, with an unemployment rate of 8.1 per cent. For seasonal reasons, total employment expanded by 137,000 (unadjusted) to 40 million in June 2009. In year-on-year terms, employment was down by 163,000 (Bundesministerium für Wirtschaft und Technologie, 2009d). For 2009, the Federal Government expects the GDP to decline by two-and-a-quarter per cent (price-adjusted) (Bundesministerium für Wirtschaft und Technologie, 2009b). The Institute for Employment Research (IAB) estimates that if the gross domestic product were to decline by 6 per cent in 2009, unemployment would rise by 430,000 to 3.7 million (Institut für Arbeitsmarkt- und Berufsforschung, 2009).

2.3 Public policies I: Economic stabilisation

2.3.1 October 2008: Stabilisation of the financial markets

On 17 October 2008, the German government passed the Financial Market Stabilisation Act (*Finanzmarktstabilisierungsgesetz*, FMStG) in order to re-establish confidence among banks, to secure both the deposits of private citizens and the supply of credit to companies, and to restore confidence in the stability of the financial system. Assistance under the Act is tied to strict conditions and is time-restricted. It aims to revive confidence in the financial system and to restore order to commercial transactions between financial institutions. In addition, the federal Government has announced an unlimited guarantee on all private deposits in Germany (Bundesministerium für Wirtschaft und Technologie, 2009b).

2.3.2 November 2008: The “securing jobs by strengthening growth” package

On 5 November 2008, the German Government adopted the “Package of measures to reduce tax burdens, stabilise social insurance contributions and invest in families”, as well as the 15-point programme “Securing jobs by strengthening growth”. The aim of the package was to minimise the effect of the financial crisis on the general economy. It provides for, among other things, reduced taxes for private citizens and businesses, incentives for environmentally-friendly house construction, additional temporary jobs for employment agencies, the extension of short-time work from 12 to 18 months as of 1 January 2009 (valid for 2009 only), and funding for public investment. The Kreditanstalt für Wiederaufbau (KfW) will safeguard the financing and liquidity of companies (Bundesministerium für Wirtschaft und Technologie, 2009a).

2.3.3 January 2009: The “Pact for employment and stability in Germany”

Given that the economic situation deteriorated over the winter of 2008-09, the federal Government adopted the broad and integrated “Pact for employment and stability in Germany” on 14 January 2009. The pact targets public investment, the credit supply, employment and skills, tax reduction, and sustainable fiscal policy. The reduction in taxes and social insurance contributions is intended to boost consumer purchasing power and to improve incentives for employers and private investors. In addition, there will be additional public investment in infrastructure as well as policies to promote education and skills. Additional measures will address the labour market, to prevent layoffs and develop skills. This pact also includes the car scrapping scheme intended to benefit the car industry and the companies in the supply chain of the car industry. According to this scheme, consumers can take advantage of a reduction in the purchase price of a new car if they scrap their old car –which has to satisfy certain criteria (Mandl & Salvatore, 2009). The pact contains measures for 2009 and 2010 (Bundesministerium für Wirtschaft und Technologie, 2009c).

Following the two programmes, the German government established the German recovery fund (Deutschlandfonds), which provides companies with easier access to subsidised guarantees and loan subsidies. One major company to receive guarantees and loans is Heidelberger Druckmaschinen, the largest printing-press maker in the world, which has suffered substantially from falling orders and the general decline in traditional print media. The company made successful applications for a €300 million loan from the Kreditanstalt für Wiederaufbau, and for additional state guarantees amounting to €550 million from the German government and the federal State of Baden-Württemberg (European Foundation for the Improvement of Living and Working Conditions, 2009).

2.4 Public policies II: Employment

2.4.1 Short-time work

In Germany, a very popular option for the prevention of dismissals during a downturn putting employees on short-time work. For companies, this reduces labour costs, safeguards company-specific human capital investments, and helps to retain core employees until the economic recovery. Employees also benefit by having at least a temporary guarantee that they will not be made redundant and by having income security in spite of a pay cut due to the reduction in their working hours (Mandl & Salvatore, 2009).

The government regulation of short-time work has been adapted several times since the beginning of the recession, because of changing requirements in the economic situation. The main provision is that the company pays for the effective working time and receives a state allowance for up to 67 per cent – depending on the worker’s family status – of the missing net wage, for up to 24 months. However, the extension to 24 months will only be valid for applications made by 31 December 2009 (Bundesministerium für Arbeit und Soziales, 2009).

Until 30 June 2009, the government covered half of the national insurance contributions made in respect of short-time work. From 1 July, the government will cover the full amount of contributions after the sixth month of short-time work (Mandl & Salvatore, 2009). Short-time work is currently very popular in the metal and engineering sector, the automotive industry, construction, wholesale and retail trade, as well as in temporary agency work (Crimmann & Wießner, 2009).

2.4.2 Training support while on short-time work

As part of the 2009 pact, the German government is broadening its support for education and training measures for company employees during the recession, taking advantage of the low level of business activity while at the same time preparing enterprises and

employees for the economic recovery. Employers may receive a special training subsidy if they offer training courses to enhance their workers' future employment prospects during the non-employed hours while on short-time work (Mandl & Salvatore, 2009).

2.4.3 Reduction of non-wage labour costs for current employees

In Germany, the employers' unemployment insurance contribution has been lowered from 4.2 per cent in 2008 to 2.8 per cent in 2009 and 2010, while health insurance contributions were reduced by 0.3 per cent. In addition – since German companies must currently also cover the employees' contributions while on short-time work – this obligation will be halved during 2009 and 2010. These policies aim to set an incentive for the company to maintain jobs by reducing non-wage labour costs (Mandl & Salvatore, 2009).

2.5 The role of the social partners

2.5.1 Involvement in public policy-making

The social partners, namely the trade unions and employers' associations, were consulted by the German government before the decisions were made regarding public policy initiatives. These consultations usually involved the Chancellor, representatives of the Federal Government, trade unions, employers' and trade associations, major German companies, the Council of Economic Advisors, as well as representatives of academia and the research community. Participants were invited to present their views, analyses and interpretations of the crisis, and its possible future developments and scenarios, as well as its economic and social implications. In addition, participants discussed policy options.

On 13 October 2008, the Federal Minister of Economics and Technology met with representatives from various sectors to discuss potential elements of a package of measures (Stimulus Package I). One meeting took place on 5 November 2008, immediately after the Government had decided on the first stimulus package, when it hoped to secure support of the social partners for the package (Merkel beruft Konjunkturgipfel, 2008).

Two so-called "Konjunkturgipfel" (summits on economic activity) stand out in this respect. The first summit involved 32 participants and took place on 14 December 2008 (Merkel will wetterfest, 2008). The purpose of the meeting was to discuss the general economic and labour market situation and to help prepare the Government's decision of 5 January 2009 on the second stimulus package, but not to secure agreement on any specific policy issues (Hess, 2008).

On 29 December 2008, the leading employers' and trade associations – the BDA (Confederation of German Employers' Associations), BDI (Confederation of German Industry), DIHT (German Association of Chambers of Commerce) and ZDH (Central Association of German Crafts) – issued a joint press statement expressing support for the Government's first stimulus package and implicitly demanding additional activities, including reductions in both corporate and income tax, improved bank loan arrangements for businesses, a reduction in employers' social security contributions, support for short-time work, and additional investments in education and infrastructure (BDA et al., 2008).

On 9 January 2009, the Chancellery organized a meeting with the entrepreneurs and associations of small- and medium-sized enterprises to discuss potential policy elements in a package of measures (Stimulus Package II). On 13 January 2009, the Chancellery held a meeting with the central associations of business with the objective of explaining the coalition decisions of 12 January 2009 concerning the Stimulus Package II in order to ensure acceptance by business and rapid impact. On the same day, the Federal Minister of Economics and Technology held two separate discussions regarding the preparation of the Annual Economic Report (projection of the economic development) with (a) the joint Committee of business associations, and (b) the German Trade union Confederation (DGB).

The second stimulus package was welcomed by the BDA, as it included additional public investment in infrastructure, a reduction in employers' social security contributions, and enhanced opportunities for companies to maintain employment levels (BDA 2009). In addition, the DGB welcomed the package as it would meet union demands for investment in education and infrastructure, income tax reductions, and additional support for short-time work (DGB, 2009).

On 13 March 2009, the BDA, the BDI, the DIHT and the ZDH met with the Chancellor in Munich to discuss issues related to the financial crisis, for example, company finance, corporate taxation, simplification of the regulations of short-time work.

A second Konjunkturgipfel summit took place on 22 April 2009; it included about 40 participants. While the purpose of the summit was to discuss the economic situation, the unions demanded a third stimulus package, the employers' representatives demanded a reduction in non-wage labour costs, and industry associations demanded easier access to bank loans (Schmergal, 2009). Since the crisis began, trade unions as well as employers' associations have contributed to the public discussion of the crisis and have voiced their concerns, especially during the run-up to the tripartite summit meetings.

The DGB and its member unions have continued to take a position and to voice their demands. In terms of their effect on public policy, the unions claim to have proposed the extension of short-time work, the car scrapping bonus programme, and support for environmentally-friendly building renovation. Yet the unions also criticized the hesitant approach of the German government and condemned the amount of fiscal stimulation as insufficient. In addition, they made repeated calls for consumer subsidies and emphasized that more money should be invested in education and infrastructure.

The employers' associations have likewise contributed to the public debate. They repeatedly called for investment in education and infrastructure and for a reduction in social security contributions and non-wage labour costs.

2.5.2 Further social partner initiatives

Since the 1990s, multi-employer collective agreements have contained opening clauses, or hardship clauses, allowing company-level agreements to deviate from sectoral collective agreements, usually in order to reduce costs and maintain employment (Kohaut & Schnabel, 2007; Haipeter & Lehndorff, 2009). Unfortunately, there is yet no information available on the extent to which these clauses have been used in the current situation.

In general, the financial crisis has affected some of the more recent collective bargaining processes. For example, while the initial demands in the metal and engineering sector wage negotiations in 2008 were relatively high (with over eight per cent of the demands linked to the excellent business performance by German companies in the first half of 2008), the agreement as concluded was relatively moderate, with a modest increase of 2.1 per cent from 1 February 2009 (Dribbusch, 2009).

More specifically related to the financial crisis, a regional multi-employer collective agreement in the metal and electrical industry concluded in April 2009 contained provisions on short-time working, training and employment protection for Baden-Württemberg. The agreement extends and supplements the federal Government's new rules on short-time working by establishing models to compensate employees on short-time work for lost wages (Vogel, 2009).

Also beginning in the 1990s, company-level agreements in the form either of a collective agreement or of a works agreement have been used by trade unions to exchange concessions on collectively-agreed terms and conditions of employment (especially pay and working time) for management commitments to maintain existing job levels or to reduce staffing levels without compulsory redundancies.¹ The next part of this report will

¹ Bellmann, 2009; Bellmann et al., 2008; Berthold et al., 2003; Hübler, 2005a, 2005b; Lesch, 2008; Rehder, 2003; Seifert & Massa-Wirth, 2005; Sisson & Artilles 2001.

describe and discuss recent examples of such company-level agreements which were concluded as a reaction to the financial crisis in 2008 and 2009.

2.6 Company-level responses

This section briefly summarizes the main company-level responses to the crisis, looking at human resource management as well as at employment relations.

There are several ways that companies in Germany respond to the crisis. One recent, representative survey by the Institute for Employment Research IAB (Heckmann et al., 2009) reports that four out of ten establishments with almost 12 million employees were affected by the economic crisis. The crisis affects establishments of all sizes and all sectors, in varying degrees.

As far as human resource management is concerned, the German Association for Personnel Management (Deutsche Gesellschaft für Personalführung, DGFP) conducted surveys of its member companies on the impact of the financial crisis in December 2008 and in May 2009 (Armutat, 2009; Sedlacek, 2009). The May 2009 survey (n=116) provided information on the type of personnel adjustment the respondent companies were using. In terms of priorities, the companies were resorting to (either currently or within the next 6 months):

- 1) reduction of overtime (73 per cent)
- 2) use of savings on working time accounts (63 per cent)
- 3) a no-hiring policy (63 per cent)
- 4) not renewing temporary agency contracts (63 per cent)
- 5) not extending temporary contracts (63 per cent)
- 6) hiring new employees with temporary contracts only (58 per cent)
- 7) reduction of further training activities (58 per cent)
- 8) reduction of bonus payments (48 per cent)
- 9) mutual termination of employment contracts (46 per cent)
- 10) short-time working (42 per cent)
- 11) partial early retirement (41 per cent)
- 12) transfers (39 per cent)
- 13) reduction in voluntary social security supplements (29 per cent)
- 14) compulsory vacations (28 per cent)
- 15) extension of cooperation with temporary work agencies (24 per cent)
- 16) wage cuts (21 per cent) (Armutat, 2009; Sedlacek, 2009)

While the dataset is not representative of German companies, the results show the spectrum of HR policies currently being used. The representative IAB study reports that 11 per cent of the member establishments have resorted to employee redundancy; 20 per cent have reduced wages, benefits or working hours; 17 per cent were using short-time work; and 83 per cent put in place a no-hiring policy (Heckmann et al., 2009).

Two further specific developments need to be mentioned in the context of the impact of the financial crisis on HRM and employment relations, regarding temporary agency work and the extent of short-time working. Between June 2008 and June 2009, the number of temporary agency workers declined by 36 per cent from 794,000 to 526,000. Furthermore, the Institute for Employment Research (Institut für Arbeitsmarkt- und Berufsforschung, IAB) estimates that in March 2009, 1.2 million employees were working short time, a 1.1 million increase on the number in March 2008. If the average reduction in

working hours is estimated at 34.5 per cent, this would translate into 430,000 full-time jobs (Institut für Arbeitsmarkt- und Berufsforschung, 2009).

3. Company case studies

3.1 Introduction

The purpose of the case studies is to examine the various faces of company-level “concession” bargaining in the past and during the current crisis, and to ascertain how public authorities can help enterprises to avoid redundancies, keep employees in work and possibly enhance their employability.

3.1.1 Research methods

The following sections are based on company-level case-study analysis. Since this research project is largely an exploratory, fact-finding mission, one may also refer to the case studies as case reports.

The author began the project by making a general analysis of several German newspapers as well as of the online databases of the European Restructuring Monitor and the European Industrial Relations Observatory (both services provided by the European Foundation for the Improvement of Living and Working Conditions in Dublin, Ireland) to identify critical cases. This (re)search generated some ideas but did not lead to the identification of critical cases.

There are several reasons why it proved difficult to find cases. First, the impact of the financial crisis on German companies occurred relatively late compared to other countries. Second, the agreements usually take time to negotiate. Third, the impact of the financial crisis is still in progress, which means that companies and unions may be reluctant to issue information to the public during such situations of uncertainty.

A thorough search of internet web pages generated a list of companies which had embarked on the desired negotiations or reached agreements. By early June, a dozen companies were identified as potentially suitable for this research project. After inquiries with company representatives and the respective trade unions, the author chose the following companies for the case reports:

- 1) Daimler AG, a car company heavily affected by the financial crisis;
- 2) Postbank AG, a recently privatized company from the banking sector;
- 3) Arcandor AG, a retail and tourism group which went recently bankrupt;
- 4) AB InBev Germany GmbH, a brewing group which is part of a foreign-owned multinational;
- 5) Carl Zeiss AG, an optics company which has recently applied for state aid.

There were a number of other companies in line, especially in the supplier business. Some companies did not respond or explicitly refused to take part in the study, while other companies' agreements were ruled unsuitable for the purpose of this report by the author.

As far as the case reports are concerned, the data collection process was organized as follows. After an analysis of the company's web page and that of the relevant trade union, the author thoroughly searched newspaper archives. He then sought to obtain additional information by asking company and union representatives for interviews. For each of the five case studies at least one semi-structured interview was conducted, either with a works council representative, a trade union representative, and/or a company representative.

3.1.2 Specific legal terms

The collective agreement (*Tarifvertrag*) is an instrument for regulating the terms and conditions of employment, concluded by an employer or an employers' association on one side and one or several trade unions on the other. In Germany, collective agreements are concluded at various levels, ranging from company-level collective agreements to national level multi-employer agreements. Collective agreements are legally binding.²

A works agreement (*Betriebsvereinbarung*) is a written agreement made between the employer and the works council which has a direct and compulsory effect on employment relationships and labour relations within the establishment. Works agreements may regulate all matters relating to the establishment, provided that there are no statutory or collectively-agreed provisions to the contrary. Details of the rights of the works councils can be found in the Works Constitution Act. It is unlawful for works agreements to contain provisions on remuneration and other employment conditions, which are (usually regulated) regulated by collective agreement (Works Constitution Act § 77(3)). Collective agreements may, however, permit the conclusion of supplementary works agreements.³

As far as the company-level case studies are concerned, two more concepts are relevant. "Social plans" are agreements between an employer and a works council to compensate or alleviate economic disadvantages for employees in the event of a substantial change in the workplace or in cases of bankruptcy (Works Constitution Act §§ 111,112). In case of failure to agree on a social plan, there is a mediation and arbitration system which ultimately leads to a binding social plan. There is an obligation to draw up a social plan only if the proposed alteration to the establishment consists solely of dismissals, when certain maxima (expressed as a percentage of the total workforce) are exceeded, or when the case involves a newly-formed enterprise. In such cases, a reconciliation of interests (see below) must be arranged. Social plans usually entail the regulation of redundancies and severance pay.⁴

Finally, the reconciliation of interests (*Interessenausgleich*) according to the Works Constitution Act §§.111 ff. provides for a procedure to reconcile the positions of the employer and the workforce in the event of a proposed substantial alteration to the establishment and also bankruptcy and composition. As a consequence of the reconciliation of interests, the implementation of the agreed arrangements is subject to the co-determination right of the works council. If the employer makes no attempt to arrive at an agreed reconciliation of interests, or fails to abide by one, employees who are dismissed or who experience economic disadvantage as a result may claim compensation for job loss.⁵

3.2 Daimler AG

3.2.1 Background

Daimler AG is the world's thirteenth largest car manufacturer as well as the world's largest truck manufacturer, owning the brands Mercedes-Benz, Maybach, Smart, Freightliner and many others. Daimler AG also owns major stakes in the aerospace group EADS and the Japanese truck maker Mitsubishi Fuso Truck and Bus Corporation. In addition, it provides financial services through its Daimler Financial Services company.

Although the company's history goes back to 1883, Daimler AG was established only in 2007. Its predecessor DaimlerChrysler AG was created in 1998 when the German company Daimler-Benz merged with the US-based Chrysler Corporation. In 2007,

² www.eurofound.europa.eu/emire/GERMANY/COLLECTIVEAGREEMENT-DE.htm

³ www.eurofound.europa.eu/emire/GERMANY/WORKSAGREEMENT-DE.htm

⁴ www.eurofound.europa.eu/emire/GERMANY/SOCIALPLAN-DE.htm

⁵ www.eurofound.europa.eu/emire/GERMANY/RECONCILEMENTOFINTERESTS-DE.htm

DaimlerChrysler sold Chrysler to Cerberus Capital Management and took on the name Daimler AG.

In terms of employment relations, the manufacturing sites of Daimler AG are covered by the sectoral multi-employer agreement for the metal and engineering sector. Most of the company-specific agreements are negotiated with works councils and have the legal status of a works agreement.

The global recession has had a substantial negative impact on global demand for motor vehicles. This has hit Daimler AG fairly hard, especially in the first quarter of the financial year 2008-09, and the trend continued into the second quarter, when the company reported that in the United States sales of cars and light trucks were about 30 per cent below the level of the corresponding quarter in the previous financial year. In many European countries the decline in demand was partially compensated by various state bonuses for scrapping older vehicles, which stimulated demand especially for small cars. However, as Mercedes Benz targets the market for larger cars, Daimler has not derived much benefit from this policy. Markets for commercial vehicles in Western Europe, the United States and Japan slumped in all segments during the second quarter. Medium and heavy trucks were the worst hit, with unit sales falling by between 40 per cent and 60 per cent (Daimler AG, 2009a).

In the second quarter of the financial year 2008-09, Daimler sold 391,500 cars and commercial vehicles worldwide, which implies a drop by 31 per cent compared to the same period of the previous year. Sales of Mercedes-Benz cars fell by 19 per cent, while sales of Daimler trucks fell by 56 per cent, sales of Mercedes-Benz vans fell by 47 per cent, and sales of Daimler buses fell by 25 per cent. The profits of Daimler Financial Services fell by 16 per cent compared with the corresponding quarter in the previous financial year. The Daimler Group's second-quarter revenue fell significantly from €26.0 billion in 2008 to €19.6 billion this year. Adjusted for exchange-rate effects, revenue fell by 27 per cent. Daimler posted operating profits before interests and taxes (EBIT) of minus €1 billion for the second quarter (Q1 2009: minus €1.3 billion; Q2 2008: plus €2.1 million) (Daimler AG, 2009a).

The Daimler Group has adopted a number of measures to reduce costs and to avoid additional expenditure; in total, they amount to €4 billion. The measures include labour-cost reductions as well as fixed-cost reductions and further streamlining of the Group's organizational structures.

As far as HRM is involved, 257,400 people were employed by Daimler worldwide at the end of the second quarter of 2009 (end of Q2 2008: 275,000), 162,800 of whom were employed in Germany (end of Q2 2008: 168,300). The workforce reduction was achieved primarily by the repositioning of the Group's truck business in North America, the expiry of limited-period employment contracts, and early retirement agreements. Nearly all of the car and commercial vehicle plants in Germany are affected by short-time work; at the end of June 2009, this involved about 41,000 employees (Daimler AG, 2009a).

The following sections will report on the 2009 works agreement which is intended to make a significant contribution to cost-savings at Daimler AG. Since the 2009 agreement is closely connected to previous agreements, the case report also includes information on the 2004 works agreement concluded at DaimlerChrysler AG.

3.2.2 The 2009 agreement

Background

On 27 February 2009, the newspaper Die Welt reported that for the year 2008, the remuneration package for members of the management board had gone down by around 50 per cent per member, as compared to 2007. This resulted mainly from a drastic reduction in the annual bonus, which is related to operating profits. In 2008, the EBIT declined by a

third, mainly because of the 20 per cent stake in Chrysler and a 40 per cent decline in the sales (Daimler will zwei Milliarden, 2009). Basic salaries and long-term oriented salaries and expenses went down, albeit slightly (Daimler-Chef Zetsche, 2009).

In mid-January, the management announced that the annual bonus for employees would be reduced from €3,750 in 2007 to €1,900 in 2008, which affected 118,000 employees. Furthermore, in the annual report for 2008, the management announced workforce reductions as a consequence of the decline in sales. There would not be a formal programme of workforce reductions, as Daimler would mainly rely on voluntary attrition (Daimler-Chef Zetsche, 2009).

In mid-March 2009, Daimler announced an extension of short-time working in response to a further decline in sales. At each production site, the management and works council would negotiate the local agreement (Daimler weitet Kurzarbeit, 2009).

Negotiations

In April 2009, management demanded additional labour-cost reductions and concessions from the workforce in extraordinary work meetings (*Betriebsversammlungen*) at nine of the 15 German production sites. It claimed that the previous cost-cutting and workforce reduction programmes had been insufficient. During the meetings, management also prepared the workforce for potential redundancies. However, employees who had been hired before the conclusion of the 2004 employment pact were guaranteed employment until the end of 2011 (Daimler bereitet Mitarbeiter, 2009).

Among other things, management demanded a reduction in working hours of up to five hours per week without wage compensation – implying wage reductions of up to 14 per cent – for 73,000 of Daimler's 141,000 employees in Germany (namely those working in administration, procurement, and research and development) and the cancellation of company support and incentives for short-time work.

Conflict between management and the works councils was reported when management proposed to reduce the working week from 35 to 30 hours; the works councils preferred short-time work. Short-time work is more costly to the employer but entails less income reductions for the employees. The proposal to postpone the collectively-agreed wage increases until December 2009 would amount to savings of €100 million, and the postponement of the annual bonus would save another €280 million (Daimler will zwei Milliarden, 2009). In addition, management proposed to scrap vacation pay and the Christmas bonus (in Germany called the 13th month's salary). Management announced that negotiations with the workforce were expected to be concluded by the end of April. The proposed concessions would lead to a reduction of labour costs from €12 billion to €10 billion (Daimler stimmt Mitarbeiter, 2009).

Agreement

On 27 April 2009, the Daimler group works council and management signed an agreement providing for a range of cost-cutting measures intended to save the company €2 billion in labour costs in return for, among other things, a "no-redundancy clause". The agreement included the following (Dribbusch, 2009a):

- **Working-hours reduction and short-time work.** The working time of all employees at Daimler Germany will be cut by 8.75 per cent without pay compensation. Employees at the company who carry out short-time work will receive an additional payment on top of the statutory short-time allowance in order to reduce income loss. Whereas, according to previous provisions, up to 100 per cent of the previous net income was guaranteed in some cases, the additional payment will now be cut with effect from 1 May 2009. Daimler employees doing short-time work in the federal State of Baden-Württemberg will then receive additional payments guaranteeing between 80.5 per cent and

93.5 per cent of monthly net income, depending on the individual extent of short-time work.

- **Compensation.** The pay increase of 2.1 per cent negotiated in November 2008 and scheduled to take effect from 1 May 2009 will be postponed to 1 October 2009. Moreover, the one-off payment of €122 negotiated for September 2009 will be cancelled. The bonus payment of €1,900 for 2008, resulting from Daimler's profit-sharing scheme and due to be paid in April 2009, will also be postponed to May 2010. All bonus payments based on individual monthly incomes will be cut according to the agreed 8.75 per cent reduction in weekly working hours (Dribbusch, 2009a).
- **Apprentices.** The percentage of apprentices to be offered employment contracts has also been renegotiated for those who started their apprenticeships in 2006 and 2007. This is based on a company-wide agreement from the year 2005 and includes an increase of five per cent in the number of apprentices and a takeover rate of 80 per cent. All apprentices who started in 2006 and 2007 will be offered employment contracts with a 28-hour working week. According to the previous regulations 20 per cent of apprentices had to leave the company at the end of their apprenticeships. They will now be offered a one-year employment contract and support for occupational reorientation outside the company (Daimler AG, 2009b).
- **No-redundancy clause.** The exclusion of compulsory redundancies until 31 December 2011, which was agreed during the previous negotiations in 2004, remains in place but is valid only for those who joined the company before the 2004 agreement was concluded. About 16,000 workers joined Daimler after 2004 who have hitherto not been covered by this job guarantee; they are now protected from compulsory redundancy until June 2010. The company-wide agreement can be terminated as of December 31, 2009 (Dribbusch, 2009a).
- **Miscellaneous.** No final agreement has yet been reached on implementing the non-payment of the profit-sharing bonus for the year 2008, which was decided upon previously. Management and the group works council have discussed the possibility of putting the profit-sharing bonus into an employee-equity scheme. The preconditions for this proposal are to be clarified in a joint workgroup by the end of 2009. Should the implementation of this proposal be not be possible, the bonus will be paid out following consultation with the works council in either May or October 2010 (Daimler AG, 2009b).

Members of Daimler's management board and top executives will be included in the cost-reducing measures and will also temporarily forego part of their monthly basic salaries, starting in May 2009. The percentage share of monthly salary reductions increases with responsibility. The usual annual salary increase will also be omitted in 2009. The variable components, including pension contributions, have already fallen significantly. Solely through the reduction of monthly remuneration, senior executives are waiving the equivalent of one month's salary and members of the management board are waiving the equivalent of two months' salary on an annual basis. In addition, the supervisory board will soon decide on its own reduction (Daimler AG, 2009b). The newspaper *Die Welt* reported that the members of the management board will have a salary cut of 15 per cent per month and a 70 per cent reduction in performance-related pay. General managers at plants will have a salary reduction of 10 per cent (Daimler spart, 2009).

3.2.3 The 2004 agreement

Background

The 2009 agreement needs to be seen against the background of the employment pact which was concluded in July 2004 at the DaimlerChrysler AG. This pact was intended to

safeguard 6,000 jobs and provide a qualified no-redundancy guarantee for permanent employees in Germany until the end of 2011. As the pact covered only employees on permanent contracts with DaimlerChrysler on the day that the agreement was concluded, the 16,000 employees who had been taken on after that date were not covered by the no-redundancy clause. Furthermore, the company's economic situation had changed since then, so that the provisions needed to be revised.

The background to the 2004 agreement is as follows: in early June 2004, newspapers reported that McKinsey management consultants had identified potential productivity increases at Mercedes-Benz of the order of 10 per cent for the then 104,000-strong workforce. This implied that the company could reduce the workforce by 10,000 without any loss of production and quality, despite operating profits of €3.1 billion in 2003. On 18 June 2004, Jürgen Hubbert, the CEO of the Mercedes Car group, questioned the usefulness of some collectively agreed terms and conditions against the background of pressure to increase competitiveness, particularly site-specific bargaining items such as paid breaks and shift-work mark-ups for late shifts (Chronik, 2004).

Negotiations

On 24 June 2004, the chairperson of the group works council, Erich Klemm, warned that productivity increases might endanger 10,000 jobs at Mercedes-Benz. He subsequently offered proposals on improving flexibility with potential cost savings of €180 million, which management rejected (Chronik, 2004).

On 9 July 2004, 10,000 employees of Sindelfingen and Untertürkheim protested against the management demands. Work stoppages lasted 30 minutes. On 10 July, 12,000 employees at the Sindelfingen plant went on strike between 6 am and 2 pm (Chronik, 2004).

On 12 July 2004, DaimlerChrysler warned that 6,000 jobs could be cut in southern Germany and that production of its new C-class Mercedes could be shifted either to Bremen, where cars were cheaper to produce, or even to South Africa unless employees agreed to cost savings of €500 million a year. Management demanded concessions, in particular the abolition of the special hourly five-minute breaks and the bonuses that workers were receiving for working afternoons and late shifts at its main production facilities in Sindelfingen. These benefits were not granted to workers at the plant in Bremen. Moreover, the Bremen workers had fewer vacation days. DaimlerChrysler workers' representatives reacted to the warning by launching a nationwide 'action day' on 15 July to protest against the company's cost-cutting plans. IG Metall estimated that more than 60,000 workers joined the protests. The company then gave the workers' representatives until the end of July 2004 to agree to concessions that exceeded the €180 million annual savings from wage freezes offered by the works council (Daimler-Chrysler, 2004).

The press reported rumours about talks between management and the group works council on a cost-saving programme amounting to €500 million during the days that followed. On 18 July the negotiations continued, and it became clear that a solution would be reached by 29 July, in advance of the next general assembly meeting. Management wanted to avoid industrial action, and the works council wanted to avoid the relocation of production. The management board offered to cut its remuneration package by 10 per cent, and higher management levels signalled their preparedness to contribute to the deal (Daimler-Manager, 2004).

On 20 July 2004, negotiations resumed but were adjourned. On 21 and 22 July, the negotiations continued. It was reported that the employee side demanded employment guarantees of 10 years, while management offered only 4-5 years (Millionen-Poker, 2004). In the early hours of the next day, the parties announced that an agreement had been reached (Chronik, 2004).

Agreement

On 23 July 2004, an agreement was reached at DaimlerChrysler's Mercedes division that was expected to save the company €500 million a year in labour costs in return for compensation provisions and a no-redundancy clause until 31 December 2011. These annual cost cuts were to become fully effective in 2007 (Funk, 2004).

The works agreement affected around 160,000 employees at DaimlerChrysler's German Mercedes division car plants. The main provisions of the agreement were as follows (Funk, 2004):

- Employees would forego a planned 2.79 per cent wage increase in 2006.
- 20,000 employees at the research and development departments agreed to a 30- to 40-hour working time 'corridor' in order to reduce the cost of overtime.
- The provision of temporary work would be restricted to 2,500 employees.
- The adaptability, in particular of younger workers, new entrants and employees on fixed-term contracts would be enhanced over a three-year period, by allowing the company to employ such workers at different sites within the company, depending on demand.
- Weekly working hours for around 6,000 service and support staff working in canteens as security guards or in logistics would be increased in stages from 35 hours to 39 hours by July 2007, without any corresponding increase in wages.
- Service and support staff aged 54 years or more would see a gradual reduction in their working week to 34.5 hours, without any corresponding reduction in wages.
- New service staff at DaimlerChrysler would be paid at comparable rates to those of workers in the service sector.
- These service jobs would not be outsourced.
- Paid hourly breaks for workers in Baden-Wurttemberg would be reduced roughly by half, and employees would have to devote some of their break time to training.
- Late-shift bonuses for work between noon and seven pm would continue for current employees, but would be discontinued for new and temporary employees.
- The salaries of 3,000 managers would be reduced by an undisclosed amount, and those of the company's top executives would be reduced by 10 per cent.

In August 2004, 3,000 managers announced the reduction of their monthly salaries by 2.79 per cent starting in 2006. In addition, variable pay would be cut by 10 per cent. These cuts were equivalent to the concessions made by the workforce in the July 2004 pact. The management board had already announced similar reductions (3000 Daimler-Manager, 2004).

After the pact

In the year following the 2004 pact, the management and the works council negotiated an additional cost-saving programme in response to further losses. In May 2005, the management and works council agreed on a reconciliation agreement (*Interessenausgleich*) for socially acceptable workforce reductions of 590 production employees at the Smart car factory in Böblingen. They hoped to achieve this reduction by means of internal transfers within the group and an internal placement centre (Smart einigt sich, 2005).

An agreement in October 2005 for Mercedes Benz included, among others, workforce reductions of up to 8,500 over the following 12 months. While the no-redundancy guarantee remained in force, the workforce reductions were to be achieved by voluntary turnover, early retirement, and voluntary redundancy linked to severance pay. Temporary contracts were not to be renewed. There were also reports that the company would allow severance pay up to €250,000. Overcapacity and increased productivity had reduced the demand for labour (Pragmatiker aus Schwaben, 2005; Aus der Spur geraten, 2005).

3.3 Postbank AG

3.3.1 Background

The Postbank group is one of the largest providers of financial services in Germany, with 14 million customers and 21,000 employees at the time of writing. It focuses on retail banking with private customers, but also deals with company customers, predominantly small firms. Another area of activity is transaction banking, the provision of back-office services for other financial service companies.

In 1989, the postal reform split Deutsche Bundespost into three relatively independent divisions. From then on, Postbank carried the name Deutsche Bundespost-Postbank. The financial and banking services continued to be operated by the post offices. In 1994 the divisions were transferred to state-owned public limited companies (Aktiengesellschaften) and the Deutsche Bundespost was dissolved.

In 1999 Deutsche Post AG bought Postbank from the Federal Republic of Germany. Postbank subsequently acquired DSL Bank in 2000. On 1 January 2004, Postbank took over payment services for both Deutsche Bank and Dresdner Bank; it transferred these activities to the Betriebs-Center für Banken (BCB).

On 6 May 2004 the chairperson of the Deutsche Post AG (the owner of Postbank), announced that Postbank would be listed on the stock exchange on the 21st of the following month, and that up to 50 per cent minus one share of Postbank would be sold.

In 2006, Postbank took over 850 post office outlets from Deutsche Post and the majority in the BHW Holding AG. BHW, which employs 3,900 (fte) staff in Germany, provided Postbank with a mobile system of distribution with more than 4,000 sales consultants.

Postbank runs a strict cost-oriented culture. It produces its products and services exclusively in large office complexes, e.g., payment services in Frankfurt and credit services in Hamelin. In addition, it reduces costs and increases output by providing services for banks. In 2008 Postbank made more transfers for extra financial services than for itself. It also provides back-office services for credit management and the management of bank accounts for other banks and financial firms.

Early in April 2008, the service sector trade union Ver.di and the Postbank works council opposed Deutsche Post's plans to sell Postbank. They feared that this would lead to massive job losses. The trade union spokesman announced that employee representatives

in the supervisory board of Deutsche Post were unanimous in their opposition to the sale (Sechs Millionen Briefe, 2008).

On 12 September, Deutsche Bank announced that it would buy 29.75 per cent of the Postbank's shares for almost €2.8 billion in cash. The acquisition was scheduled for completion in the first quarter of 2009. It was initially announced that Deutsche Bank would continue a two-brand strategy and that Deutsche Bank and Postbank would cooperate specifically in the areas of distribution of property finance and investment banking. The two companies together had about 24.2 million private customers in Germany. Ver.di objected to the part-sale of Postbank, arguing that in the medium term it would threaten many jobs. The union feared that job losses would occur as soon as Deutsche Bank increased its share in Postbank (Verdi, 2009e). However, the chairmen of the management boards of Deutsche Post (Frank Appel) and Deutsche Bank (Josef Ackermann) announced that neither workforce reduction nor the closure of production locations would be on the agenda (Mehr Geld, 2008).

The employment relations system at Postbank AG is unique. It reflects in part the history of a public sector company with civil servants, which was partly privatized in 1989 and fully privatized in 1999, and has since then been subject to many waves of restructuring. In terms of union membership, the great majority of unionized members are affiliated to the service-sector trade union Ver.di. Before Ver.di came into being in 2001, the predecessor union was the company union German Postal Workers Union (Deutsche Postgewerkschaft, DPG). Some employees are members of the banking sector trade union Deutsche Bankangestellten-Verband (DBV), which operates outside the German Trade Union Confederation (Deutscher Gewerkschaftsbund, DGB) system. In addition, public civil servants as well as salaried employees are organized in Komba and DPVKOM, which are trade unions affiliated to the civil servant trade union Deutscher Beamtenbund (DBB), but do not have any collective agreements with Postbank.

There are several collective bargaining units, mostly at company level. In general, Postbank AG has a very dense system of collective bargaining regulation, stemming from the company's history as a public-sector organization. Postbank AG and Postbank Filialbetrieb AG are covered by company-level collective agreements. BHW has a company-level collective agreement, which is to a large extent modelled after the multi-employer collective agreement for the banking sector (e.g., wage increases of the multi-employer agreements automatically apply at BHW). The Betriebs-Center für Banken (BCB AG) has a company-level collective agreement and, for one specific occupational group, a direct recognition agreement with respect to the banking sector's multi-employer collective agreement. The terms and conditions of the public civil servants are determined by the respective public-sector regulations.

Postbank has a long list of agreements from 1989, aimed at safeguarding employment. Since its partial privatization in 1989 there have been agreements on the exclusion of compulsory redundancies, and these have been renewed every two years. A 2004 collective agreement to safeguard production sites (*Standortsicherungsvertrag*) followed announcements by Postbank that it would close production locations. The agreement included a guarantee for all sites and led to the establishment of an internal employment agency (Beschäftigungsgesellschaft, interServ) which would offer services to internal and external customers, and which allows Postbank employees to be temporarily employed at external companies.

The following section discusses recent developments in collective bargaining over employment and job security at companies in the Postbank group since 2006.

3.3.2 The 2006 agreements

Background

The main issues in the 2006 bargaining rounds were the integration of BHW and Postbank Filialvertrieb AG into the Postbank group.

Negotiations

In April 2006, the negotiations over the integration of BHW employees focused on, among other matters, transfers within the Postbank group and guarantees of production locations, and no-redundancy clauses. The latter are regulated differently in Postbank, Postbank retail and BHW. In retail, 90 per cent of the employees were protected from redundancies until 31 March 2008, while employees at Postbank (excluding retail) and BHW were protected until 31 December 2006. The BHW employees were particularly concerned about job security, because of fears that the acquisition by Postbank would lead to redundancies.

Management proposed to exchange a no-redundancy clause for an extension to an opening clause which was previously in force at BHW, and provided that works agreements could be concluded for specific areas to allow for a limited reduction in hours to 31 hours a week, in conjunction with partial wage compensation. Management wanted this arrangement to apply both to Postbank AG and to Postbank retail. It was planned that the next bargaining rounds on 17 and 18 May 2006 would address these issues alongside other collective bargaining items such as transfers, early retirement and severance pay (Verdi, 2006b).

In April 2006, there were reports that the negotiations between Postbank and employee representatives at BHW had made progress on the issue of workforce reduction. The trade union feared that several hundred jobs were threatened. Among other matters, 180 employees dealing with credit management were expected to move from various production sites to the BHW headquarters in Hamelin. A no-redundancy clause was about to expire by the end of 2006. The trade union spokesperson said that management was willing to agree on a no-redundancy clause in exchange for protocols permitting management to react flexibly when facing cost pressures. One of those protocols was the right to reduce working hours in order to reduce costs (BHW-Integration kommt voran, 2006).

At the end of May 2006, Postbank announced that the takeover of BHW would lead to the loss of 1,200 jobs by the end of 2007. Six hundred jobs at BHW were expected to be lost. BHW Holding AG would no longer be needed, and the BHW bank would be closed. While it was not anticipated that there would be any redundancies until the end of 2008, Postbank anticipated between 600 and 700 requests from BHW employees for severance pay or early retirement (Postbank streicht 1200 Stellen, 2006).

Agreements

BHW AG

In May 2006, management and Ver.di agreed that workforce reductions would not be achieved by redundancies until the end of 2008, and this would apply equally to the integration of BHW as to the integration of 850 post office outlets (with 9,500 employees). 1,200 jobs were to be cut through socially acceptable measures, e.g., voluntary turnover, early retirement and severance pay. The areas most affected would be administration (e.g., controlling and personnel functions) (Postbank streicht 1200 Stellen, 2006).

Postbank AG

On 17 July 2006 Ver.di announced that an agreement had been reached with the management of Postbank, valid from 1 July 2006 to 31 December 2008. For the duration of the agreement, there would be no redundancies. The agreement would apply to 4,000 employees at Postbank, excluding retail. In addition to the employment guarantee, there would be a wage increase of three per cent on 1 January 2007 and a further 1.5 per cent increase on 1 April 2008. The number of apprenticeships at Postbank would be increased by 25 per cent.

In addition to the stipulations for salaried employees, it was agreed that another 4,000 Postbank civil servants, who were not working in retail, would receive a lump sum payment of €110 (wage increases for civil servants are regulated separately).

The 2006 agreement related to the multi-employer agreement for the banking sector, which had been concluded a few weeks earlier for the 240,000 employees in the private and public banking sectors. An agreement for the 10,000 retail employees had also been concluded earlier, and this applied to employees of the former BHW. Both agreements included a no-redundancy clause until the end of 2008 (Verdi, 2006a).

3.3.3 The 2008 agreements

Background

As a consequence of the financial crisis, Postbank AG suffered losses before tax for four quarters since the third quarter of 2008 (Postbank, 2009). While negotiations began before the crisis, the bargaining process was affected by the news about the crisis as well as by the sale of 30 per cent of the Postbank shares to Deutsche Bank.

Negotiations

On 25 July 2008, the collective bargaining commission of the Ver.di trade union announced its demands for the forthcoming bargaining round on behalf of approximately 5,000 employees at Postbank AG, BCB AG, and Firmenkunden AG. The union asked for an eight per cent pay increase for employees, a €100 increase for apprentices, and an extension of the no-redundancy clause until the end of 2012. It wanted the collective agreement to last for twelve months. The three companies agreed with the union that the agreement for Postbank AG would be applied simultaneously to the other two companies (Verdi, 2009e).

Subsequently, when Postbank then offered to apply the collective agreement concluded for Postbank Filialvertrieb AG to the employees of Postbank AG, it was rejected by the union. Among the terms of the offer were:

- a no-redundancy clause until the 30 June 2011;
- an increase in the wages and salaries of employees and apprentices by four per cent on February 2009 and a further three per cent increase on 1 February 2010;
- a reduction in break time by one-and-a-quarter minutes per hour.
- the agreement would be valid until 31 December 2010 (Verdi, 2009e).

Even so, according to Ver.di, more than 2,000 employees from Postbank AG, PB Firmenkunden AG, interServ and BCB AG went on strike in Munich, Hamburg, Berlin, Dortmund, Cologne, Ludwigshafen, Hannover, Stuttgart and Leipzig on 22 and 23 September (Verdi, 2009a).

Agreements

BCB PAS

On 16 May 2008 the trade union announced that BCB PAS would for the first time be covered by a collective agreement. Moreover, collective bargaining recognition would be extended to cover trade union members of the old BCB Pay, the old BCB ZVS, and BCB PAS companies. This meant that when the employees of the three companies were transferred to BCB AG, they would enjoy the terms and conditions of employment secured by their former bargaining unit until 31 December 2011.

The company works council covering BCB AG and BCB PAS GmbH would then negotiate a transfer agreement, so that employees at PAS would be covered by the current works agreements when they were transferred to BCB AG. In addition, the management and union agreed that the recognition agreement for employees in the former BCB Pay and BCB ZVS would be extended to the end of 2011. The multi-employer agreement for the private banking sector would then be valid for all employees in the BCB PAS, as members of Ver.di (Verdi, 2008b).

BCB AG

On 6 June 2008 Postbank management and Ver.di reached an agreement for 1,700 Postbank and BCB AG employees, providing transferees to BCB AG with a qualified right to return to Postbank AG (Verdi, 2008a).

Postbank AG

On 25 September 2008 Ver.di announced that it had negotiated with Postbank AG management a collective agreement for Postbank employees. These negotiations involved two days of industrial action, with more than 2,000 employees going on strike. They had been significantly affected by the news that Deutsche Bank was to buy around 30 per cent of Postbank shares. The negotiations lasted three rounds and the outcome was unanimously accepted by the trade union's collective bargaining commission.

The agreement covers Postbank AG, and is extended to BCB AG and PB Firmenkunden AG. In total, the agreement affects 6,300 employees. The terms include:

- a no-redundancy clause until 31 December 2012;
- increases in collectively-agreed wages for employees and apprentices by four per cent on 1 January 2009 and a further three per cent on 1 February 2010;
- pay increases for unionized employees who were transferred from Postbank AG to PB Firmenkunden AG and BCB AG;
- a duration of 28 months from 1 September 2008 to 31 December 2010;
- the cancellation, for both employees and civil servants, of the right to one-day off per year;
- the cancellation of employer contributions to the employees' savings schemes, amounting to annual cost savings of about €300 per employee during the duration of the wage agreement.

Management demands for a further reduction in break time were rejected, but the mid-morning tea break would continue. Saturday would not become a normal working day. Christmas Eve would continue to be a bank holiday, and arrangements for New Year's Eve would also stay in force (Verdi, 2009c).

BHW AG

There would be a no-redundancy clause for BHW employees until 30 June 2011. In addition, the civil servants who were bound by public-sector collective agreements at the federal level would receive a lump sum payment of €225 in January 2009 as well as a salary increase of 2.8 per cent. The working week would continue to be 38.5 hours (Verdi, 2008a).

3.3.4 Developments in 2009

In the spring of 2009, the Postbank management and Ver.di agreed that employees transferring from Postbank AG to Postbank Systems AG, to Support GmbH, and to Deutsche Post Real Estate Germany would be permitted to return to Postbank AG until 31 December 2010. This provision was extended by only one year, as management was uncertain about future developments associated to the merger with Deutsche Bank (Verdi, 2009d).

On 12 May 2009 Ver.di announced that the trade union, the works council and management had agreed to regulate the terms and conditions of employment associated with outsourcing call centre activities. Postbank intended to centralize all call centre activities and move all call centre employees to Easytrade Services GmbH until 1 October 2009. It was agreed that employees could be transferred to the new company on their current collectively agreed terms. This rule would be applied dynamically, which means

that members of Ver.di would be covered by changes to their original collective bargaining unit automatically, despite their transfer to a different organization.

The background to this provision is that staff employed at the various call centres of Postbank companies are covered by different collective agreements. Again, the trade union and management agreed on a right to return to the former employer at the same site, subject to certain conditions. In addition, Easy Trade Services employees would also benefit from a no-redundancy clause valid until 31 December 2012. Lastly, outsourced and externalized services would return to Postbank (Verdi, 2009b).

3.4 Arcandor AG

3.4.1 Background

Arcandor AG is one of the largest groups in the tourism and retail sector in Germany and in Europe. While its name came into being only in 2007, many companies in the group have long traditions and their brands are well-known in Germany and internationally. As an umbrella organization, Arcandor AG has three pillars: Thomas Cook in tourism (€11.3 billion in sales, €734.7 million in profits and 34,290 employees in 2008); Primondo in mail order (€4.3 billion in sales, €89.7 million in profits, and 19,209 employees in 2008); and the Karstadt department stores (€4.1 billion in sales, losses of €4.2 million, and 32,325 employees in 2008). The wide range of business activities of Arcandor companies is complemented by comprehensive services. In 2008, it generated revenues of about €20 billion and employed 70,443 staff (fte), approximately 50,000 of whom were working in Germany (Arcandor, 2008b).

Additional information on the three main subsidiaries of Arcandor follows (Arcandor, 2008b):

- 1) The tourism company **Thomas Cook Group plc** (based in the UK) was formed by the Thomas Cook AG in February 2007 after the takeover of Europe's third-largest tour operator, MyTravel. Arcandor AG has a 53 per cent holding in Thomas Cook Group plc.
- 2) **Karstadt Warenhaus GmbH**, Germany's oldest department store company, has three Premium Group stores, 89 Karstadt department stores, 27 Karstadt sports stores and the online store karstadt.de.
- 3) **Primondo GmbH** is the umbrella company for all the firms in the mail order trading group of Arcandor AG, established on 1 March 2007. It is a holding company which manages the operations of different well-known brands in several European countries. Primondo's areas of business include:
 - Universal Mail Order: Quelle (17 companies), Foto Quelle, Profectis and SB-Großhandel; approximately 8,000 employees; business year 2007-2008 turnover: €2.9 billion.
 - 'Specialty' (niche market) mail order: 18 specialty mail order firms, represented in 11 countries; approximately 5,000 employees; business year 2007-2008 turnover: €964 million.
 - New Media: HSE24, approximately two million customers, reaching 41 million households in Germany, Austria, Switzerland; 560 employees; (business year) turnover 2007-2008: €349 million.
 - MyBy, specialty online market, founded in 2007; 50 employees.
 - Service Group: call centres, logistics centres; approximately 6,000 employees.

Since 1999, the group's activities have been affected by changes in the business cycle, volatility in consumer spending, and the increasing importance of information and

communication technologies in retail market development. Activities in the tourism sector were affected by the 9/11 and its aftermath. In addition to external challenges, there have been wide-reaching changes in the company's strategy and board membership, not to mention takeovers, joint ventures and continuing restructuring activities. Companies have been acquired, established, relabelled, and sold; activities have been outsourced and insourced; changes in the group companies' legal status complicate the picture.

The Arcandor group and its predecessor KarstadtQuelle AG had two major crises in 2004 and in 2008-09, and these are closely linked. On 1 June 2004, after four years in office, Wolfgang Urban was replaced as chairperson of the executive board by Christoph Achenbach. Revenues and profits were gone down, and restructuring activities had not achieved the desired effects. Thomas Middelhoff was nominated chair of the supervisory board. Difficulties in both retail (especially Karstadt AG) and tourism (Thomas Cook) had led the group to the edge of bankruptcy in 2004.

On 28 September 2004, Achenbach introduced his restructuring programme which included putting up for sale 75 smaller department stores, 300 specialty shops, and the companies' logistics company – at an estimated asking price of €1.1 billion. In addition, another €500 million were to be raised by issuing new shares. Achenbach planned to extend bank loans amounting to €1.75 billion. The workforce was expected to contribute to labour cost savings of the order of €100 million. Management, unions and workforce representatives struck several deals to keep the boat afloat.

In January 2005 Achenbach reported that in 2004 revenue had decreased by seven per cent, and that the company would make a loss of €280 million (before taxes and depreciation). Thomas Middelhoff then replaced Achenbach as chairperson of the executive board on 12 May 2005. Between August 2005 and March 2006, KarstadtQuelle sold 75 department stores, two specialty retail chains, and all department store properties. The latter were then rented by KarstadtQuelle. In December 2005, KarstadtQuelle acquired 50 per cent of the shares in Thomas Cook. In March 2007, the company was renamed Arcandor AG.

In 2008, the group was experiencing trouble once more, although tourism (Thomas Cook) was fairly successful and profitable. Negotiations on a restructuring programme began on 11 October 2008, involving the management board, the supervisory board, the banks, trade unions, and the works councils. The resulting agreement represented a prerequisite for the banks to renew and extend loans as well as for the general assembly to allow the issue of new shares (Karstadt-Quelle - Chronik, 2005; Arcandor: Chronik, 2009).

On 1 March 2009, Thomas Middelhoff was replaced by Karl-Gerhard Eick as chairperson of the executive board. On 20 April 2009, Arcandor announced a massive restructuring and cost-cutting programme, focussing on the profitable core areas of Primondo, Karstadt and Thomas Cook. Unprofitable activities were to be sold. In May 2009, the group applied for state aid, but the application was rejected by the respective public authorities (Karstadt-Quelle - Chronik, 2005; Arcandor: Chronik, 2009). On 9 June, Arcandor filed for bankruptcy, which initially affected 43,000 employees. Thomas Cook, some of the specialty mail order companies, and the homeshopping company HSE 24 were not affected. The company announced that it had discussed potential cooperation with competitors and that it intended to save as many jobs as possible (Arcandor: Chronik, 2009). By 17 June, Arcandor filed for bankruptcy for another 15 subsidiary companies – including the Quelle call centre, logistics and service companies – affecting an additional 6,700 employees (Arcandor stellt Insolvenzanträge, 2009). The affected employees were to receive insolvency payments for a limited period of three months, amounting to 100 per cent (up to the social security contribution ceiling) of previous compensation.

As far as employment relations are concerned, there are various collective bargaining units for the separate divisions. In 2009 Quelle GmbH was covered by the multi-employer collective agreement for the retail sector, while other Primondo companies such as the logistics and call centre companies were covered by company-level collective

agreements. Collective agreements do not cover other companies such as those in services. In response to insolvency, Quelle GmbH terminated its membership in the employers' association and intends to move to company-level collective bargaining in the future.

3.4.2 The 2004 agreements

In June 2004, when Christoph Achenbach became chairperson of the management board, negotiations on restructuring and workforce concessions were under way in all three divisions. These led to a number of diverse agreements for the different collective bargaining units.

Negotiations

The first series of negotiations at KarstadtQuelle AG in 2004 were for several collective bargaining units at Thomas Cook. As a reaction to a record loss of €251 million in the financial year 2002/03, plans were announced to cut labour costs by 25 per cent at Thomas Cook and by 45 per cent at its airline Condor. In addition to workforce reductions, the management board demanded an increase in working hours to 40 hours a week, pay reductions of three per cent, and a link between the Christmas bonus and company performance. Ver.di rejected demands for an increase in working hours and for the postponement of the one per cent pay increase scheduled for 1 July as part of the collective agreement for the tourism industry. Thomas Cook subsequently announced negotiations over cost reductions with the company's works council. At Condor, collective bargaining announced for pilots with the pilots' trade union VC Cockpit and for cabin crew with Ver.di (Touristikkonzern Cook trifft, 2004; Woche der Entscheidung, 2004).

At the end of July 2004, KarstadtQuelle demanded an increase in working hours to 42 hours per week without wage compensation for its 212 department stores (Karstadt AG), affecting about 47,000 employees, in order to secure jobs. Earlier in the year there had been an agreement to increase working hours to 40 hours per week at Thomas Cook. In addition, the company sought to establish annual working hours accounts. The demands were linked to Karstadt AG's intention to reduce the workforce by 4,000 employees and to save €145 million in labour costs by 2006 (Karstadtplant, 2009).

In September 2004, Karstadt AG announced that department stores which were not meeting profitability expectations would be transferred to a limited liability company (GmbH) with the goal of either becoming profitable or being sold. Ver.di reported that the affected employees were happy to be able to keep their jobs. However, KarstadtQuelle associated this transfer with the expectation of a reduction in collectively-agreed terms and conditions of employment, i.e., the cancellation of holiday pay, no extra payments, more flexible staffing arrangements, no additional retirement benefits and an increase in the working week to 40 hours without a corresponding rise in wages (Karstadt: Weniger Lohn, 2004).

Early in October 2004, the chairperson of the management board stated that negotiations with t workforce representatives and the Ver.di trade union had to result in agreement within the following three to four weeks, as the banks and shareholders would otherwise not extend their loans or increase the number of shares, resulting in bankruptcy. Management demanded an increase in working hours to 40 or 42 hours per week, the abolition of five paid holidays, and the cutting of 4,000 jobs. The chairperson stated that the restructuring programme would cost about €1.4 billion. KarstadtQuelle announced the reorganization of its department store segment and that 77 of the smaller department stores would be transferred to a new company (Karstadt Kompakt), which would then – after a successful restructuring process – be sold to an investor or partner. Ver.di announced it would develop its own proposal for a restructuring programme for Karstadt. It then invited all 16 collective bargaining commissions to participate in the development of joint demands, to be organized around the following three principles: (1) job security in all business areas in the group, (2) guarantees for production sites, and (3) the maintenance of collective bargaining at all Karstadt outlets (Vorsichtige Annäherung, 2004).

Ver.di and the works councils rejected the management demands, especially the increase in working hours without a pay rise, but were willing to negotiate a reduction in collectively agreed terms and conditions of employment (particularly concerning holiday pay and the Christmas bonus), in return for job security and guarantees for production sites. The trade union rejected plans to outsource restaurant personnel and close department stores. In addition, the union demanded that if divisions within the group were to be sold, the buyer would have to guarantee existing arrangements for jobs, production sites, and collective bargaining (Karstadt-Belegschaft, 2004).

At a joint press conference held by KarstadtQuelle AG and the service-sector trade union Ver.di on 12 October 2004, participants expressed confidence that an agreement on a rescue plan would be reached within two days. According to KarstadtQuelle, the rescue plan had to provide cost savings of over €500 million at KarstadtQuelle AG by 2007. It was imperative to conclude the agreement by the announced date as an extraordinary supervisory board meeting would have to be arranged in order to summon the extraordinary general meeting of shareholders necessary to initiate a capital increase of €500 million. This capital increase in turn was needed before the banks would extend the necessary credit lines for a further three years. The points for discussion included forgoing holidays, forgoing the Christmas bonus and holiday pay, forgoing salaries, extending working hours to at least 40 hours a week, and the possibility of compulsory redundancies (Arcandor, 2004d).

Negotiations continued the next day on a new proposal by the employees' representatives and Ver.di. The trade union offered labour-cost reductions amounting to €483 million. This was rejected by management on grounds that it would not achieve the required cost savings of €500 million. It pointed out that in order to achieve the required cost savings, wages needed to be reduced by 5-10 percent (Zwei Karstadt-Banken, 2004; Karstadt pokert, 2004; Arcandor, 2004f). In addition, management noted that the employees' proposal did not include any suggestions for the mail order segment.

Agreements

In 2004, several agreements were concluded at KarstadtQuelle. The first agreement was struck at Thomas Cook (excluding Condor) in July, for the retail and mail order segments in October, for the Condor airline in December.

Thomas Cook plc

On 23 July 2004, the management and group works council of Thomas Cook AG successfully concluded intensive negotiations to reduce staffing costs at Thomas Cook Deutschland (but not Condor), within the scope of the collective agreement of the Association of German Travel Agents and Tour Operators (DRV). The parties agreed on a package measures to increase staff productivity, substantially reduce staff costs below the level of the 2002-2003 financial year, and avoid (labour) cost increases over the next two financial years. According to management, the package was sufficient for cutting costs by 25 per cent. It was approved by the parties to the multi-employer collective agreement, namely the tourism employers' association (DRV-Tarifgemeinschaft) and the service sector trade union, Ver.di.

The agreement was to be valid until 31 July 2006 and included the following:

- Non-interest-bearing working time credit through an increase in the working week from 38.5 to 40 hours. Confirmation of the working week account would be conditional upon the achievement of a specified earnings target. The 40-hour working week would be valid for one year and might be extended for another twelve months.
- Introduction of annual working hour totals for more flexible control of shifts during months with an especially high workload.

- The pay rise scheduled under the DRV pay agreement for 1 July 2004 would be suspended until 1 January 2006. Any further pay rises would likewise become effective on 1 January 2006. The incremental pay increases in accordance with the salary table would be suspended for two years.
- Every employee would be allowed one week's unpaid holiday in the 2003-2004 and 2004-2005 financial years (Arcandor, 2004g).

KarstadtQuelle AG

On 14 October 2004, the management, the works council, and Ver.di reached an agreement on projected cost savings of €760 million in exchange for a guarantee of non-closure for the majority of Karstadt's stores for the next three years and a no-redundancy clause. For various reasons specific to the individual sites, the site guarantees were not agreed on for ten of the 77 smaller branches. As part of the deal, 77 smaller Karstadt stores would be transferred to Karstadt Kompakt GmbH and then be disposed of to an investor or partner within a three-year time frame. In addition, the management board and supervisory board set the course for a capital increase in the 2004 financial year via an extraordinary annual general meeting for the KarstadtQuelle AG Group held on 22 November 2004.

Combined with this agreement, the management board expected the projected revenue to be back on track again, after the unexpected drop in sales in the mail order business from the beginning of October 2004. The management believed that this slippage from plan was only temporary, mainly a result of negotiations with workers and related press comments (Arcandor, 2004a, 2004c).

The collective agreement was valid from 1 January 2005 to 31 December 2007 for all staff (in post when the agreement was concluded) at all companies owned by Karstadt AG, Quelle AG and Neckermann AG, with the exceptions of apprentices, employees who applied for phased retirements by 31 December 2004, and managers.

In general, while Quelle, Neckermann and Karstadt were covered by the multi-employer collective agreements for the retail industry, management and unions agreed on a number of (downward) deviations from the collective agreement. The agreement for Quelle and Neckermann included the following provisions:

- Postponement of all collectively-agreed wage increases until 1 January 2008.
- No holiday pay and no Christmas bonus during the years 2005-2007.
- Increased severance pay for employees earning up to €2,200 gross per month who were made redundant or were retiring.
- Employees covered by the employment guarantee who were made redundant or left their jobs would receive compensation for the concessions they made according to the collective agreement.
- A reduction in working hours to 35 hours per week with corresponding loss of earnings.
- Redundancies were to be generally excluded for the period of the agreement, with the following exceptions: employees who refused to go along with a company transfer; employees who refused an acceptable job offered by the employer in accordance with the applicable social plan; employees of companies earmarked for closure; employees affected by policies associated with the redesign of a specified number of subsidiaries; and employees in central services relating to two specific departments.
- Outsourcing and the sale of subsidiaries would be permitted. If employees were transferred to contracts with less advantageous terms and conditions of employment, they would be offered severance pay amounting to one-and-a-half

times the difference in their annual salary. The validity of this agreement would end with their transfer to another organization.

- A reduction in any compensation beyond collectively-agreed levels.
- The agreement could be terminated by either party with six months' notice beginning on 30 June 2006.

Condor

On 6 December 2004, the pay negotiations for around 500 pilots of Condor and Condor Berlin ended as part of the agreement concluded between Deutsche Lufthansa AG and the pilots' union VC Cockpit. The pilots' representatives and Thomas Cook AG's German airline had already reached an agreement on a package of measures to reduce staff costs and increase productivity earlier in 2004. The agreement included the following main provisions: the remuneration agreement, which had expired in April 2004, would be extended by 20 months to the end of 2005. The maximum number of permissible flying days was increased by ten days a year; the limit of remuneration for additional flying hours above which flying time would be compensated on top of the basic salary was increased by seven hours a month; and a total of two weeks' unpaid holiday was agreed on. The negotiating parties also reached agreement on new, reduced pay structures for pilots hired from 1 January 2005 (Arcandor, 2004e; 2004g).

Karstadt AG

On 13 December 2004, the management and the works council agreed on a package of measures allowing a reduction of jobs by 4,200 at Karstadt Warenhaus AG between 2005 and 2007. This staff reduction was an essential component of the reconstruction pay agreement concluded on 14 October 2004, which required savings of about €500 million to be made over three years at Karstadt alone. The agreement, beginning in January 2005, provided for offers to be made to administrative staff affected by the job losses at the branches and headquarter for mutually acceptable termination of their employment contracts and their reassignment to a transfer company with one year. If those voluntary offers did not result in the necessary staff reduction, then compulsory redundancies would also be possible from 30 September 2005 onwards (Arcandor, 2004b).

3.4.3 The period between the 2004 and the 2008 Agreements

On 14 July 2005, KarstadtQuelle AG announced it would reorganize its mail order business. Neckermann AG and Quelle AG were to be converted into limited liability companies (GmbHs), with separate managements.

Following an in-depth review of the mail-order business by a task force, chief financial officer Harald Pinger reported that the situation in the mail order division had proved to be much more complex than anticipated. "Following our initial findings, we immediately contacted the employee representatives and, over the last few weeks, we have agreed a programme to secure the long-term future of our mail order business. We have secured agreement with the trade union Ver.di and the works council that negotiations can begin with the objective of finding mutually acceptable solutions to these problems. We hope to finalise the negotiations by the end of September" (Arcandor, 2005b).

In July 2005, KarstadtQuelle AG reported it had sold 75 Karstadt Kompakt department stores (sales: €700 million, 4,900 employees) as well as the specialty store chain SinnLeffers (sales: €500 million, 4,400 employees) and Runners Point (sales: €94 million, 1,000 employees) (Arcandor, 2005a).

At the end of 2005, the company reported that further disinvestment projects had been successfully completed ahead of schedule. A parcel of 40 logistics units had been sold, primarily to international investor groups, with some of them being leased back. As a result of the Group's improved financial structure, the option to sell the Neckermann

headquarters in Frankfurt, which was also in the parcel, was not exercised (Arcandor, 2005b).

On 1 January 2006, a number of greenfield sites in the services segment were established by Quelle AG, which were usually not covered by collective agreements. Employees were transferred and received new employment contracts.

Early in 2006, Karstadt AG sold its department store properties to British real estate fund Whitehall for €4.5 billion. Karstadt AG generated a further €600 million by the sale of other properties. In the course of 2006, the Group would become completely debt-free. As a result primarily of disposals and outsourcing, the balance sheet total was reduced by 21.5 per cent, and key ratios were improved. Staff costs were reduced by 15.4 per cent and the staff level by approximately 25,000 employees (Arcandor, 2006a).

In November 2006 KarstadtQuelle AG announced the reorganization of its mail order division and that its second mail order company, Neckermann, was to be floated on the stock exchange. In addition, KarstadtQuelle AG announced that it would sell the Service Group, consisting of 14 call centres, five logistics locations and IT service providers with a total of 10,000 employees (Arcandor, 2006b).

In March 2007, the mail order operations in KarstadtQuelle AG received a new management structure and renamed Primondo. The holding group KarstadtQuelle AG (Essen) was renamed Arcandor AG on 1 July 2007. However, the brand names Thomas Cook, Karstadt and Quelle were not affected (Arcandor, 2007a).

3.4.4 The 2008 agreement

Negotiations

On 9 October 2008 Arcandor announced that management, the works councils and the Ver.di trade union had agreed in principle to an employee contribution towards improving competitiveness and safeguarding the long-term future of Arcandor in exchange for safeguarding existing jobs. This “pact for the future” provided for savings in staff costs, although it did not cover Thomas Cook. There were also plans for employee profit-participation in the Group after the end of the programme (Arcandor, 2008c).

The negotiations took place under pressure as an agreement had to be concluded by 16 October 2008, when bank credit was due to expire. The Arcandor management sought a comprehensive cost-cutting package which included contributions from suppliers, management and the workforce. Agreement was reached on 15 October 2008 on a package which would reduce labour costs by €115 million each year over a three-year period in exchange for a no-redundancy guarantee. On the expiry of the agreement, employees would receive a profit-related pay increment. Details for the different companies were to be negotiated by early November 2008 (Arcandor, 2008a).

This agreement on the main pillars of the package led to an extension of the deadline for the finalisation of the agreement by 31 October 2008.

Agreement

On 30 October 2008, after two weeks of negotiations, the management and Ver.di reached an agreement on the details of the “pact for the future of Arcandor” (*Zukunftspakt Arcandor*). The collective company agreement covered Karstadt Warenhaus GmbH (with around 30,000 employees), the Primondo Group (with around 10,000 employees), and the several hundred employees of Arcandor Holdings, which also includes the Corporate Service Group. The parties prepared individually-adjusted solutions to meet the requirements of each company (Arcandor, 2008d).

In contrast to the 2004 agreement, which was valid for Karstadt AG, Quelle AG, and Neckermann AG, the 2008 agreement covered more than 20 organizations (GmbHs). Decentralised negotiations reflected the different situations (e.g. retail, call centres,

logistics companies), conditions and preferences of the respective works councils. The process for achieving the decentralised agreements was as follows: the cost-reduction target was broken down for each company (GmbH); local negotiations were then put together items to meet the company's target; the implementation of cost-cutting procedures was then negotiated between the works council and the local HR manager. The roles of local HR managers were coordinated by experts at headquarters. In general, owing to differences in terms and conditions of employment at GmbH level, the policies for cost savings were also quite different.

As part of the pact, the contributions made by members of the management board, middle management, and employees were to be based on the size of the previous compensation package. Employees with an annual salary of €18,000 or less (on a full-time basis) were not asked to make a contribution. That also applied to employees who had already made concessions as part of the restructuring of the logistics and customer care centres (Primondo Group) the previous year. Employees in the "pact for the future" would waive an average of between seven per cent and 12 per cent of their annual income, the managers, 20 per cent, and members of the Management Board, 30 per cent (Arcandor, 2008d).

The collective agreement at Quelle GmbH was intended to save €13 million per year over the next three years in exchange for benefits that included a no-redundancy clause. Provided the €13 million saving was reached in its first year, the negotiating parties could agree on different policies for the financial years 2009-10 and 2010-11. The total intended cost savings for the entire Arcandor group amounted to €115 million for the duration of the agreement (October 2008 – September 2011). The most important provisions of the agreement at Quelle GmbH were as follows:

- Holiday pay would be reduced by between 50 per cent and 100 per cent, depending on the wage grade.
- The Christmas bonus would be reduced by 75 per cent.
- Four days of unpaid leave would be forgone by employees in administration and central services. Other employees would forgo two days of unpaid leave. The forgone days would be transformed into equivalent wage reductions.
- A no-redundancy clause, with four exceptions. In case of additional planned redundancies, the works council would have a right of veto.
- A guarantee to maintain the location at Nuremberg/Fürth.
- The option for Quelle GmbH to further optimize the organizational structure and to merge locations as well as continue outsourcing.
- If employees were made redundant or retired during the period of the agreement, or if they agreed to the termination of their contract of employment, they would be reimbursed for their contribution to the cost savings in the year prior to their leaving the company.
- After the expiry of the agreement, or in case of improvement in the economic situation, Arcandor and Ver.di would begin negotiations on how the company could make compensation for concessions made by the workforce, e.g., in the form of an employee share-ownership scheme or performance-related compensation.
- In order to remove provisions exceeding the collectively-agreed terms and conditions of employment, regulations would need to be adjusted at the local level.
- The parties agreed to negotiate a group works agreement to provide employees with vouchers for Arcandor goods. The details and the value of the voucher were left to further negotiations.

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- In case of insolvency, the agreement would become null and void from the day of insolvency. Employees would then be eligible to claim reimbursement for their concessions. The no-redundancy clause would be invalidated.

The agreement was to be valid for all parts and subsidiaries of Quelle GmbH from 1 October 2008 until 30 September 2011. The paragraph on days of unpaid leave would be valid until the end of 2011. It would cover all employees, excluding managers and apprentices, together with employees who had agreed to terminate their contract of employment or who had agreed to partial retirement by 31 December 2008.

3.4.5 After the 2009 agreement

On 14 January 2009, the Arcandor Group reported that it had “enjoyed a solid business performance in the first quarter of the 2008/2009 fiscal year as demonstrated by the preliminary figures. Thomas Cook, Primondo and Karstadt had performed well during the period from October to December 2008, considering the difficult market environment due to the recession. Total sales of the retail segments Karstadt and Primondo were slightly above previous year’s level, and the Thomas Cook Group plc was reported to have done very well. Nevertheless, Arcandor announced that it was making early preparations for a difficult 2008/2009 fiscal year by increasing flexibility, making efficiency adjustments, and cost-cutting.” (Arcandor, 2009d).

Four months later, on 15 May 2009, Arcandor AG announced that it was applying for state guarantees of €650 million from the Germany Fund launched by the Federal Government. It would also apply for a loan from the Kreditanstalt für Wiederaufbau (KfW), from a special programme launched to support companies engaged in restructuring. As Arcandor was neither insolvent nor excessively in the red in the two years up to the reference date of 1 July 2008, it argued it could meet the strict criteria for state support laid down in the “European Union Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty”. Arcandor also claimed that it met the criterion of economic importance by employing 86,000 staff, of whom 53,000 were working in Germany (Arcandor, 2009b).

On 5 June 2009 Arcandor announced that it would apply to the German Finance Ministry and the Ministry of the Economy for a loan of €437 million from the rescue aid package in order to provide the liquidity needed for Arcandor to continue its operations over a six-month period (Arcandor, 2009a).

On 9 June 2009, after all the above applications were rejected, Arcandor AG, Karstadt Warenhaus GmbH, Primondo GmbH, and Quelle GmbH filed for bankruptcy protection and for the commencement of insolvency proceedings, aimed at allowing the company to continue operating and the restructuring to go ahead with an insolvency plan. Thomas Cook Group plc, Primondo’s specialty mail order companies, and the home shopping channel HSE24 were not affected (Arcandor, 2009a).

In the following week, the Arcandor Group applied to the Essen district court to commence insolvency proceedings for a further 18 subsidiaries. The number of Arcandor employees in Germany who were affected by the primary insolvencies and the strategic insolvencies was 39,310; their salaries were paid by the German Federal Employment Agency as part of the insolvency allowance until August 2009. This figure was markedly below the 50,000 previously reported to be on the payroll. Arcandor admitted that the discrepancy had been caused in part by an imprecise classification of more than 500 individual companies at Group level and in part as a result of counts made at various cut-off dates (Arcandor, 2009c).

3.5 InBev Germany GmbH

3.5.1 Background

InBev Germany is Germany's second largest brewing company which owns the brands Becks, Hasseröder, Franziskaner Weissbier, Diebels, Gilde, Haake-Beck, Löwenbräu and Spaten. It employs about 3,500 staff at breweries in Bremen, Hanover, Issum, Munich and Wernigerode.

InBev Germany is the German subsidiary of the world's largest brewing group, Anheuser-Busch InBev (AB InBev), which was established in November 2008 when the Belgian-Brazilian brewing company InBev took over the US-based Anheuser-Busch group. The group employs 120,000 staff worldwide, owns more than 200 beer brands and operates in 140 countries. The predecessor company InBev came into being when the Belgian Interbrew company took over the Brazilian AmBev brewing group. In 2002, InBev acquired the German breweries Diebels, Beck's, Gilde and Hasseröder; in 2003 it added the Spaten-Löwenbräu group (InBev Deutschland, 2009).

Despite reports that AB InBev would not be heavily affected by the recession – in the first quarter of the business year 2008-09 the company reported a five per cent increase in profits (Ebitda) to €1.72 billion, while revenue increased by more than four per cent to €5.25 billion (Unternehmen, 2009) – it was reported early 2009 that the company planned to reduce its workforce at the German breweries and to make employees redundant. There were several potential explanations for this: first, some commentators argued that the takeover of Anheuser Busch for \$52 billion in November 2008 had exceeded InBev's capacity, and that as a consequence of the financial crisis, AB InBev would have difficulties in obtaining bank loans to finance the deal. It was rumoured that in order to reduce debt, the company had planned to sell its German operations but had failed to do so. To make the German operations attractive to potential buyers, the company wanted to cut labour costs by scaling down the workforce (Die Linke Bremen, 2009a). Second, the continuing decline in beer consumption in Germany may have affected AB InBev. As the performance management system links staffing levels to the volume of beer production, a decline in beer production would lead directly to a reduction in labour. Third, following the takeover of the US-based Anheuser-Busch with its large production capacity and strong distribution channel in the US, it appeared likely that the company would produce the 'German' beer brands in the US in order to save transport costs.

In terms of their collective bargaining arrangements, the various breweries of AB InBev are covered by the regional multi-employer collective agreement for the brewing industry between the trade union NGG (Nahrung-Genuss-Gaststätten, serving the hospitality and food and beverage sector) and the respective regional employers' associations. The 2009 agreement is a company-level collective agreement covering all production sites in Germany and linked to company-level agreements on partial retirement and part-time work. In addition, all production sites are covered by permanent site-level social plans, which were concluded in 2007 and which, among other provisions, regulate severance pay.

3.5.2 Negotiations

On 29 January 2009 InBev Germany told a company meeting that it would continue to brew only two brands in Hanover, implying that there would be 90 redundancies. The company argued that this would be necessary to maintain competitiveness in view of the potentially difficult twelve months to follow. The company also wanted to come up with socially acceptable solutions in consultation with the works council and the affected employees. The NGG union opposed the company's plans and accused it of making employees redundant on the sole ground of profitability. The first protests against the planned redundancies were staged on 30 January 2009. According to NGG, 250 employees from the breweries in Bremen and 100 employees at the Gilde brewery in Hanover took part in the protests (350 Inbev-Mitarbeiter demonstrieren, 2009).

The group works council was particularly aggrieved at InBev's communication policy. It complained that it had not been directly informed of the plans to reduce the workforce in Bremen and Hanover (NGG, 2009a).

Early in April 2009, the strategy pursued by NGG and the collective bargaining commission was to reach an employment moratorium until the end of the year, to avoid being forced to negotiate under pressure. The talks with management focused on a no-redundancy clause to be in force until the 31 December 2010. This was rejected by management, which offered an extension of notice periods according to a staggered system, with notice periods being conditional upon a reduction in working hours by 50 per cent from 1 April 2009, and a wage reduction by 25 per cent, measured from a 2008 baseline. In addition, management demanded that the Christmas bonus and holiday wage would no longer be paid. During the negotiations, there was additional disagreement over the level of severance pay (Die Linke Bremen, 2009b).

On 28 April 2009, the NGG reported that after several weeks (and six rounds) of difficult negotiations over capacity and workforce reduction in Bremen and Hanover, which had been accompanied by a warning strike in Bremen, the parties agreed to an employment moratorium for the breweries. This moratorium means that the company cannot make any employees redundant for economic reasons until the end of December 2009. Furthermore, management agreed to conclude a social collective agreement (Sozial Tarifvertrag) with the NGG by 2 July 2009 (NGG, 2009c).

During the negotiations, the company demanded the right to reduce production and staffing levels at the German breweries. In addition, it demanded concessions in terms of work over bank holidays and additional overtime. Aside from the negotiations, the Hanover works council, supported by a consulting firm, continued to look for an investor to extend production beyond 31 December 2009 (Kündigungen bei der Gilde, 2009).

3.5.3 The agreement

On 26 June 2009, after several months of negotiations, 11 bargaining rounds, and a twenty-hour final bargaining round, the parties concluded the social collective agreement. The main provisions of the agreement are as follows:

- In case of compulsory redundancy for economic reasons, the parties agreed on significantly higher levels of severance pay as compared to the stipulations of the permanent social plan. The severance pay multipliers were raised for employees with up to 45 years of service to a factor of 1.6, for employees with up to 50 years service to a factor of 1.8, and for employees with more than 50 years' service to a factor of 1.95, compared to the provisions of the permanent social plan. The minimum severance pay is €25,000.
- In the event of a permanent reduction in working hours, employees would be compensated.
- Partial retirement would continue to be regulated by the collective agreement. The duration of partial early retirement schemes could be up to eight years. In cases of a duration of six years, the company would top up compensation to 85 per cent. The compensation for seven and eight years of partial retirement would be 82 per cent and 78 per cent, respectively. In all cases, the pension contribution would be increased to 95 per cent.
- All employees in the group would be eligible for part-time work.
- The Christmas bonus could be converted into 200 hours of work on the working time account.
- The regulations for short-time work would include a significant increase in compensation to 82.5 per cent.

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- Additionally, the parties agreed to negotiate a qualification and education plan in the form of a group works agreement.

Finally, the group works councils would be granted additional rights to information and consultation with respect to personnel planning and the internal labour market. The agreement would be valid until the end of 2012. As a result of the agreement, the company would achieve a higher level of flexibility to respond to changing demand. Employees could now be transferred from one group to another for a limited period of time, depending on the varying demand for different brands. Moreover, employees may voluntarily transfer to a part-time position, and receive severance pay (NGG, 2009b).

3.6 Carl Zeiss AG

3.6.1 Background

Carl Zeiss is one of the world's leading optics companies in microscopy and industrial metrology, high-performance lenses for microchip fabrication, surgical microscopes and instruments for ophthalmic diagnosis and therapy. The Carl Zeiss group is represented in more than 100 countries, with factories in Europe, North America, Central America and Asia. Carl Zeiss AG is fully owned by the Carl Zeiss Foundation (*Carl Zeiss Stiftung*). In the fiscal year ending 30 September 2008, the company generated revenues of €2.7 billion. It has around 13,000 employees in more than 30 countries, including more than 8,000 in Germany.

The Carl Zeiss group consists of many subsidiaries. Carl Zeiss IMT Corporation produces CNC coordinate measuring machines and offers complete solutions for multidimensional metrology. Carl Zeiss Meditec AG is an integrated medical technology company with two main areas of business activity, ophthalmology and neuro/ENT surgery. Carl Zeiss SMT AG produces semi-conductors. Carl Zeiss Vision GmbH is active in the area of ophthalmic products (Carl Zeiss AG, 2008).

In terms of collective bargaining structures, the companies in Carl Zeiss AG are regulated by different systems and bargaining units. Carl Zeiss Jena GmbH is covered by the metal sector's collective agreement in Thuringia, while companies at Oberkochen, Göttingen, Wetzlar, and other GmbHs in Jena have recognition agreements (*Anerkennungstarifverträge*) with the local chapters of IG Metall. Carl Zeiss Meditec orients its terms and conditions of employment with metal-sector agreements, but is not formally covered by them.

While the 2007-08 financial year was very successful, in the first quarter of the financial year 2008-09 the company reported a massive drop of between 30 and 40 per cent in orders at its semiconductor division for computer chips, affecting 1,600 employees. In order to adjust staffing, management plans to make use of savings in working time accounts, transfers of employees to other companies, and part-time working, which would affect about 50 per cent of the workforce. The number of temporary agency workers has already been reduced. The management and works council have agreed to negotiate on the introduction of short-time work for temporary staff. It was reported in the media that in other companies of the group, short-time work would begin on 1 January 2009. In Jena the company has already applied for short-time work until the end of June 2009 (Auftragseinbruch, 2009).

In spring 2009, the company announced that it had been hit hard by the global recession, deteriorating in the second quarter of the financial year 2008-09. The hardest-hit areas were semiconductors and industrial measurement instruments as well as intermediary products, with significant reductions in orders, revenue and profitability. By contrast, other divisions such as Carl Zeiss Meditec AG and the areas of microscopes and optronics were fairly stable. In total, however, the company would be making losses. As the cost reduction policies – especially the policies to reduce labour costs – would not be sufficient to counterbalance the negative results in the group, and since the management board did not

see any signs of economic recovery, the board invited the trade union IG Metall and the works councils to enter into negotiations on cost reductions (Carl Zeiss AG, 2009b).

3.6.2 Negotiations

On 1 April 2009, the Zeiss management asked the metal sector trade union and the group works council to start negotiations to tackle the difficult economic situation. The negotiations were intended to go beyond the postponement of the collectively-agreed wage increases from May to December 2009.

The group works council discussed different options for dealing with management's request. On the one hand the negotiations could be delegated to the IG Metall; on the other hand, the group works council could negotiate for all production sites and companies with or without rights of veto for individual locations/companies. The former option was chosen and the works council authorized the board of IG Metall to coordinate the negotiations.

On 12 May 2009, the company told the public that the management board had asked the works councils and the trade union representatives to negotiate a social plan (*Sozialplan*), a reconciliation of interests (*Interessenausgleich*), and additional negotiations for a separate collective agreement – a 'package to tackle the economic situation' (*Gesamtpaket zur Bewältigung der wirtschaftlichen Situation*). In total, the company asked for a short-term reduction in labour costs of about €120 million. Even redundancies would not be excluded. The chairperson of the Carl Zeiss AG management board said that priority would be given to securing future business prospects for the company and keeping as many jobs as possible. The company would use all possible means to maintain the know-how of its employees (Carl Zeiss AG, 2009b).

IG Metall announced that management had informed the works councils about its plans to reduce the workforce by as many as 1000 employees, and that the company could not exclude the possibility of redundancy or the closure of entire factories. Subsequently, the union established a centralised collective bargaining commission (*Tarifkommission*), with 60 members covering all Zeiss factories in Germany. Each of the factories elected delegates to this commission. The collective bargaining commission elected 35 members to the negotiation commission (*Verhandlungskommission*). Both commissions included representatives of all factories (IG Metall, 2009b).

The main cornerstones of the union's negotiation strategy were:

- No redundancies and no factory closures.
- Maintenance of the number of apprentices, including the takeover of graduated apprentices.
- A contribution to securing the liquidity of the company (Christmas bonus and holiday pay) only if there was a fair chance of repayment after the crisis.
- A mostly equal contribution by all production sites and occupational groups.

As a goodwill gesture, IG Metall agreed to postpone the collectively-agreed 2.1 per cent wage increase due on 1 May 2009. A final decision about the postponement was to be taken at the latest in mid-June 2009 and only then if the negotiating process could justify this commitment (IG Metall, 2009b).

In May 2009 the Carl Zeiss companies were facing a decline in revenue of between 40 and 45 per cent and a decline in orders of between 35 and 50 per cent. As management intended to reduce the cost of holiday wages in 2009, which were to be paid out before the summer vacations, time was pressing and they asked the works councils at decentralized level to advance negotiations on the social plans. As this endangered the solidarity between the different locations and companies, IG Metall successfully insisted that there would not be any parallel negotiations.

The first meeting between the collective bargaining commission and the Carl Zeiss management took place on 28 May 2009. From the perspective of the employee representatives, the objectives of the meeting were to obtain reliable information on (1) the background of the economic problems, (2) potential areas of cost reductions, and (3) the company's future strategy for the factories and for job security. During the meeting, IG Metall made clear to management that it would negotiate about reductions only on terms and conditions of employment that had been collectively agreed (e.g., the postponement of pay increases, postponement of holiday pay, abolition of the Christmas bonus, etc.) if the company agreed to (1) a no-redundancy clause, (2) a guarantee for the existing factories, and (3) collective bargaining coverage for areas within the group which had so far not been covered by collective bargaining (IG Metall, 2009a).

IG Metall reported that the company's demands for labour-cost reductions had increased from €120 million in mid-May to €160 million by the end of May. The company was unwilling to provide employees with a no-redundancy clause, was unwilling to give guarantees for production locations, and would agree to collective bargaining coverage only if it was cost-neutral (IG Metall, 2009a).

3.6.3 The agreement

On 11 June 2009, management, trade unions and works councils finalised a collective agreement after 26 hours of intensive negotiations. It included the following provisions:

- The collectively-agreed wage increase of 2.1 per cent would be postponed from 1 May 2009 to 1 March 2010.
- The lump sum payment of €122 for 2009 would be cancelled.
- All employees at subsidiaries bound by collective agreements would forgo 75 per cent of holiday pay and the Christmas bonus in 2009, and would forgo holiday pay in 2010. This provision would not apply to apprentices or to employees in partial retirement.
- Employees and managers who were not covered by collective agreements would make a contribution equivalent to the contribution made by employees covered by the collective agreements. Management would certify to IG Metall that this had taken place.
- For the business years 2010-11 and 2011-12 (after the expiry of the no-redundancy clause) there would be a bonus system which, according to certain performance-related criteria, would provide for additional profit-sharing by employees.
- In exchange for these concessions, the management agreed not to make any employees redundant for economic reasons until 30 September 2010. In the case of overcapacity and lack of orders, the company will respond by moving towards short-time working. The details were left to be negotiated with the works council.
- For the subsidiaries in Wetzlar, the management and workforce representatives were starting talks on a new strategy for the factories in 2009. While these factories were faced with imminent closure, the parties had agreed that by mid-2010 the works councils, IG Metall and the management would develop a joint rescue strategy.
- If the economic situation should deteriorate significantly, all parties would start talks immediately.
- The parties agreed that the current number of apprentices would be maintained for all factories (Carl Zeiss AG, 2009a; IG Metall, 2009c).

The parties agreed that the trade union and Carl Zeiss Meditec AG would negotiate a new company collective agreement, to be concluded by 31 December 2010. It was implicit in this decision that the three largest subsidiaries of the Carl Zeiss group would now be covered by collective agreements.

After approval by the collective bargaining commission and the board of the trade union, the agreement came into force at all Carl Zeiss subsidiaries covered by collective agreements on 29 June 2009. For subsidiaries not covered by collective agreements, the management and works councils would check during the following weeks whether and how the concessions could be implemented for these units. The no-redundancy clause would be valid for all employees in the Carl Zeiss group (Carl Zeiss AG, 2009a).

4. Discussion

The current financial and economic crisis is unprecedented in German post-war history in terms of causes as well as breadth and magnitude of impact. The fact that it does not fit the traditional categories of structural or cyclical crises adds to the uncertainty and uneasiness faced by business, social and political actors.

4.1 The research process

In terms of the research conducted for this paper, this uncertainty had several implications. In the process of contacting potential case-study companies, works councils, and trade unions, the researcher was faced by a general reluctance to participate in the project, to talk openly about ongoing processes, and to provide information and statements which might be rendered out of date the next day by new developments. At Arcandor, for example, which has applied for insolvency, new reports about the situation surface almost every day, revealing new aspects of the process of failure in the group over the past decade. In contrast to earlier research conducted on company-level pacts on employment and competitiveness in the 1990s, this reluctance existed even at companies with a history of employment-related agreements.

4.2 General concerns

The magnitude of the impact of the crisis on company finances (in some cases, assets were quickly disappearing, sometimes literally overnight), and the effects of the unprecedented decline in demand (at Carl Zeiss for example, where demand dropped by 50 per cent) – considered impossible before the crisis – all took management by surprise and required a learning process. Companies that were still highly profitable in 2008 faced a serious demand crisis, which rendered recent restructuring activities useless. Others faced increasing difficulty in renewing credit lines. At the company level, managers, workforce representatives and trade unionists found (and still find) themselves standing with their backs against the wall, facing entirely new and often unknown situations.

As far as public policy is concerned, there are several serious issues and many open questions. Most policies increase public spending massively. Given the likely decrease in public (tax) income due to the crisis, this automatically translates into an increase in public debt. What will happen after the general elections on 27 September 2009? Will there be a change in policy, especially as far as the support for public spending is concerned? How will companies react? What will happen if policies such as on short-time work expire before the crisis ends? What are the long-term consequences of the crisis for the social security system? Will the current subsidies distort competition and thus affect the competitiveness of the German economy? These issues should not be forgotten when discussing and analysing company-level policies, as they go beyond the immediate concern of company-level labour relations.

Collective agreements by definition occur only in organizations covered by collective bargaining or which have works councils. It would be interesting to compare the cases discussed in this paper with the experiences of companies not covered by these labour relations institutions. Another impediment to generalizations concerns the international dimension. Each of the case-study companies was part of a multinational organization – the impact of the financial crisis in the foreign subsidiaries and operations and how this is being addressed also bears examination.

4.3 Company-level issues

The five companies studied in this paper come from different sectors (ranging from breweries to optics), involve different trade unions (from NGG to Ver.di), resorted to different labour relations strategies (from active to reactive on the part of management and workforce representatives), involve different regulation mechanisms (collective agreements and/or works agreements), represent different company situations (profitable vs. acute crisis), and have different outcomes (ranging from no-redundancy clauses to massive increases in severance pay). The case studies are thus illustrative of different types of situations and agreements rather than representative (in the research method sense of the term).

The company cases offer many insights and raise a variety of questions. In general, companies facing declining demand appear to first exhaust all human resource management policy options that offer flexibility. Among other policies, companies resorted to reducing the peripheral workforce: for example, contracts with temporary work agencies are cut, temporary employees are not renewed, graduated apprentices are not taken on, and/or a hiring freeze is put in place. Only when this option is exhausted do companies take action which affect the core workforce. Thus far, German companies have been very cautious about making core employees redundant. This might be the result of public incentives, especially the support of short-time working. Another factor might be the recent experience with shortages of skilled labour, and the associated fear of being unable to fill those vacancies after the crisis, especially in light of demographic changes in the workforce.

The causes of the difficulties faced by the five companies are diverse. In general, a direct link between the financial crisis and the agreements concluded could not be established. In the case of Postbank, privatization as well as the restructuring of the banking sector (e.g., future cooperation with Deutsche Bank) and internal reorganization within the Post AG group have had a significant impact on the agreements. The future takeover by Deutsche Bank is part of the restructuring of the German banking sector, which is accelerated in part by the financial crisis. In the case of Arcandor AG, the company was already experiencing more or less serious difficulties in the two years before the start of the crisis. On the other hand, the difficulties of obtaining loans and extending credit lines were possibly exacerbated by the crisis and contributed to the decline of Arcandor AG.

In the case of Daimler AG, the drop in demand for large cars and other vehicles can be ascribed to a large extent to the financial crisis and contributed to the difficulties that led to the cost-cutting agreement of 2009. But again, the company has a history of collective bargaining on employment, and the company also has had a number of difficulties in the recent past, not least in relation to the merger with and then separation from the US car producer Chrysler. At Carl Zeiss, it was mainly the unforeseen severe drop in demand for its products and the difficulties in financing its operations that led to the company's current situation. At InBev Germany, it is not yet clear whether the agreements were precipitated by the financial crisis or by other factors related to company policy. One might argue that the takeover of Anheuser Busch during the beginning of the financial crisis caused the restructuring plans, as the new company needed to finance the deal and also increase productivity and efficiency in its operations.

It is clear, though, that the financial crisis accelerates restructuring activities. What appears to be new is the speed at which changes are taking place, the unprecedented drop in demand for products, and the subsequent difficulties in financing company operations.

These findings raise a number of issues. Generally, management appeared to have been taken by surprise by the extent of the crisis. In the process of adjustment, the HRM seems to have increased in strategic importance for the companies. Considering the structural complexity of some of the organizations as well as their situations, highly skilled HRM staff have become vital in dealing with the structural complexity of some of the organizations as well as their situations. Another issue concerns the role of the supervisory boards. In Arcandor, public discussion has begun as to the role of the supervisory board members in controlling the activities of the management board.

Several of the companies studied, especially Arcandor and Postbank, had gone through extensive reorganization in the previous years. As a result of the processes of restructuring, outsourcing, insourcing, changes in the legal status, as well as mergers and acquisitions, the complexity of the companies' organizational structures increased dramatically. In the case of Arcandor, the number of companies has risen from three about 10 years ago to several hundreds today. Collective bargaining systems at the company level also changed in the process. Arcandor, Carl Zeiss and Postbank all have highly complex collective bargaining systems, with a multiplicity of collective bargaining units.

4.4 The process of collective bargaining

The agreements that have been concluded in the five companies are the result of complex negotiations, regarding not only the collective agreements but also works agreements, social plans, and reconciliation of interest agreements. Disentangling the strategic processes that went into the negotiations is a challenging task and one that is beyond the scope of this report.

Formal agreements (which are put in writing and sometimes made available to the public) are different from those resulting from informal bargaining behind the scenes (information on which is not available to the public). In companies experiencing acute crisis, the official agreement may include standard items and regulations; there may also be informal agreements in the background between the chief negotiators of both sides, which are kept secret from other managers, the workforce and union functionaries (and researchers). One can imagine that in situations of high uncertainty, negotiators make projections concerning different future scenarios, agreeing informally on their possible courses of action in order to be prepared for all eventualities.

The collective bargaining processes for company-level agreements lead to a strengthening of the role of centralised bargaining authorities within the company, which implies a centralisation of collective bargaining at the company level. Again, it would be very interesting to compare these agreements with the multi-employer collective agreements in greater detail. At Postbank and Arcandor, it became clear that there were spill-overs in the negotiations between different bargaining units in terms of bargaining issues and demands, even where these bargaining units belonged to different subsidiaries, different sectors of economic activity, and different trade unions.

4.5 Contents of the collective agreements

As far as the results of the negotiations are concerned, the degree to which the agreements guarantee jobs and employment varies widely, ranging from informal declarations of intent, which are not legally binding, to legally binding employment or job guarantees. Many of the agreements include provisions related to massive cost-cutting programmes, in many cases to help the company survive. This is significantly different from the pacts on employment and competitiveness in the second half of the 1990s, where the context of the respective was not so much the survival of the whole organization as (international)

competition for investment and production between subsidiaries within one multinational group.

Given the complexity of company-level collective bargaining systems, it is not surprising that some companies, such as Daimler and Postbank, offer differing levels of employment security for different occupational groups, divisions, or companies.

One major contentious issue in the negotiation of cost-cutting agreements is compensation for employee contributions and concessions. Employee share ownership schemes and profit-sharing systems are among the solutions offered.

Another concern is the relationship of company-level agreements to industry-level agreements. As reported in the previous section, the collective bargaining structure of the five companies is quite complex, and has increased in complexity during recent years, due to mergers and acquisitions and company reorganization. Thus, companies may be covered by different collective bargaining units at the same time, depending on the establishment and sometimes even the occupational group. Where industry-level collective agreements are relevant, the described company-level collective or works agreements either comply with the industry-level agreements and extend them (AB InBev GmbH), or relate to opening clauses included in the industry-level collective agreements (Daimler AG, Carl Zeiss AG, Arcandor AG). This is in line with the argument that the German industrial relations system is adapting and providing flexibility for actors at the enterprise level to adapt to change (Haipeter & Lehndorff, 2009).

As far as the relationship between public policies on tackling the crisis and the reported company-level agreements are concerned, public policies operate in the background rather than relate directly to the company-level agreements. Short-time work has bought the companies and employees time to adapt to the situation. The Arcandor and Postbank agreements were concluded at the beginning of the crisis, before the German government passed two stabilization packages and adapted labour market policies. The agreement at Daimler and AB InBev include provisions on additional payments in cases of short-time work.

4.6 Trade union challenges

These agreements involve challenges for the trade unions as well. While concession bargaining has always been a matter of controversy among trade unionists, cost-cutting agreements are a specifically problematic as it is difficult for the trade union to sell the reductions in collectively-agreed terms and conditions of employment to its members as an outcome of successful negotiations. This difficulty needs to be understood against the background of traditional, proactive trade union policies on improvement of terms and conditions of employment. That may explain why even trade unions that have traditionally focused on wage increases have put the maintenance of employment on top of their bargaining agenda. Yet there may be another reason why bargaining on employment is currently a top priority for the unions. In an economic situation where the unionized sector of the economy, including metal and engineering, faces massive job losses, the latter threatens the unions' membership base, and thus union finance.

One specific challenge for the trade unions in the negotiation of cost-cutting agreements is maintaining solidarity between the different production locations and different occupational groups, as illustrated in the Carl Zeiss case. Another challenge, especially in organizations with a complex organizational structure, is to fully understand management strategy in order to react effectively. In most agreements, the trade unions reacted to the demands of management. In the AB InBev case, it was the trade unions that pushed for negotiations on employment in face of restructuring plans of management.

5. Conclusions and outlook

The objective of this research report was to describe and discuss recent public policy initiatives and company-level bargaining practices related to employment as a response to the negative consequences of the financial crisis. After describing public policies to tackle the crisis, the report introduced the cases of five companies with collective agreements on employment.

Part 2 of this report described a number of public policies for avoiding meltdown in the financial sector, stabilizing the economy by stimulating demand, and providing incentives for companies not to make employees redundant. Apart from the dramatic developments surrounding the likely collapse of the Hypo Real Estate company in September 2008, with the coalition of government and private banks bailing out HRE, existing policy instruments have been adapted and extended to cover a longer period of time, for example the extension of short-time working up to 24 months. Other policies such as the car scrapping subsidies (reportedly a suggestion developed by IG Metall) are new. At the time of writing (mid-August 2009), the macroeconomic situation appears to be stabilizing, possibly supported by public policy initiatives. Public policy so far has focused on policies in favour of keeping employees at work, enhancing their skills, and increasing their employability in time of crisis.

With respect to the company-level collective agreements introduced in part 3 and discussed in part 4, attention was paid to cooperative bargaining solutions as part of a strategy of enterprise survival (e.g. in case of Arcandor). To different extents, all company cases relate to trade-offs among wages, working hours and job security. As far as company-level reactions to crisis situations are concerned, management seems to try to avoid or delay redundancies in the core workforce, using existing flexibility instruments that have been further developed and refined over the past decade. Many companies are making workers redundant only as a last resort. Companies covered by collective agreements and/or works councils are using collective or works agreements to negotiate (labour) cost reductions while providing the workforce with limited no-redundancy guarantees.

In many cases, it is difficult to establish a direct link the financial crisis and a company's crisis situation, as there are many other potential determinants of company failure. At the minimum level, the financial crisis makes it more difficult in many cases for companies to finance their operations; it has led to massive drops in demand for products and services, and it appears to accelerate the need to restructure and to reorganize.

So far the industrial relations system in Germany is adapting to the economic pressures posed by the crisis, providing actors at the enterprise level with the ability to govern change and craft agreements that save jobs, maintain incomes and ensure ongoing enterprise viability. The role of government has been critical in stabilizing the economic situation and buying the company-level actors time to adapt. In this respect, company-level bargaining is part of a packaged response to managing change within the German industrial relations system, not a panacea.

While there are tentative signs that the economic situation in Germany is stabilizing, the impact on the labour market is likely to deteriorate in the autumn and winter of 2009-2010, as there is generally a time lag between changes in employment and output. The extent to which the situation itself will change may depend to a large extent on how public policy will continue stabilization policies and continue its employment policies in the face of increased public debt. As more companies exhaust their flexibility options, company-level bargaining on cost-cutting programmes in return for no-redundancy clauses is likely to increase, at least in companies covered by collective agreements and works councils.

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