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**“THE GOVERNANCE OF OFFSHORING AND ITS
EFFECTS AT HOME THE ROLE OF
CODETERMINATION IN THE INTERNATIONAL
ORGANIZATION OF GERMAN FIRMS”**

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The governance of offshoring and its effects at home
The role of codetermination in the international organization of German firms

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Abstract

This paper focuses on the links between labor market institutions and offshoring, with specific reference to the role of codetermination in shaping the international operations of German firms. We use case studies to illustrate how works councils deal with three important aspects of offshoring processes: the timeliness of information they receive from the management, the negotiation of compensation mechanisms and the design of alternative strategies. While we found no evidence of works councils impeding offshoring, there are elements to suggest that they may influence the way such decisions are taken, and moderate their effects on employment in the home country.

JEL codes: F21, J53, L22

Keywords: Offshoring; Labor market institutions; Codetermination

1. Introduction

In recent years, the debate around offshoring has mounted as this phenomenon is instinctively associated by the wider public with a whole series of negative outcomes such as de-industrialization, unemployment and increasing wage inequality. The empirical literature investigating the home country effects has indeed delivered a more variegated picture. Overall effects seem to differ significantly across sectors: offshoring of service activities are associated with relatively higher positive effects on employment and production at home than in the case of manufacturing. Moreover, effects seem to differ significantly according to whether they are observed at the level of individual firms or micro-sectors, or at the level of larger aggregates, because important cross-sectoral compensation mechanisms are at work. Extant literature on the effects of offshoring on output and employment at home more or less implicitly assumes that such effects are mediated by the characteristics of institutions in general, and of labor market institutions in particular. It remains that the institutional mechanisms underlying such effects are still largely unexplored, and understanding them requires a careful examination of micro-level governance of offshoring processes.

In this paper, we examine the role of a specific labor market institution, namely “codetermination” (*Mitbestimmung*) in shaping decision making of German firms in the strategic area of offshoring, broadly defined¹. Unlike other European countries, Germany has stronger codified elements of workers’ representation, both at plant and managerial level and thus represents a reference point for the investigation of the impact of labor market institutions on offshoring decisions.

Using both scattered evidence and illustrative case studies, we will show that, while codetermination may not impede offshoring, it might influence the direction and intensity of such decisions, and contribute to moderate their effects on firms’ activities at home with particular attention to the protection of home employment.

¹ Extant literature acknowledges some differences between the terms *offshoring* and *outsourcing*. Kierkegaard suggested a distinction based on two criteria: location and ownership (Kierkegaard, 2005). From this perspective, outsourcing involves activities that are not owned by the investing firm and may either be located within the home country (also called insourcing) or abroad. Offshoring involves activities that are carried out in foreign locations that take place either within firm boundaries (captive offshoring) or across firm boundaries (external offshoring). A similar definition of outsourcing and offshoring is suggested in the OECD report on offshoring and employment (OECD, 2007). Unless otherwise specified, we will use the term *offshoring* in its more general and comprehensive meaning, to identify all activities controlled by a firm abroad. Cross-border relocation, that is the shut-down of plants at home that are replaced by activities abroad, can be considered as a special case in this broad definition of offshoring.

We focused on three aspects of codetermination that appear to play a key potential role in the governance of offshoring decisions: the timeliness of information delivery to the works council, the negotiation of compensation mechanisms and the promotion of alternative strategies. We believe that, according to the actual importance and combination of these three aspects, offshoring decisions may take on different configurations and directions. We conducted interviews with the head of the works council of three firms in the metal-mechanic and electro-technical sectors located in south-west Germany.

The paper will be structured as follows. In section 2, we will review some of the extant empirical literature examining how offshoring can affect home country activities, and the role of home labor market institutions in shaping these effects. Section 3 will provide a short overview of how “codetermination” works in Germany and will illustrate constraints and opportunities that this institution presents when offshoring decisions are taken. Section 4 will then illustrate some evidence of the links between codetermination and offshoring relying on the results of previous researches conducted on this matter. Section 5 will present original evidence obtained from the field work we carried out through interviews conducted with a sample of German companies involved in offshoring activities to explore how codetermination practices have affected their decision to offshore. Section 6 will conclude.

2. The role of labor market institutions in shaping the effects of offshoring

Although offshoring is often dispraised in the public debate, a closer examination of the economic empirical literature shows that the labor market outcomes of offshoring are quite mixed. Negative effects on home output and employment can be expected when offshored activity substitute for the activities at home. However, offshoring may also be used to complement the home activities, to gain access to valuable technology, or to supply foreign markets, hence inducing positive effects on the home economy, for example, in terms of output and productivity gains (Wagner, 2009; Amiti and Wei, 2004; 2005), of innovation performances (Narula and Zanfei, 2005, Dachs et al 2013) and of increasing of head quarter activities (Barba Navaretti and Falzoni, 2004).

Much attention has been paid to investigate the impact of offshoring on employment and skill composition of workers. Offshoring can influence economic activity at home by changing the international division of labor, the skill intensity and composition of the workforce. The transfer of labor-intensive tasks abroad requiring unskilled workers increases the level of high-skilled workers at home, where high-skill intensive activities are concentrated. While

this might improve the overall level of productivity and increase average wages at home, low-skilled workers will be penalized as less qualified and routine tasks are easier to offshore than high-skilled labor tasks (Feenstra and Hanson, 1996; Helg and Tajoli, 2005; Castellani et al. 2008; Geishecker and Görg, 2008).

Most empirical works on the effects of offshoring on output and employment at home implicitly assume that such effects are mediated by the characteristics of institutions in general, and of labor market institutions in particular. Broadly speaking, this implicit assumption connects to a rather extensive theoretical literature emphasizing that institutions play a pivotal role in explaining the nature, direction and effects of international trade (Belloc 2006, Levchenko 2007).

Some empirical studies have analysed more explicitly the influence of labor market institutions in the home country on the processes through which offshoring displaces production activities and jobs. Using industry-level data for 11 OECD countries and 20 industries in the period 1980-2002, Hijzen and Swaim (2010) found evidence that a higher level of employment protection weakens the elasticity of labor demand to offshoring.

More specifically, some studies have shown that offshoring decisions are affected by the industrial relations and the organizational home context in which offshoring firms are embedded. Mazzanti, Montresor and Pini (2006) analysed a dataset composed by 500 firms in the Italian province of Reggio Emilia and found that unions may be able to impede or limit offshoring, and when it occurs, they obtain to get informed and involved. In a subsequent research based on the same dataset, Mazzanti, Montresor and Pini (2008) confirmed that industrial relations, in particular the role of unions, influence outsourcing but only with respect to ancillary activities with a lower economic relevance for the company. Only when employees and employers act together in the decision-making process, outsourcing of higher added value activities might be hampered (Mazzanti, Montresor and Pini, 2008).

In a similar vein but with a different geographic focus and methodological approach, Bain and Taylor (2008) examine trade union responses to the 2000-2004 wave of call centers offshoring from the UK to India, and evaluate the relative efficacy of these responses in influencing the intensity of delocalization. The authors found that when unions are able to deploy credible threats of strike actions, they obtain stronger protection of jobs, although for a limited period of time (Bain and Taylor, 2008).

More indirect evidence can be drawn from studies on the role of institutional settings in shaping investment decisions and economic performance in the case of Germany. A specific combination of training and educational systems, corporate and plant level relations between

employers and workers, and financial institutions, appear to reduce the propensity of German firms to lay-off workers and relocate business activities even under adverse business cycles (Hall and Soskice, 2001).

Some empirical literature has also investigated the general macro and microeconomic effects of a specific labor market institution such as “codetermination”, i.e. the introduction and implementation of norms concerning the participation of employees in different aspects of corporate governance through “works councils”. We shall discuss the characteristics of this institution in section 3, and illustrate the results of some studies focusing on it in section 4. Suffice here to mention that a few of these works explicitly and rigorously examine the links between codetermination and firms’ investment decisions, and provide insights on the ultimate employment effects of such decisions. A partial exception is represented by a study by Addison et al. (2005), which uses establishment level panel data from the German Federal Labor Agency (IAB), to estimate the impact of works councils establishment (or dissolution) on new investment in tangible capital. The study found no evidence that the formation of a works council has a negative effect on investment and firm performance, nor its dissolution has favourable effects (Addison et al., 2005). In another research, Addison et al. (2011), also using (IAB) establishment level panel data, investigated the determinants and employment effects of outsourcing (as a special case of offshoring strategies) in the presence of the works councils. The research constructed two measures of outsourcing and found no conclusive evidence of these processes negatively affecting jobs. This finding appears to hold for all the analysed industries. Second, outsourcing seems to have negative effects for the manufacturing industry, balanced by positive effects on the service industry. Third, there is no evidence of outsourcing causing plant closing.

The evidence on the actual involvement of German works councils in the discussion and implementation of offshoring issues is rather sparse and mostly descriptive. As we shall illustrate in greater details (section 4), a few studies using data produced by the Institute of Economic and Social Research (*Wirtschafts- und Sozialwissenschaftliches Institut*, WSI) show that works councils frequently had to deal with these matters in recent years (Behrens and Kädtler, 2008), although only a minority of them actually experienced relocation or outsourcing practices (Alhers et al., 2007), and could eventually intervene in the process (Ziegler, 2008).

Kleipzig et al. (2012) developed specific considerations on best practices to be followed in offshoring cases and drew some practical advices to be used in negotiation rounds. These authors identify some key issues that need be addressed in order to improve the works

councils' ability to influence offshoring decisions. These include: the timeliness of information delivered to works councils, the abilities to negotiate compensation mechanisms, and the capacity to formulate alternative proposals. One should note however that Kleipzig et al.'s contribution does not provide a systematic analysis of these aspects. It rather offers a sort of methodological guidance to works councils to support their action with a well-organised set of arguments and communication techniques.

The studies we have briefly reviewed do shed some light on the role of labour market institutions in investment and economic performance in general, and in international investment in particular. While there is some, rather limited, evidence that labor market institutions may moderate the impact of offshoring on economic activities at home, there is even scantier evidence on the mechanisms through which these moderating effects may occur. Studies on Germany suggest that the effects of offshoring decisions may not be negative in terms of output and employment when works councils are active, and they identify some issues that need be tackled to make their action more effective. Nevertheless, to the best of our knowledge, there has been very limited attention to how and under which circumstances codetermination practices affect offshoring decisions, and their ultimate impact on employment. This paper contributes to filling this gap in the literature by analyzing concrete cases of codetermination in the design and implementation of offshoring strategies. Following some of the insights offered by descriptive studies on the German case (and particularly by Kleipzig et al. 2012), we will focus our case studies on the three aspects of the governance of offshoring which we have anticipated in the introductory section: the delivery of information to the works council, the negotiation of compensation mechanism and the formulation of alternative proposals.

3. The institution of codetermination and the governance of offshoring

3.1 The functioning of codetermination

Germany certainly represents an interesting, and largely unexplored, case for the study of how labor market institutions may influence investment decisions, including offshoring strategies. We shall particularly refer to workers' participation into firms' decision making, namely "co-determination". While various forms of participation of employees in different aspects of

corporate governance have had a significant diffusion in a number of European countries in the post WWII period, the German case certainly represents a landmark in this respect².

As mentioned earlier, the term codetermination (*Mitbestimmung*) refers to the legally recognized right of employees to be consulted and (in some cases) participate in the organization of working conditions as well as in the economic planning of the company (Page, 2011). According to the size and the legal entity of the firm, the German model of codetermination ensures employment participation in the decision making process at the plant level, through the activity of the works council (*Betriebsrat*), and at the corporate or group level, where the workforce is represented in the supervisory board (*Aufsichtsrat*) by elected employees (*Unternehmensmitbestimmung*).

Page (2011) lists four objectives for codetermination: equality of capital and work, democracy in the economy, social development and control of economic power. The main goal of codetermination is to settle conflicts and disputes between employees and employers by the use of dialogue and co-decision. As Addison (2009) noted, codetermination is a specific and historically rooted characteristic of the so-called *Rheinish* capitalism, a form of capitalism which puts strong emphasis on coordinated market economy, cooperation between labor and capital and long-term economic and social success³.

The works council is the principal governing body of codetermination in the company. According to the Works Constitution Act of 1952 (and its subsequent revision of 2001), the works council must act for the good of employees in a “spirit of mutual trust” with employer, employer’s association as well as trade unions represented at the workplace (Works Constitution Act § 2 (1) WCA). Primary aim of the works council is to resolve conflicts between employees and employer by following collaborative strategies. As stated in the WCA, works council representatives and employer “discuss the matters at issue with an

² Rights of employees to be represented in works councils or supervisory boards of various sorts are being explicitly recognized in the legislation of 14 EU countries, while they have a limited coverage with respect to State owned enterprises only, in the case of four additional countries (Spain, Greece, Ireland and Portugal). No such recognition is present in the legislation of three core EU countries, namely the UK, Belgium and Italy. A substantial draw back from the coverage of previously recognized rights of participation has been recently experienced in the cases of Malta, Czech Republic and Poland. Efforts to define minimum standards of workers participation at the EU level have long been underway after the European Commission issued the plan “Modernising Company Law and Enhancing Corporate Governance in the European Union” in 2003. See Telljohran (2013) and Kowalsky (2013) for an overview of the diffusion of participatory forms of corporate governance across European countries and at the ETUC level.

³ The long history of codetermination can be traced back to the German Constituent National Assembly held in 1848 in Frankfurt am Main, when workers began to demand the right to establish workers committees to monitor and improve working and living conditions at the workplace. This right has obtained formal recognition in the Weimer Constitution in 1919, was cancelled during the Nazi regime, and resumed in 1946 under the “Allied Control Council Act n.22. Nowadays codetermination is enforced and regulated by specific norms in the German legal system, amended several times over the years. For a historic introduction on codetermination (see Heiner 2007; Addison 2009; Page 2011).

earnest desire to reach agreement and make suggestion for settling their differences” (Addison, 2009). Unions can be indirectly represented in works councils in case their members are affiliated to one of them (depending on the sector, the percentage of works council members associated to one of the unions of the German Federal Confederation DGB *Deutscher Gewerkschaftsbund* range from 80 to 95%, Page 2011). The diffusion of co-determination, however, is very heterogeneous across sectors, and estimates differ according to sectoral aggregation criteria, to data collection and weighting methods (Ellguth and Kouhaut, 2012, Hauser-Ditz et al 2013). The coverage recorded for the German industry is generally lower in terms of number of establishments with Works Councils than in terms of employees with this form of representation. Remarkable differences were also found between the former West and East Germany (see table 1).

Table 1 about here

A second level of co-determination is accounted for by the supervisory board⁴. Representatives of workers are elected councillors to become full members of the board and are entitled with full voting power. While operating as board members, workers representatives still speak for the interests of the workforce and no other superior “company interests” or priority (Page, 2011). In 80% of the cases, board members elected by the works council are affiliated to labor unions. The proportion of the seats of the supervisory board reserved to the representative of employees varies according to two different factors, the size of the company and its legal entity (Addison 2009). Figure 1 summarizes the laws that regulate board level codetermination accounting for legal entity and number of employees.

Figure 1 about here

3.2 Rights of the works council and the governance of offshoring

The works council is entitled with numerous rights, ranging from the basic right of information to the right of cooperation, the right of codetermination and the right of opposition, up to the strongest form, the right of veto. Such a heterogeneous group of rights covers three distinct areas dealing with social, human resources and economic matters. As

⁴ German corporate law provides a two-tier system of corporate governance where the managing board and the supervisory board are two separate bodies. The managing board has executive powers whereas the supervisory board plays a non-executive role but is entitled to appoint executive managers and defines their contract salary (Addison, 2009).

noted by Heiner (2007), the primary objective of codetermination is not to democratize the working place; it is rather to protect workers' rights and safeguard employment at the establishment. Social and personnel matters, for instance, are subject to mandatory agreement between the parties.

The works council can exercise the right of opposition to, and even veto, dismissal decisions under specific circumstances enumerated in the Works Constitution Act⁵. Thus, to the extent that offshoring decisions determine circumstances that are expressly ruled by the WCA, the works council has the power to intervene and make opposition to layoff decisions. Apart from these circumstances, there is virtually no possibility of impeding the dismissal of workers that are associated to relocation strategies. Offshoring in Germany is not a legally defined concept. However, the German labor law allows the dismissal of employees for business reasons. The outsourcer has the right to dismiss employees for business reasons when a company's unit is closed and its function transferred to an external recipient (ILO, 2007). By contrast, the employer cannot impose any binding rule without previous agreement with the works council in those aspects of the working organization not covered by the collective agreements or previous regulation, such as the organization of working hours and breaks, holidays, job bonuses, the application of methods to control workers behavior and performance (Page, 2011). Moreover, while works councils can hardly interfere with corporate strategies and economic planning, they are expressly entitled to be informed about decisions in due time, and to propose alternative moves that might be undertaken. Section 90 of the Works Constitution establishes that the works council has the right to be informed in advance, and with all necessary documents, about all plans concerning alteration of the working organization, procedure, operations, plants and job organization (§ 90 (1) WCA). Similarly, section 111 establishes that in all enterprises with more than 20 employees the works council has the right to be informed in advance about the alterations of those company's activities which might endanger employment conditions at the establishment level, such as reduction of operations, transfer of departments, amalgamation or split-up of departments. In establishments with more than 100 employees, the work council has the additional right to appoint an ad hoc finance committee (*Wirtschaftsausschuss*) with power to access all the

⁵ The right of the Work Council to make opposition to dismissal decisions applies in case: 1) social aspects of the dismissal have been insufficiently evaluated; 2) guidelines for the selection, transfer and dismissal of employees, previously agreed between employer and works council, have not been observed; 3) transfer and re-skilling opportunities can be pursued within the company; 4) a change in contractual terms can be agreed with the employee (§102 (3) WCA). In personnel matters, and in specific circumstances, the works council can exercise the right of veto under the following circumstances: (a) breaches in acts, safety regulation or collective agreements; (b) selection guidelines have not been observed; (c) dismissals is not clearly and objectively justified; (d) the dismissal decision has not been notified to the works council (Page 2011).

relevant and sensitive documents and to inform the works council itself about relevant changes in the economic planning of the company (§ 106 WCA). The finance committee must be informed in “full and good time” about several aspects of the business planning such as “rationalization plans, the reduction of operations in or closure of establishments or part of establishments, the transfer of establishments or parts of establishments” (§ 106 WCA).

The works council has also the right to formulate alternative suggestions and proposals with particular respect to those business and organizational plans which may endanger job stability at the establishment. When the alteration of the working organization causes the dismissal of employees, the works council has the right to request management to take appropriate actions to compensate for the distress caused to laid-off employees (§ 91 WCA). In respect to this, section 92 of the Work Constitution Act makes explicit mention of the case of “spin-off of operations or outsourcing” and provides the works council with the right to submit alternative proposals to the employer, aimed at securing employment at the company (§ 92a WCA). Strong power is granted to works councils in dealing with compensatory measures for laid-off employees. Section 112 of the WCA establishes that management and works council have to negotiate for a reconciliation of interests (*Interessenausgleich*) in case restructuring and reorganization plans involve the dismissal of employees. Employer and works council are obliged to set up a “social compensation plan” (*Sozialplan*) aimed at reducing disadvantages for laid-off employees (§ 112 WCA). In case employer and works council cannot reach an agreement over the social compensation plan, the case can be submitted to an ad hoc conciliation committee (*Einigungsstelle*) chaired by an independent figure, if necessary appointed by the labor court, where interests of both parties are equally represented (§ 76 – 112 WCA). Figure 2 offers an overview of the rights of the works council according to extension, strength and form of participation.

Figure 2 about here

As we have shown, the Work Constitution Act establishes the right of works councils to be informed, to be consulted, to formulate alternative proposals and to negotiate social compensation plans for laid-off employees. However, the Works Constitution leaves room to some ambiguity concerning the actual possibility of works councils in participating and influencing the economic organization of a company. Two considerations can be made in this respect. First of all, the reference to the time when works council has to be informed about the alteration of business at the establishment is rather vague. In the WCA, such right is described

in generic terms (in due time, in good time) that do not specify any deadline for delivery of information. Companies may be induced to provide a short notice to works councils as they might fear that information will rapidly leak to organized labor unions that might counteract decisions. Ambiguity on how rapidly information rights will be exerted once again leaves room to different behavior of the parties: according to how timely works councils are informed, there will be different possibilities to formulate proposals and hence influence decision making. If on the one hand consultation rights may play a role in the governance of offshoring processes, on the other hand any potential influence can be weakened or even annulled if the employer does not allow enough time to examine documents concerning the modification of the business activity. Second, the Works Constitution does not impose that the proposals formulated by the works council are actually taken into consideration. There is a wide margin left at the discretion of the employer concerning the actual degree of collaboration with the works council in the organization of offshoring investment and the resulting reorganization at home.

Given this institutional context, it is certainly difficult to identify the extent to which the works council is able to actually influence management decisions to relocate production or part of it. The International Labor Organization has published in 2007 the report of the 15th Meeting of European Labor Court Judges where representatives from 13 different countries were asked to present the legal framework regulating offshoring in their home countries. As we have seen, in Germany the works council does not have any specific right to participate or co-determine in the economic planning of the company. However, thanks to general participatory rights, and to the much more extensive rights covering social and human resource matters, the works council can influence the management decision of relocating or outsource the production of intermediate inputs previously produced in-house (ILO, 2007). Moreover, it has been noticed that establishment level agreements signed by the works council can easily exceed the domains ruled by codetermination laws (Addison, 2009); in practice trade unions are often in a position to stimulate works councils to provide the employer with alternative proposals also beyond the limits imposed by the Works Constitution (Haipeter, 2013; Klepzig et al., 2012).

4. Illustrative evidence on codetermination and its potential role in offshoring

4.1 How frequently works councils deal with offshoring

In Germany, sensational cases of offshoring during the 2000s gave rise to the fear of huge employment loss in the public opinion. The former CEO of Opel stated “out of Germany or out of business” as he criticized the uncompetitive labor costs in the country (Jürgens, 2010). How big an issue is offshoring for works councils? In this section we draw on available data and descriptive statistics published in previous works to shed some light on the involvement of German works councils in matters concerning offshoring, particularly when considered in the stricter sense of cross-border relocation of production sites. The main sources in this respect are surveys conducted by the institute of Economic and Social Research (*Wirtschafts- und Sozialwissenschaftliches Institut WSI*) of the Hans-Böckler foundation⁶. What is peculiar of the WSI surveys is that they have been the first national investigations of relocation from the perspective of the works council. We shall briefly discuss some of the outcomes of these surveys which are most consistent with our research objectives.

Data from the 2005 survey (*WSI Befragung von Betriebs- und Personalräten 2004/05*) show that in more than 16 percent of the surveyed companies (n. 324), works council declared to have discussed with managers about the possibility of relocating part of the company’s operations. However, only a half of the companies that had relocation talks actually relocated, whereas in the remaining cases relocation talks never led to actual implementation. As noted by Alhers et al. (2007), announcing relocation may hide other objectives.

Table 2 about here

The survey has found some differences between the regions of the former East and West Germany. In West Germany, not only relocation talks are held more frequently than in East Germany but are also implemented more quickly, as western companies are better established in economic and organizational terms. One can notice a remarkable difference in both potential and actual relocation strategies across sectors (see table 2a). Ahlers et al. (2007) suggest that labor cost intensive sectors are more likely to discuss and subsequently implement relocation strategies towards cost-competitive production regions or to get closer to their end market. Conversely, companies in the construction or transport sector may want to remain close to their location of origin rather than investing in long-distance relocation (see table 2a). The size of the company appears also to influence decisions on company relocation.

⁶ Since 1998, WSI surveys are being conducted every two years based on a representative sample of approximately 2000 firms with 20 employees or more from all sectors. These data-sources collect information on the development of industrial relations, working and social conditions in Germany.

On the one hand overall share of firms involved in either talks or actual implementation of offshoring strategies is higher in the case of large companies. On the other hand, small businesses exhibit a higher propensity to transform talks into actual relocation moves. This might have to do with the lighter governance architecture and to the minor influence of workers representatives in small and medium sized enterprises (see table 2b). Production activities are found to be the most relocated function abroad whereas services such as sales and distribution operations are mostly relocated within national boundaries (Ahlers et al., 2007) (figure 3).

Figure 3 about here

In the second survey conducted by the WSI institute in 2007 (*WSI Betriebsrätebefragung*), works councils were asked to distinguish outsourcing (*Ausgliederung*) and relocation (*Standortverlagerung*). The former identifies the assignment of production activities to an external supplier, and the latter indicates the shut-down of a plant or parts of its activities to be substituted by other activities taking place in a different location. In both cases, these modes of reorganization of production can either take place within national boundaries or abroad⁷. Similar to the 2005 survey, the research found that 16 percent of the interviewed works council dealt with relocation even though only in 23 percent of the cases the company actually relocated. Outsourcing played a slightly more significant role, as 23,4 percent of the works councils reported to have discussed such an issue but only in 17,7 percent of the cases the project was actually implemented. When companies relocated abroad, top destinations are the other members of the European Union followed by Eastern Europe and Asian countries (Ziegler, 2008).

Table 3 about here

4.2 The actual involvement of works councils in offshoring processes

In the WSI 2007 survey, the objective of the investigation was not only to quantify the extent to which works councils faced offshoring decisions but also to understand the degree of involvement of the works council into the definition of offshoring and outsourcing strategies, and how the management reacted to counter proposals formulated by the works council. According to almost a half of the works council (46,5%) relocation discussions yielded

⁷ The foreign component of relocation activities (*Standortverlagerung*) partially overlaps with the general definition of “offshoring” we have adopted in this paper (see footnote 1).

negative outcomes and almost two thirds (68,1%) had the same negative judgment about outsourcing. Nevertheless, after the completion of the investment, works council seem to have a slightly different view. More than a half of the works councils (58%) found that relocation had positive implications for workers, while only one third of the works councils (36,2%) had the same opinion of outsourcing (Ziegler, 2008). In order to formulate sound counter-strategies to tackle relocation and outsourcing, works councils first have to be able to distinguish between cases in which manager's real intent is to reorganize company's operations, from cases in which organizational changes may hide other objectives. As a matter of fact, the threat of job loss exert enormous pressure on employees who are ready not only to deliver better working performances to save their working place, but also to renounce financial bonuses, to accept cuts in wages and overall worse working conditions (Ziegler, 2008). The 2007 WSI survey shows that only two thirds of the relocation talks have been implemented and only half in the case of outsourcing. This might indicate that the works council has been able to block relocation and outsourcing with protest actions and strikes, negotiations and pressures exerted through trade unions (Ziegler, 2007). The following figure illustrates the strategies that have been used most frequently by works councils to try and modify relocation decisions.

Figure 4 about here

In 2006, the WSI conducted an additional survey on establishment level restructuring focused on both, the intensity of restructuring activity and the extent of the participation of the works council. Behrens and Kädler (2008) found that 60,1% of the works council formulated alternative strategies to relocation and 51,4% to outsourcing⁸. To a closer look, it appears that 33,5 percent of the alternative proposals formulated on relocation were not taken into consideration whereas a vast majority of proposals were at least partially considered (55,3 percent were partially considered and 11,2 percent were kept in high consideration). The picture is even more clear-cut in the case of outsourcing. Only 20,1% of works council proposals were not considered at all, almost 80% of proposals received at least partial consideration, with 19% being kept in high consideration (Behrens and Kädler, 2008).

Table 4 about here

⁸ In this survey, outsourcing is defined as *vergeben von Aufgaben nach außen*, literally: assignment of tasks outside.

It thus appears that outsourcing and offshoring do represent important issues to be dealt with in codetermination practices, and the opinions and suggestions expressed by the work councils are actually influential in the decision making process concerning these topics. Negotiations between works council and management have seen both parties making concessions and requests (for offshoring management side concessions accounted for 29,6 percent and works council side for 28,7; for outsourcing, management 21,8 and the works council 20,7 percent). The works council frequently obtained compensation payments and bonuses, skill upgrading and reassurance over the employment stability. On the other side, the works council accepted to introduce significant changes on the organization of activities at home, including longer working times and working weekends (Behrens and Kädtler, 2008). Behrens and Kädtler observed that, in general, the degree of participation of the works council is not only regulated by law but it is the expression of the peculiar participation practices at the firm level, where the management may consider appropriate to involve the works council beyond the rights established by the Works Constitution Act. In some cases, the works council may receive information and participation opportunities in subject areas not included in the Works Constitution Act, in return for future concessions in other areas (Behrens and Kädtler, 2008).

Rehder (2005) argues that the involvement of the works council in bilateral concessions with the employer is not the direct consequence of the increasing internationalization of German companies but the result of the so called “business alliance” established since the Nineties in the German system of industrial relations. In times of unstable economic conditions, both works council and management are willing to accept and grant concessions to each other, in order to restore competitiveness and stabilize employment levels. If on the one hand employees are ready to accept flexible working conditions and cuts in wages, on the other the employer commits him/herself to refrain from layoffs for business reasons and to guarantee that investments for the continuation of the activity will be undertaken (Rehder, 2005)⁹. Kwon (2012) argues that in the German automotive industry employees, works council and trade unions have been able to establish a compromise in the planning of globalization strategies, based on the combination of cross-borders production with an overall upgrading of the

⁹ In the industrial relation literature in Germany the term “co-management” was coined to indicate the capacity of the works council to think first in terms of good for the company and consequently of employees (Rehder, 2005). Such term has been subject of a long debate until it assumed negative connotations as the works council was found to be more involved in the downsizing of the workforce rather than influencing the organization of work for the good of employees (Haipeter, 2013).

domestic manufacture. The German automotive industry is a specific case in which the practices of co-determination seem to have a high degree of relevance. This is certainly the case of Volkswagen, whose works council is highly involved in the yearly “planning” of investment decisions (Jürgens, 2002). Thanks to the high involvement of the works council, the company has limited outsourcing practices and has rather developed a policy of internal capabilities improvement based on an overall upgrading of home R&D potential. However, as Jürgens (2002) has pointed out, the distinctive characteristics of the company’s corporate governance, characterized by long-term oriented capital with the participation of the regional government, the low pressure exerted by shareholder investors and the long established tradition of the codetermination system, made of Volkswagen a peculiar case.

Further scattered evidence shows that the works council devotes a lot of attention to the development of alternative strategies to counter offshoring decisions. A good example is offered by the campaign “Better not cheaper” of the union IG Metall. The campaign was addressed at revamping the role of unions and works councils in developing and negotiating alternative business strategies, also beyond the constraints imposed by the WCA.

The IG Metall’s campaign is just one example of the efforts made in support of workers representatives in negotiation concerning offshoring. Based on these experiences, Kleipzig et al. (2012) developed specific models to help works councils in the design of alternative strategies to influence or prevent offshoring. As anticipated earlier (see section 2), Kleipzig et al.’s models are conceived as well-organized sets of arguments and communication techniques that can be deployed by the works council during the negotiation process. Managers are mainly interested in increasing competitiveness by reducing labor costs and often do not fully consider pros and cons of the relocation abroad. Managers of small and medium size companies do not have the experience to evaluate with accuracy the condition of the relocation. As Kleipzig et al. (2012) argue, this is consistent with the growing evidence of German firms returning home after offshoring¹⁰.

Kleipzig et al. (2012) have developed three different information scenarios: 1) late notification, which can potentially generate conflicts between managers and works councils; 2) last minute communication, which leaves little time to the works council to formulate alternative strategies; 3) well in advance communication, which leaves to the works council

¹⁰ Kinkel and Maloca (2012) analyzed the Modernization and Production survey 2009 of the Fraunhofer-Institut für System und Innovationsforschung (ISI) and found that in Germany relocation is at the lowest level since 15 years. Between 2007 and 2009, only 7 percent of German companies have relocated abroad and during the current economic crisis many companies decided to backshore production to Germany. To every third offshoring action one backshoring has followed (Kinkel and Maloca, 2012)

time necessary to prepare sound alternative proposals and to receive support from external consulting agency.

The scenarios drawn by Kleipzig et al. (2012) provide a useful basis for the case studies we have carried out. In fact this study helps identify some key issues that have emerged also from other works on codetermination in Germany, but have never been fully explored in the case of offshoring and of relocation practices in particular. We will illustrate case studies that will focus and shed more light on these themes.

5. An Empirical Study on Codetermination and its effect on Offshoring

5.1 Models of offshoring and research questions

As shown, extant literature has investigated the degree of involvement of works councils in the definition of offshoring strategies (Behrens and Kädtler, 2008; Haipeter 2013) and has paid some attention to the counter proposals and alternative strategies used by the works council in the negotiation process (Ziegler, 2007; Behrens and Kädtler, 2008; Klepzig et al., 2012). However, there is no explicit evidence on the mechanisms through which works councils actually impact on offshoring governance and how they can shape its effects on the home economy. We have attempted to fill this gap by means of detailed case studies based on interviews with actors directly involved in the negotiation process.

Our case studies aimed at highlighting the role of three aspects of codetermination that, as shown in previous sections, appear to play a key potential role in affecting offshoring decisions. First, we shall consider the role of timing in supplying information to works councils on strategic decisions. As illustrated earlier, the very possibility of works councils to influence decision making strongly depends on how timely the right to be informed about investment plans is exerted. Second, we will highlight how and to what extent compensation mechanisms have been negotiated to counter the actual or potential negative effects of offshoring decisions. To some extent, efforts to obtain compensation mechanisms can be expected to take place even in the absence of adequate notice by management to the works council. However, as we shall see, the timing of information disclosure on offshoring decisions plays an important role in the actual design and implementation of such compensation mechanisms. Third, we will examine case study evidence on the role played by works councils in providing suggestions on how offshoring strategies should be prevented or designed in a way that creates less (or no) damages to the workforce in the home country. This role can be played by works councils only in the presence of timely and appropriate

information on the management orientation to offshore its activities. However, case studies can highlight other factors facilitating works councils in carrying out this more pro-active role. It is important to stress that different combinations of these roles of works councils (receivers of timely information, stimulators of compensation mechanisms, and promoters of alternative strategies) are likely to determine a different impact of codetermination on offshoring decisions. The more works councils cover the second and third roles we have just recalled, the more they can be expected to influence the rate and direction of offshoring strategies.

Figure 5 about here

We conducted interviews with works council members in three German companies active in the investment goods sector (and particularly the metal-mechanics and electro-technical industry), lasting approximately 30 minutes. The choice to analyze companies in this sector was dictated by two main reasons. First, the investment goods sector is one of top industries in terms of Works Councils presence. In fact the share of establishments with Works Councils is well above average in this sector (31% in the case of investment industries as compared to an average of 22% in the German industry) and the share of employees having this form of representation is even higher (78% for investment goods industries as compared to 57% on average) (Hauser-Ditz et al 2013). Second, as discussed above, international relocations particularly affect the production department of the industrial and investment goods companies (Ahlers et al., 2007).

All interviews were conducted between July and August 2013 with heads of works councils, face-to-face meetings were organized around a set of five open-end questions aiming at highlighting the key issues illustrated above. First of all, we asked when the works council received the relevant information about the offshoring investment. Second, we inquired whether the works council decided to collaborate or to oppose the decision. Third, we tried to explore more in depth the participation of the works council to the governance of offshoring by asking whether any alternative or counter proposal was elaborated by the works council and which proposals, if any, have been taken into account by the management. Furthermore, we were interested to know whether a financial and/or non-monetary plan was established to compensate dismissed employees e.g. in terms of skill upgrading or general upgrading of activities at the plant or company level. Fourth, we tried to investigate whether the negotiation process involved only the works council or whether the case escalated to the supervisory

board. If this was the case, an additional area to be explored was the role played by employees' representatives at board level¹¹. Fifth and finally, we asked about the final result of the offshoring negotiation, and whether changes were introduced in the way the company is organized at home, as a consequence of offshoring decisions.

5.2 Three case studies on codetermination and offshoring

The selection of the case studies has been made with the support of a union member employed at the headquarter of the German union IG Metall, located in Frankfurt am Main¹². We asked our counterpart about the possibility to get in contact with a reasonable number of heads of works council who had experience during his/her mandate of relocation abroad of the company or of some single company's unit, whom we could contact for interviews according to the research lines illustrated earlier. We provided our counterparts with a short description of our research project and with our models of offshoring typologies in order to have a more selected range of case studies of the different combinations of works council roles that we envisaged (figure 5). We also decided to analyze medium-sized companies as it is comparatively easier to detect changes in the business structure and organization. Based on these criteria, we singled out three cases, which can be considered as a good basis for a qualitative analysis of the roles played by works councils in the development of offshoring strategies.

The three companies we analyzed come from the Stuttgart area, in the region of Baden-Württemberg in south-west Germany. All three companies have relocated part of their production in the previous years. The interviewees asked not to disclose the identity of the companies for which they work for. We shall only briefly describe the nature of the business in which they are involved, without revealing information that might raise confidentiality issues. See figure 6 for some illustrative evidence on the characteristics of each of these companies, while at the same time protecting their anonymity.

Figure 6 about here

¹¹ According to a survey conducted among representatives of workers on board level, the points of conflict arisen during supervisory board meetings concern for 41 percent the closure of establishment and for 23.1 percent the relocation of activities abroad (BöcklerImpuls 14/2006).

¹² After we managed to establish a first contact with one union member from the DGB headquarter in Berlin, we were re-directed to the department "Work and Innovation" at the IG Metall headquarter in Frankfurt.

The first case study we investigated was the automotive division of a company producing communication systems for cable networks, satellite receiver systems and communication systems for mobile radio communication and mobile reception. The automotive specialized division develops and manufactures antennas and electronic devices for the automotive industry. The company was founded in 1926 and since then has remained under the direct control of the founding family, now under the guidance of the third generation. The firm began to establish its international position since 1976, when it founded its first subsidiary in Switzerland. Nowadays the company has established manufacturing sites and distributors in Europe, Africa and China, for a total of 650 employees, with an export share of over 50% and a total worldwide turnover of 100 million Euros. This company has been involved in the process of relocation of car antenna production to Poland. We interviewed the head of the work council. We shall refer to this as case A.

The second case study concerns a company supplying a variety of high precision metal components produced with innovative self-made moulding machines, with a clientele ranging from renowned companies in the automotive industry, medical technology and telecommunications sector. The company is specialized in the manufacturing of high precision end metal parts for the frame articulation of spectacles like springs, hinges and screws. The firm was founded in 1904 and has remained under the complete control of the founding family. In its long history, the company has registered more than 150 patents worldwide. This high number of patents is justified by the strong investment in research and development which amounts to a quarter of annual turnover. In 2011, the company registered 36 million Euros of sales, 80 percent of which generated via export to the major international market. In 2004, the company acquired a majority stake in a joint venture in China with about 300 employees and relocated to China the manufacture and assembly of spectacle hinges. The company had previously established international production sites and subsidiaries in Italy and Hong Kong. We shall refer to this as case study B.

The third case we considered concerns one of the world's leading manufacturers and suppliers of air conditioning and engine cooling systems for the international automotive industry. The company was founded in 1905 and became an international supplier when in 1969 established its first subsidiary in the US and in France, following major auto producers. In 2008, the company registered sales around 3.3 billion euros with an international network of facilities employing some 15,000 workers at 17 development plants and 28 production sites plus 12 joint ventures in 38 countries on four continents. In Europe, the company has plants in Germany, France and Spain as well as in Eastern European countries such as Slovakia and

Czech Republic. We interviewed the head of the works council of the German establishments, also head of the European works council. We shall refer to this as case study C.

Our interviews were important in shedding light on the three key roles of works councils synthesized in figure 5, namely: works councils as pure information receivers (role 1); works councils stimulating the adoption of compensation mechanisms (role 2); works councils promoting alternative strategies (role 3).

Role 1: Works council as pure information receiver

The case studies we analyzed exhibit significant differences in the timing of the delivery of information to works councils. In Case A, the works council received very short notice on offshoring decisions. The communication from management concerning the dismissal of 45 employees from the production line of auto antennas, occurred on Thursday 12 of March 2008 and it was planned to be completed by the end of the same month. However, before anybody's expectations, on the following weekend the first production line was already dismantled. Employees affected by this decision were left unemployed on the following Monday. The works council expressed disapproval of the timeliness of this decision. As a first step, the works council tried to impede the transfer of the machinery by appealing to the labor court. Management had not informed the works council about the relocation plan in "due time" as prescribed by law; thus, in violation the law on the information and participation rights of the Works Constitution Act. However, due to the lack of time and the unexpected celerity in the removal of the production line, it was not possible to proceed with any legal action. During the weekend, employees also tried to block the transfer of machinery with protest directly in front of the factory gates without achieving any success.

While case B could not be examined from this point of view, as offshoring practices took place in 2004 and our interviewees had no memory of how timely information was, case C offers useful evidence on a very different attitude of the company management. In fact, it provided the necessary information much more promptly than in case A, leaving the works council with the possibility of designing counteractions.

In case C, the German works council received the information about the restructuring plan of the plants in the Stuttgart area in April 2013, and plans were disclosed concerning an overall re-organization of production covering a relatively long period, up to 2016. This re-organization implied the reduction of the plants in the region from three to two, for a total reduction of 374 workers. Alleged reasons for the restructuring are the poor performance of

one of the three plants, together with high labor costs in Germany. The works council was already aware of the imminence of the reorganization plan as other establishments of the same enterprise in Bavaria, but also in Spain and France, had been affected by the same process. The restructuring plan of the production in the Stuttgart region is part of a broader process started two years before, involving the gradual reorganization of the production in the Western European establishments and the expansion of the activities in Eastern Europe. All the plants in fact produce the same products but for different classes of car manufacturers. When the company receives new orders, managers try to move the production to Eastern Europe unless workers in German, Spanish and French establishments are ready to accept reductions in wages and work breaks. When the interview has taken place (August 2013) it was not possible to discern whether this process of international re-organization of production had any connection with the take-over of the examined company, started in 2010 with the acquisition of over 36% of its shares by another German competitor, which will eventually acquire the majority share by the end of 2013.

Role 2: Works council negotiate compensation mechanism

Although case A is characterized by too short notice to develop an effective counteraction, the works council was able to negotiate a social compensation plan for laid-off employees, including a short extension of the termination date of the contract and a monetary compensation. However, compensation mechanisms were quite weak, reflecting the low commitment of the company to codetermination practices. The relocation of the auto antennas production involved the dismissal of 45 employees, 23 of which with short term contracts and 22 with permanent contract. For temporary workers and for workers employed by external working agencies, the works council could not obtain any sort of compensation. To our question whether other forms of compensation were designed, for instance in terms of re-skilling measures, we received a negative answer. The works council tried to request the transfer of the dismissed employees to another position within the same company, but there were no free available positions matching their technical skills. As our interviewee pointed out, it was not possible to reach an agreement on anything more than compensation for full-time workers. Indeed, frictions between managers and the works council did not facilitate the negotiation round.

In case C, compensation mechanisms were designed by the company and the works council in a more collaborative and constructive way. At the time, the works council did not try to limit

the construction of new plants in the Eastern Europe because the workforce was benefiting from this growth in terms of job stability, and did not envisage any negative effects for the working conditions of the western establishments. Negotiations on working conditions appear to proceed hand in hand with a more general codetermination process, wherein both managers and workers appear to obtain some benefits. While top management takes advantage of lower conflicts with labor force, workers obtain guarantees that qualified tasks will remain in the home country. However, since the offshoring to Eastern Europe, employees in the German plants have been constantly diminishing. As part of the process of optimization of the activities in the region, workers received skill upgrading measures at plant level, and improved their ability to solve mechanical and other technical problems associated with manufacturing process. According to the works council, if on the one hand such up-skilling measures imply higher wages for more qualified workers, on the other hand these qualification measures pave the way to the reduction of personnel in western establishments.

Role 3: Works council promoting alternative strategies

In the case A, the works council tried to put forward alternative proposals to optimize production costs. After the company experienced a substantial decline in sales due to the loss of an important order from a top automobile manufacturer, the management decided to relocate part of the auto antenna production to Poland in order to reduce costs and remain competitive in the market. However, the works council argued that it was possible to keep the home production competitive by optimizing production time. In addition, employees were ready to renounce to production bonuses and other monetary benefits. Despite the negotiation attempt, the management did not give serious consideration to the alternative plan. After the company relocated the auto antenna production line to Poland, the new establishment became an independent supplier. The remainder of cable and antenna components production was then moved to Tunisia in the additional attempt to reduce costs. According to our interviewee, auto producers exert enormous pressure on component suppliers to cut production costs: only the research and development department for auto antennas can remain in Germany today whereas production activities are relocated to lower cost countries¹³. Our interviewee added that the relocation of production to Poland was followed by the reduction of staff at the twin company, active in manufacturing satellite and cable telecommunications technologies,

¹³ Since the company has a one-tier board, we omitted the fourth question.

despite the excellent financial results obtained in the previous business year. This reflects the general plans of management to cut back production in the German plant and increase automation processes. The overall result was that the works council seems to have had a very limited capacity to influence the nature and direction of offshoring strategies.

As for case B, we have mentioned earlier that offshoring practices towards Chinese partners took place in 2004, and this implied that the works council maintained a very limited amount of information on those events. We must admit that this lack of information poses a severe limitation to our knowledge of offshoring governance processes in this case. Nevertheless, the fact that there is limited memory of how these strategies have been organized is at least partially a research result. In fact, it appears that the works council was actually unable to follow the procedures and codify knowledge about this experience in spite of its importance for employment and production activities at home. Since the outsourcing to China, there were no further changes to the organization of the factory in Germany. Furthermore, we were able to deduce that research and development of new products has remained in Germany, but our interviewee could not provide any additional insights concerning the activities taking place in the Chinese company because the works council has no access to this kind of information.

Case C is once again revealing of greater (potential) impact of works councils on offshoring strategies. The works council requested the support of an external consulting institute and, together with the union IG Metall, decided to hold the position that all three plants in the region should remain operative. At the time of the interview the parties had not defined a framework for negotiation yet. The works council was ready to cooperate only if the management presents a plan that does not imply the shutdown of any of the three plants, nor the dismissal of workers. With the support of the external institute, the works council is also elaborating alternative proposals to be brought into discussion. To ensure continuity of production activity of the establishment in the region, the works council has prepared a set of alternative suggestions. First, it is suggested that new technologies under development in Stuttgart remained in the home establishment. Second, it is proposed that the outperforming plant be converted from a factory of series production to a factory for the production of replacement parts. Third, it is argued that specific activities such as moulding and injection of plastic materials should be increased.

Although it is not possible to say which of the alternative proposals will be actually taken into account, the first signs let the works council presume that management is willing to consider these proposals with due attention. When the interview was made it appeared to be quite likely that a job security agreement (*Standortsicherungsvertrag*) be signed to cover the period

up to 2015. Nevertheless, one could not exclude that this decision was taken just to avoid frictions in view of the imminent take-over of the company. The table below summarizes the main results of the three case studies.

Figure 7 about here

6. Conclusion

The discussion above highlighted that codetermination - as a special case of labor market institution particularly diffused in Germany - might play a role in shaping the international organization of firms. While we found no evidence of works councils impeding offshoring decisions, there are elements to suggest that they may affect the rate and direction of such decisions with particular attention to the relocation of those activities that endanger employment in the home establishments.

The case studies we have illustrated showed that there are differences in the timeliness of information given to works councils on offshoring plans, and such differences are associated with a distinct role played by these institutions in subsequent negotiation procedures. One of the cases examined is characterized by a considerable involvement of works councils, not only as mere information receivers, but also as contributors to the design of compensation mechanisms, and even more importantly, as promoters of alternative strategies. From this perspective, case C is the one that appears to be the closest to model 3 illustrated in figure 5. The other cases studied could be considered as a mix of models 1 and 2. Case A is characterised by a lack of timely information disclosure on offshoring decisions and by the fact that the works council is not able to design alternative proposals that might influence the actual implementation of such decisions. Case B can hardly be used to draw any clear-cut implications, given the severe limitation of data available. At best, it might be taken as illustrative of the problem of information codification and storage: works councils might in fact be unable to keep track of internationalisation processes over time and hence have a limited capacity to intervene with appropriate and well informed negotiation practices. Hence, while in case C the works council seems to significantly influence the nature and direction of offshoring strategies, in the other two cases, works councils appear to have limited impact on the way offshoring takes places.

These differences in outcomes are partially endogenous to the models we have identified: the involvement of works councils in extensive and comprehensive information flows can per se favor further involvement of works councils in effective negotiations with management. Other factors favoring the actual participation of works councils in offshoring strategies may have to do with the historical commitment of the firm in codetermination practices and with the actual skill composition of works councils themselves. The role of codetermination practices in shaping offshoring decisions and their consequences also reflects the evolution of firms, their overall strategies and competitive position. Once again, case C is illustrative from this point of view. In this case, the actual outcomes of negotiations are most likely to be influenced by the process of corporate restructuring and by the eventual take-over of the company.

The interviews accounted for in this paper provide only limited evidence on the factors we have mentioned, i.e. the propensity of firms to get involved in codetermination practices, their overall strategic evolution and competitive position, and the skill level of works council's members. Future research will definitely have to pay a great attention to them.

Extensions of the analysis are needed in two further directions. On the one hand, cross-country comparisons would be required to better capture the extent and variety of the role played by codetermination in offshoring processes. This poses important challenges, as labor market institutions and participation practices significantly differ across countries, and more national characteristics do matter in shaping internationalisation strategies. Given the paucity of comparable quantitative information for different countries, more exploratory analyses are needed, and it is most likely that case studies will remain the key methodology in this respect. On the other hand, the availability of detailed and longitudinal datasets concerning the structural and behavioural characteristics of works councils in Germany increasingly make it possible to carry out quantitative analyses on these phenomena in this country. From this perspective extant specialised datasets could be combined with data from the annual survey of the German Federal Office for Employment (IAB Establishment Panel). It remains that fully understanding the mechanisms through which labor market institutions in general, and codetermination in particular, affect offshoring will require a careful combination of both quantitative and qualitative analyses in the near future.

Table 1. The diffusion of works council in Germany in 2011

Table 1a)

Percentage of firms and employees covered by works councils by size class						
	5 – 50 employees	51 – 100 employees	101 – 199 employees	200 – 500 employees	>500 employees	Total >5 employees
West Germany						

Companies with w.c.	6	38	62	78	88	10
Employees with w.c.	10	38	63	79	92	44
East Germany						
Companies with w.c.	6	37	58	72	92	9
Employees with w.c.	11	39	59	75	92	36

Table 1b)

Percentage of firms and employees covered by works councils by sector of economic activity											
	energy/ water/ waste/ mines	manuf.	constr.	trade	transport/ ware- houses	ict.	financial and insurance services	tourism. and related services	health / education	self-empl. in econ/fin services	Total >5 empl.
West Germany											
Companies with w.c.	55	16	3	10	16	14	27	2	10	7	10
Employees with w.c.	86	68	18	31	55	46	69	12	42	30	44
East Germany											
Companies with w.c.	18	12	3	9	10	8	28	7	14	10	9
Employees with w.c.	65	48	13	23	34	21	72	16	53	33	36

Source: Elaboration from Ellguth and Kohaut (data from IAB Establishment Panel, 2011)

Figure 1. The legal framework of German co-determination: The Coal, Iron and Steel Industry Co-determination Act, the Co-determination Act of 1976 and the Third Pact Act of 2004

Fig. 1a) Private enterprises (except coal, iron and steel companies)

Object and/or legal form	Number of Employees*			
	0-500	501-1000	1001-2000	over 2000
Individually owned firms/ OHG general partnership/ KG limited partnership				
GmbH & Co. KG				Codetermination Act of 1976 (§4)
Mutual insurance society with supervisory board		Third Pact Act (§1 (2) Nr. 4)		
Registered cooperatives		Third Pact Act (§1 (2) Nr. 5)		Codetermination Act of 1976 (§1)
GmbH (limited liabilities companies)		Third Pact Act (§1 (2) Nr. 3)		
KGaA (partnership limited by shares)	No Codetermination **	Third Pact Act (§1 (2) Nr. 2)		
AG (joint stock companies)		Third Pact Act (§1 (2) Nr. 1)		

Fig. 1b) Coal, iron and steel companies according to § Coal, Iron and Steel Industry Co-determination Act

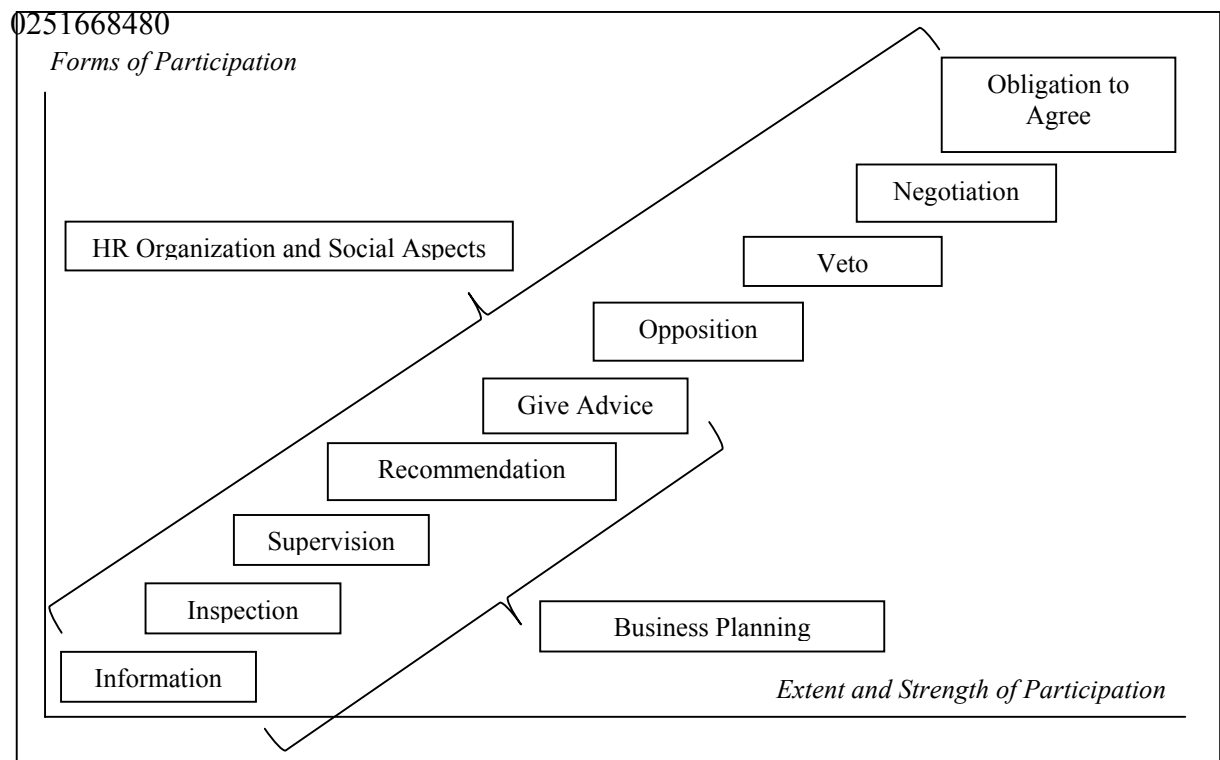
Object and/or legal form	Number of Employees			
	0-500	501-1000	1001-2000	over 2000
AG (joint stock company)	No Codetermination **	Third Pact Act (§1 (2) Nr. 1)	Coal, Iron and Steel Industry Co.dem Act (§ 1 II)	
GmbH (limited liabilities companies)		Third Pact Act (§1 (2) Nr. 3)		

Source: Page, 2011

* Possibly additions according to the respective relevant rules for groups

** Only the general partner (GmbH, AG) is liable to practice codetermination, whereby under §4 of the Co-determination Act the employees of the limited partnership are numbered among those of the general partner

Figure 2. Rights of the works council



Source: elaboration from Page, 2011

Table 2(a)

Relocation (n. 2007)		Geography (n. 180)		Department (n.180)		
Actual implementation	Talks	Germany	Abroad	Production	R&D	Sales

Raw materials/industrial goods	9	19	47	52	68	1	3
Investment and durable goods	23	35	64	36	49	7	38
Consumer goods	14	26	58	42	68	0	31
Construction	2	8	-	-	5	26	8
Trade (and repairs)	1	6	87	13	45	12	41
Transport and communications	14	21	-	-	31	0	72
Banking and insurance	22	33	97	3	12	7	49
Other private and public services	1	3	94	6	8	6	14
Total	9	16	72	28	53	3	26

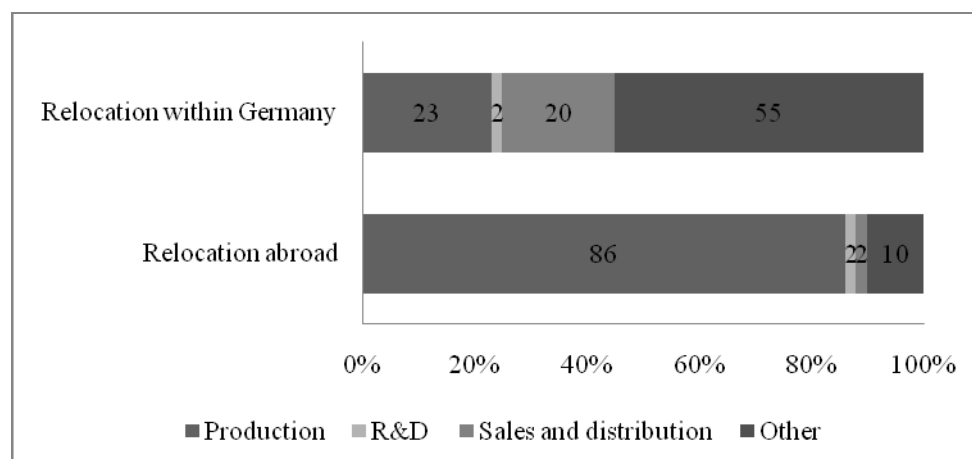
Table 2(b)

20-49 employees	10,7	11,2	92	8
50-99 employees	7,6	17,5	100	0
100-199 employees	16,7	6,5	44	56
200-499 employees	24,5	10	57	43
500-999 employees	13,3	27,1	67	33
1000-1999 employees	20	44	61	37
More than 2000 employees	22,2	44,4	93	7
Total	9,3	16,2	72	28

Table 2. Selected results of the WSI 2005 survey. Works Council responses, in % (n=sample)

Source: WSI Work Council Survey, 2005 (authors' elaborations from Ahlers et al., 2007)

Figure: 3. Relocated company department, Works council responses, in %



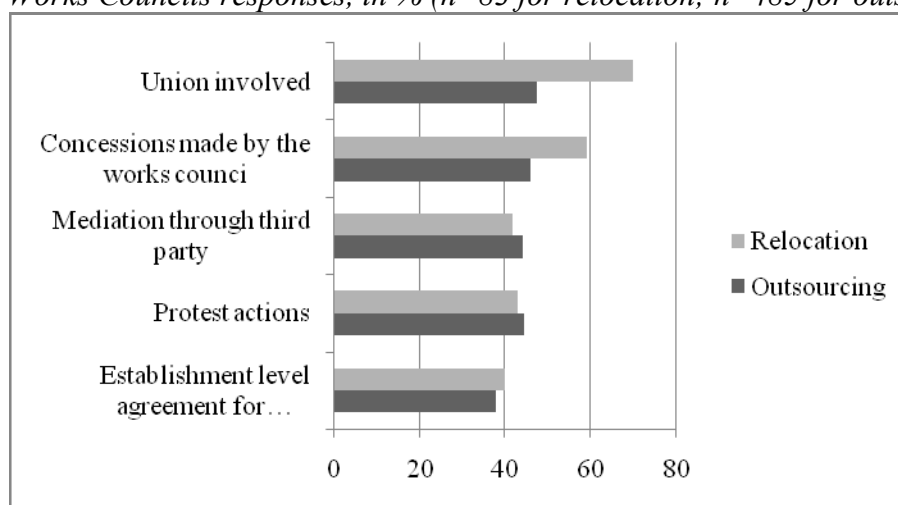
Source: WSI Works Council Survey, 2005 (Ahlers et al., 2007)

Table 3. Relocation and outsourcing according to branch and size. Works Council responses, in % (n = sample size)

	Relocation	Outsourcing
Total (n. 2070)	7,7	11,5
Service(n=159 rel.; n=495 out.)	7,0	11,7
Industry	8,8	11
From 20 to 99 employees(n=159 rel.; n=495 out.)	5,7	7,6
From 100 to 499 employees	8,3	13,2
500 and more	14,2	22,8
Abroad(n=159 rel.; n=495 out.)	19,9	5,6
Germany	68,7	85
Both destinations	11,5	9,4

Source: WSI Works Council Survey, 2007 (authors' elaborations from Ziegler, 2008)

Figure 4. Activities of the works council vis-à-vis relocation and outsourcing strategies. Works Councils responses, in % (n=83 for relocation; n=485 for outsourcing)



Source: WSI Works Council Survey, 2007 (Ziegler, 2008)

Table 4. How frequently suggestions of the works council are taken into consideration. Works Council responses, in % (n=sample size)

	Not considered	Partially considered	Widely considered
Outsourcing (n=358)	20,1%	60,3%	19,6%
Offshoring (n=293)	33,5%	55,3%	11,2%

Source: Authors' elaborations on data from Behrens and Kädler, 2008

Figure 5. Roles played by works councils in dealing with offshoring strategies

	Role 1 Receiving Information	Role 2 Negotiating Compensation Mechanisms	Role 3 Promoting Alternative Proposals	Effects on Offshoring Decisions
Model 1	No timely info	Compensation mechanisms (financial)	No alternative proposals	Weak or None
Model 2	Timely info	Compensation mechanisms (financial and contract extension)	Not considered	Moderate
Model 3	Timely info	Compensation mechanisms (financial; contract extension; re-skilling, transfer)	Taken into consideration	Strong

Figure 6. General information on the three case studies

	Foundation	Corporate Governance	Prior international experience	N. of employees and sales
Case A	1926	Family owned business	Production sites in France Germany and China; subsidiaries in Sweden, Switzerland, China, Spain and Austria	650 employees worldwide 100 Mil. € (50% exp. share)
Case B	1904	Family owned business	Subsidiaries in Italy and Hong Kong	520 employees worldwide 36 Mil. € (80% exp. share)
Case C	1905	In 2010 36,85 percent of company's shares acquired by a competitor	38 production sites and three R&D centers in Europe, USA, Asia and South-America; in Europe production sites in France, Spain, Germany, Czech Republic and Slovakia	15000 employees worldwide 3.3 Bil. € (in 2008)

Source: Company websites and Annual Reports

Figure 7. Summary of the results of the interviews with the works council

	Case A	Case B	Case C
Manufacturing activity involved	antennas and electronic devices for the automotive industry	high precision components for spectacles	air conditioning and engine cooling systems for cars and trucks
Reason for offshoring	high labor cost at home (strong pressure exerted by car producers)	high labor cost at home	initially serving the local market; then labor cost saving
Delivery of information	Two weeks in advance	Not recorded	six months in advance (already available from other European establishments)
Compensation mechanisms	social compensation plan and extension of the termination date	Not recorded	Under discussion (<i>Standortsicherungsvertrag</i> until 2015)
Counter proposals	renounce production bonuses and reduce breaks	Not recorded	renounce production bonuses, reduce breaks, improve injection and moulding performance, production of replacement parts

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